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THE PROCEDURE OF ST. CYPRIAN'S SYNODS

BY

PHILIP R. AMIDON, S. J.

Curiously little critical attention has ever been paid to the theory, set forth in the early part of this century by P. Batiffol, that the procedure of African episcopal synods as revealed in the letters of St. Cyprian of Carthage was modelled upon that of the Roman Senate.¹ The theory is open to various sorts of objections, perhaps the simplest of which is that bishops of the mid-third century had no reason for behaving in this way, but since it continues to infect the study of church history in certain quarters, a critical examination may not be out of place.

The notion that conciliar procedure conformed itself in some ways to that of the Roman Senate antedates Batiffol. H. Gelzer claimed that the ecumenical councils were intended by the emperors to be nothing else than a replacement for the Senate in the regulation of religious affairs once Christianity had been officially adopted by the empire.² Just as in their capacity as magistrates the emperor and his deputies called meetings of the Senate and presided over them, so the ecumenical councils were (he said) summoned by the emperor alone, whose commissioners guided their order of business. That the imperial officers never voted with the bishops, although they took part in the debates, conforms precisely to Senatorial procedure.³ The seating arrangements themselves, with the bishops ranked in order of dignity facing each other across a broad central aisle from which the commissioners presided, are strongly reminiscent of the Senate.⁴

Gelzer draws most of his examples from the Fourth and Sixth General Councils (451 and 680), from which information about seating order and the activity of the imperial officials is abundant. He does not at all mention the non-ecumenical synods, and certainly not the early African tradition which Batiffol discusses. It can therefore be misleading when Baynes places the two scholars side by side in his note accepting Batiffol's theory,⁵ as though Gelzer provided direct support for it. The two in fact propose different if not irreconcilable reasons for the similarity in

the protocols of Senate and synod. This article will hereafter leave aside Gelzer's theory and deal only with that of Batiffol.

Batiffol makes a useful distinction between Eastern and Western conciliar procedure. In the East, he says, the synod as we know it from Eusebius' *Church History* often resembles the sort of debate practiced in the schools.⁶ The Western tradition is quite different.⁷ Here, as we see it in Cyprian's letters, is mirrored the Roman Senate. The verbs of convocation and meeting (*cogere, convocare, habere*) are identical. Like the Senate (Batiffol asserts), the councils under Cyprian were open to the public.⁸ As in the Senate, a *relatio* setting forth the matter to be discussed was read to the assembled bishops, followed by a roll-call in which each of them, again in imitation of the senators, stated his *sententia*. The verb often used in both assemblies to designate this action was *consensere*. Like the senators, the bishops suffered no inequality among themselves. The resolution they finally voted was, as in the Senate, written up in the form of a letter sent to interested parties. It was also entered into the archives of the church where the synod was held, and, in the case of the Senate, into the *Acta Diurna*.⁹

Batiffol cannot be faulted on his presentation of the procedure either of the Roman Senate or of the African synods. There is no need here to describe in detail the former, which has been fully discussed in various places.¹⁰ Although the only complete record of a Senate meeting is contained in the Theodosian Code,¹¹ references to various meetings throughout its history abound in different sources.¹² They allow no doubt about the fixed order of *relatio*, statement of opinions, voting, and preparation of the written decree resulting therefrom. The same general order may be observed in the African synods held under Cyprian's leadership. A fairly substantial section of the minutes of the council of Sept. 1, 256 is preserved, in which Cyprian first directs the reading of correspondence bearing upon the matter under consideration, and then requests the *sententiae* of the individual bishops.¹³ The minutes break off before anything is said about preparing the synodical letter, but we know from elsewhere that this was standard procedure.¹⁴

There are similarities as well in the formulae of the protocols. In the proceedings of the council of 256, we observe the prefixing of the date and place of meeting ("*Cum in unum Carthaginem convenissent kalendis Septembribus...*") found also in Senate records.¹⁵ The phrase "*in unum...convenissent*" echoes the style of the Senate proceedings in the Theodosian Code: "*Proceres amplissimusque ordo senatus dum con-*

venissent...”,¹⁶ which continue: “...*habuissentque inter se aliquamdiu tractatum...*”,¹⁷ which in turn is echoed in several places in Cyprian.¹⁸ Finally, among the *sententiae* pronounced by the individual bishops, many use the verb *censeo*,¹⁹ two or three *decerno*,²⁰ and one the form *mea sententia est*,²¹ all of which smack of the Roman Senate.²²

There can therefore be little doubt that Batiffol is right in claiming to see a similarity of procedure between the Roman Senate and the African synods. Hence he concludes that the African bishops (and, he conjectures, their colleagues in other Latin-speaking regions) adopted and imitated the Senatorial procedure in their assemblies.²³

The difficulty with all this is that Batiffol seems to make no very clear distinction between direct and indirect borrowing of procedural traditions. Speaking of the records of the Council of Carthage of 256, for instance, he notes, «Les premiers mots de ce protocole sont une imitation du protocole des procès-verbaux des séances du sénat romain»,²⁴ which of course strongly suggests that the bishops were directly imitating the proceedings of the Roman Senate. Later on, however, he says something rather different:

Si les conciles présidés par Cyprien à Carthage ont adopté pour leur délibérations les règles observées au sénat romain, il serait outré de voir dans cette adoption un trait de politique de Cyprien, et de soupçonner l'évêque de Carthage d'avoir voulu donner à ses conciles une ambitieuse solennité. Il est plus objectif de penser que, à Carthage en 256, on ne concevait pas une assemblée délibérant autrement que dans la forme consacrée par l'usage du sénat. Les assemblées provinciales ou municipales, quand elles délibéraient, c'est à dire quand elles ne sacrifiaient pas la discussion à l'acceptation par acclamation de la proposition du magistrat président, délibéraient dans la même forme, qui était la forme parlementaire.²⁵

Here he recognizes that assemblies other than senate and synod used the same sort of procedure, but he still does not make it quite clear whether they were all more or less consciously looking to the Senate of Rome as their model, that is, whether Western church synods directly imitated that august body in their form of procedure, or whether they simply used the common parliamentary procedure exemplified by all sorts of different assemblies of the Latin-speaking empire. In the latter case, of course, we might talk about an indirect borrowing of Senatorial procedure, although to establish the propriety of the term we should have to show that the procedure was in fact original to the Roman Senate and was borrowed thence by other cities and organizations instead of the other way around. But this is hardly necessary to our topic, and in any

case the notion of "indirect borrowing" of Senatorial traditions is misleading if, as we shall indicate, the procedure in question was in such wide use by the time the church arrived in the Western empire that it must have lost any specific identification with the Senate of Rome. Batiffol's unclarity on the point has provoked differing interpretations in his later readers, some of whom assume that he meant to prove that church synods took their procedural traditions directly from the Roman Senate.²⁶

In fact, however, there can be no doubt that, at least in its general outline, the sort of parliamentary procedure used by the Senate of Rome was wide-spread throughout the Western empire by the time the church came into existence. It was in common use in local town councils, as modern histories have long recognized:

The procedure in a local senate was modelled on that of the Roman senate. Indeed many probable conclusions concerning the method of transacting business in the Roman senate may be drawn from a study of the municipal charters and from pertinent inscriptions.²⁷

The references in the sources to municipal procedure have been collected by W. Langhammer,²⁸ who notes simply, "Der Vorgang der Einberufung und die Formen der Verhandlung entsprachen dem römischen Vorbild";²⁹ there is no need to repeat them here. The earliest preserved inscriptional reference to such municipal procedure is probably from the second century B.C.³⁰

The inscriptions from Roman Africa are not, unfortunately, as informative about the procedure of town councils as are those from other parts of the Western empire. In fact, of those towns which were bishoprics, only from Thugga in Proconsularis is there any direct evidence beyond the regular, laconic, "*decreto decurionum*" found on inscriptions from nearly everywhere in Roman Africa. From Thugga is preserved an early notice of the election of *sufetes* by the "*plebs ac senatus, omnium portarum sententiis*";³¹ a rather un-Roman formula. Obviously the pace of "Romanization" varied within Proconsularis itself, to say nothing of the other parts of Africa. Thugga became a Roman *municipium* around the middle of the second century and a colony during the course of the third (from which time also it became an episcopal see). But by the second century, Roman culture was in full bloom in many of the cities of Proconsularis and Numidia.³² During this period we find the African Apuleius using the Roman formula

“*decuriones et quibus ius est dicendae sententiae*” in a description of the typical city as though it were quite understood by his readers.³³ Finally, there is one valuable inscription from an unknown peregrine *civitas* in Proconsularis dating from 256 AD (or perhaps 186),³⁴ which shows that Roman procedure was not restricted to the *municipia* and colonies. It concerns the mediation of a dispute between farmers and shepherds, and contains, after the *relatio*, the very Roman phrase “*quit fieri placeat de ea re universi censuere*”, followed by the decision.³⁵

We might also note that of the seven North African bishoprics in evidence during the second century, five were Roman colonies.³⁶ Of the 87 bishops who attended the Council of Carthage of 256, about thirty came from colonies.³⁷ Gellius says of Roman colonies, “*Iura institutaque omnia populi Romani, non sui arbitrii, habent...quasi effigies parvae simulacraque (populi Romani) esse quaedam videntur.*”³⁸ He states that for reasons of prestige, many *municipia* sought colonial status,³⁹ and evidently by his day even those who retained their old status often copied the Roman constitution. We may therefore conclude that their municipal councils alone afforded most if not all of the African bishops models of parliamentary procedure in the Roman style.

There can be little doubt that other corporations besides town councils copied the same sort of procedure as well, although here the evidence is much more scanty. Gaius describes the constitutions of *collegia* such as the guilds as “*ad exemplum rei publicae*”.⁴⁰ Certainly the protocols in the inscriptions of such organizations contain the same procedural formulae as those of the municipal councils,⁴¹ but it must be remembered that they nearly always refer to meetings of the full membership, the *conventus*. Unlike meetings of the *decuriones* of the *collegia* (to which there are references enough),⁴² we cannot suppose that the private members in the *conventus* were asked each for their *sententiae* on any item of business; we must think rather of something like the procedure of the municipal *comitia*. Thus the verb *censere* which regularly occurs in these inscriptions means the vote of the assembly on the matter presented in the *relatio*, which must usually have been discussed at a meeting of the *decuriones* previously; and the latter meeting we can easily suppose to have been run along the lines of those of the municipal *decuriones*. Thus by a sort of round-about route one can claim with fair certainty that the sort of “Roman procedure” we have been discussing was found among the *collegia* as well, which were therefore yet another road by which this tradition could be transmitted.

The observation is particularly germane, since there is reason to think that the statutes of some Roman African towns were heavily influenced by collegial legislation.⁴³

Finally, one might wonder whether synodal procedure was influenced by that of the provincial councils (*concilia provincialia*, to use the post-Diocletianic term), of which there were four in North Africa.⁴⁴ The question has occasionally been raised;⁴⁵ Deininger answers in the negative, since, as he remarks, church councils first appear in the East, where they are called *synodoi*, and where the provincial assemblies are known as *koina*. The meetings themselves of the latter are called *synedria*, a term which Deininger claims is not used of church councils.⁴⁶ This is of course wrong, although it is true that *synodos* is much the more common term. But further, it should not be assumed that the history of the traditions of the Western church councils exactly mirrors that of the Orient. The identity of the name *concilium*, together with the analogy of a regional assembly meeting once a year,⁴⁷ as did Cyprian's synods, make the hypothesis of an influence of the one upon the other rather attractive. There seems, however, no way of proving it, as we know very little about the procedure of the *concilia provincialia*.⁴⁸ It is quite likely that they followed what we have called in this chapter "Roman procedure" (those, that is, of the Western provinces), but we cannot prove this.

To sum up, three possible kinds of models for the procedure of the synods held under St. Cyprian can be named: the municipal council, the *collegium*, and the provincial assembly. It is difficult to choose among them, since the history of African synods before the time of Cyprian is quite dark. In general, we can say that the nature and purpose of the last two organizations were so closely connected with the pagan cult that it is hard to believe that the average bishop would have had much intimate acquaintance with them. On the whole (as Constantine's grant of immunity to the African clergy suggests) they would, it seems, have had much more to do with their own town councils, and we may conjecture that these were the sources of their familiarity with "Roman procedure". At any rate, there are no grounds for thinking that they copied the Senate of Rome.

Finally, four examples of the way in which Batiffol's theory has influenced the study of church councils may be presented. We have already mentioned Baynes,⁴ who applies the Senatorial model to the Council of Nicaea. It is beyond the scope of this article to discuss the

vexed question of the procedure of that synod, but even if it could be shown that the emperor Constantine saw fit to run it according to the sort of procedure which we have outlined here, one could hardly call it "Senatorial procedure" without further ado. As we have by now perhaps tiresomely repeated, the *relatio-sententia* order had not for centuries been identified with the Roman Senate exclusively, and if it makes its appearance in church synods, no other conclusion than that of its apparent wide-spread popularity can be drawn.

F. Dvornik showed continued interest in the relationship between imperial and conciliar authority. His article in *The Christian East*⁵⁰ largely repeated Gelzer's thesis.⁵¹ In 1951 he announced his acceptance of Batiffol's theory,⁵² which he joined to Gelzer's in the following way: since the emperor "never had the right to vote in the senate",⁵³ it was providential that the Western synods before the time of Constantine had decided to model their procedure on that of the Roman Senate. When Constantine decided to attend the Council of Nicaea, he and the bishops discovered that they (the bishops) had adopted a type of procedure which allowed the emperor to share in their meetings and to make his opinion known in a non-voting capacity, just as the Roman higher magistrates (including the emperor) participated, without a vote, in sessions of the Senate of Rome. There the magistrate presided, presented the matter for discussion, directed the roll-call of *sententiae*, and ratified the final decision, as Constantine did at the Council of Nicaea, which thereafter became the model for procedural relations between the bishops and the emperor (or his deputies) at the other ecumenical councils.⁵⁴

We need not repeat our criticism of Batiffol's theory. But we should add that Dvornik is quite wrong about the constitutional rights of the emperors in the Roman Senate. In the first place, they were all looked upon "as being at least in principle members of the senate".⁵⁵ They could both present the *relatio* and participate in the debate as magistrates, and also vote as senators.⁵⁶ Dvornik admits that his supposed principle that the emperors could not vote "suffered a setback under the Principate", but argues that it "was actually saved in principle even under the most autocratic emperors".⁵⁷ This is badly to misread the evidence. It is true that after the year 70 AD, there is no hint that the emperors ever voted in the Senate. But this is hardly because it had regained an autonomy which it had previously lost. It is rather because voting in it would have brought the emperor down to a level of

equality with its other members. From the second century on, he signalled his constitutional position with respect to it by having read out in it speeches which “were not open to debate”.⁵⁸ Had the Council of Nicaea really been modelled upon the fourth-century Roman Senate, its proceedings would presumably have resembled those of which the *Historia Augusta* gives us enough examples, and would certainly have been far more summary than the sources allow us to believe.

The third example of an attempt to assimilate the church synod to the Roman Senate is in H. Hess, *The Canons of the Council of Sardica* (Oxford, 1958). He accepts Batiffol's thesis⁵⁹ and adapts it to his own purpose, explaining:

It is reasonable to suppose that the adoption of particular types of civil records for ecclesiastical use was determined by the function which the records themselves customarily performed. By the time of Diocletian and Constantine the *senatus-consultum* was regarded simply as a counsel of advice. It is therefore not surprising that the synodical canon was patterned after the *senatus-consultum* before the conscious acceptance of an ecclesiastical rule of law; for a limited degree of authority, parallel to that of the *senatus-consultum*, seems to have been accorded to the canon until at least the late fourth century in the East and the late fifth century in the West.⁶⁰

Now it may well be that the Council of Sardica intended that its canons should have only limited authority, but this certainly cannot be inferred apart from a study of the records and tradition of the council itself. The time when “the *senatus consultum* was regarded simply as a counsel of advice” had, by the time the church was born, dwindled into the remoteness of early republican history; the vexed question of its constitutional force during our period cannot be gone into here,⁶¹ but it is certain that the emperors did not regard the senate as their advisory council. When they wanted advice, they got it from their own *consilia*, and, if they thought it worthwhile, allowed or forced the senate to add its stamp of approval to their decrees. The local town councils as well had broad legislative powers; they were by no means merely advisers of the magistrates.⁶² But apart from all this, there never existed in episcopal synods the basic Roman constitutional distinction between magistrates and council (senate) which is always presumed in discussing the legal force of the *decreta* or *consulta* of the latter, and thus any direct comparison, simply on the basis of procedure, of the competence of such synods with that of the councils of cities and *collegia* is quite impossible.

As a last example, J. D. Zizioulas' comments on the Council of Carthage of 256 may be cited:

The impression we get... is that of a meeting of the Roman Senate. The bishops sat in the form of a Senate and their debate was conducted after the senatorial pattern... All this means something more than another form of procedure. Behind this lies a concept of the episcopate shaped after political patterns, and, what is even more significant, a conception of the Church as being something parallel to the Roman Empire... the fact that each bishop had to express his unity with other bishops by participating in a council shaped after the idea of unity of the Empire, represents one more serious step towards the idea of an Ecumenical Council. In fact... this African concept of conciliarity must have been one of the basic factors which led the whole Western Church in the beginnings of the fourth century to view the council as an expression of the empire of Christ.⁶³

Our foregoing criticism of Batiffol's theory will suffice as well for speculation of this sort.

To sum up, we agree with Batiffol that Roman Senate and church synod stood in the same procedural tradition, but if he meant to say that third-century bishops directly copied the Senate in the way they ordered their meetings, we must disagree. As he himself admitted, this sort of procedure was so common in all kinds of different councils and assemblies in the Latin-speaking empire by the time the church arrived on the scene that it had lost any specific identification with the Senate of Rome (if it ever had any), and is much better called something like "Roman" or "Western" parliamentary procedure. It follows that no inferences can be drawn about the self-consciousness or competence of bishops-in-synod by studying the legal position of the other bodies using the same procedure; it will be the Christian sources themselves which will tell us what the episcopal council meant to the church in general.

NOTES

¹ Batiffol states his case in much the same terms in two places: *Bulletin d'ancienne littérature et d'archéologie chrétiennes* 3 (1913), 3-19, and *Études de liturgie et d'archéologie chrétienne* (Paris 1919), 84-153. The second study expands the first by taking in examples from later synods to try to establish a uniform Western tradition. Here we shall be concerned only with this remarks about Cyprian's councils.

In this article, the term "Roman Senate" will always mean the senate of the city of Rome, not other municipal senates of the western Roman empire which copied its usages and architecture.

² *Ausgewählte kleine Schriften* (Leipzig 1907) 144.

³ Gelzer, 148.

⁴ *Ibid.*, 145.

⁵ N. H. Baynes, *Constantine the Great and the Christian Church* (London 1929) 88.

⁶ Batiffol, *Études*, 88.

⁷ *Ibid.*, 96.

⁸ That is, the Senate doors were left open for the Senators's sons to listen outside. The statement that church synods were open to the laity needs to be qualified.

⁹ Batiffol, *Études*, 100-118.

¹⁰ P. Willems, *Le sénat de la république romaine* (Louvain 1883) 2.122ff. & 144ff. Much better: Th. Mommsen, *Römisches Staatsrecht* 3.905-1003 (Leipzig 1888). Also O. Moore, Pauly-Wissowa *Realencycl.* Supplem. 6.700-719, 766-775, 798 (art. "Senatus"); D. B. Munro, *Journal of Philology* 4 (1872) 113ff.; E. Fraenkel, *Philologus* 85 (1930) 355; A. G. Russell, *Greece and Rome* 2 (1932/33) 112ff.

On elections in the Senate: M. L. Paladini, *Athenaeum* 37 (1959) 3ff.; on the meeting-places of the Senate: L. R. Taylor and R. T. Scott, *Transactions and Proceedings of the American Philological Association* 100 (1969) 529ff.

¹¹ *Theodosiani Libri XVI cum Constitutionibus Sirmundianis*, vol. 1, pars posterior, ed. Th. Mommsen (Berlin, 2 1954), pp. 1-4. The session was held in 438 to receive the Theodosian Code.

¹² The works listed in note 10 have full references. Cf. also e.g. Bruns, *Fontes Iuris Romani Antiqui*, pp. 164-211; Cicero, *Cat.* 3.3.8-3.6.15; *Phil.* 3.37-39; Livy 1.32.11; Pliny, *ep.* 6.5.

¹³ CSEL 3 (ed. Hartel, 1868) 435-461. The council dealt with the issue of rebaptism of those previously baptized by schismatics.

¹⁴ E.g., Cyprian *ep.* 56.3; 49.2.1. The numbering is according to Bayard (which is also Hartel's).

¹⁵ E.g., Bruns, *Fontes*, pp. 166 & 171.

¹⁶ *Libri Theodosiani*, p. 1, 1.8.

¹⁷ *Ibid.*, 1.8-9.

¹⁸ E.g., *ep.* 15.4 ("in commune tractabimus"); 32 ("plenius concilio communi tractabimus"); 34.3.1 ("tractaturi plenissime de omnibus cum convenire in unum...coeperimus"; "haec singulorum tractanda"). Cf. Batiffol, *Études*, 101.

¹⁹ Such as Crescens of Cirta (8) and Secundimus of Cedis (11).

²⁰ Such as Januarius of Lambaesis (6).

²¹ Nicomedes of Sergemae (9).

²² E.g., *decernere*: Cicero, *Prov.* 1; *Att.* 7.1.7; Pliny, *ep.* 6.27.2; Livy 30.7.6; Tacitus, *Ann.* 14.45. *Censere*: Tacitus, *Ann.* 4.30; Cicero, *Phil.* 3.37; 5.10; 10.25; Suetonius, *Cl.* 10.4. Many of the bishops, of course, use neither of these forms, but prefer a subjunctive construction or an infinitive with *debere*, or something similar.

²³ Battifol, *Études*, 101.

²⁴ *Ibid.*

²⁵ *Ibid.*, 116f.

²⁶ We shall consider them later. Two who have assumed that the borrowing was indirect are A. Steinwenter, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte kan. Abt.* 54 (1934) 49, and H.-J. Sieben, *Theologie und Philosophie* 51 (1976) 66.

²⁷ Abbott & Johnson, *Municipal Administration in the Roman Empire* (Princeton 1926) 67. "In the West a large measure of uniformity was introduced into the municipal system before the close of the republican period...in this quarter of the world Roman institutions

and the Latin language made rapid headway, and partly by voluntary imitation, partly by legislation, the system which had developed in the city of Rome prevailed" (pp. 56 & 57).

²⁸ *Die rechtliche und soziale Stellung der Magistratus Municipales und der Decuriones* (Wiesbaden 1973) 202ff.

²⁹ *Ibid.*, 202.

³⁰ From the Latin colony of Venusia (Venosa); *CIL* 1. 185. On the Latin colonies, cf. F. Vittinghoff, *Römische Kolonisation und Bürgerrechtspolitik* (Wiesbaden 1951) 43ff.

³¹ *CIL* 8.26517 (48/49 AD). T. Kotula, *Les curies municipales de l'Afrique romaine* (Wrocław 1968). Kotula regards the formula "*omnium portarum sententiis*" as the translation of a Punic expression referring to the city gates where the people gathered to hear announcements and to vote: cf. p. 26.

³² Vittinghof, 110.

³³ *De mundo* 35.366. He is translating Ps.-Aristotle, *de mundo* 400b.17: βουλευταὶ δὲ καὶ ἐκκλησιασταί. For the formula, cf. Gellius 3.18.1. Further on (describing the activities of the various townfolk), he translates ὁ μὲν τις εἰς τὸ πρυτανεῖον βαδίζει σιτησόμενος (400b.18-19) as "*alium ad Minuciam frumentatum venit*"; the reference to the *Minucia porticus* might tempt one to think that he means to describe Rome itself, but the term *decuriones* above forbids this interpretation.

³⁴ Abbott & Johnson, no. 146 (= *Ann. Epigr.* 1903, no. 202). The inscription was found at Henchir-Snobbour.

³⁵ The formula is typical; cf. Langhammer, 204.

³⁶ Carthage, Uthina, Lesser Thuburbo, Madaurus, and Sitifi. Cf. Van der Meer & Mohrmann, *Atlas of the Early Christian World* (London 1959) no. 5. A list of Roman African colonies may be found in Kornemann, Pauly-Wissowa *Realencycl.* 4 (1901) 532f.; 554ff. (art. "coloniae").

³⁷ *Ibid.*, no. 22. Vittinghoff has a handy list of the Caesarean and Augustan colonies on pp. 148-150. It should be noted that it is no longer possible to hold the existence in Roman North Africa of "double communities" going under the same name but having separate administrations (and constitutions), as did e.g. T. R. S. Broughton, *The Romanization of Africa Proconsularis* (London 1929) 210. Cf. L. Teutsch, *Revue Internationale des droits de l'antiquité* 8 (1961) 281-356.

³⁸ 16.13.8-9. Gellius' explanation of the distinction between *colonia* and *municipium* has been criticized by Vittinghoff (p. 36, note 2), but because of his treatment of the ancient rights and traditions of *municipia* rather than his description of the colonial constitution of his own time. Vittinghoff himself remarks that "die Verfassung einer neuen Stadt römischer Bürger trug keinerlei unrömische Züge" (p. 35).

³⁹ *Ibid.*; cf. also 16.13.4. Even so, there was no essential difference between the inner constitution of *municipia* and *coloniae*: cf. Vittinghoff, *ibid.*

⁴⁰ D.3.4.1.

⁴¹ Inscriptions relating to *collegia* have been collected by J. P. Waltzing, *Étude historique sur les corporations professionnelles chez les Romains depuis les origines jusqu'à la chute de l'empire d'Occident*, vol. 3 (Louvain 1899). Vol. 4 (1900), pp. 309ff. conveniently lists the procedural formulae drawn from the inscriptions. A rapid comparison of these pages with those in Langhammer (note 28) will suffice to show that the tradition is common.

⁴² Waltzing, 4.304ff.

- ⁴³ Kotula, 67 & 75. The statutes of Curia Iovis of Simitthus (*CIL* 8.14683) may be compared to those of collegium Funeraticium Lanuvinum (136 AD, Bruns, *Fontes*, pp. 388ff.). *Collegia funeraticia* seem to have been unknown in Roman Africa, and the *curiae* there assumed their functions (cf. Kotula, 126).
- ⁴⁴ In Mauretania Tingitana, Mauretania Caesariensis, Proconsularis (where it met in Carthage) and Numidia. Cf. J. Deininger, *Die Provinziallandtage der römischen Kaiserzeit* (Munich 1965) 131ff.
- ⁴⁵ E.g., by K. Bihlmeyer, *Kirchengeschichte* (neubes. H. Tüchle) I (1951) 11.
- ⁴⁶ Deininger, 187 note 6.
- ⁴⁷ Deininger, p. 144. The Western provincial assemblies met yearly in the summer or fall.
- ⁴⁸ What is known is summed up by Deininger on pp. 145-7.
- ⁴⁹ P. 2, note 5.
- ⁵⁰ 14 (1933), pp. 95-108.
- ⁵¹ P. 1 and note 3.
- ⁵² F. Dvornik, *Dumbarton Oaks Papers* 6 (1951) 1-27.
- ⁵³ *Ibid.*, 9.
- ⁵⁴ *Ibid.* Dvornik repeated his arguments in *Early Christian and Byzantine Political Philosophy* (Washington, D.C. 1966) 608 & 640f.
- ⁵⁵ F. Millar, *The Emperor in the Roman World* (London 1977) 341.
- ⁵⁶ *Ibid.*, 350. Cf. Cassius Dio 57.7.4; 57.8.2; 57.24.7.
- ⁵⁷ Dvornik, *Dumbarton Oaks Papers*, 9. What precisely he means here by "the Principate" is hard to see.
- ⁵⁸ Millar, 350.
- ⁵⁹ Hess, 29.
- ⁶⁰ Hess, 39.
- ⁶¹ Cf. Mommsen, *Staatsrecht* 3.1022ff. (esp. 1028ff.).
- ⁶² Cf. Abbott & Johnson 67f. the councils had wide but specific powers: cf. p. 307 (*Lex coloniae genitivae iuliae seu ursonensis*, a. 44, XCVI): "Si quis decurio eius colon(iae) ab IIvir(o) praef(ecto)ve postulabit uti ad decuriones referatur, de pecunia publica deque multis poenisque deque locis agris aedificis publicis quo facto quaeri iudicative oporteat: tum IIvir quive iure dicundo praerit d(e) e(a) r(e) primo quoque die decuriones consulito decurionumque consultum facito fiat, cum non minus m(aior) p(ars) decurionum atsit, cum ea res consuletur. Uti m(aior) p(ars) decurionum, qui tum aderint, censuer(int) ita ius ratumque esto."
- ⁶³ In *Councils and the Ecumenical Movement* (World Council of Churches, Geneva 1968) 43f.

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