

SEATING SPACE IN THE ROMAN SENATE AND THE *SENATORES PEDARII*

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This paper is concerned primarily with the available seating space in the senate house, the Curia in the Roman Forum, and in the identified Roman temples where the senate met. For the Curia new evidence has been available since 1963 in the posthumous publication of work of Alfonso Bartoli, excavator and restorer of the building converted in the seventh century A.D. into the church of San Adriano.¹ For the temple where the largest recorded meeting took place, that of Jupiter Optimus Maximus on the Capitol, there are now more measurements than were available to the scholars who grappled with the problem of seating space in the nineteenth century. It is now clear that the

N.B. Note of the senior author: The discussion of procedure in this paper is the result in part of work carried out in Rome under a grant from the Penrose Fund of the American Philosophical Society in 1967. I express my gratitude for aid received from Professor Frank E. Brown of the American Academy in Rome, Dr. Ernest Nash, Director of the Fototeca of the Union of Roman Academies, and Mr. John Stonehill, a former Fellow in Architecture of the American Academy. Among Italian scholars who were generous in giving assistance were Professors Pietro Romanelli, Ferdinando Castagnoli, Guglielmo Gatti, Gianfilippo Carettoni, Dr. Lucos Cozza, and Dr. Laura Fabbri. In struggling with the problem of reconstructing the seating in the Curia, I appealed to my colleague at Bryn Mawr College, Dr. Russell Scott, who, in his work on the plan he offered to draw, made so many contributions that he became a co-author. He was able to check results on his return to Rome in the summers of 1968 and 1969, and to consult with Dr. Cozza and Dr. Filippo Coarelli, who had already sent us the proof of his paper on the identification of monuments close to the Circus Flaminius. See below, note 98, and for other acknowledgments notes 109, 110. In general I am responsible for the discussion of procedure and R. S. for archaeological matters. But all the evidence has been considered by both of us, and we therefore use the first person plural.

¹ *Curia Senatus, lo Scavo e il Restauro* (Istituto di Studi Romani, Rome 1963). The building was restored some years earlier. For bibliography before the publication of 1963 see E. Nash, *Pictorial Dictionary of Ancient Rome* (London 1962) s.v. "Curia Julia."

cella of Jupiter in the temple of Jupiter Optimus Maximus could not have provided seating space for an attested meeting in 57 B.C. of 417 members,² and that the Curia in the Forum, as restored by Diocletian, presumably on the foundations of the Curia Julia dedicated in 29 B.C., would not have been large enough for the increased number of members in the body under Caesar and the triumvirs. Professor Frank Brown, whom we consulted, suggested that, as in the British House of Commons, where 437 seats are available for 630 members, there may not have been room on the benches for all the men below the rank of curule officers, inferior men described by the perhaps revealing epithet *pedarii*, "footmen."

The investigation of this subject required a consideration of the size of the senate at various periods, of the size not only of the Curia but of the known temples used for meetings, and of the evidence for the arrangement of senators within the Curia and the temples. It was also important to determine whether the plan of the Curia, as it is now restored in the Forum, followed the plan of the Curia Julia, dedicated in 29 B.C., and whether it is fair to assume that the Curia was based on the plan of the Curia in the late Republic.

In discussing the character of the Roman senate, we frequently cite the comprehensive treatment in Mommsen's *Römisches Staatsrecht* 3.2 (Leipzig 1888), where the sources, which we have examined in their context, are often quoted. Mommsen's work (abbreviated *StR*) is later and more exhaustive than the volumes of Willems often cited by scholars.³

NUMBER OF SENATORS AND RECORDS OF ATTENDANCE

(*StR* 3.844-53)

From the end of the kingship to the dictatorship of Sulla the senate, according to tradition, was composed of 300 members. Through

² Cic. *Red. sen.* 26. See discussion of Capitol below and Appendix 2.

³ Most references to *StR* are to Volume 3.2, paged continuously 835-1271 with 3.1. Archaeologists (and at times also other scholars) refer usually to P. Willems, *Le Sénat de la République romaine* (Paris/Louvain, Vol. 1, 1878; Vol. 2, 1883). The second edition of 1885 has a supplement but practically no changes in the text. Willems is valuable for his list of Roman senators discussed below, but Mommsen, while making use of Willems' established results, corrects him in many details and has a much more comprehensive treatment of the evidence. For estimates of the size of the senate at

most of the Republic the number was maintained by censorial appointment, primarily from former magistrates. Eventually, without action of the censors, not only major magistrates after their term of office but also former aediles and tribunes of the plebs, already allowed to attend and to vote, were automatically made members.⁴ Sulla increased the size of the senate to 600, and, after having new members chosen by the tribes to fill the body, provided for maintenance of numbers by increasing the quaestors to twenty and making them members at the end of their year of office. On one occasion in 61 B.C. there were found to be more than 600 members, but the censors disregarded the excess (Dio 37.46.4). In Caesar's dictatorship the senate numbered about 900 and under the triumvirs a thousand, but Augustus reduced the membership to about 600, the post-Sullan figure (Dio 52.42; 54.13). Later in the Empire the number was again increased, reaching, according to a recent estimate, about 800-900 at the beginning of the third century.

Attendance at the meetings varied widely (*StR* 3.988 ff.). There were small meetings called, without adequate notification, often for the benefit of individuals; sometimes such meetings passed decrees that Cicero describes as pilfered, *senatus consulta surrupta*.⁵ For the validity of a *senatus consultum* there were varying figures fixed for a quorum; the largest were a third to a half of the total membership, never reaching the two-thirds common in the municipal senates,⁶ where a smaller proportion of the membership was absent on public service. When a *frequens senatus* was summoned by the magistrate, senators were expected to attend unless they had good reason for absence.⁷ With his enlarged senate Caesar seems to have asked

the beginning of the third century A.D. see G. Barbieri, *L'Albo senatorio da Settimio Severo a Carino* (Rome 1952) 431. For procedure in the senate in the time of Trajan see A. N. Sherwin-White, *The Letters of Pliny* (Oxford 1966) with index under *senatus*, *sententia* etc.

⁴ On entrance into the senate see *StR* 3.854-66. We are not convinced by the dating in 149 B.C. of the Lex Atinia which gave the tribunes of the plebs a place in the senate (see for the evidence Broughton *MRR* 1.458-59) and agree with Mommsen that tribunes were not automatically admitted until after Gaius Gracchus.

⁵ *Att.* 10.4.9; cf. Livy 39.4.8 of an accusation against a consul, *qui per infrequentiam furtim senatus consultum factum ad aerarium detulerit*.

⁶ See Kübler, s.v. "decurio," *RE* 2333-34.

⁷ On the meaning of *frequens senatus* see J. P. V. D. Balsdon, *JRS* 47 (1957) 18-20.

regularly for a quorum of 400, but Augustus in 11 B.C. abandoned that figure, later, as had been true in the Republic, providing different quorums for different types of decrees.⁸

The largest records of attendance, all belonging to times when the senate numbered about 600, are as follows:⁹

<i>Date</i>	<i>Number</i>	<i>Vote</i>	<i>Source</i>	<i>Place</i>
61 B.C.	ca. 415		Cic. <i>Att.</i> 1.14.5	
57	417	<i>dissensit unus</i>	Cic. <i>Red. sen.</i> 26	Capitolium
57	ca. 200		Cic. <i>Q. fr.</i> 2.1.1	
50	392	370-22	App. <i>B.C.</i> 2.30	
23	405-9		<i>CIL</i> 6.32.372	
44-46 A.D.	383		<i>CIL</i> 10.1401	
138	250-99		<i>CIL</i> 8.23246	<i>in comitio in curia Iu[lia]</i>

The largest meeting, a session described by Cicero as *frequentissimus* (*Red. sen.* 25-26, *Red. Quir.* 15), was held in the Capitoline temple in July of 57 under the presidency of the consul P. Cornelius Lentulus Spinter. The subject was the recall of Cicero from exile, and, of the 417 present, Cicero mentions only one senator in disagreement, obviously Clodius: "Quo quidem die cum quadringenti decem septem essetis, magistratus autem omnes adessent, dissensit unus" (*Red. sen.* 26). Noteworthy is the separate reference to the magistrates and also the failure to list among the dissenters the two tribunes of the plebs and the praetor who had been making common cause with Clodius, now no longer tribune. The explanation is that the magistrates in office, for their term, were not senators and were not asked for their *sententiae* in the questioning of the body; nor did they share in a division. This is a fact long since established, but unfamiliar to many scholars today, and unknown to Dio who wrote when the not infrequent presidency of the emperor in the senate had led to a modification

⁸ Mommsen, *StR* 3.990, note 3, is probably right in suggesting that this quorum of 400 was fixed by Caesar for his enlarged senate. For Augustus' revisions in the *lex de senatu habendo* of 9 B.C. see Dio 55.3.1 and Pliny, *Ep.* 5.13.5, with notes of edition cited above, note 3.

⁹ See *StR* 3.851. The numbers for 23 B.C. and 138 A.D. are fragmentary Roman numerals, CCCCIV[and CCL[, which can be completed as indicated. The reading on the stone for 23 B.C. has been corrected from Mommsen's 305. The record of 138 A.D., discovered later, is added. Augustus instituted a custom of listing the number present for each meeting: see Dio 55.3-4, with comment, *StR* 3.990, notes 1-2.

of the republican and early imperial custom.¹⁰ The position of the magistrates outside the voting senate affects our estimate of the number present in the senate, for the magistrates in Rome attended the meeting, which in the large gathering of 57 must have included about 450 persons.¹¹

The arrangements in the senate chamber were similar whether the meeting was held in the Curia or in a temple (*StR* 3.931-34). Except in rare secret sessions, the major door was open, and outside the sons of senators could gather to listen to proceedings. In the famous meeting of the Nones of December 63, the consul Cicero could see through the open door of the temple of Concord his son-in-law C. Calpurnius Piso, who was not yet a senator.¹² Cicero's position as presiding consul was in a curule chair on a tribunal at the other end of a central aisle. Frequently the consul in charge was accompanied by his colleague who was also in a curule chair; if both consuls were absent, the urban praetor would have occupied the curule chair.¹³ The

¹⁰ The exclusion of magistrates from membership in the senate during their year of office was established by F. Hofmann, *Der römische Senat zur Zeit der Republik* (Berlin 1847). See *StR* 3.942-46; L. Lange, *Röm. Althertümer* 2³ (Berlin 1878) 369-70. Though deprived of the right to be called on for a *sententia* or to take part in a division, magistrates could be called on (or permitted) to speak. On Dio's ignorance of the position of the magistrates in the Republic see *StR* 3.944, note 2. We can see the development of the inclusion of magistrates in the senate in Tacitus, *Ann.* 3.17, where Tiberius, conducting the senate, calls on a consul first for his *sententia*, "nam referente Caesare magistratus eo etiam munere fungebantur." See Furneaux's note for the awareness of Tacitean scholars of the old position of magistrates in the senate. Cf. also Sherwin-White on Pliny, *Ep.* 6.5.4.

¹¹ In 57 B.C. there were two consuls, eight praetors, four aediles, and ten tribunes of the plebs, a total of 24 magistrates present in Rome. Besides, a minority of the twenty quaestors would have been there and perhaps some of the ten *tribuni militares veteres*, who were probably taken from members of the senate. See Cic. *Verr.* 1.30 for three such men who, as elected military tribunes, were disqualified for the next year for membership in a jury made up of senators.

¹² Cic. *Cat.* 4.3. For boys waiting at the door see Pliny, *Ep.* 8.14.5 and Val. Max. 2.1.9 with Mommsen's comments, *StR* 3.931, note 6, on the story in Gell. 1.23 of the boy who was taken to the senate and refused to reveal secret discussion; the story is ridiculed by Polybius 3.20. The old custom of taking boys into the senate was revived by Augustus. See Suet. *Aug.* 38; cf. Mommsen, *StR* 3.471, note 4. Of importance here are the twenty-five *praetextati* added to the hundred *decuriones* of Canusium in an inscription of 223 A.D., *ILS* 6121. See below, note 47.

¹³ Caesar, like Augustus and his successors, was permitted to have a curule chair between those of the two consuls (Dio 43.14.5). Claudius in senatorial trials sometimes left his curule chair and sat with the senators (Dio 60.16.31).

senators had their seats on both sides of the central aisle, using benches, not, as archaeologists have assumed, chairs (*StR* 3.933–34). There was no fixed place for individuals, though men of the same rank were together, and the *consulares* and *praetorii*, although separated, were near each other. The clearest picture comes from the avoidance on the part of the *consulares* of the benches nearby when Catiline, a *praetorius*, came into the senate in the temple of Jupiter Stator in November 63 (Cic. *Cat.* 1.16):

Quid, quod adventu tuo ista subsellia vacuefacta sunt, quod omnes consulares, qui tibi persaepe ad caedem constituti fuerunt, simul atque adsedisti, partem istam subselliorum nudam atque inanem reliquerunt, quo tandem animo tibi ferendum putas?¹⁴

The mobility shown in such changes of seats was also reflected in the movements of members whom the presiding officer asked to give their *sententiae* in descending rank (although not, at least for the *consulares*, in fixed order within the rank: *StR* 3.965 ff.). If a senator wished to support a *sententia* already expressed by a Cn. Cornelius Lentulus, he answered *eo in sententiam Cn. Cornelii Lentuli*, and, unless he was already there, moved to the side of the room where Lentulus was seated. The division of the voters thus went on through the questioning. When the *sententia* of each senator amounted to a positive or negative vote, the presiding officer could point to one side and declare *haec pars maior videtur* (Seneca, *Dial.* 7.2.1). But any senator had the right to demand a count of votes or a formulation of the question so that a positive or negative vote was possible, and in that case there was a call for a division (*discessio*), in which the opposing groups occupied the two sides of the chamber (*StR* 3.990–94). There was also the *s. c. per discessionem*, in which the division was called for without discussion, perhaps on the basis of a previous meeting (O'Brien Moore, *RE, Suppl.* 6.711; *StR* 3.983–84). The arrangement called for great mobility in the chamber, and there must have been passageways and opportunities for men to surround the presiding officer or the men they supported. As Mommsen suggests (*StR* 3.933, note 1), a clear division in the center of the chamber was essential, a division that would permit

¹⁴ For similar avoidance of Gabinius see fragment of Arusianus Messius, Keil, *G.L.* 7.452; for Sejanus, Dio 58.10.4.

a separation of the senators such as is provided by the division lobbies of the House of Commons.

The place in the chamber occupied by praetors and lower magistrates is not recorded until the early Empire. In Dio's account of the meeting after the death of Augustus, the two consuls are described as sitting not in their usual place but below, *κάτω*, one on the praetors' bench, the other on that of the tribunes.¹⁵ Mommsen assumed that these benches were a new feature of the imperial senate, and that in the Republic the magistrates sat with the senators. But that would have made the counting of the numbers in a division much more difficult, and we believe that special benches for praetors and tribunes, who also had special places at the *comitia centuriata*,¹⁶ were a feature of the republican senate. Probably the benches were in front of the presiding officer, for a seat on them was a good position for a senator who was deaf. They were presumably on platforms, which were clearly, from Dio's *κάτω*, lower than the curule chairs of the consuls. It is to be noted that a particularly high tribunal was used by Caligula. As for the position of the aediles and quaestors, who surely attended unless their duties, as was true of the majority of the quaestors, took them away from Rome, the plan of the Curia, to be discussed later, provides the best basis for making suggestions.

PLACES OF MEETING

To make its decrees valid the senate had to meet in a *templum* which had been inaugurated by augurs, as was the ancient Curia Hostilia in the Comitium, the later Curia Julia, and the Curia Pompeia close to Pompey's theater.¹⁷ The *templum* did not have to be dedicated to any divinity, and the pontifices refused without action of the people

¹⁵ Dio 56.31.3: *ἐκαθέζοντο δὲ οἱ μὲν πολλοὶ ὥς που ἕκαστος εἰώθει, οἱ δ' ὑπατοὶ κάτω ἐν τοῖς βάθροις ὁ μὲν τῷ τῶν στρατηγῶν ὁ δὲ τῷ τῶν δημάρχων.* See Dio 60.12.3 for a senator who stood up because he was deaf, and was permitted by Claudius to sit on the bench of the praetors.

¹⁶ Varro, *L.L.* 6.91; *Tabula Hebana* 18 (text in *AJP* 75 [1954] 225-49).

¹⁷ Varro apud Gell. 14.7.7: "docuitque confirmavitque, nisi in loco per augurem constituto, quod templum appellaretur, senatus consultum factum esset, iustum id non fuisse. Propterea et in curia Hostilia et in Pompeia et post in Iulia, cum profana ea loca fuissent, templa esse per augures constituta, ut in iis senatus consulta more maiorum fieri possent."

to authorize a censor of 154 to dedicate the Curia to Concordia, a goddess who might have been expected to bring harmony into their sessions (Cic. *Dom.* 130–36).¹⁸ Besides the Curia in the Comitium, any inaugurated temple of a god could be used, provided that it was inside the *pomerium*, or not more than a mile outside.¹⁹ The first meeting of the magisterial year, the primary business of which concerned the state religion, and other important meetings were in the Capitolium. Certain meetings had to be held outside the *pomerium*, particularly those to receive embassies from peoples not under treaty with Rome and those to be attended by pro-magistrates, especially those waiting for action on a triumph.

THE CURIA

The Curia, which stood in the Comitium in the northwest angle of the Forum, was by far the most common place of senatorial meetings.²⁰ According to tradition it was built by Tullus Hostilius, third king of Rome, and there is no record of any rebuilding of it until Sulla enlarged it, apparently by throwing forward the front walls, to accommodate his enlarged senate.²¹ It was burned with the body of Clodius

¹⁸ Cicero here reports that the censor C. Cassius in 154 B.C. transferred to the Curia a statue of Concordia set up by a censor of 164, and asked the pontifices whether it was permitted to dedicate *id signum curiamque* to Concordia; “praescribere enim se arbitrabatur ut sine studiis dissensionis sententiae dicerentur, si sedem ipsam ac templum publici consili religione Concordiae devinxisset” (131). The pontifex maximus replied (136) that such a dedication could only be carried out by the order of the people.

¹⁹ On the temples where meetings of the senate were held see *StR* 3.925–31; G. Marchetti-Longhi, *Rend. Pont. Acc.* 20 (1943–44) 403–15; Platner-Ashby, *Topographical Dictionary of Ancient Rome* (Oxford 1929) under the various temples and buildings. For the time of Cicero, P. Stein’s excellent dissertation, *Die Senatsitzungen der ciceronischen Zeit* (Münster 1930), is very useful.

²⁰ The literary evidence for the Curia is fully cited by Platner-Ashby, s.v. “Curia Hostilia,” “Curia Julia.” Except for the opening meeting of the year and the meetings that had to be held outside the *pomerium*, most sessions reported from the period of Livy’s histories are, where place is indicated, in the Curia, described in the text of *senatus consulta* as ἐν κομητίῳ. For the Comitium as *vestibulum curiae* see *StR* 3.931, note 5. For a *frequens senatus* in the Curia the day after the meeting in the Capitol in 57 described above, see Cic. *Sest.* 129; *Pis.* 34, discussed in Appendix 2. Sometimes the word *curia* is used of a session actually held in a temple.

²¹ On the rebuilding of the Curia see Cic. *Fin.* 5.2, “curiam nostram (Hostiliam dico, non hanc novam, quae minor mihi esse videtur, posteaquam est maior).” The view

in 52 B.C., and Sulla's son Faustus was authorized by the senate to rebuild it. Faustus' structure, the Curia Cornelia, must have been completed before the Civil War. It was apparently the place where Cicero's speech *Pro Marco Marcello* was delivered in 46 B.C.²² But shortly thereafter the senate voted to build a new Curia to be known as the Curia Julia, and the Curia of Faustus Sulla was torn down evidently before Caesar's death, for no meetings of the next two years, on which we are well informed, are known to have been held there. The most common place for meetings after the Ides of March, 44, through much of 43, was the temple of Concordia. In Caesar's reorganization of the northwest corner of the Forum, the Curia Julia was built, also on the Comitium, in a slightly different position from the Curia Hostilia and with different orientation. Like the earlier Curia, it was accompanied by a senatorial waiting place known as *Senaculum*,²³ and also by a building, apparently for records, known variously as *Chalcidicum* or *Atrium Minervae*. The Curia Julia, when dedicated by Octavian on 28 August, 29 B.C., became in effect a temple dedicated to a divinity, for in it was placed an altar of Victoria with

that Cicero is here speaking of the rebuilding of the Curia after the fire of 52 fails to take account of his care in keeping to his dramatic date, which is here 79 B.C. For Sulla's enlargement of the Curia see Pliny, *N.H.* 34.26 (of statues), "*invenio et Pythagorae et Alcibiadi in cornibus comitii positas . . . eae stetero, donec Sulla dictator ibi curiam faceret.*"

²² Cic. *Marc.* 10: "*parietes . . . huius curiae tibi gratias agere gestiunt, quod brevi tempore futura sit illa auctoritas in his maiorum suorum et suis sedibus.*"

²³ The *Senaculum*, to judge from Valerius Maximus 2.2.6, was a place near the Curia where senators could gather, ready, when a meeting was called, to go to the Curia. Festus, 470 L, says that there were three *senacula* at Rome *in quibus senatus haberi solitus sit* (quoting a certain Nicostratus *de senatu habendo*), "*unum ubi nunc est aedis Concordiae inter Capitolium et Forum, in quo solebant magistratus dumtaxat cum senioribus deliberare; alterum, ad portam Capenam [apparently a temporary site used during the Second Punic War]; tertium, citra aedem Bellonae, in quo exterarum nationum legatis, quos in urbem admittere nolebant, senatus dabatur.*" The passage suggests that there were actual meetings at the *senacula*, which, in that case, were inaugurated. The same possibility is indicated by Elagabalus' establishment of a *senaculum mulierum* on the Quirinal, which Aurelian planned to restore. See S. H. A. *Elagab.* 4.3-4; *Div. Aur.* 49.6, "*senatum sive senaculum matronis reddi voluerat.*" The *Senaculum* near Concordia and the Curia is first mentioned in Livy 41.27.7, a puzzling passage under the censorship of 174 B.C. Could this *Senaculum* be the place where the witnesses signed the *senatus consultum* after the meeting was over? The use for actual meetings will be discussed below, under Bellona.

a statue brought from Tarentum.²⁴ To this goddess the senators must have offered the incense and wine that Augustus commanded them to offer to the presiding divinities of the temples where the senate met. In the last days of paganism, Victoria with her offerings became a symbol of Roman ancestral religion, and her altar was alternately removed and restored to the Curia by Christian and pagan senators.²⁵ In the seventh century the Curia was converted into the church of San Adriano and remained a place of worship until the excavations and restorations of 1930–37 turned the building once more into a Curia. Only the briefest publication of the results appeared before the issue in 1963, some years after the restoration of the building, of Alfonso Bartoli's posthumous volume, *Curia Senatus, lo Scavo e il Restauro* (*MonRom* 3, Istituto di Studi Romani). The 89 pages of text are supplemented by 41 figures in the text and 97 plates, showing, besides numerous plans and drawings from the time of Antonio da San Gallo the Younger to the present, more than 160 photographs taken during the course of excavation and restoration. These important documents often provide, for the solutions adopted by Bartoli in his text, evidence that he omitted to mention, since much of the brief text was dictated during his last illness.²⁶

The building he restored (fig. 1) is the Curia rebuilt by Diocletian after the destruction of the previous building by fire under Carinus in 283.²⁷ In size, site, orientation,²⁸ and, we believe, in details of

²⁴ On the dedication see the stone calendars with discussion of Mommsen, *CIL* 12, pt. 1, p. 327, and A. Degraffi's great new edition, *Inscriptiones Italiae* XIII, 2 (Rome 1963), pp. 503–4. The accepted view that the Augustan coin showing a building with an acroterion of Victoria and the inscription IMP. CAESAR is the Curia has been called in question by Castagnoli, *Arch. Class.* 16 (1964) 193–95; see also N. Degraffi, *Rend. Pont. Acc.* 39 (1966–67) 96–97.

²⁵ On offerings by senators to the divinities of shrines where the senate met, see Suet. *Aug.* 35; Herodian 5.5.7; for sources and bibliography on Victoria in the Curia and the struggle between pagans and Christians over the removal of the altar of Victoria, see S. Weinstock, *RE* 8A2 (1958) 2521–22, 2540–41. See also H. A. Pohlsander, "Victory: The Story of a Statue," *Historia* 18 (1969) 588–97.

²⁶ We are grateful to Dr. Laura Fabbrini of the staff of the Forum and Palatine for her account of the work she did on this publication with Bartoli. The inclusion in the volume of a full set of photographs is a welcome addition. Particularly unsatisfactory is the lack of discussion of pre-Diocletianic remains.

²⁷ The dating under Diocletian depends on the Chronographer of 354 A.D. (Lugli, *Fontes ad topog. veteris urbis Romae* 1 [Rome 1952] 66), who lists as burned under Carinus (283 A.D.) *senatum, forum Caesaris, basilicam Iuliam et Graecostadium*, and then as *fabricatae*

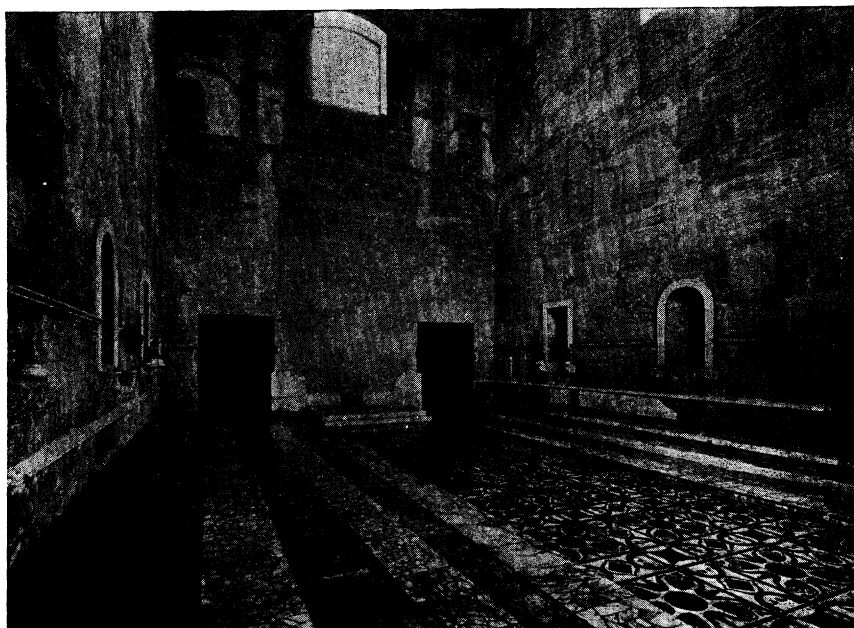


FIGURE 1. Interior, Curia of Diocletian (Fototeca Unione no. 4741)

interior design it reproduces the Curia Julia of 29 B.C. Certain of its features seem explicable only in terms of certain pre-Augustan and Augustan voting procedures. These features—and, notable among them, the division—fell into disuse later in the Empire when voting by acclamation gradually became the rule.²⁹

under Diocletian and Maximian (284–305) *senatum, forum Caesaris, basilica Iulia*. Bartoli (above, note 1) 54 ff., cites as a sign of Diocletianic date the intaglio marble pavement.

²⁸ Cf. Bartoli (above, note 1) 37, 51; E. Gjerstad, "Il comizio Romano dell'età repubblicana," *Acta Inst. Sueciae* 5 (1941) 97; N. Lamboglia, "Uno scavo didattico dietro la curia senatus e la topografia del foro di Cesare," *Rend. Pont. Acc.* 37 (1966) 105. Supplementary material on the church of San Adriano has been published by A. Mancini in *Rend. Pont. Acc.* 40 (1967–68) 191.

²⁹ The question would be whether the general plan of the Curia reflects that of the Curia Julia dedicated in 29 B.C. or some new arrangement appropriate to the late Empire. The method of voting and expressing *sententiae* clearly changed with the decline of freedom. Trajan as consul tried to restore republican procedure with divergent *sententiae* and divisions, as Pliny reports (*Pan.* 76), and there was recorded in 138 A.D. a *senatus consultum per discessionem*, that is without discussion (*CIL* 8.23246). But the division gradually gave way completely to voting by acclamation. It is not even mentioned in the *Scriptores Historiae Augustae* for the period from Hadrian to

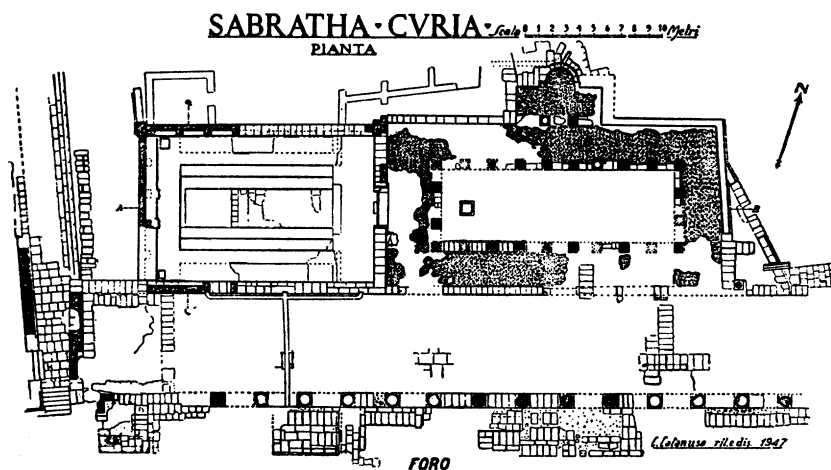


FIGURE 2. Plan of the Curia, Sabratha (from R. Bartoccini, "La Curia di Sabratha," *QAL* I [1950] 30, fig. 1)

For an understanding of the plan of the Curia, investigations of municipal *curiae* have been of great value, particularly those of Anton von Gerkan and Renato Bartoccini, both based on the well-preserved Curia of Sabratha in Libya (fig. 2) dating from the fourth century A.D.³⁰ Common to the plans of the senate houses in Rome and

Carinus. Ignorance of the old methods of voting is indicated by the report of a senatorial decision to consult the Sibylline Books under Aurelian: "aliis manus porrigentibus, aliis pedibus in sententiam euntibus, plerisque verbo consentientibus conditum est senatus consultum (SHA, *Div. Aur.* 20). On the changes in senatorial procedure in the first and second centuries A.D. see M. Hammond, *The Antonine Monarchy* (Rome 1959) 258 ff., 418 ff.; Pliny *Ep.* 8.14.19, 9.13.20 with Sherwin-White's notes. On *acclamatio* see J. Schmidt in *RE*, s.v.; De Ruggiero in *Diz. epigr.* s.v. On procedure in the third to sixth centuries A.D. see P. De Francisci, "Per la Storia del Senato romano e della Curia," *Rend. Pont. Acc.* 22 (1946-47) 275-317, and especially 279 with discussion of a passage from a glossator of Ulpian, *Dig.* 1.9.12.1, where the *ius sententiae dicendae* is limited to *illustres*, descendants of patricians and consuls. See Mommsen, *Gesamm. Schr.* 6.425. Under such conditions the wide aisle was an anachronistic survival from a senate in which men were free to vote against each other; whether the stepped platforms were part of the Augustan building we have no way of knowing. They may have been original or an addition made in the rebuilding of the Curia by Domitian after the fire of 80 A.D. (*Chronogr.* 354).

³⁰ Anton von Gerkan, "Die römische Curia," first published in 1941, available in his *Gesammelte Aufsätze von antiker Architektur und Topographie* (Stuttgart 1959) 290-96; Renato Bartoccini, "La Curia di Sabratha," *Quaderni di Archeologia della Libia* (Rome 1950) 29-58. Neither of these writers, nor Bartoli, nor Marchetti-Longhi in his study

Sabratha are the wide central door, outside of which sons of senators could watch the proceedings,³¹ a stepped area on either side for seating the senators, a wide central aisle needed when, in a division, the members voted by dividing themselves between the two sides,³² and abundant space at the end opposite the door, the place of the presiding magistrate and his colleague and perhaps also of other magistrates and record-keepers.

The accompanying plan of the Curia (fig. 3) is based on that of G. Ioppolo, Bartoli's Plate xcvi. Details have been checked on the site. The interior is 25.63×17.73 meters with an entrance from the Comitium about 4 meters wide. The central aisle measures 5.40 meters in width and about 21 meters in length from the door at one end to the raised *suggestus* at the other, and is covered, except for reserved areas 2 meters long at either end, by a marble intaglio pavement. On either side of it, running back to the lateral walls of the building, are three stepped platforms, each approximately 19 meters long, the two lower each m. 1.80 wide, the upper on the right of the entrance m. 2.05 wide, that on the left m. 2.58 wide. On these platforms must have been the portable seats for the senators that Von Gerkan, Bartoccini, and Bartoli all assumed to have been chairs. But in the Republic and, as far as we know, in the Empire too, the senators regularly sat on benches, *subsellia* (*StR* 3.933-34).

Estimates of the seating capacity of the Curia, based on the unfounded assumption that portable chairs were used, are as follows: Von Gerkan (p. 295) 250-350, Bartoccini 270, Ioppolo (the architect who assisted Bartoli, working with fuller information on the interior dimensions of the Curia) 300 (pl. 96). Our estimates, as we shall show, are much higher, but still distinctly below the numbers to be expected in a full meeting of the Caesarian senate of 900.

of places of senate meetings outside the *pomerium* (above, note 19) seems to know Mommsen's discussion of the senate (above, note 3), which is far more authoritative than that of Willems.

³¹ The bronze doors taken by Borromini to serve as the major doorway of San Giovanni in Laterano had to be enlarged in size. See Bartoli (above, note 1) 44-47.

³² The statement, *StR* 3.933, note 1, that the two sides of the room from which the senators voted must have been "ersichtlich geschieden," is one of many examples of Mommsen's constructive imagination which has been confirmed by subsequent discoveries.

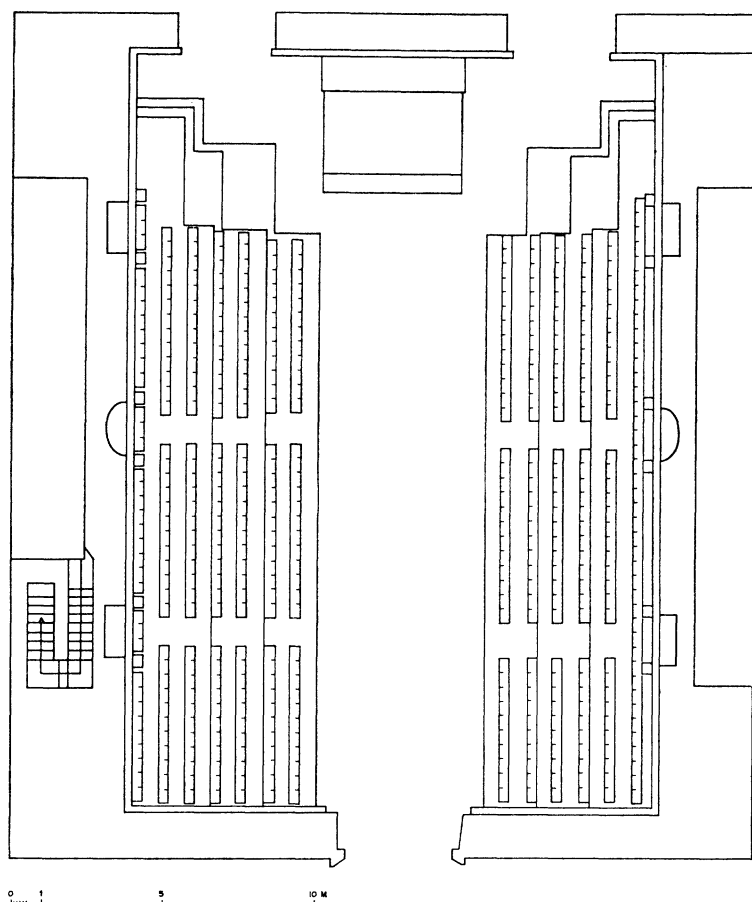


FIGURE 3. Curia of Diocletian, Hypothetical Seating Plan

More room would have been available for seats if the space on either side of the aisle had not been stepped, as it certainly was not in the floors of temples used for senate meetings. Nor is it in either of the buildings usually identified as the Curia of Pompeii, or in the temple of Roma and Augustus, the probable site of the Curia of Ostia.³³ Besides the Curia of Sabratha, the only municipal *curiae* with built-in steps that Bartoccini knew are the ruined building of Leptis Magna, like that of Sabratha of late date, and the building with two steps

³³ See R. Meiggs, *Roman Ostia* (Oxford 1960) 219–20. For evidence for municipal senate houses see Bartoccini (above, note 30) 41 ff., with plans and measurements.

on either side in Thracian Philippi, a monument dating probably after the death of Antoninus Pius.³⁴ Bartoccini suggests that such differences in level at an earlier time may have been provided for by means of wooden structures brought in for the occasion; they might, we would suggest, have been kept permanently in place in the republican Curia which did not serve as a cult center, but in the temples would have been brought in for each occasion.

There is evidence for the presence of wooden equipment in the Curia in the accounts of the burning of the building with the body of Clodius, which was carried there after his murder in January, 52 B.C. Asconius' version (33C) is, "populus . . . corpus P. Clodi in curiam intulit, cremavitque subselliis et tribunalibus et mensis et codicibus librariorum; quo igne et ipsa quoque curia flagravat." The objects burned were the benches, the *tribunalia*, and the tables and ledgers of the record-keepers. We believe that Asconius, like Appian who speaks of heaping up benches and chairs, τὰ βᾶθρα καὶ τοὺς θρόνους (B.C. 2.21), presumably the *sedes curules* of the presiding consuls, is referring to the furniture of the Curia, and not, as Mommsen believed, of the Comitium.³⁵ The *tribunalia* would be the platforms for the consuls and perhaps some lower ones for the benches of praetors and tribunes, which we have argued were part of the furniture of the republican senate. The tables and ledgers of the *librarii* would have been necessary equipment for senatorial meetings, although they are nowhere mentioned.³⁶

³⁴ See Bartoccini (above, note 30) 43-44; with plan, fig. 6, from Collart, *Philippes, Ville de Macédonie* (Paris 1937), with discussion 335 ff. As Bartoccini notes, Collart presents the building as a *templum in antis* in his text, but it is a *curia* in his index.

³⁵ For Mommsen's distinction between Asconius and Appian on the furniture burned, see *StR* 3.932, note 5.

³⁶ *Librarii*, usually freedmen, were available to magistrates in the Republic; see *StR* 1³.346, note 1; for inscriptional evidence see R. F. Rossi in *Diz. epigr.* s.v. They were used by Cicero (*Sulla* 42) to copy the confessions made by the Catilinarians, which, under exceptional circumstances, had been taken down in the senate by trusted magistrates and senators noted for their *memoria* and *celeritas scribendi*. Mommsen notes the lack of evidence for *apparitores* in the senate in the Republic and comments on the presence of *liberti* in imperial meetings (*StR* 3.908 ff.). It seems to us likely that *librarii* were available for necessary work in the Republic. Normally the consul's lictors were not in the senate, though there were divergent reports that Caesar as consul used a lictor or a *viator* to apprehend Cato during a filibuster (Val. Max. 2.10.7; Suet. *Iul.* 20.4: *lictor*; Ateius Capito *apud* Gell. 4.10.8: *viator*). Cf. *StR* 1³.362, note 2.

In calculating seating space in the Curia on the accompanying plan (fig. 3), we have considered as well the evidence for space allowed senators at gladiatorial games in the Forum or Colosseum; the privilege of sitting rather than standing at such shows always counted for a great deal and accordingly allotments of space were jealously calculated down to the *uncia*. Prestige was eminently measurable. A man of consular dignity and members of his family might have permanent claim to reserved seats for Forum shows in Cicero's day, and this senatorial privilege seems never to have been curtailed, nor did the practice cease of assigning less space to men of lesser station. Cicero (*Phil.* 9.16) tells how after the death of Servius Sulpicius while on an embassy for the state, the senate voted to erect a bronze statue of him *in rostris* and to assign an area of five square feet around it to members of his family for seats at the games held in the Forum (Appendix 1). The point seems to have been not the comfort of one person, but the opportunity for him to make a display of his status by providing places for guests. The comfort of an individual senator in the Flavian amphitheater seems to have required between $1\frac{2}{3}$ and a maximum of $2\frac{1}{2}$ Roman feet for the width of a place (Appendix 1). That one could not allow very much less than $1\frac{2}{3}$ feet is brought out by an exchange between Cicero and Clodius that was reported to Atticus (*Cic. Att.* 2.1.5):

Quin etiam cum candidatum deduceremus, quaerit ex me num consuessem Siculis locum gladiatoribus dare. negavi. "at ego" inquit "novus patronus instituum. sed soror, quae tantum habeat consularis loci, unum mihi solum pedem dat." "noli" inquam "de uno pede sororis queri, licet enim alterum tollas."

The foot, as Gronovius pointed out, is squared, as in Cicero, *Phil.* 9.16, but one square foot is not enough to accommodate a senator, much less invited guests.³⁷ The use of *unus pes* here should be roughly equivalent to our English "room for one leg to stand on." That is the point of Clodius' remark; Cicero of course could not resist taking advantage of the latent double-entendre in the phrase. And his rejoinder has another meaning than the sexual one: a senator seated

³⁷ See, on Gronovius, D. R. Shackleton Bailey, *Cicero's Letters to Atticus* 1 (Cambridge 1965) 348.

in the front rows of an amphitheater or above the Rostra should have taken up nearly two feet of room. Would not the requirement have been much the same in the Curia?

There one cannot tell whether the senators of consular and praetorian status who sat down in the front rows on either side of the center aisle had more room than the others. Perhaps space was reserved for men crossing the aisle to express their agreement with a *sententia*. It is possible also that prestige of place carried over from shows to sessions of the senate, but prestige may have been adequately served simply by position in the front rows. The argument from analogy is in any event worthwhile only to the extent that it may help to establish a reasonable unit of individual seating space for the Curia. We are further well aware that the Roman sense of what was room enough need not correspond to ours.³⁸

For the purposes of our discussion we have adopted the lowest unit for the width of a senate seat that ancient literary or archaeological evidence can support, $1\frac{2}{3}$ Roman feet (0.48 m.). The depth of the *subsellia* on which the senators sat is just over one Roman foot (0.30 m.). The measurements of the seating platforms of the interior of the Curia give the depth of each row of seated persons, 3 Roman feet (0.86 m.), which is consistent both with Roman practice involving rows of seated persons elsewhere and with senatorial dignity.³⁹ The depths

³⁸ There remains for example the large discrepancy between ancient and modern estimates of the seating capacity of the Colosseum (Appendix 1).

³⁹ The great latrine of the *domus transitoria* that lies beneath the triclinium and west nymphaeum of the *domus Flavia* has 60 places somewhat narrower than the width we have assigned to the seats in the Curia. Leg room is also curtailed by a small water channel that runs across the room in front of the latrine, apparently fixing the dimensions of a place at something under $1\frac{1}{4} \times 2$ Roman feet. Cf. G. Carettoni in *NSc* 3 (1949) 65 (plan), 66–67. It is this fact, along with the size of the latrine, that has led to the general opinion that it was intended for the use of palace servants. The public facilities of Ostia, it is true, allow more room: see *Scavi di Ostia 1: Topografia Generale* (Rome 1953) Plan 8. The rows of the theater at Ostia are a bit under 3 Roman feet in depth (0.80 m.), *op. cit.* Plan 4, and indicate an adjustment of space for seating comfort over a long period of time. A building still more useful for comparison, because of its design, function, and the people for whom it was intended, is the Curia of Sabratha. Its fourth-century date admits the possibility that it was influenced by the Roman Curia, as does the depth of its rows, which is uniformly 3 Roman feet. Cf. Von Gerkan (above, note 30) 291; Bartoccini (above, note 30) 29. There is then support in ancient remains for the units of measurement we have adopted for a senator's place, $1\frac{2}{3} \times 3$ Roman feet. They remain hypothetical of course, but are Roman and not modern.

of the stepped seating platforms on the left side of the Curia, measuring back from the center aisle, are 6, 6, and 9 Roman feet, which naturally suggest 2, 2, and 3 rows of seats. The depths of the platforms along the right side, measuring back from the center aisle, are 6, 6, and 7 Roman feet, suggesting 2 rows of seats on each level. There is no entirely satisfactory explanation for the variation in depth of the top platform on the right side. It might be an imbalance created by building on the foundations of the old Curia Julia without concern for total symmetrical correspondence between the two sides. But the question of numbers might also have influenced the arrangement. One will notice that the extra foot of room corresponds to the distance that the columns of the lateral niches project onto the platform. One can suppose that the second row of benches would have been pulled forward to prevent the columns from blocking space needed for seats. The arrangement of benches in the plan reflects this supposition.

These units of space do not agree with the $2' \times 2'$ chairs that Bartoli restored in his seating plan, and, while we accept his restoration of the interior of the building, we do not agree with his use of the available space.⁴⁰ We have placed benches along the platforms for a distance of about nineteen meters from the south end of the building to the beginning of the stepped north ends of the platforms on either side of the center aisle. The space left at the ends we have considered reserved for recording secretaries and officials other than the presiding magistrates. Measurements show that these people could be comfortably and easily seated without blocking the passage of senators coming or going along the rows from the north end of the building.⁴¹

One will note, however, that $1\frac{3}{4} \times 3$ Roman feet is more generous than the maximum allowance of 18×33 inches for row seats in church or theater given in Kidder-Parker, *Architects' and Builders' Handbook* (New York, 15th printing of 1954) 2067.

⁴⁰ Cf. Bartoli 54 and plate 96 for the portable chairs mistakenly substituted for benches. We have accepted the two side aisles of which Bartoli found traces in his excavation and subsequently restored on both sides of the center aisle of the curia.

⁴¹ The available space for seating on the platform ends is as follows: Left side, aisle to wall: platform 1 (2.88 m. \times 1.75 m.) = 2 rows of six seats; platform 2 (2.40 m. \times 1.28 m.) = 1 row of five seats; platform 3 (3.60 m. \times 1.55 m.) = 1 row of 6 seats, allowing for interference from a projecting column. Right side, aisle to wall: platform 1 (2.88 m. \times 1.55 m.) = 1 row of 6 seats; platform 2 (2.40 m. \times 1.60 m.) = 1 row of 5 seats; platform 3 (3.65 m. \times 1.15 m.) = 1 row of 6 seats, allowing for interference from a projecting column. The width of the *suggestus* is 4.80 meters, its minimum depth for seating is 2.70 meters = 3 rows of 10 seats.

The considerable space available on the *suggestus* itself, and that of the adjacent floor, have also been omitted from our calculations. The estimated seating capacity will thus be less than the maximum.

The results speak for themselves. Even at a conservative estimate the capacity of the Curia significantly exceeds the figure of 300 senators proposed by Bartoli and that of 250–350 senators suggested by Von Gerkan.⁴² The figure of 465 senators is hypothetical but serviceable, and reflects, we think, a Roman sense of seating space. It is possible, as noted earlier (above, p. 545), that the former consuls and praetors in the front rows had more room than their lesser colleagues: they were certainly better placed for questioning and debate and this was a prerogative of their rank, as was their location in the theater. (“At Novius collega gradu post me sedet uno, namque est ille, pater quod erat meus,” Hor. *Serm.* 1.6.39–40.) Extra room would very likely have facilitated the gathering of other senators around a consular or praetorian whose position they supported, but we lack conclusive information on the point. The senior author inclines to the view that they would have had extra room, while the junior author is inclined to think that prestige of place in the Curia was not in extra room, but in position. If one were to allow two feet for each senator in the first two rows on either side of the aisle, however, the number of seats would only be reduced by 22, from 465 to 443.⁴³

When a division was called and the senate voted with its feet (*pedibus in sententiam ire*, Seneca, *Apol.* 11.6), the important consideration would have been the broad center aisle where people could move about and be counted in their respective groups. During a long debate like that over the Catilinarians with the lengthy speeches of Caesar and Cato, and during the years when Cato’s dogged filibustering slowed the completion of business, additional seating space would have been needed.

The disposition of the Curia built by Diocletian implies and commemorates the voting procedures of the senate in the late Republic

⁴² See Bartoli 54; Von Gerkan (above, note 30) 295.

⁴³ The total number of seats in the first two rows on either side would be 116, allowing a width of 2 feet for each place. In the late Republic this number would be sufficient for the former consuls and praetors who might be present in Rome for any given meeting of the senate.

and early Empire. One cannot but think that its seating capacity has reference to the senate of Caesar as well as to its own. We have estimated that the Curia could provide seating space for 443-465 senators plus magistrates and recorders. But Caesar, who doubled the number of praetors from 8 to 16 and of quaestors from 20 to 40, had a senate of 900. A *frequentissimus* session of the post-Sullan senate of 600 had 417 senators present. The appropriate proportion for the Caesarian senate would have been 625 senators, and these could not all have been seated in the Curia Julia.

THE "SENATORES PEDARIII"

If there were not places on the benches for all the senators, some of them would have had to stand during the meetings. And that brings us to the curious term *pedarii senatores* used for men of inferior rank within the senate. There was confusion under the Antonines about the make-up of this group, a confusion increased by changes in the composition of the senate which had developed in the period from Caesar to the Antonines. The confusion is reflected in a chapter of Aulus Gellius with the title, *Quid sint "pedarii senatores" et quam ob causam ita appellati*.⁴⁴ There was no doubt that the *pedarii* were

⁴⁴ Gell. 3.18: "Quid sint 'pedarii senatores' et quam ob causam ita appellati; quamque habeant originem verba haec ex edicto tralatitio consulum: 'senatores quibusque in senatu sententiam dicere licet.'

"Non pauci sunt, qui opinantur 'pedarios senatores' appellatos, qui sententiam in senatu non verbis dicerent, sed in alienam sententiam pedibus irent. Quid igitur? cum senatusconsultum per discessionem fiebat, nonne universi senatores sententiam pedibus ferebant? Atque haec etiam vocabuli istius ratio dicitur, quam Gavius Bassus in commentariis suis (*fr. 2 L.*) scriptam reliquit. Senatores enim dicit in veterum aetate, qui curulem magistratum gessissent, curru solitos honoris gratia in curiam vehi, in quo curru sella esset, super quam considerent, quae ob eam causam 'curulis' appellaretur; sed eos senatores, qui magistratum curulem nondum ceperant, pedibus itavisse in curiam; propterea senatores nondum maioribus honoribus 'pedarios' nominatos. M. autem Varro in satira Menippea, quae *Ἰπποκύων* inscripta est (*fr. 220 B.*), equites quosdam dicit 'pedarios' appellatos videturque eos significare, qui nondum a censoribus in senatum lecti senatores quidem non erant, sed, quia honoribus populi uti erant, in senatum veniebant et sententiae ius habebant. Nam et curulibus magistratibus functi, si nondum a censoribus in senatum lecti erant, senatores non erant et, quia in postremis scripti erant, non rogabantur sententias, sed, quas principes dixerant, in eas discedebant. Hoc significabat edictum, quo nunc quoque consules, cum senatores in curiam vocant, servandae consuetudinis causa tralatitio utuntur. Verba edicti haec sunt: Senatores quibusque in senatu sententiam dicere licet.

"Versum quoque Laberii, in quo id vocabulum positum est, notari iussimus, quem

inferior,⁴⁵ but there was doubt whether their position came from the fact that they were not reached in the *relatio* in which, in descending order, senators were asked their *sententiae*, and some of them could express themselves only by using their feet to join men in a division. As Gellius points out, in a *senatus consultum per discessionem*, a decree without previous discussion, all the senators used their feet to vote. Gellius supplies two other explanations of the *pedarii*, one of which was that they had once come to the senate on foot, while former holders of curule magistracies came in a curule chair mounted on a chariot. Such a distinction between the *pedarii* and senators who had held curule magistracies comes out in passages in Cicero, and in Frontinus and Tacitus, who may reflect the language of a law and of senatorial records of Augustus and Tiberius. Cicero says that a decree of 60 B.C. was passed *summa pedariorum voluntate, nullius nostrum auctoritate*, and on the same decree there is a later statement, *raptim in eam sententiam pedarii cucurrerunt* (*Att.* 1.19.9 and 20.4). They could be quicker if some of them were already on their feet. *Nostrum* probably means curule magistrates. As assistants to the curator of aqueducts, Frontinus (*Aq.* 99) mentions under 11 B.C. two senators, a *praetorius* and a *pedarius*. The distinction between *consulares* and *praetorii* on the one hand and *pedarii* on the other comes out clearly in Tacitus' comment, *Ann.* 3.65, on men so tainted with adulation, "ut non modo primores civitatis . . . sed omnes consulares, magna pars eorum qui praetura functi multique etiam *pedarii* senatores certatim exsurgerent foedaque et nimia censerent." The use of *exsurgere* indicates that at least a portion of the *pedarii* had seats.

Gellius' third explanation is represented in the formula used to summon to the senate *senatores quibusque in senatu sententias dicere licet*.

legimus in mimo, qui Structurae inscriptus est (*v.* 88 R.3):

caput sine lingua pedari sententia est.

Hoc vocabulum a plerisque barbare dici animadvertimus; nam pro 'pedaris' 'pedaneos' appellant."

Besides Laberius Gellius might have quoted Lucilius (*Festus* 232 L), "Pedarium senatorem . . . significat Lucilius cum ait . . . 'agipes vocem mittere coepit'; qui ita appellatur, quia tacitus transeundo ad eum, cuius sententiam probat, quid sentiat, indicat."

⁴⁵ On *senatores pedarii* see *StR* 3, index s.v. "pedarius"; Willems (above, note 3) 1.137-45; O'Brien Moore, s.v. "Senatus," *RE Suppl.* 6 (1935) 680-81.

The men who could be called on for their *sententiae* were men, mainly holders of lower offices, whom the censors had not yet enrolled in the senate. These were the men whom Varro, in the Menippean Satire "Half Man, Half Bitch," called *equites pedarii*. With them might have been grouped the men who, without holding any office, had, on occasions of emergency, been elected to the senate; to them belonged reportedly the *conscripti* of the beginning of the Republic, certain of the men chosen after Cannae, and new senators chosen in the dictatorships of Sulla and Caesar to fill the rolls of an enlarged senate (*StR* 3.838 ff.). These men do not correspond to the *adlecti* of the Empire,⁴⁶ who were usually recipients of imperial favor, but, as Mommsen points out, they appear to correspond to the men listed as *pedanei*—according to Gellius a barbarous variant of *pedarii*—in the roll of the municipal senate of Canusium. Whereas in other ranks *adlecti* are listed after the officials, the *pedanei* follow the men of lowest magisterial rank, the *quaestorii*, and are probably drafted to make up to a hundred the membership in the municipal senate of Canusium.⁴⁷ These *pedanei* seem to be frankly inferiors.⁴⁸

Because of changes in the composition of the senate, the superiority of former curule magistrates was no longer clear in the time of the Antonines. The changes come out in a table showing, for successive periods from 197 B.C. (when the number of praetors was raised to six) to the death of Hadrian, the approximate number of men in the senate and the number of quaestors and praetors.⁴⁹

The striking development is the disappearance of the class of senators who did not reach curule office. From the time of Claudius on there was little difference between the numbers of quaestors and praetors.

⁴⁶ On *adlecti* in the Empire see the index of Syme's *Tacitus* (Oxford 1958) and of M. Hammond's *Antonine Monarchy* (Rome 1959).

⁴⁷ For the list of *decuriones* of 223 A.D. from Canusium in Apulia see *CIL* 9.338, *ILS* 6121. It comprises one hundred members listed in descending order of rank from *quinquennialicii* to *quaestorii*, followed by a group of 32 *pedani*.

⁴⁸ For the use of *pedaneus* for inferiors, compare the late imperial term for a substitute *iudex*, *iudex pedaneus*. See Mommsen, *Röm. Strafrecht* (Leipzig 1899) 248–50.

⁴⁹ The members of the senate do not include the magistrates. On the number of quaestors and praetors the recent articles in *RE* add very little to the evidence to be found through the indexes of *StR*. On the numbers of quaestors (not definitely attested as an obligatory office before Sulla) see A. E. Astin, *The Lex Annalis before Sulla* (Collection Latomus 32, Brussels 1958) 28–30.

Period	No. of senators	Of quaestors	Of praetors
197-82 B.C.	300	8-12 +	6
82-47	600	20	8
47-44	900	40	16
44-31	1000	?	?
31 B.C.-41 A.D.	600 +	20	10 +
41-54	600 +	20	14-18
54-138 A.D.	600 +	20	18

Every man who, either because he belonged to a senatorial family or through imperial favor, was admitted to the *cursus honorum* was fairly sure of arriving at a curule office, the praetorship.⁵⁰

The division between former curule officers who occupied the front benches and *pedarii* who, if they could find a place, sat on the back benches, was sharpest in the period from Sulla to Caesar, when the senate doubled and the curule officers were increased by only two additional praetors.⁵¹ In trying to reconstruct senatorial membership in 179 B.C., a time when Livy gives us the names of nearly all the praetors, Willems lists somewhat more than half the membership as curule senators. In 55 B.C. he finds less than a third in that group, although his estimates are less adequate then, since for that time there is no full list of praetors.⁵² It seems clear that the holding of curule office was

⁵⁰ On the changing *cursus* from Republic to Empire and the custom that developed in the Empire of choosing approximately as many quaestors as could rise to the praetorship, see Mommsen, *StR* 1³.554-61, esp. 557. Wesenberg, s.v. "Praetor," *RE* 1587, quotes on this point a statement of Friedländer, who carefully cites his original, Mommsen.

⁵¹ The plebeian aediles, who did not originally have the right to the curule chair, appear to have secured it through Sulla, who upgraded them when he downgraded the tribunes of the plebs. But since most aediles reached the praetorship, this change had little effect on the number of senators of curule rank. The proof of the position of the plebeian aediles is to be found in Cicero's aedileship, shown by the games he conducted to have been plebeian, not curule. The office gave him the right to the *toga praetexta* and the curule chair. See Cic. *Verr.* 2.5.36-37 with discussion *AJP* 60 (1939) 194-202; cf. *MRR* under aediles, 69. It was the suggestion of L. R. Taylor, accepted by various scholars, that Sulla may have elevated the plebeian aediles when he diminished the power of the tribunes. Supporting evidence for this view is to be found in Valerius Maximus' account (7.3.8) of M. Volusius, a plebeian aedile of 43, who *abiecto honoris praetexto* escaped proscription in the garb of an Isiacus. Mommsen (*StR* 1.418, note 3), wrongly in the opinion of L. R. Taylor, rejects the report, holding that *praetexto* (or *praetextu*, the reading he prefers) had nothing to do with the *toga praetexta*.

⁵² See Willems' lists of the men who might have belonged to the senate in these two periods ([above, note 3] 1.305-80, 423-559). Twenty quaestors a year, it has been estimated,

the original basis of separation which left the *pedarii* in an inferior class.

In the time when the *pedarii* were most numerous, from Sulla to Caesar, *adlectio* to the senate, which Mommsen saw as the basis of division, was a factor, for many of the *pedarii* must have been surviving members of the three hundred knights added to the senate by Sulla. Like the majority of the twenty quaestors elected in subsequent years, these men had little hope of advancement. Lacking family support, they remained permanent backbenchers. Their status may have been emphasized by a shortage of seats in the Sullan senate. When, to accommodate a senate whose membership was doubled, the walls of the Curia were thrown out toward the Comitium (above, note 21), the increase in size of the senate chamber may not have provided seats for all the members.

As for the right of the *pedarii* to take part in *relationes*, Tacitus (*Ann.* 3.65) indicates that they had it.⁵³ The expression used in summoning senators, *quibus in senatu sententiam dicere licet*, shows that theoretically at least they could be called on for their *sententiae*. But for lack of time at sessions which had to end at sundown, they probably had little chance to exercise their privilege. Willems argued vigorously that they were not debarred from participation, but the pre-Sullan example he gives was shown by Mommsen to be a case of mistaken

maintained at full strength a senate of 600; a similar proportion for a senate of 300 would have been ten a year, and six praetors yearly would have produced a senate with more than half the members of curule rank. Actually Willems, who had to guess at the dates of death, has 173 curule members in his senate of 179, for which he produces 304 names in all. His number of curule senators for 55 is only 163, to which from new evidence and careful analysis (see *MRR* under the years) a considerable addition can now be made.

⁵³ From his study of careers of senators mentioned in Pliny's letters, Sherwin-White (above, note 3) 497, in note on *citatis nominibus* in *Ep.* 9.13.20, is able to cite no example of a man of lower rank than a *praetorius* who is included in the questioning. The *tribunus plebis* who speaks in *Ep.* 5.13.4-6 is functioning as a magistrate, not as a senator. From *citatis nominibus* and from *Pan.* 76, Sherwin-White assumes that all members had the right to be questioned. By the time of Trajan lower rank in the senate represented youth, not inferiority, and it is noteworthy that the scornful term *pedarius* is not used of Roman senators after Tacitus, *Ann.* 3.65, where the term may come from a record of senatorial action under Tiberius. See above, note 47, for *pedaneus* used for municipal senators.

identity,⁵⁴ and examples he cites from the Ciceronian period can be accounted for in other ways. It was possible, as a reward or a prerogative of special status, for men of lower rank to secure a more favorable place, for instance a *praetorius locus* in the questioning.

Such a favorable position in the senate is most clearly shown by Cicero's motion to honor Octavian in January 43 (*Phil.* 5.46):

Quod C. Caesar . . . summo rei publicae tempore milites veteranos ad libertatem populi Romani . . . conscripserit . . . quodque . . . saluti dignitateque populi Romani subvenerit, ob eas causas senatui placere C. Caesarem C. filium, pontificem pro praetore senatorem esse sententiamque loco praetorio dicere.

There was evidently precedent for such a decree, though perhaps not for the motion passed which prepared the way for the consulship by giving Octavian a vote in the *locus consularis*. Such honors were not limited to men with military achievements. They were also included in the rewards of successful public prosecutors. Cicero denies that he was seeking these rewards in prosecuting Verres, but he gives other examples of acquisition of a *praetorius locus* in the senatorial *relatio*.⁵⁵ Similar rewards were given *delatores* in the early Empire (*Tac. Ann.* 2.32), but they seem to have been discontinued as the emperor's influence on the choice of magistrates increased.

Three men of the post-Sullan Republic (two of them mentioned by Willems) who participated in senatorial *relationes* before they held curule office may have won an advanced position in the senate by military achievement or by a successful prosecution; there is, however, no evidence to prove that they did. But they had something else

⁵⁴ Willems (above, note 3) 1.137-45 in discussion of *pedarii senatores*; like us, he identifies them with the senators who had not held curule offices. On his mistake in assuming that M'. Acilius of Livy 27.25.2 was M'. Acilius Glabrio, cos. 191, see *StR* 3.963, note 2. The former was probably an Acilius Balbus. See L. R. Taylor, *The Voting Districts of the Roman Republic* (Rome 1960) 185-86.

⁵⁵ For the evidence from the Ciceronian period see L. R. Taylor, *Party Politics in the Age of Caesar* (Berkeley 1949) 112-16; *Greece and Rome* 4 (1957) 10-18, with reference there to the unpublished dissertation of Helen R. Russell, available in microfilm (University Microfilms, Ann Arbor, 1955), *Advancement in Rank under the Roman Republic for the Soldier and the Public Prosecutor*. She reaches important conclusions for the career of Julius Caesar, referred to with approval by M. Gelzer in the sixth ed. of his *Caesar* (English translation, Oxford 1968) 172.

in common. They were all public priests in the great colleges, two of them *quindecimviri sacris faciundis*, the third an augur, and two of them are known to have acquired their priesthoods before they were elected to a curule office. The date of the priesthood of the third is unknown, but, like other men of the high nobility, he probably got it early.⁵⁶ Members of the great priestly colleges who were old enough to be in the senate formed permanent committees to which were referred, for recommendation of action, religious questions within the functions of their priesthoods. We know the procedure best from the report of the pontifices to the senate (Cic. *Att.* 4.2.4) on Cicero's house in which Clodius had created a temple of Libertas. And there is clear evidence that one of the pontifices, C. Fannius, an ex-tribune, was in a special position of authority, having, Cicero says, won in his youth what is described as *consularis auctoritas*. The word *auctoritas* applies particularly to senatorial prestige, and Fannius had obtained it as a young man presumably when he was elected a member of a major priesthood.⁵⁷ Cicero's statement may mean that Fannius received a *locus consularis*, but the example of Octavian would seem to favor placing him in a *locus praetorius*, that is among former curule magistrates. Here and elsewhere Cicero is making a point of Fannius' right to expect advancement in the future.

The most significant example of a man who took an active part in senatorial *relationes* is the younger Cato, who had become a *quindecimvir* before he held any elective office (Plut. *Cato min.* 4.1). Cato was quaestor in 65 or, more probably, 64 (*MRR*, Suppl.). In the speech on the Catilinarians which Sallust puts into Cato's mouth (*Catil.* 52.7) on the Nones of December, 63, Cato is represented as a frequent speaker in the senate. One may doubt Sallust's accuracy here, but not that of Cicero in the *Pro Murena* (62) delivered a few weeks before.

⁵⁶ See C. Bardt's excellent monograph, *Die Priester der vier grossen Collegien in römisch-republikanischer Zeit* (Berlin 1871); David E. Hahm, "Roman Nobility and the Three Major Priesthoods, 218-167 B.C.," *TAPA* 94 (1963) 73-85.

⁵⁷ On the three tribunes of 59 who watched the heavens during Caesar's legislation see Cic. *Vat.* (56 B.C.) 16, "duos praetextatos sedentes vides [as praetors] . . . tertium scis . . . consulare auctoritatem hominem esse adulescentem consecutum." For identification of the three men see Cic. *Sest.* 113; *Schol. Bob.* 135, 146-47 Stangl. See L. R. Taylor, *AJP* 63 (1942) 398, and, for Fannius' pontificate, Cic. *Har. resp.* 12 and numismatic evidence cited in *MRR*, Suppl.

In it Cato is quoted as having declared in the senate that he would prosecute consular candidates thought to be guilty of bribery. At the meeting on the Nones of December, Cato, described as *admodum adulescens* and *tribunus plebis designatus*, was called on, according to Velleius (2.35.3) *paene inter ultimos*. I believe that he was called on as priest *in loco praetorio*.⁵⁸ The records of that senatorial meeting (see especially Cic. *Att.* 12.21.1) do not indicate that, except for Cato, anyone below the rank of praetor (where the praetors designate Caesar and Q. Cicero would have spoken first) had a chance to speak. At a meeting in December 61 when the Asian contracts of the knights were discussed, Cato expected to speak, but did not have a chance *propter diei brevitatem* (*Att.* 1.17.9). There had been earlier speakers, but the ones surely attested are the *consularis* Cicero and the consul designate Metellus, the only man who spoke in opposition. The priesthood would account for Cato's continued importance in the senate until he got the praetorship for 54.

Cicero's enemy P. Clodius Pulcher also belonged to the *quindecimviri*; he too was probably elected early, though the first evidence for his membership comes from 56, when he was curule aedile (Cic. *Har. resp.* 26; see *MRR*, Suppl.). He was called on for his opinion in the meeting on the Capitol concerning Cicero's recall, in July 57 (see Appendix 2). The third man, P. Servilius Isauricus, *cos.* 48, was an augur, but the date of his election is unknown. Since he was praetor in 54, he was born not later than 94, and would, it is likely, have held the quaestorship at the earliest possible date, that is not later than 63. In a senatorial meeting in 60 he was called on for his *sententia*, *in postremis* (Cic. *Att.* 1.19.9), by virtue, I suggest, not of his quaestorship, where he would not have been *in postremis*, but of the priesthood which, as son of a great Sullan *consularis* and *triumphator*, he probably acquired in his youth.

⁵⁸ The general view is that Cato was called on as *tribunus plebis designatus*, who, like the consuls and praetors designate, may have had a favorable position in voting, but the prospective tribunes would not have been reached until after the *praetorii*. The only men in that rank known to have spoken are Caesar and Q. Cicero, both of whom were praetors designate. Caesar certainly spoke before Cato, and probably Q. Cicero, who changed his vote as others did after Caesar's speech (Suet. *Iul.* 14.2), had spoken before Caesar. Velleius' statement about Cato emphasizes his youth rather than his exact position in the voting.

In support of this view of the position of the priests in the senate is the fact that members of the great priestly colleges had the right, when exercising their religious functions, of wearing the *toga praetexta* accorded to no magistrate below the aedile; the curule chair usually went with the *toga praetexta*.⁵⁹ Of importance here is the prominence of priests of the emperors, particularly provincial priests, in the senate of provincial capitals. The list of members of the senate of Thamugadi shows the rank of these priests.⁶⁰

The only other senator of non-curule rank mentioned by Willems as a participant in senatorial discussions is Cato's adherent M. Favonius (Dio 39.14.1-2; Plut. *Caes.* 21.4). The records belong to the years 57-56, before his aedileship of 52 and his praetorship of 49. It is unlikely that this man of unimportant family had at an early age obtained a major priesthood, but he may have won a favorable place in the senate either through military service or through a prosecution.⁶¹

If we are right that men of low magisterial rank who were actually given the opportunity, theoretically open to them, of expressing their views in the senate had won that privilege through military achievement, successful prosecutions, or election to public priesthoods, there is reason to believe that in practice only former curule officers were asked to give their *sententiae*, and that the rest of the men of low rank, the *pedarii*, used their feet but not their voices in voting. Lucilius refers to that group when he says *agipes* (meaning a *pedarius senator*, Festus 232 L) *vocem mittere coepit*, and the mime-writer Laberius speaks of them perhaps with pity in the mime *Strictureae* (Torment?):

Caput sine lingua pedari sententia est.

The newly restored plan of the Curia, the character of which is confirmed by the local senate house of Libyan Sabratha, bears witness to the inferior position of the backbenchers, who, in a crowded senate

⁵⁹ See *StR* 1.421-22. Only for the *flamen Dialis* is the right to the *sella curulis* attested. See Wissowa, *Religion und Kultus der Römer*² (Munich 1912) 507.

⁶⁰ *ILS* 6122; see 6964 for the provision that the imperial *flamen* of Gallia Narbonensis should have *ius . . . in curia sua et concilio provinciae Narbonensis . . . sententiae dicendae signandique*. See Otto Hirschfeld's important discussion, *Kleine Schriften* (Berlin 1913) 490-504.

⁶¹ His prosecution of Nasica in 60 was apparently unsuccessful, and Cicero is scornful of his oratory. See *Att.* 2.1.9.

meeting, would have had to stand because there was not room on the benches.

MEETINGS AT IDENTIFIED TEMPLES INSIDE THE POMERIUM

In the Forum, there were meetings of the republican senate held at the temples of Castor and Concordia. The only specific meeting recorded at Castor is to be found in the *senatus consultum de Tiburtibus*, almost certainly of 159 B.C., reporting a meeting held *sub aede Kastorus*.⁶² What the preposition *sub* means is uncertain; the preposition regularly used is *in*, occasionally *ad*. The old temple of Castor, dedicated in 484 B.C., was not restored and enlarged until after the triumph of L. Caecilius Metellus Delmaticus, *cos.* 119. The other basis for assigning meetings to this temple is Cicero's reference in 70 B.C. to Castor (*Verr.* I.1.129), "quo saepenumero senatus convocatur, quo maximarum rerum frequentissimae cotidie advocaciones fiunt." The temple was very frequently the site of *contiones* in the Ciceronian period, but there is not a record of a senatorial meeting there. We think it likely that meetings there either took place between Metellus' reconstruction of the temple and the dictatorship of Sulla (117-82) or were small sessions attended only by a few senators, perhaps without notification of the whole body. The *cella* of Metellus' temple was approximately 14 × 16 meters, according to Frank's measurements,⁶³ of adequate size for a *frequens senatus* before Sulla's enlargement of the body of senators. In referring to frequent senate meetings here in the present tense, Cicero may be thinking mainly of *contiones*.

Much more abundant is the evidence for gatherings from 63 to 43 B.C. in the temple of Concordia, a fitting place for the sessions because of the association of the goddess with the idea of harmony, not only among senators, but also between the senate and people. In the northwest corner of the Forum below the *arx*, close to the

⁶² *CIL* 1.2², 586 (*ILS* 19). Jordan, *Topographie der Stadt Rom* 1.2 (Berlin 1885) 96, note 93, and 374, note 83, suggests that *sub* could be used of the *pronaos* (see discussion of the Capitol below); but it would not have been a convenient place for the entire senate, though it would have been entirely adequate for the formal signing of the witnesses recorded in the inscription cited.

⁶³ See T. Frank, *MAAR* 5 (1925) 79-102. Reports of imperial senatorial meetings in the temple of Castor are probably mistakes for Concordia. See *StR* 3.928, note 4.

Curia and Comitium, no less than four shrines of Concordia are said to have been established between 367 B.C. and 10 A.D. The earliest, omitted in Livy's account but known from Plutarch and Ovid, who associates it with the site of Tiberius' temple, was said to have been erected by Camillus after the accommodation between patricians and plebeians in 367. It seems not to have been an inaugurated templum, nor was the bronze *aedicula* which was erected in *Graecostasi* in 304 by the curule aedile Cn. Flavius, after the confusion created by the censorship of Appius Claudius Caecus.⁶⁴

The unsuccessful attempt to dedicate the Curia to Concordia in 155 has already been mentioned (Cic. *Dom.* 130–36). It was not until after the murder of Gaius Gracchus that, in a period of terrible discord, a temple of Concordia was finally built by the consul of 121, Lucius Opimius. The temple close to the Basilica Opimia bearing this consul's name was constantly used for senatorial meetings in the Ciceronian period. The first attested gatherings there are the two on the Catilinarian conspiracy on December third and fifth of 63, the latter meeting the occasion of the delivery of Cicero's fourth Catilinarian oration. There is no statement in the sources that the splendid temple built by Tiberius in this region and dedicated in 10 A.D. was a reconstruction of the Opimian temple, but the archaeological remains give reasons for believing that it was. The position of the windows of the Tabularium built by Catulus in the seventies suggests that the earlier temple was less broad than was Tiberius' temple. It has usually been assumed that it lacked the peculiar feature of the temple of Tiberius, a width much greater than its length, but the subsequent discovery of the temple of Vediovis on the Capitol shows that that form was

⁶⁴ For full evidence on the shrines of Concordia see Platner-Ashby. The opposition to the erection of a *templum* of Concordia in the days of Cn. Flavius (Livy 9.46.6–8) and to the dedication of the Curia to Concordia in 154 militates strongly against the acceptance of a date before Opimius' temple was built for the decree which Josephus, *Ant.* 14.145, places in 47, but which most scholars date in the pre-Gracchan period. See Broughton, *MRR* 1.491, note 2. The fact that the decree was passed in the temple of Concordia was Mommsen's strongest reason (*Gesamm. Schr.* 4.146–55) for accepting Josephus' date under the dictatorship of Caesar (accepted by O'Brien Moore, who follows Täubler, *RE* Suppl. 6.808). No other identification of the temple of Concordia here is satisfactory, but there may be a mistake in the name of the temple given by Josephus. For a decree passed in Concordia in 44 see *Ant.* 14.220.

already familiar at Rome.⁶⁵ The size of the *cella* of the Opimian temple cannot be established with certainty, but Rebert and Marceau suggest that it might have been about 20 meters square.⁶⁶ The popularity of the temple for senate meetings indicates that it may have been roomier than the Curia.

In the years 44–43, after Faustus Sulla's Curia was torn down, when Cicero provides much evidence on the meetings, Concordia was the usual place for sessions inside the *pomerium*, giving way occasionally to the Capitolium. Perhaps provision for truly spacious seating for the senate explains the great size of the structure of Tiberius, which may even have provided seating space for the entire senate. Its nearness to the Carcer, which made it a good place for the session on the Catilinarians, also served a purpose in 31 A.D., when the senators were called there to hear the *verbosa et grandis epistula* on Sejanus. The temple continued to be used for meetings in the Empire.⁶⁷

Throughout the entire republican period the most commonly attested temple used for meetings inside the *pomerium* is that of Jupiter Optimus Maximus on the Capitol, scene of the largest known session, that held on Cicero's recall in July of 57. The Capitol was the regular place of the opening meeting of each year, a session dealing first of all with matters of the state religion, associated with the vows that accompanied a change of magistrates and with the fixing of the date of the Latin festival.⁶⁸ At the same meeting lots were drawn for provinces, under what Cicero calls the *provinciarum religiosa sortitio*, a

⁶⁵ See L. Crema, *Architettura romana* (Turin 1959) 47, 176.

⁶⁶ *MAAR* 5 (1925) 53–77.

⁶⁷ Jordan (above, note 62) 1.2.335–36, argued that the size of Tiberius' temple was determined not by preparation for senatorial meetings but by the desire to provide a setting for the rich collection of works of art in the temple (for which see Jordan's notes). But Concordia was often used for meetings in the Empire. See in S.H.A. the following: *Pertinax* 4.9–11; *Alex. Sev.* 6.2, "cum senatus frequens in curiam, hoc est in aedem Concordiae templumque inauguratum convenisset"; *Max. et Balb.* 1 (Herodian 7.10.2 places this meeting in the Capitol); *Prob.* 11.5. Cf. *Prob.* 12.7, where Jupiter, Juno, and Minerva, and also Concordia and Victoria appear as tutelary divinities of the senate.

⁶⁸ For meetings at the beginning of the magisterial year (March 15 and January 1) see Livy 21.63.8, 23.31.1, 24.10.1, 26.1.1, 28.38.14, 30.27.1, 32.8.1, 41.14.7; Plutarch, *Mar.* 12.5; Cicero, *Leg. agr.* 1.18, *Sulla* 65; Appian, *B.C.* 3.50.202, 206, with Stein (above, note 19) 107.

process under Jupiter's tutelage.⁶⁹ But, as Mommsen pointed out (*StR* 3.928, note 2), Jordan was wrong in thinking that the only session held in the Capitol was the opening meeting. We suggest that it was used primarily for meetings concerned with religion; the complications of restoring to Cicero the house which had been converted into a temple of *Libertas* probably explain why the senate met there in July and again in September 57.⁷⁰ It was also, Appian says, the place for deliberations on war, associated with the peculiar religious system of the *fetiales*. It was here, Appian points out (*Lib.* 75), that war was declared against Carthage in 149. Association of the *fetiales* with treaties accounts for the Capitol as the scene of the meeting (to be discussed below) with the praetors of the Latins in 340, a meeting which was a prelude to the great Latin War. Rome's alliance with Athens, also presumably solemnized by the *fetiales*, may explain the choice of the Capitolium for the meeting of 155 at which the heads of the Academy, Lyceum, and Stoa served as the Athenian ambassadors.⁷¹ The provision that the temple of Mars Ultor, dedicated in 2 B.C., was to be established as the place for discussion of military victories and triumphs (Dio 55.10) lends support to the idea that the Capitol was the site of meetings on war during the Republic, for Augustus' great temple, with ample room for the senators, acquired various prerogatives which had once belonged to the Capitol.⁷²

⁶⁹ Cicero, *Phil.* 3.24 of a meeting on November 28, 44. For the assignment of provinces at the opening meeting of the magisterial year see Livy 26.1.1, 28.39.22, 30.27.1. In arguing in *Roman Voting Assemblies* (Ann Arbor 1966) 73 ff. that Jupiter was the god of the lot, L. R. T. failed to note the comment on the religious character of the lot (*Phil.* 3.24) associated with the meeting in the Capitol.

⁷⁰ For a meeting on September 7, 57, see Cic. *Dom.* 7. Note also the postponed meeting of November 28, 44, in Cic. *Phil.* 3.19-24, when Antony (24) "senatus consultum de supplicatione per discessionem fecit, cum id factum esset antea numquam." The original call seems not to have been to the Capitol, but Antony changed the purpose of the meeting to include a *supplicatio*, and its religious character may explain the change of place. Cicero makes it clear that the *s. c. per discessionem*, that is with a division not accompanied by discussion, was not normal for a vote on a *supplicatio*. A meeting on the Capitol on April 8, 43 (Cic. *Fam.* 10.12.4), was concerned with a religious question, a problem of auspices referred to the college of augurs.

⁷¹ Cic. *Acad.* 2.137 uses language describing men who were in the senate but not of it, *cum . . . ad senatum starent*. For the evidence see Reid's note; DeSanctis, *Storia dei Romani* (Florence 1964) 4.3.82; see also the informative discussion of W. S. Ferguson, *Hellenistic Athens* (London 1911) 323-38, and below, note 81.

⁷² The meeting on the Capitol on September 7, 57, dealt first with Clodius' charge that Cicero was *hostis Capitolinus* and then with the preliminaries for Pompey's curator-

The place in the Capitoline temple where the senate met must be deduced from the use of the *cella* of Concordia for meetings and from the fact that, after the Curia had become in effect a shrine of Victoria, one hears of the *cella* of the Curia.⁷³ Augustus' provision that the senators should offer incense and wine to the divinity in whose shrine they met suggests a place where there was a cult image, such as the statue of Victoria became in the Curia. The natural place would seem to have been the central *cella* of the Capitolium, since in Rome and throughout the Roman domain when the Capitolium is divided into three *cellae*, that of Jupiter is often larger than the other two. The *cella* of Jupiter seems involved in the scene recorded by Livy of the meeting between the senate and the Latins before the outbreak of the great Latin War in 340; in it he represents the Roman consul as turning toward the image of Jupiter to ask, "peregrinos consules et peregrinum senatum in tuo, Iuppiter, augurato templo . . . visurus es? haecine foedera Tullus, Romanus rex, cum Albanis, patribus vestris . . . fecit" (Livy 8.5.8-9). But the state of our knowledge of the Capitoline temple offers little scope for conclusive argument. The scant remains of its foundations that have been found do permit a reasonable, if not incontestable, reconstruction of the dimensions of the *cellae* and a resolution of some of the arguments about size and proportions created by ancient *testimonia*.⁷⁴ One may legitimately assume that each reconstruction of the Capitolium remained generally faithful to its original plan: there is no reason to doubt the agreement of the ancient sources on this point.

The building involved in the senate meetings of the late Republic was itself a reconstruction of the archaic temple that had been destroyed

ship of the grain supply. See Cic. *Dom.* 7; *Att.* 4.1.6 where the meeting is described as *de annonae*; Dio 39.9.2. There were meetings in the Capitoline temple during the disturbances following the murder of Clodius in 52 (Cic. *Mil.* 66), and after the death of Caesar when *praeclara senatus consulta* were passed in *Capitolio* (Cic. *Phil.* 2.91).

⁷³ See notes 24 and 25 above. For *cella curiae* see S.H.A. *Pertinax* 4.9; for meetings in the *cella* of Concordia see Cic. *Phil.* 2.19, 3.30.

⁷⁴ The most recent and most accurate plan of the remains of the Capitolium (indeed of all the ancient remains on the Capitoline) is that of G. Ioppolo for A. M. Colini in *Capitolium* 40 (1965) 175. For additional bibliography on the Capitolium see E. Gjerstad, *Early Rome* 3 (Lund 1960) 168; L. Crema, *Architettura Romana* (Turin 1959) 38.

by fire in 83 B.C. The reconstruction was begun by Sulla, but was completed and dedicated by Quintus Lutatius Catulus in 69 B.C. No certain trace of this building survives.⁷⁵ The elements of *cella* walls that have been found are Flavian in date (both Vespasian and Domitian rebuilt the temple after destructions by fire in 69 and 80 A.D.), and

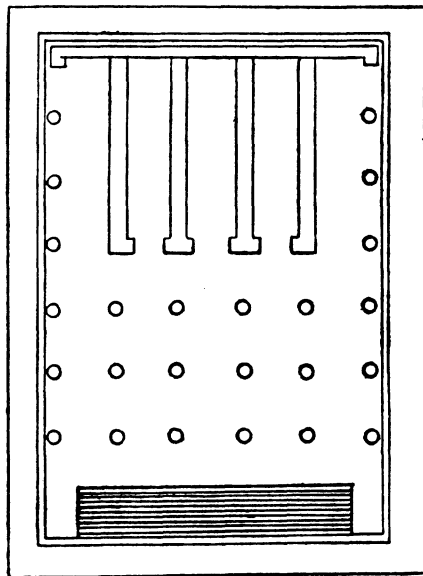


FIGURE 4. Plan of the Capitulum, Rome (from G. Gatti, *Atti Pont. Arch., Memorie* 5 [1941] 5, fig. 1)

⁷⁵ Gjerstad (above, note 74) 176–77, thinks it possible to distinguish the Catulan level of the podium platform, but this is doubtful. As the author himself points out, it is not known that Catulus raised the height of the building, but it is known that Vespasian did in 70 A.D. The addition of a course of blocks in cappellaccio to the old foundations would be perfectly in keeping at that time with the ritual requirements of rebuilding the temple in its traditional manner. The scene of inauguration of work on the Capitulum by Vespasian is carefully described by Tacitus (Hist. 4.53). He reports that the remains of the Catulan building were removed and that the new building was to be erected on the old foundations in accordance with the haruspical dictum *nolle deos mutari veterem formam*. But an addition to the elevation of its platform was allowed, and so Gjerstad's thirteenth course of blocks is as likely to reflect Vespasian as Catulus. It seems in fact to be specifically indicated in the historian's description of the ceremonial setting in place of the first block by participants at the event: "tum Helvidius Priscus praetor, praecunte Plautio Aeliano pontifice, lustrata suovetaurilibus area et super caespitem redditus extis, Iovem, Iunonem, Minervam praesidesque imperii

a temple plan restored on their evidence (fig. 4) must be the basis of any discussion about the available space for senate meetings inside the Capitulum.⁷⁶

The interior dimensions of the reconstructed *cellae* are these: a uniform length of 88 Roman feet and widths of 24 Roman feet for each of the two lateral *cellae* and 32 Roman feet for the central *cella*.⁷⁷ The problem of fitting the senate into the central *cella* is immediately apparent and vexatious. Yet it is equally clear that the senate met regularly and in force in the Capitoline temple and apparently followed its normal deliberative procedures there. The problem is not the total space available in the Capitulum, but the way that space is broken up. The total space inside the *cellae* (allowing for the elaborate emplacements of the cult statues) might suffice to accommodate the 417 or more senators who gathered in the temple for a meeting on Cicero's recall in 57, but it is impossible that they should have been able to debate (or vote) if they were distributed among the three *cellae*. There is no archaeological evidence to suggest that the

deos precatus uti coepta prosperarent sedisque suas pietate hominum inchoatas divina ope attollerent, vittas, quis ligatus lapis innexique funes erant, contigit; simul ceteri magistratus et sacerdotes et senatus et eques et magna pars populi, studio laetitiaeque conixi, saxum ingens traxere." In sum, one does better to think of Vespasian and Domitian rather than of Catulus and Vespasian in considering the sequence of new blocks and added concrete work on the old platform.

⁷⁶ For the activities of Vespasian and Domitian cf. Colini (above, note 74) 180-81; A. K. Lake in *MAAR* 12 (1935) 104, and our note 75, above. It has been suggested that the Catulan building might have resembled the Roman Capitulum of Pompeii (Sullan period) and not have had full-length division walls between the *cellae*. Such a proposal involves too many unknowns. First we have no way of knowing that the Capitulum of Pompeii in its actual state reflects a plan of the time of Sulla, since the temple was severely damaged in the earthquake of 63 A.D. and had substantially to be rebuilt. The moment of its collapse is recorded in a relief from the house of Caecilius Iucundus. It is not clear that the subsequent work of reconstruction was ever completed, which makes the restored plan of limited value. See for material and bibliography M. Cagiano De Azevedo, "I 'Capitolia' dell' Impero Romano," *Mem. Pont. Acc.* 5 (1941) 19-21 and plate 6. See also the remarks of H. Nissen, *Pompejanische Studien* (Leipzig 1877) 320-27. Second, in the absence of any archaeological or literary evidence to the contrary, one cannot think that Catulus would have altered the traditional plan of the Capitulum any more than did Vespasian or Domitian. There is in our view no reason to consider the temple at Pompeii in connection with the rebuilt Capitulum of Rome dedicated by Catulus in 69 B.C.

⁷⁷ See the collaborative reconstructions, in the studies cited above, note 74, of Gjerstad, 181, and Colini, 179.

cellae were interconnected,⁷⁸ and the central *cella* is far too small, close, and ill-lit to allow a senate meeting of any size or duration.⁷⁹

It is possible that the senate modified its procedures in the Capitol, where religious motions might have been passed unanimously. But the meeting on Cicero's *supplicatio* in 50, which was evidently a subject of considerable difference of opinion, shows there could be discussion,⁸⁰ as there was also in the famous meeting involving the Athenian ambassadors in 155 B.C.⁸¹

The alternative explanation offered by Jordan in the nineteenth century ignored the *cellae* altogether and placed the senate meetings on the porch of the Capitolium, a large rectangular space bounded on three sides by columns and on the fourth by columns and the front walls of the *cellae*.⁸² The enclosed area (exclusive of the columns that define it) would have measured approximately 158 × 86 Roman feet, and would have been itself subdivided by two rows of columns stretching across it to support the entablature of the roof. The division of the porch by columns seems attractive, since it would apparently enable one to mark out two sides for rows of seats separated by a

⁷⁸ See Nissen (above, note 76) 324; H. Jordan (above, note 62) 92, 93, note 91. Cf. Livy 6.4.3. The new section of wall between the central *cella* and the east lateral *cella* discovered in 1959 and illustrated on Ioppolo's plan for Colini would indicate that the partition-walls ran the length of the *cellae*.

⁷⁹ On the lack of light in the Capitolium see F. E. Brown in *Cosa 2: The Temples of the Arx* (MAAR 26 [1960]) 108, notes 79–80.

⁸⁰ In the senatorial discussion of Cicero's *supplicatio* (place unknown), three senators expressed their dissent and a number appear to have spoken conditionally in favor of it. See the letter of Caelius *apud* Cic. *Fam.* 8.11.1–2, “(Hirrus) tantum Catoni ad sensu est, qui de te locutus honorifice, non decrerat supplicationes, tertius ad hoc Favonius accessit . . . decrerant quidem qui neque transigi volebant Domitii Scipiones quibus . . . interpellantibus . . . Curio respondit se . . . non intercedere.” Cicero chided Antony for his undue haste at a meeting on the Capitol in having Lepidus' *supplicatio* in 43 voted on *per discessionem* (*Phil.* 3.19–24), that is without discussion in a preceding *relatio*; and Tiberius rebuked a tribune of the plebs for adopting a similar method on a proposal concerning the Sibylline Books (*Tac. Ann.* 6.12, site of meeting unknown).

⁸¹ There was surely more than one meeting on the philosophical ambassadors, but the only one about which we know was on the Capitol (*Cic. Acad.* 2.137). There was no religious question involved in the Oropus affair to warrant the Athenians' petition being heard in *Capitolio*. But, as we have suggested (above, note 71), the treaty of Athens with Rome (or the special nature of Rome's relationship with Athens) probably justified the meeting there. Subsequent arbitration by the senate reduced the fine imposed on Athens by the Sicyonians from 500 to 100 talents.

⁸² Jordan (above, note 62) 92–101, favors this solution, but does not discuss how it would have been worked out.

broad center aisle on the analogy of the Curia. The space is tempting, but again the question is not about the total area on the porch but about how it is broken up. Using the Vitruvian schema as a basis for the reconstruction, one calculates the distance between columns at 22 Roman feet, except between those aligned before the central cella, which are 30 feet apart. One could then imagine that the second, third, and fourth intercolumniations of the facade would delimit the left side, center aisle, and right side respectively of a senate meeting extending back toward the front walls of the cellas. The widths are all generous, especially that of the center aisle, and, calculating the depth of a row as 3 Roman feet, one arrives at 7 rows on a side. To provide places for 417 or more senators seated in rows on the two sides, one would only require an area on the porch some 55 Roman feet long, allowing one and two-thirds Roman feet for the width of each place.⁸³

The objections to this view must now be considered. A minor one is that the porch of the Capitolium would have been too cluttered with statuary and other space-consuming dedications for the area to be kept free for a senate meeting.⁸⁴ Dedications might be rearranged when notice of a coming meeting was given sufficiently in advance of the meeting, but what could be done on short notice? The obstacle is not insuperable. One could, after all, leave for dedications all the space along the flanks of the temple as far as the walls of the lateral *cellae*, measuring forward from the rear of the building, and all that along the facade as far back as the second row of columns of the porch. This would leave a rectangular area 65 × 94 Roman feet free, a sufficient amount of space for a meeting. And it is not likely that dedications were allowed to block the temple stairs.⁸⁵

The real obstacles are the very columns dividing up the porch. Each one would have been 8 feet in diameter at the base and set on a circular

⁸³ Dividing 55 by 1½ gives 33 places per row. The total number of places on the left and right sides is $33 \times 7 \times 2 = 462$.

⁸⁴ Cf. Jordan (above, note 62) 92–101.

⁸⁵ Livy 40.51.3: "M. Aemilius Lepidus . . . aedem Iovis in Capitolio, columnasque circa poliendas albo locavit; et ab his columnis, quae incommode opposita videbantur, signa amovit, clipeaque de columnis et signa militaria adfixa omnis generis dempsit." Cf. P. Fraccaro *ad loc.* in *Studi sull'età dei Gracchi* (Città di Castello 1914) 187–88. The rule must always have been kept in force.

plinth approximately 10 feet in diameter.⁸⁶ Each one is a potential threat to the sight and sound of a meeting. Here the analogy with the Curia breaks down and one must wonder again whether the senate did not change its procedures when it met in the Capitolium. One more hypothesis among so many regarding the Capitolium is probably of slight account, but we do think it is possible to save the customary procedures of the senate even here. To do so would have required utilization both of the *cellae* and the porch and some additional movement on the part of a number of senators.

The sessions would be oriented toward the central *cella* with the presiding magistrates seated at its entrance.⁸⁷ Other officials and secretaries would be positioned along the line of the front walls of the *cellae*. Senators of consular and praetorian rank would occupy two rows of seats on either side of the center section of the porch, the back limits of these rows being determined by the third and fourth rows of columns dividing the porch lengthwise back from the facade. In these positions they would have an unobstructed view of the presiding magistrates and of one another. Allowing a depth of 3 Roman feet for each row, a central aisle 18 Roman feet wide would be created. The total number of places in these rows would be 144, allowing one and two-thirds Roman feet per person, or 120, if one allows two Roman feet per person.⁸⁸ Here the prestige of place of these senators would take on additional significance: their vision and hearing would in no way be impaired by intervening columns.

The other 300 senators who might have to be seated behind them would of course have to shift their positions on those occasions when their ability to see or to hear different speakers was blocked by columns. There is certainly space for these senators in the areas of the porch to the left and right of the center section, where the former consuls and praetors were seated, although their arrangement could obviously not

⁸⁶ The figures are derived from the schema for a Tuscan temple in Vitruvius 4.7 as applied to the remains of the Capitolium temple. See Gjerstad (above, note 74) 168–81. We are aware of the limitations of this procedure. See further A. Boethius, “Nota sul tempio Capitolino e su Vitruvio 3.3.5,” *Arctos* 5 (1967) 45–49.

⁸⁷ For the treaties and archives stored in the central *cella* see Jordan (above, note 62) 89–97.

⁸⁸ Included in the calculation is an allowance of five feet for side aisles in each row.

be as neat as in the Curia. One has, then, to picture the space for a meeting of the senate in the Capitolium as that area enclosed between the second and fifth intercolumniations of the facade in one direction, and between the first row of columns running across the porch behind the facade and the front walls of the *cellae* in the other (94 × 65 Roman feet). In addition the *cellae* would be open to permit access to materials (treaties and the like) stored there, while the steps of the temple would give easy access to the meeting area.

The objections to this scheme are these. Although the meeting area is somewhat protected by the screen of the peripteral columns of the temple, it may seem too open to ensure adequate privacy and makes no provision for a meeting behind closed doors. A reply might suggest that privacy could be assured by controlling access to the Area Capitolina during senate meetings in the Capitolium.⁸⁹ One might further suppose that the part of the porch used by the senate could be equipped with low screens and materials for doors in wood if necessary. (Sons of senators could still stand at the top of the temple stairs of course.) These could be stored in the ample vaults of the Capitolium when not in use, and the ease with which temporary wooden architecture could be set up and dismantled goes far to explain its long-lasting use and appeal in Rome.⁹⁰ Such a system would answer another possible objection: the doubtful acoustics of the porch of the Capitolium. If the meeting area were enclosed, the screens and columns could be fitted with wooden cornices to act as acoustical baffles to prevent the loss of the sound of debate: “cum autem coronis praecincti parietes erunt, vox ab imis morata priusquam in aere elata dissipabitur, auribus erit intellecta” (Vitr. 5.2). Such a system would have the merit of separating the area of the meeting from casual view without depriving it of the additional light available on the porch of the Capitolium.⁹¹

What might remain unsatisfactory about meetings in the Capitolium would be the necessity of extra movement by those senators who were

⁸⁹ Gates for the Area Capitolina are known from Tacitus, *Hist.* 3.71. See the discussion in Fraccaro (above, note 85) 186–87.

⁹⁰ On temporary architecture in Rome see Crema (above, note 74) 85.

⁹¹ The cornices described by Vitruvius are mentioned in his presentation of the proper design of a *curia* (5.2).

not seated in the front rows in order to follow the debate.⁹² Even so, the nature of the issues that were generally raised in meetings held in the Capitolium may weaken the force of the objection (see Appendix 2). In sum, the proposal we have made for the use of the Capitolium by the senate seems to us legitimate and to square with the available evidence bearing on it.

Owing perhaps to some sense of inconvenience in the Capitol, or more likely because the large interior of Mars Ultor was now available, the habit of meeting in the Capitoline temple seems to have been abandoned in the Empire. Only one meeting is recorded there after the year 43 B.C., that held immediately after the death of Caligula, when the desire was to avoid a building which, like the Curia, bore the Julian name.⁹³ We do not know where the opening meeting of the magisterial year was held, but under the imperial system annual magistracies were less important.

Of the other temples inside the *pomerium* reported as places of republican senatorial meetings, usually an isolated meeting for each site, all those belonging to unidentified temples will be treated in Appendix 2. But there is one report of a meeting in a temple whose identification is widely accepted, that of Jupiter Stator on the Velia, close to the Arch of Titus. The senate was summoned to this temple by the consul Cicero on November 7 or 8, 63 B.C. In the First Catilinarian oration delivered on this occasion, Cicero describes the temple as *hic munitissimus senatus habendi locus* (1), and he speaks of the *equites* and other *fortissimi cives* (21) who surrounded the senate house. The temple, on the site of a shrine traced back to Romulus as the spot where the Sabine advance was stopped, was actually erected in fulfilment of a vow made by M. Atilius Regulus in the Samnite War in 294.⁹⁴ It stood close to the Porta Mugonia of the Palatine, near the beginning of the Sacred Way, on the summit of the Nova Via. The reginary

⁹² The central aisle allowed for the meeting area of the senate on the porch of the Capitolium would not have restricted movement: it has been set at 18 feet, which is only slightly less than the width of the central aisle of the Curia Julia itself (5.40 meters, or about 18½ feet).

⁹³ Suet. *Calig.* 60: "et senatus in asserenda libertate adeo consensit, ut consules primo non in curiam, quia Iulia vocabatur, sed in Capitolium convocarent."

⁹⁴ The sources are fully quoted in Jordan-Huelsen, *Topographie der Stadt Rom* 1.3 (Berlin 1907) 20 ff.

catalogs of the fourth century A.D. place the temple in Region iv, Forum Romanum, not in Region x, Palatium. The general view, represented today by an identifying sign on the site, is that remains of it are to be found in the rectangular imperial foundation to the southeast of the Arch of Titus.⁹⁵ The site is in accord with the sources, but the relation of the remains to the temple is uncertain. This temple, described as *in radice Palatii*, was, we suggest, the site of the senate meeting called ἐς τὸ Παλάτιον immediately after the murder of Clodius (Dio 40.49.5-50.1). The place was presumably easier to guard than the open spaces of the Forum and Comitium, and that fact, rather than the suggested nearness to Cicero's house, probably explains the use of the temple in 63 B.C.⁹⁶ That meeting was well attended (Cic. *Cat.* 1.21), and a temple of some size should be sought.

The frequent meetings called to the Palatine for the convenience of the emperor appear to have been held most often in the *bibliotheca* of the temple of Apollo Palatinus, whose importance is stressed by Suetonius (*Aug.* 29.3), "addidit porticus cum bibliotheca Latina Graecaque, quo loco iam senior saepe etiam senatum habuit." Senatorial meetings inside the *pomerium* in the Empire were usually held here, unless the Curia, Concordia, or Mars Ultor was chosen.⁹⁷

MEETINGS AT IDENTIFIED SHRINES AND SITES OUTSIDE THE "POMERIUM"

Before the construction of the Curia of Pompey, senatorial meetings outside the *pomerium* (except for one legendary record of the fifth century

⁹⁵ It is customary to identify with this temple the hexastyle temple with image of Jupiter on the monument of the Haterii, but this view is questioned by F. Castagnoli, *Bull. Arch. Com.* 69 (1941) 67 ff. See Lugli, *Roma Antica, il centro monumentale* (Rome 1946) 240-42, where the description of Fig. 62 from the monument of the Haterii does not accord with doubts expressed in the text.

⁹⁶ Cicero's house on the Palatine was not acquired until the following year, 62. Up to that time Cicero seems to have lived *in Carinis*, in a house he later made over to his brother (Plut. *Cic.* 8.3, site not mentioned). That region was also close to Jupiter Stator, but closer to the temple of Tellus, later restored by Quintus Cicero. Tellus was used for a *frequens senatus* by the consul Mark Antony two days after Caesar's assassination; it was selected because it was near Antony's house, the former house of Pompey *in Carinis*. For the evidence see Jordan-Huelsen (above, note 94) 323-27; Stein (above, note 19) 72-73. The temple of Tellus is not identified, but there is reason to believe that it was large.

⁹⁷ For the evidence see *StR* 3.927-29, with note 3 on 929 for meetings on the Palatine.

B.C., see Appendix 2) are known in the Republic at only two shrines, that of Apollo by the Tiber, dedicated in 431 B.C. and rebuilt by C. Sossius, *cos.* 32 B.C., and the temple of Bellona, vowed in 296, whose identification with the temple next to Apollo Sosianus (previously known as the temple of Janus) has been convincingly demonstrated by Dr. Filippo Coarelli.⁹⁸ The presence of ambassadors and pro-magistrates who could not enter the *pomerium* explains why meetings were held in these temples. The embassies were from peoples not under treaty with Rome. The pro-magistrates were usually in Rome to present requests for a triumph, and they could not cross the *pomerium* to make such requests without giving up their *imperium* and the chance of a triumph. Sometimes a magistrate in office, who wished to make an entry into the *pomerium* in triumph with his troops, also called meetings at sites outside the *pomerium*. Before the temple of Apollo was built, Livy reports in 449 B.C. (3.63.7) a meeting of the senate called *in prata Flaminia, ubi nunc aedes Apollinis est—iam tum Apollinare appellabant*.

Senate meetings at the temple of Apollo⁹⁹ and that of Bellona, now known to be adjacent, are frequently reported in the third, fourth, and fifth decades of Livy. They are described as taking place *in aede Apollinis*, *in aede Bellonae*, or as *ad Apollinis*, *ad Bellonae*, with the variant *apud aedem Duellonai* for Bellona.¹⁰⁰ According to Varro,¹⁰¹ *apud* in this usage is equivalent to *in*. *Ad*, which has no parallels in descriptions of senate meetings in temples other than Apollo¹⁰² and Bellona,¹⁰³

⁹⁸ *Bull. Arch. Com.* 80 (1965-67) 37. We wish to thank Dr. Coarelli for sending us in advance of publication a copy of the proofs of this article and for discussing his interpretations later with R. T. S.

⁹⁹ On the temple of Apollo (Sosianus) see Colini, *Bull. Arch. Com.* 68 (1940) 9-40.

¹⁰⁰ From the *s. c. de Bacchanalibus*, 186 B.C., *ILS* 18. *Apud aedem Bellonae*, Sallust, *Hist.* 5, fr. 24 M, is probably a reference to a *contio*.

¹⁰¹ Varro, *De sermone Latino* (Goetz-Schoell edition of Varro, *L.L.*, pp. 224-25): "item <ad> et apud locum significant[um], ut 'accede ad me,' 'qui domi nati apud me sunt,' 'apud illum est'... item vitiose dicitur 'senatum habere apud aedem Apollinis,' quod 'in aede[m]' dici oportet." See Coarelli (above, note 98) 56.

¹⁰² For the use of *in* for Apollo's temple see (dates in parentheses): (194) Livy 34.43.1; (190) 37.58.3; (176) 41.17.4; (51) Cic. *Fam.* 8.8.5 and 6; (49) Cic. *Att.* 15.3.1. For *ad* see (187) Livy 39.4.1; (56) Cic. *Q.Fr.* 2.3.3 (bis); (51) *Fam.* 8.4.4. For Caesar's meeting of the senate in 49 see Lucan 3.103, *Phoebea palatia complet*, which cannot be, as has been suggested, a mistaken reference to Apollo Palatinus. See *Att.* 15.3.1 (cited above) for a meeting of January 49 in *aede Apollinis*, which clearly was held in the temple close to the Circus Flaminius so that Pompey could attend.

¹⁰³ For *in* with Bellona see (dates in parentheses): (206) Livy 28.38.1-2; (200) 31.47.6;

suggests the vicinity of the buildings rather than the interior. For the usage it is significant that there was a *senaculum* close to Bellona in which senatorial meetings were sometimes held, specifically, according to Festus (470 L) to receive foreign embassies: "tertium senaculum citra aedem Bellonae in quo exterarum nationum legatis, quos in urbem admittere nolebat, senatus dabatur." The site, as Coarelli points out, was close to Apollo's temple and close also to the Porticus Octaviae, with which the Curia Octaviae, known as the site of imperial senate meetings, was connected.¹⁰⁴ That *curia* seems to have perpetuated in the Empire a general place for meetings that was much used in the Republic.

As for *in* and *ad* in the records of meetings, no distinction can be made in the types of meetings. Both prepositions are used with both temples to describe meetings held for ambassadors and those attended by pro-magistrates. The variation in usage may perhaps be explained by uncertainty as to the place, or perhaps by variation between the place of meeting and the place where a decree was formally recorded, sometimes after the lapse of a day (*StR* 3.1010). The size of the meeting probably determined the site, and there was likely more room in the *senaculum*. The dimensions of the *cella* of Apollo Sosianus, according to measurements which we owe to Dr. Cozza, are m. 12.60 × 23, adequate for the pre-Sullan senate.

The need of proper space outside the *pomerium* for the large post-Sullan senate must have impressed Pompey, particularly in the years after 57, when proconsular commands, which he held while remaining in Italy, made meetings outside the sacred limits of the city important for him on many occasions. Pompey's own need for such a senate house may explain his decision to include in the buildings connected with the first permanent theater of Rome, celebrated in games of 55

(197) 33.22.1; (191) 36.39.5; (185) 39.29.4; (177) 41.6.4; (171) 42.28.2 and 36.2; (73) Cic. *Verr.* 2.5.41 (*senatus frequens*). For *ad* see (211) Livy 26.21.1; (209) 28.9.5; (202) 30.21.12 and 40.1; (197) 33.24.5; (187) 38.44.9; (173) 42.9.2; (172) 42.21.6. See also Plutarch, *Sulla* 30; Dio, fr. 109.5 (on summons of senate ἐς τὸ Ἐννεῖον, temple of Bellona).

¹⁰⁴ See Coarelli (above, note 98) 58. The only reference to the Curia Octaviae is in Pliny, *N.H.* 36.28, where a statue of Cupid there is mentioned. Dio 50.8.1 speaks of a senate meeting outside the *pomerium* called by Tiberius ἐς τὸ Ὀκταοῦνιον. See also Josephus, *Bell.* 7.5.4. For the possibility that the *curia* was identical with the *bibliotheca*, see Jordan-Huelsen (above, note 94) 541; for bibliography see E. Nash, *Pictorial Dictionary of Ancient Rome* (London 1962) s.v. "porticus Octaviae."

and finally dedicated in 52, an inaugurated *curia*, known as the Curia Pompeia. The first record of its use for a senatorial meeting comes from the year 52, immediately after the murder of Clodius, and there seems to have been more than one meeting there in this period when Pompey, outside the *pomerium*, was exercising leadership. It is likely that the Curia Pompeia was constantly used from 52 until the departure of Pompey and the magistrates from Rome during January of 49.¹⁰⁵ Caesar did not avoid using it, and his choice of this Curia outside the *pomerium* for the last meeting of the Ides of March, 44, may be explained by the predominant emphasis on military arrangements for the Parthian campaign. After the murder of Caesar the Curia was walled up, and the space was later transformed into a latrine. The discovery of two latrines on the east side of the porticus along the Via di Torre Argentina has been thought to mark the site of the Curia, and an intervening room 25 meters in length may be the remains of the *cella* of the Curia, of which we should in that case have one dimension.¹⁰⁶ If we think of it as approximately square, it would have been larger than the Curia Julia, and better suited in size than the temples of Apollo and Bellona, whose limited space led often to meetings in an adjoining building. The Curia Pompeia may even have provided for all the senators the seating space that Pompey's theater gave the people at *ludi scaenici*.

As we have already stated, meetings outside the *pomerium* in the Empire took place in the Curia Octaviae (or the *bibliotheca*), and on one occasion at least in the great spaces of the Saepta.¹⁰⁷

THE ROMAN SENATE AND THE BRITISH HOUSE OF COMMONS

With proper precaution against the dangers of modern analogies, we can understand the Roman senate better by studying the physical arrangements and the procedure in the British House of Commons,

¹⁰⁵ For 52 B.C. see Asconius 52C, *cum senatus in portico Pompeii haberetur*, and Dio 50.50.2 with Stein's discussion (above, note 19) 51. When in January 49 the senate went *πρὸς τὸν Πομπήϊον* (Plutarch, *Pomp.* 60.3), the meeting, as Stein held (p. 65), was probably in the Curia of Pompey.

¹⁰⁶ We are grateful to Dr. Ernest Nash for calling our attention to the evidence for the site presented by G. Marchetti-Longhi, *Studi Romani* (1957) 640–59, with plans on plates 106 and 109.

¹⁰⁷ For this meeting before the *ludi saeculares* of 17 B.C. see *CIL* 6.32323.

which since the mid-sixteenth century has made use of St. Stephen's Chapel in Westminster and has been twice reconstructed along its old lines, once after a fire in 1834 and again after destruction by a German bomb in 1941. Winston Churchill's speech urging the reconstruction of the Chamber essentially in its old form is revealing for the character of the Commons:¹⁰⁸

There are two main characteristics of the House of Commons which will command the approval and the support of reflective and experienced members. They will, I have no doubt, sound odd to foreign ears. The first is that its shape should be oblong and not semi-circular. Here is a very potent factor in our political life. The semi-circular assembly, which appeals to political theorists, enables every individual or every group to move round the centre, adopting various shades of pink according as the weather changes. I am a convinced supporter of the party system in preference to the group system. I have seen many earnest and ardent Parliaments destroyed by the group system. The party system is much favoured by the oblong form of Chamber. It is easy for an individual to move through those insensible gradations from Left to Right, but the act of crossing the Floor is one which requires serious consideration. I am well informed on this matter, for I have accomplished that difficult process, not only once but twice. Logic is a poor guide compared with custom. Logic, which has created in so many countries semi-circular assemblies with buildings that give to every member, not only a seat to sit in, but often a desk to write at, with a lid to bang, has proved fatal to Parliamentary Government as we know it here in its home and in the land of its birth.

The second characteristic of a Chamber formed on the lines of the House of Commons is that it should not be big enough to contain all its members at once without over-crowding, and that there should be no question of every member having a separate seat reserved for him. The reason for this has long been a puzzle to uninstructed outsiders, and has frequently excited the curiosity and even the criticism of new members. Yet it is not so difficult to understand if you look at it from a practical point of view. If the House is big enough to contain all its members,

¹⁰⁸ From the speech of Churchill on the appointment of a committee on the rebuilding of the House of Commons, delivered October 28, 1943. See *Debates in Parliament* 393 (1942-43) 403-74, where this speech and those of others are given in full. The excerpt in the text is quoted from Randolph Churchill, *Winston Churchill* 2 (Boston 1967) 4. Note also the preliminary statement in Churchill's speech, "We shape our buildings and afterwards our buildings shape us."

nine-tenths of its Debates will be conducted in the depressing atmosphere of an almost empty or half-empty Chamber. The essence of good House of Commons speaking is the conversational style, the facility for quick, informal interruptions and interchanges. Harangues from a rostrum would be a bad substitute for the conversational style in which so much of our business is done. But the conversational style requires a fairly small space, and there should be on great occasions a sense of crowd and urgency. There should be a sense of the importance of much that is said, and a sense that great matters are being decided, there and then, by the House.

The meeting place of the Roman senate, like the House of Commons,¹⁰⁹ was a chamber of rectangular form, with seats on stepped levels on the two long sides to the right and left of the presiding officer; a smaller number of seats than there were members, with the result that in a time of crowding some members are hard put to find seats on the benches; it has benches instead of chairs, with no place specifically assigned to individuals; formal voting by division, with separation of the members making for an accurate count, carried out in Rome by changing of sides in the Curia, in London eventually by opposing voters moving to adjoining lobbies on either side of the chamber.¹¹⁰

In plan both council houses differed from those of their contemporaries. Although the council chambers of the Greek cities did not have the semicircular theatral form adopted in Europe and in some sections of the New World, the placing of benches on the two long and one of the short sides of a rectangular room, and the eventual substitution in some cases of circular seats, produced a similar effect.¹¹¹ The origin of the plan and the eventual changes, leading under a two-party system

¹⁰⁹ Problems of plan and seating of members in the House of Commons (and the House of Lords) have been discussed with our colleagues Professors Helen Taft Manning and Caroline Robbins and Dean Elizabeth Foster. Professor Robbins read an earlier version of this manuscript and was most helpful, but the responsibility for our statements is ours alone.

¹¹⁰ In the new Australian Parliament building in Canberra, both Houses of Parliament have theatral plan, in this instance with a wide central aisle in which (not in division rooms) the divisions are made. We thank Dr. D. W. Rawson, Senior Fellow in Political Science at the Australian National University, for this information and for recent plans of the Senate and House of Representatives.

¹¹¹ See the useful discussion of Bouleuteria in W. A. McDonald, *The Political Meeting Places of the Greeks* (Baltimore 1943) 166. On the Athenian Agora see H. Thompson, *Hesperia* 6 (1937) 140-72, with emphasis on the discovery of curved stone benches.

(which the form of the chamber has been held to foster) to the assignment of the right side to government and the left to opposition, can be traced in London. The lack of organized parties at Rome may explain why nothing of the sort developed there. But the Roman arrangement favored the personal groupings of Roman politics. Men who jointly supported a measure tended to sit together and, even before a senator had been asked his *sententia*, he might move his seat to be close to a man whose outlook he favored or to avoid being near one whom he opposed.

There may be an analogy in the two chambers between the occupants of the front benches, and also between *senatores pedarii* and backbenchers. In Rome the *subsellia* of the front rows were occupied by former curule magistrates; in London they now belong on one side to the Government, on the other to the leaders of the opposition. These groups possessed in Rome, as they do in London, much greater opportunity for participation in the business of the meeting. They were markedly superior in Rome to the *pedarii* and the superiority was denoted by their seats.

SUMMARY OF RESULTS

This paper attempts to put into its Roman setting the procedure attested for meetings of the senate, with particular emphasis on the age of Cicero and Caesar, the period about which we know most. The Curia in the Forum, restored by Alfonso Bartoli to what he believed was its status under Diocletian, provides the best evidence. We have tried to show that the building, surely on the site of the Curia Julia, reproduces in size, arrangement (with a broad central aisle), and seating capacity the building that was begun for his senate by Julius Caesar and dedicated by Octavian in 29 B.C. The aisle does not belong to a period when senators voted, as they had for generations before Diocletian, by acclamation. It goes back to a time when the aisle was required for voting by a division. The seating capacity of the Curia has been underestimated, partly because of the assumption that senators sat on chairs instead of on benches, and also because the literary and archaeological evidence on Roman seating-space presented

in the text and Appendix 1 has not previously been considered with regard to the Curia. The plan (fig. 3) drawn by the junior author illustrates our estimate of seating space in the Curia.

It indicates that there would have been adequate space for the senate of 600 established by Sulla, in which the largest known attendance was 417, but not for a full meeting of Caesar's senate of 900, attendance at which we have estimated at about 625. We believe that the Roman senate, like the British House of Commons, did not provide seating space for all its members, and that the shortage of space is another reason why the inferior senators were known as *pedarii*: they were the ones who had to stand if there was a lack of seats. Republican and early imperial evidence indicates they were those senators who had not reached curule office; but the meaning of the term *pedarius* was called into question in the Antonine period, when any man who reached the quaestorship had reason to expect to attain a curule magistracy.

We have extended our discussion to cover all the identified temples used for senate meetings and have included measurements or estimates of size where possible. The frequent use of Concordia, the regular place of meetings in the years 44-43 B.C. when the Curia rebuilt by Faustus Sulla was being torn down, supports the belief that the temple was a large one even before its restoration by Tiberius Caesar: the great size of his temple is, we think, explained by the need of an ample space for senate meetings. The Capitoline temple, whose use in the Empire is recorded only once, presents the greatest problem of space for meetings in the Republic, when it was often employed and always for the opening meeting of the year. The regular meeting place in a temple was of course the *cella*, but the largest of the three *cellae* in the Capitolium, that of Jupiter, was too small for the 417 senators reported to have attended the meeting on Cicero's recall from exile in 57. Revising a suggestion by Jordan that the senate met on the porch of the Capitolium, we have argued that the presiding officer may have been in the entrance way of the Cella Iovis, and that it would have been possible to mark off suitable curial space on the porch. There may have been temporary enclosures in wood used to ensure privacy and improved acoustics on these occasions.

As for the reason for meetings in this temple, we have pointed out that religious duties of the magistrates explain first meetings of the

year, and that other meetings had religious associations. If meetings were held on the porch, there would have been some inconvenience and labor, and it may be that in the Empire the opening meeting of the year and other meetings on religious questions were transferred to the ample space of the temple of Mars Ultor, dedicated in 2 B.C., a shrine that acquired some of the functions of the Capitolium.

In the Republic, meetings held outside the *pomerium* to permit attendance by pro-magistrates, to discuss triumphs, and to receive legates from peoples not under treaty with Rome were usually held in or close to (*ad*) the temples of Apollo and Bellona, near the latter of which was a *senaculum* that served either as a senatorial waiting room or place of meeting. Recently, as a result of Guglielmo Gatti's discovery of the site of the Circus Flaminius, Coarelli has convincingly shown that the temple next to Apollo Sosianus is that of Bellona. The *senaculum* would thus have been associated with both temples, and its closeness to the Curia Octaviae, site of imperial senate meetings, is significant. Both temples may have been too small for senate meetings after Sulla, and that may be why Pompey included a Curia in his theater complex. The site and one dimension of the building can be approximately determined, and the size may have been more ample.

For the authors, the most significant result of this study is the picture that the Curia of Diocletian suggests of the senate chamber of the Republic and early Empire in a curia or in a temple. The wide door, left open during sessions, would have provided the consuls with an unimpeded view of the sons of nobles and senators gathered at the door to witness proceedings. The young men in turn would have had a clear view of the presiding consuls on their elevated curule chairs, of the praetors and tribunes of the plebs on lower benches, and, with more difficulty, a view of other magistrates, perhaps distributed on either side of the consuls. They could have seen the movement of senators from side to side, as in the voting they joined the man whose *sententia* they approved. When a complete division was called, the central aisle would have been occupied, and one can imagine the young men trying to make their own count of the voters on either side, and the presiding officer, who did not wish an exact count, preparing the way for modern presiding officers when he said *haec pars maior videtur*.

In reconstructing the senate chamber we think the builders of Diocletian restored the plan of the building recently burned, but that they added one detail which made the scene more striking, the intaglio pavement in multi-colored marbles of the central aisle of the chamber. It is a detail that makes more conspicuous the anachronistic character of the Curia's design at a time when free debate and the division that accompanied or followed it had long since disappeared.

APPENDIX I: SENATORS IN THE COLOSSEUM

The Flavian amphitheater has five centuries of mixed information on seating space for senators and their guests. The best document would seem to be *CIL* 6.1.2059, which records in feet and inches the total space assigned to the religious confraternity of the Arval brethren in the year 80. Unfortunately it contains just enough real and mutilated information, as Lanciani noted (*Bull. Arch. Com.* 8 [1880] 211), to make it impossible to determine just how much room each of the brothers might have had. More useful is a sample of inscriptions identifying senatorial places in the fourth century A.D.

These senators' pride of possession led them, after the example of their predecessors, to have their names carved on their places. The place markers of course were not found *in situ*, but some of the slabs allow approximate calculation of the width and depth of the places. All numbers cited refer to *CIL* 6.4.2. Number 32105 is four Roman feet wide; 32106 (with incised marker) is five feet wide; 32107 (with incised star) is five feet wide; 32116 (with incised marker?) is five feet wide. On the other hand, the width of the seat of a certain senator Oppius is two and one-third feet (32114) and the space allotted to the distinguished Maecilius Hilarianus, *cos.* 332, *praefectus urbi* 338, was already five feet in width when the carver arrived at the third *I* in his name: *MAECILI HI* (no. 32110; height of letters 0.14 m.). The depth of all these seats is uniformly 0.32 m., a little over a Roman foot.

This information is of limited use. The passage from Cicero (*Phil.* 9.16) cited in the text states that the family of Servius Sulpicius was entitled to five square feet of space for seats above the Rostra: "Ser. Sulpicius et privatus et in magistratibus fuerit: cum talis vir ob rem publicam in legatione mortem obierit, senatui placere Ser. Sulpicio statuam pedestrem aeneam in rostris ex huius ordinis sententia statui circumque eam statuam locum ludis gladiatoribusque liberos posterosque eius quoquo versus pedes quinque habere." It is very unlikely, however, that any square measurements are

involved for these places in the Colosseum, since these seats were distributed in two or three rows about the top of its podium and limited by a crowning parapet. But one could say that the allotments of five feet in one direction provided space for at least two or three members of a family or their guests to sit alongside each other. The unit of space for a senatorial seat in the amphitheater then might vary between $1\frac{2}{3}$, 2, $2\frac{1}{3}$, and an upper limit of $2\frac{1}{2}$ feet in width.

The emphasis on senatorial seats is ours. G. Huelsen, in *Bull. Arch. Com.* 22 (1894) 312, calculated the width of a *locus* in the Colosseum to be $1\frac{1}{2}$ Roman feet (0.44 m.). The figure was based on an estimate of the total available space for seating in the amphitheater that was itself derived from Huelsen's interpretation of the inscription on the Arval brethren. Consequently he reduced the number of *loca* from the 87,000 given in the regionary catalogues to 53,000–54,000. The calculation is uncertain. Modern architects allow 0.45 m. per person for standing room; 0.44 m. might have been standing room in antiquity. See L. Richardson in *Archaeology* 10 (1957) 51.

In considering the inscriptions on seats from the Colosseum, we have found only those of the fourth century to be useful, and have ignored those of the later fifth and sixth centuries (*CIL* 6.4.2.32152–250): the sprawling titles are too inflated and the families represented too few to contribute to a discussion of seating space either there or in the curia itself. See P. DeFrancisci in *Rend. Pont. Arch.* 22 (1946–47) 276.

APPENDIX 2: MEETINGS OF THE SENATE IN UNIDENTIFIED TEMPLES; THE SEQUENCE OF MEETINGS ON CICERO'S RECALL FROM EXILE

From the early Republic there are two isolated reports of meetings in temples whose exact site is unknown. One is the meeting in *aede Iani extra (portam Carmentalem)* mentioned by Festus 358 L as site of the meeting in which the senate determined to send the three hundred Fabii against Veii, a site never used for meetings again because of the disaster which occurred (see L. A. Holland, *Janus and the Bridge* [Rome 1961] Chap. 3). The other is a record in 435 of a meeting in the temple of Quirinus on the Quirinal (Livy 4.21.9). Equally doubtful in our view is Servius' statement (on *Aen.* 7.153) that the senate, though prevented from meeting in the temple of Vesta because it was not inaugurated, sometimes met in the Atrium Vestae. Among unidentified temples should also be mentioned the temple of Tellus, the remains of which have not been found on the Esquiline (above, note 96), and the Athenaeum of Hadrian.

In the confusion and strife following the last assembly of Tiberius Gracchus,

held in the Area Capitolina, the senate was called into the temple of Fides Publica, close to the Capitolium, almost surely in the Area Capitolina. This meeting was summoned suddenly, with no time to make the usual preparations of the gathering place. The members present must have been only those who succeeded in withdrawing from the fray. See Appian, *B.C.* 1.16.67; *Val. Max.* 3.2.17.

Marius' great temple of Honos and Virtus was the scene of the first of three special sessions on Cicero's recall summoned by the consul Publius Cornelius Lentulus Spinther in 57. The temple was obviously on a height in view of the *arx*, where the auspices were taken. We know that the view included the Caelian, for a noble who had built a lofty house there was ordered to tear it down because it interfered with the examination of auspices from the *arx* (*Cic. Off.* 3.66). It is uncertain whether the observer of the flight of birds faced south or east. There is evidence for both directions, but (for reasons stated with succinctness by Wissowa, *Religion und Kultus der Römer*², 524 ff., esp. 525 note 4) the evidence for the east seems stronger. The Caelian would be in the line of vision of one looking either south or east (as would also be the Esquiline, which was probably too low to interfere with the view). If the direction was south, the Palatine and the Aventine would also be in sight. If the observer looked east, another strong possibility is the Quirinal, a hill whose nearness to the Forum commends it for consideration. There is no reason to associate with this temple built by Marius the trophies of Marius on the Capitol, where incidentally a high building might not interfere with the view of the birds.

A consideration of the various moves in 57 B.C. for Cicero's recall is illuminating for senatorial procedure. Cicero's supporter, the consul Lentulus Spinther, began in the senate on January first his efforts to secure legislation for Cicero's restoration (Stein [above, note 19] 31 ff.), but tribunicial opposition made it impossible to put a tribunicial bill through without a veto. Hence Lentulus decided to have recourse to the *comitia centuriata*, where the veto was easier to avoid. Before the centuries passed the bill in the Campus Martius on August 4, there were three meetings on the subject presided over by Lentulus. The first was summoned by Lentulus to Marius' temple of Honos and Virtus, chosen no doubt because it was built and dedicated by Cicero's fellow townsman from Arpinum, Gaius Marius. This meeting is described as taking place *multo antequam est lata lex* (*Cic. Dom.* 85), whereas the other two meetings on the subject, held on two successive days, a *trinum nundinum* or a little longer before the bill was passed on August 4, must have occurred on two successive non-comitial days (the senate could not meet on comitial days) in July. If the *trinum nundinum* was an interval of 25 days, the series of non-comitial days from

July 1 to 9 is the most probable time. (See A. K. Michels, *The Calendar of the Roman Republic* [Princeton 1967] 199–206.)

The meeting which took place in the temple of Honos and Virtus beforehand must have been in an odd-numbered month, for that was when Lentulus had the *fascēs*. *Ludi scaenici* belonging to *ludi publici* were in progress at the time, and Lentulus as consul was expected to preside. (They were not the *ludi in memoriam et honorem C. Marii* mentioned by the *Schol. Bob.* on *Sest.* 116, p. 136 Stangl, for no such games existed.) There were no *ludi publici* in March; in May there were the last three days (May 1–3) of the *Ludi Florales*; the first and second, when the games were in the theater, were non-comital days. This seems to be the only possible time for the senate meeting called by Lentulus on Cicero's case. This was not a normal time for senatorial meetings, for from April 14 to May 14 senatorial meetings are attested in the well-documented Ciceronian period (68–43) only in the revolutionary year 43. Mid-April to mid-May was a regular time of senatorial vacation, when the leading men went to their villas and to the waters of Baiae. (See Stein [above, note 19] 110–14, 116–19). We believe that the meeting on May 1 or 2 was a little-publicized meeting, attended by some of Cicero's friends whom Lentulus was able to gather together, but not by his enemies, one of whom, Clodius, was in the theater. What was passed was, we hold, a *senatus consultum surruptum*, a pilfered decree (see above, note 5). Except for the statement that action was taken by *universus senatus*, there is no comment on attendance; on the other hand the meetings in July at the Capitolium and the next day in the Curia are described as *frequentissimus*, *frequens*. The decrees passed at Honos and Virtus were wide-ranging: they commended Cicero's safety to all nations; gave thanks to *civitates* which had received him, and to Cn. Plancius, quaestor of Macedonia; entrusted his safety and life to all governors, legates, and quaestors in the provinces; and summoned men from all Italy to come to Rome to bring about his restoration (*Cic. Sest.* 128). The consul is described as going from the senate to the theater, where the people rejoiced over the honor done to Cicero. Clodius, who, it is implied, avoided the senate meeting for the games, was infuriated, and the actor in reciting his lines from Afranius' *togata*, *Simulans*, played upon the wrongs done Cicero (*Sest.* 116 ff.).

This preparatory meeting—sparsely attended, like the senatorial sessions which the tribune of 67, C. Cornelius (see *MRR*) had, with partial success, tried to limit—seems to have been effective in rousing public opinion in favor of Cicero; it was particularly successful with Pompey. When Lentulus, who again had the *fascēs* in July, called a meeting on the subject, perhaps choosing the Capitoline temple because the restoration of Cicero's house posed a religious question, Pompey's *sententia* which he read from a

prepared document (*Sest.* 129), was an influential feature of the session. According to the *Schol. Bob.*, p. 136 Stangl, the decree in favor of Cicero's return was passed that day in the Capitol, but the language of Cicero is not in favor of that view. He repeatedly mentions the men who spoke in favor of the recall, and, in stressing the presence of 417 senators and all the magistrates, says (*Red. sen.* 26) *dissensit unus, is qui sua lege coniuratos etiam ab inferis excitandos putarat*. Of the discussion on that day Cicero, without reference to a *discessio*, repeatedly mentions the *dissensio* of one individual (*Red. Quir.* 15; *Dom.* 14; *Sest.* 129). What we think occurred in the Capitol was a regular questioning of the senators in order of rank. The questioning might not have reached the *pedarii*, but it did reach Clodius, a *tribunicus* who, as a public priest, would, we have argued, have sat with the former curule magistrates and have been called on before other men of his rank, as far as rank depended on office. Clodius was already a *quindecimvir s. f.* at this time (see *MRR*, Suppl. s.v. "P. Clodius Pulcher"). If we are right in assuming a failure to pass a decree in the Capitolium, it was possibly because the day was not long enough.

The next day the meeting, which Cicero describes as *frequens*, was in the Curia. On that day a decree, which must have been embodied in the law presented to the people immediately afterwards, provided (*Sest.* 129-30) *ne quis de caelo servaret, ne quis moram ullam adferret*; that any one guilty of such acts (*Red. sen.* 27) would be acting *contra rem publicam salutemque bonorum, concordiamque civium*. This was, we think, the day when the decree was passed. There was the further provision (*Sest.* 129) that if no action was taken on Cicero's case within the first five days when action was possible (that is at the end of the *trinum nundinum* following the posting of the bill), Cicero should return with his *dignitas* entirely regained. We suggest that there was a *discessio* on this occasion. (On the combination of *discessio* and *relatio* see *StR* 3.983, note 4.)

The senatorial meetings concerned with Cicero's recall, on which we are fully but somewhat misleadingly informed, provide, in our view, an example of a *senatus consultum surruptum* passed in the temple that was most fitting for Cicero's case, but is not otherwise known as the site of senate meetings (but see *Voting Districts* 268). The second meeting in the Capitol may show a session in which procedure was limited to *sententiae* and the questioning went down as far as Clodius, but a *discessio* seems to have been avoided. The third session, occurring the next day, was apparently devoted to material to be included in the *lex* to be submitted with senatorial approval to the *comitia centuriata*. The results of the final vote were probably embodied in a decree confirmed by a *discessio*, called for in the ample space of the Curia.