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On the Standard Size of the Ordo Decurionum¹⁾

I. *Introduction to the problem.* — Though it is nowhere explicitly mentioned in the various sources, scholars including Mommsen, Liebenam, Kübler, Abbott and Johnson, Duncan-Jones and Garnsey have generally agreed that one hundred was the standard or statutory size of the municipal *ordo decurionum* in the Latin speaking West²⁾. The issue is an important one and not just because it has been addressed by so many scholars over so many years, but also because our understanding of many aspects of municipal administration depends on that figure³⁾.

Two recent examples illustrate the range of the discussion. The data on the size of the *ordo* have been employed to calculate the changing standards of generosity and personal fortunes of the decurions and, also, they have been used to define the period when membership in the *ordo* became hereditary⁴⁾. The evidence traditionally cited in support of the one hundred figure is, I will show, inadequate. The conclusion is confirmed by chapter 31 of the newly discovered *lex Irnitana*⁵⁾. The discussion is not, however, limited to the question of the standard size, but touches on a number of related problems associated with the rules and conventions of municipal administration.

II. *Traditional arguments for the standard of 100.* — The argument for 100 is stated most convincingly by Duncan-Jones. He writes: "At three Italian towns, Cures Sabini, Veii and Canusium, the number of decurions is explicitly attested as 100" and cites ILS 460, 6579, 6121 as the evidence⁶⁾. Regarding the first two, the size can be deduced from the fact that the "decurions" are called *centumviri*⁷⁾. In the third case, the *album Canusinum*, we have a register of all the decurions in the town of Canusium in southern Italy. Between the most senior of the *quinquennales* and the most junior of the *pedani*, there are exactly one hundred decurions. Furthermore, though this argument is not made by Duncan-Jones, the very word, *decurio*, suggests an organization by tens.

¹⁾ This article was written and accepted for publication in this journal before the details of the *lex Irnitana* were known. In light of the importance of this charter for the subject, it was determined to postpone publication in order to take full advantage of the new material. For their comments and suggestions, the author wishes to thank Professors Dieter Nörr, Armin Stylow, Michael Crawford and R. J. A. Talbert.

²⁾ Literature: Th. Mommsen, *Römisches Staatsrecht* III, 845, is still the basic discussion of the material. Also: W. Liebenam, *Städteverwaltung im römischen Kaiserreiche*, Leipzig 1900, 230; Kübler, art. "decurio" RE IV, 2319; F. F. Abbott and A. C. Johnson, *Municipal Administration in the Roman Empire*, Princeton 1926, p. 65 and Nos. 136 and 151; R. Duncan-Jones, *The Economy of the Roman Empire*, Cambridge, 283; P. Garnsey, "Aspects of the Decline of the Urban Aristocracy in the Empire", ANRW, Berlin 1974, II, 1, 229 ff.

³⁾ The size of the municipal council in the Greek speaking east was more variable, see Kübler, 2323—4. This discussion is primarily concerned with the situation in the Latin speaking west.

⁴⁾ For the former, see Duncan-Jones, 283, on the latter, Garnsey, 243 ff.

⁵⁾ J. Gonzales, *The lex Irnitana: A New Copy of the Flavian Municipal Law*, JRS 76 (1986) 147.

⁶⁾ P. 283.

⁷⁾ The word *decurio* does not provide much of an indication of the total size of the *ordo*, see below.

The most significant contribution of Duncan-Jones in respect to this question is methodological. By the using the data on the distribution of *sportulae* to decurions he has attempted to calculate the size of the *ordo* in various municipalities. He observes, for example: "At Ostia two accounts of the same benefaction show that there were 110 decurions of the city in the late second century: in one version their *sportulae* cost HS 2, 200 in all, and in the other the rate is HS 20 per head"⁸⁾. Alternatively, one may calculate the number of decurions by taking the total amount of the bequest, reckoning a "standard" return of 6% and a "standard" distribution of HS 24. The problem with these calculations, however, is that they reveal, Duncan-Jones argues, *ordines* with 110, 114 and 105 decursions⁹⁾.

III. *Problems and inconsistencies in the traditional arguments.* — The arguments based on the use of the word *centumviri* are inconclusive for several reasons. First, because this term was not used elsewhere to describe the *ordo*, there may be some doubt whether the implicit figure can be universally assumed in communities in which the councilors have other names¹⁰⁾. Moreover, there is no reason to believe that such words like *centumviri* or *centurio/a* always assumed some unit of exactly one hundred.

There is a similar problem with the evidence from Canusium. The document supporting the argument is a bronze plaque, the *album Canusinum*, which begins with the statement:

IIvir. quinquenn. nomina. decurionum. in. aere. incidenda. curaverunt

The problem is that the total of *nomina* which follow is not one hundred but one hundred and sixty-four¹¹⁾!

There are, moreover, other recognized "irregularities" associated with a standard of one hundred. The town of Castrimoenium (off the Via Appia) had, it is believed, an *ordo* of thirty (ILS 3475). Though the evidence is not definitive, Duncan-Jones believes that the senates of the Italian town of Petelia and the African town of Gor also numbered thirty¹²⁾. Finally, and relevant to this discussion only because it is written in Latin, is ILS 6090, an *epistula* from unknown 3rd century emperors to the town of Tymandus in Pisidia. This document extends the *ius et dignitatus civitatis* to the community and allows for an *ordo* of fifty decurions.

Other sources relevant to this problem provide, unfortunately, little or no usable information. The word *decurio* (as noted above) suggests an organization by "tens". The jurist, Pomponius, explains, however, that the tens are not divisions of the *ordo* but divisions of colonists:

D. 50, 16, 239. 5: decuriones quidam dictos aiunt ex eo, quod initio, cum coloniae deducerentur, decima pars eorum qui ducerentur consilii publici gratia conscribi solita est.

⁸⁾ CIL XIV, 353 and 4642.

⁹⁾ Ibid.

¹⁰⁾ On the variety of names, see Kübler, 2315—8: *senatores, conscripti, patres, decuriones, curiales* are attested. Cf. Mommsen, *Röm. Staatsr.* III, 440.

¹¹⁾ As there is some duplication, the actual number of different names is one hundred and fifty-nine, see below, IV, B.

¹²⁾ Ibid.

The word itself provides then no clear indication of the total size of the *ordo*¹³).

With the exception of the *lex Irnitana* (see below, sect. IV, A), the legal material provides no specific numbers. The municipal charters employ formulae which define the quorum necessary for legally binding action (usually 2/3 of the decurions must be present¹⁴) and what the majority must be for different kinds of decrees (usually a simple majority of the quorum¹⁵). Finally, the relevant section of the *Digest*, entitled *de albo scribendo*, 50, 3, also fails to provide any specific indication of a total.

When one considers the variation in all these figures noted here, one may well wonder whether there is any reason at all to believe that the standard size of the *ordo* in the Latin West was one hundred or that there was any "standard" at all.

IV. *A re-assessment of the problem: Some suggestions on organization and numbers.* — The evidence suggests that there was no standard number of regular members in a municipal *ordo*; indeed, the size of the known orders varies between a low of 30 and a high of 100. If we include honorary members, the number was much higher, in the case of Canusium it was as high as 168. In what follows, some of the central documents on this issue are reviewed in respect to this conclusion.

A. *The Lex Irnitana*: The crucial piece of new evidence is chapter 31 of the *lex Irnitana*.

Rubrica. De convocandis edicto decurionibus at sublegendis decuriones.

Quo anno pauciores in eo municipio decuriones conscriptive quam LXIII, quod ante hanc legem rogatam iure more eius municipii fuerent, erunt, nisi si eo anno iam erit facta decurionum conscriptorumve lectio sublectio, qui eo anno duumviri iure dicundo praerunt, ambo alterve eorum primo quoque tempore, uti quod recte factum esse velint, ad decuriones conscriptosve, cum eorum partes non minus quam duae tertiae aderunt, referto, quo die placeat legi sublegi substituive eos, quibus adiectis ad numerum decurionum conscriptorumve in eo municipio decuriones conscriptive futuri sint LXIII, quod ante hanc legem rogatam iure more eius municipii fuerunt. Eique, cum ad eos de ea re relatum erit, primo quoque tempore diem ei rei, dum ne ex his diebus, per quos, ut res in eo municipio prolatae sint, futurum erit quive dies propter venerationem domus Augustae festi feriarumve numero erunt, neve tum quicquam XXX dies ab eo die, quo de ea re decerneretur, futurum erit, proximum quemque, quo die ius fieri poterit, ab eo XXX die destinanto, de quo die maior pars eorum censuerit. Iiviri ambo alterve eorum primo quoque tempore agito uti eo die decuriones conscriptive quicumque per aetatem ...

Several points are noteworthy in this chapter. First, the statutory size of the *ordo* is twice stated to be 63 decurions.

Second, and more important than the simple statement of the number, is the fact that the size was determined by local custom and law and not by any directive of the central government: *LXIII quod ante hanc legem rogatam iure more eius municipii fuerunt*. This suggests that the policy of the central govern-

¹³) Mommsen suggests that the original number of colonists must have been one thousand, hence an *ordo* of one hundred, Röm. Staatsr. III, 842. His argument is somewhat circular.

¹⁴) Gonzales, 209; *lex Irnitana*, cc. 29, 31, A, D, G, L, 61, 62, 64, 67, 69, 70, 72, 73, 76, 79, 80, 83.

¹⁵) *Lex Irnitana*, cc. 31, A, G, 61, 62, 64, 67, 69, 70, 73, 76, 80.

ment was to allow the individual communities to determine the appropriate size, that other communities, even if they did not have 63 decuriones, probably had a traditional number (*iure more eius municipii*) which could be inserted at the appropriate place in the text. There is some indirect confirmation for this notion. In the Flavian charters, a quorum for valid business is defined in terms of a percentage of the regular members of the *ordo*, usually two-thirds¹⁶). To approve a decree required usually a simple majority. This method allowed the central government to define minimum standards but was still flexible enough to allow for a wide variety in the absolute numbers of the *ordo* in any individual community.

Third, this chapter is also interesting because it specifies that the *duumviri* are to ensure that the number of decurions does not fall below 63 in any given year (*in hoc anno*). This is consistent with what is known from other places; namely that in the western provinces and in Spain it was the *duumviri* who had such censorial power¹⁷). How often would this procedure be necessary? Assuming that the normal entry into the *ordo* was through election to a magistracy and that there were the usual two quaestors in Irni per year, then there would be for each generation of 33 years a potential for 66 new members. This suggests that the members would probably have to be added, but not in every year.

B. *The Album Canusinum*: The *Album Canusinum* offers another perspective. Column I of the document lists the municipal *patroni*. Thereafter, beginning at the top of Column II, we find the *quinquennialicii* and continue through the lower offices *adlecti inter quinquennialicii*, *II viralicii*, *aedilicii* to *quaestorii* (those who had actually held municipal office) to the *pedani* (who had not). The list concludes with the names of the *praetextati*. It is, indeed, true that there are one hundred and sixty-four names given on this list of decurions¹⁸); it has also been observed that, if we eliminate the sixty-four individuals who are either *patroni* or *praetextati*, we have exactly one hundred names arranged in the proper sequence defined by Ulpian; that is, there are one hundred names between the most senior of the *quinquennialicii* and the most junior of the *pedani* (D. 50, 3). If the one hundred reflects the standard number of "regular" decurions, then the other sixty-four *nomina* must refer to decurions of a different category. These sixty-four would be individuals whose membership was perhaps more "potential" than "actual"¹⁹).

There is good reason to believe that such distinctions were in fact made. The jurist, Modestinus, notes that just being listed on the *album* did not necessarily make someone a *decurio*, rather, the membership must be obtained in accordance with the law, *secundum legem* (D. 50, 2. 10). It is not clear what law he is referring to here (probably the *lex municipalis*)²⁰), but the following sections of the *Digest*

¹⁶) See above at note 14.

¹⁷) On this point, Gonzales, 200; Liebenam, 258; H. Galsterer, *Untersuchungen zum römischen Städtewesen auf der iberischen Halbinsel*, 1971, 56–7.

¹⁸) See above, n. 11.

¹⁹) Garnsey calls the combined group the "Greater Ordo" (p. 245), but offers no distinguishing characteristic for either the "Greater" or the "Lesser" *ordo*.

²⁰) Michael Crawford has suggested as much to me.

(50, 2, 11–13, from Callistratus and Papirius Justus) take up the question of some of the impediments to membership in the *ordo*. That is, the jurists are defining here which impediments, (e.g. maximum and minimum age or whether a *decurio* who had been relegated might subsequently be readmitted) excluded an individual from membership in the *ordo*²¹). Alternatively, Modestinus may also be acknowledging the fact that towns like Canusium did indeed assign the name of *decurio* to individuals who were not otherwise eligible for membership. In this respect it is important to note that there were quite honorable reasons for the impediment. The first names on the list of decurions of Canusium are nonresident patrons like the praetorian prefects Appius Claudius Julianus (PIR² C 109) and L. Didius Marinus (PIR² D 71). They are followed by distinguished non-resident senators of consular and praetorian status. Another indication that there were different categories of decurions is the fact that five of the eight equestrians are “doublelisted”; that is, they appear once among the patrons and once in their respective municipal rank²²). That is, distinctions between the two groups of decurions were indeed made. In sum, a *decurio secundum legem* must be distinguished from an honorary *decurio*.

I would suggest that the thirty-four non-resident patrons and the twenty-five *praetextati* became honorary *decuriones* and received the *ornamenta decurionatus* or the *commoda decurionum*²³). There were then one hundred regular members of the *ordo* of Canusium and any number of others entitled to the honors and privileges thereof. Regular members voted, honorary members could not (*sed suffragium inter ceteros ferre non possunt*, D. 50, 2, 6, 1, is the formula. See following paragraph). We do, in fact have numerous examples of these decorations. For example, an inscription from Ariminum notes that a certain C. Valius Polycarpus had received the *ornamenta decurionatus* (CIL XI, 6378). An inscription from Suessa conferring honors on Titius Chresimus reads: ... *ut aquae digitus in domo eius flueret commodisque publicis ac si decurio frueretur*, CIL X, 4760 = ILS 6296²⁴). As Augustus allowed retired centurions and military tribunes the rank of decurion in their *patriae*²⁵), the *ornamenta* and *commoda* must have been fairly common. Indeed, Liebenam concludes: „Überaus häufig erfolgte auch im Osten die Verleihung des Ratsherrentitels ehrenhalber an Personen aller Art“²⁶).

C. *The Lex Ursonensis*: This charter, though Caesarian in date, also provides some information on the size of an *ordo*. For example, to authorize the cooptation

²¹) Liebenam, 233; Kübler, 2326 and Garnsey, *Social Status and Legal Privilege in the Roman Empire*, Oxford, 1970, 243, discuss the various impediments.

²²) Garnsey counts four, *Aspects...*, 245, but there are five: Ligurius, Flavius Crocalianus, Galbius and the two Aelii.

²³) *Ornamenta* may not be the correct word. Patrons of senatorial and equestrian status already possessed the immunities and privileges of the *ordo*. See below for more on this point.

²⁴) For other examples of the *ornamenta*, see Dessau's list in ILS V, p. 679. On the *commoda*, see Liebenam, 237.

²⁵) App. B.C. 5, 128; cf. Marcianus, D. 49, 13, 1: *veteranis et liberis veteranorum idem honor habuit, qui et decurionibus*.

²⁶) P. 240.

of a patron, the *lex Ursonensis* (ILS 6087) required the approval of the majority when at least 50 decuriones were present (c. 97, 125, 127). If, however, the potential patron was a senator, then the approval of 75% of all the decurions voting *per tabellam* was required (c. 130). The combination of these two formulae suggests that 75% of the *ordo* must be greater than 50 (or: minimum size of the *ordo* = $50/.75 = 67$), or that there must be at least 67 members of the body.

D. *The Evidence of the Sportulae*: The significance of this conclusion becomes clear when we consider Duncan-Jones' evidence of the *sportulae*. When such donatives were distributed, the benefactor gave not only to the actual, voting members of the *ordo*, but also to those who were entitled to its privileges (the “Greater” *ordo*). Those, for example, who were too young (i.e., *praetextati*) could attend the meetings and receive *sportulae* (CIL IX, 3160 = ILS 6530) but could not vote: *minores viginti quinque annorum decuriones facti sportulas decurionum acciperunt, sed interim suffragium inter ceteros ferre non possunt* (D. 50, 2, 6, 1). The variety in the numbers calculated by Duncan-Jones (114, 110, etc.) may reflect the fact that different communities extended these honors at different rates, and that not all “regular” members of the *ordo* could be present when a distribution was made²⁷). Indeed the actual number of members present at any one moment might be reduced by death, temporary absence or a number of other incapacities. Hence, the total number of those eligible to receive the benefaction would usually exceed the actual number of units distributed. In sum, what Duncan-Jones has calculated is really the total number of both actual and honorary decurions in a community at any one time.

E. *Other Indications*: As to the numbers of fifty and thirty, it is important to bear in mind that, however sensible such numbers might be for small communities, the actual evidence is not definitive. The case for thirty is based on a fragmentary text stating little more than: *ex decreto XXXvirum* to which Dessau writes: *Trigintaviri videntur esse decuriones Castrimoenium*. The other indications are guesses around which Duncan-Jones appropriately assigns brackets and question marks. As for the number fifty, it is significant that Tymandus is in the East, where there was more variation²⁸). Moreover, as Abbott and Johnson have long ago recognized, the language of the text indicates that the author(s) of the letter have made allowance for the fact that the community will grow and that the number of decurions will grow with it: *Numerum autem decurionum interim quinquaginta hominum instituere debebis. Deorum autem immortalium favor tribuit, ut auctis eorum viribus adque numero maior eorum haberi copia possit*²⁹).

There were then at least three, and perhaps four distinct categories of *decuriones*. The first group consists of the “regulars” with full rights including a “seat” (*sedere*), the right to express an opinion (*ius dicendae sententiae*) and to

²⁷) The nature of the distribution might have been a relevant factor, too. It is probably for this reason that the *lex Ursonensis* specifies percentages (see above, IV, A.).

²⁸) Kübler, 2324; Liebenam, 229; Duncan-Jones, 287, n. 1, and Broughton, *ESAR* IV, 814.

²⁹) ILS 6090, 11, 34ff., Abbott & Johnson, 489.

vote (*suffragium*)³⁰). They also enjoyed all the immunities associated with their rank³¹). A second group which, to judge by its position on the *album Canusinum*, was more eminent than the "regulars", included the municipal patrons of both senatorial and equestrian status. Presumably they had all rights except that of the *suffragium*³²). A third group, in prestige lower than both the patrons and the "regulars" included the *praetextati*. As they are mentioned on the *album Canusinum*, they probably had a "seat" and enjoyed the usual immunities, but will not have been allowed to speak (*ius dicendae*) or vote (*suffragium*). Beyond these, there may be a fourth group of individuals who did not appear on the *album* (at least they are not identifiable on the two surviving *alba*), who had no seat in the *curia*, but who shared many of the protections accorded to the other members of *ordo*. This last group was quite varied, including, among others, centurions, veterans³³), freedmen (ILS 1678 and 5487: *M. Egnatius Sciti lib. Venustus ... huic ... (Hispalis) ornamenta decurionatus decrevit*) and actors (ILS 5186, 5191, and 5193: *M. Aurel. Aug. lib. Agilio Septentrioni pantomimo sui temporis primo ... ornamentis decurionat. decreto ordinis exornato ...*). The question remains, however, whether these individuals were assumed among the *pedani* or formed a distinct group. How many of these groups regularly received the distributions limited to decurions is not at all clear, but it may be that such *sportulae* were restricted to those whose names appeared on the *album*.

While there is no question that these categories reflect significant distinctions based on social status, it is less clear that there are any genuine legal or judicial distinctions beyond those rights already mentioned (*suffragium*, *ius dicendae*, etc.) or the more visible access seats reserved for the members of the *ordo* in the theater. In terms of immunities, all members certainly enjoyed the same protections; that is, there does not appear to have been any hierarchy of immunities. Members of the decurial, equestrian and senatorial orders were not sent, for example, to the mines³⁴).

V. *Summary of Conclusions*. — The widely accepted proposition that one hundred constituted the "standard" or "statutory" number of decurions rests on very little evidence. Only the *lex Irnitana* provides a direct statement of size and that is for an order of 63. Other *ordines* of the Latin west appear to vary between 30 and 168. One hundred regular members may have been an ideal or even a maximum, but, because even citizen communities varied in population, wealth, development and tradition, the number of decurions could not be standardized in the Latin speaking West any more than it could in the Greek speaking East.

Moreover, the new evidence of the *lex Irnitana* indicates that the decision

³⁰) On these "rights", see Kübler, 2325.

³¹) That is, they were exempted from "plebeian" penalties and tortures, Garnsey, *Social Status*, 242ff.

³²) Again, patrons of senatorial and equestrian status already enjoyed the protections and privileges of decurial status. Presumably, they now had some specific privileges in the community which they would not otherwise have had. How "valuable" such privileges were cannot be determined.

³³) See above at n. 25.

³⁴) On this point, see Garnsey, 103ff. and 120.

about the size of the local *ordo* was made in accordance with the law and tradition of the community itself. The central government, it appears, was only concerned to specify the legal minimum for a quorum and for a majority and did so through percentages rather than through absolute numbers.

We must also recognize that the term "number of decurions" is somewhat ambiguous. On one hand, it may refer only to the regular, i.e., voting members of the *ordo* and, on the other hand, it may also be interpreted to include two other (and possibly as many as three) groups which, though they did not have *suffragium*, nonetheless enjoyed the title, the immunities and some of the rights of the regular decurions. The total number of "irregular" or honorary decurions of all varieties in any one town may be close to the sixty-four attested at Canusium.

The new arguments based on the implications of how *sportulae* were distributed do not unfortunately provide any real indication about the number of regular decurions. Rather, they provide concrete evidence on the total of both regular and honorary decurions who were present in a town at any particular time. It is useful to have such data because they suggest that such terms as "decurion" or the "rights of decurions" were used more loosely by ancients than has been generally recognized by moderns.

Municipalities had a wide range of possibilities for classifying decurions. The first distinction, as noted, is between regular and "honorary" members, while the second assigns each member to a place in a hierarchical structure. Regular members were placed on a scale based on seniority and office (the *album Canusinum*, the *lex Irnitana* and the *Digest* define the categories). Among the "honorary" members, the most eminent (they are ranked even before the regular members) were patrons of senatorial and equestrian rank. Lower in status, indeed below the regular members, were the *praetextati* and a mixed group of individuals. These honorary members were not eligible for full membership for a variety of reasons: Lack of local residence and/or insufficient years constituted honorable impediments; less reputable ones include status and profession.

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P. S. Tacitus records that there were 130 *senatores* at Trier in 69 (*hist.* 5, 19).