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## DISSERTATION

UPON THE

## CONSTITUTION

OF THE

## ROMAN SENATE.

**I**T were to be wished that POLYBIUS had looked upon the constitution of the Roman senate to have as properly belonged to his subject, as the powers of it: Had he been of that opinion, there is no room to doubt, but he would have given us such an exact account of it, as would have cleared up all the difficulties, that occur in reading the ancient authors. It is very probable that he looked upon this subject as too well known to stand in need of a discussion; in the same manner as an English historian would possibly judge it needless to give an account of the qualifications required by our laws and customs, to intitle a person to a seat in either house of parliament, though he might very reasonably think a particular detail of the powers of each well worth the attention of the public.

This omission in POLYBIUS, if it deserves that name, has been endeavoured to be supplied by several modern authors, in several languages; but without giving that satisfaction, which, from the great reputation those authors had deservedly

edly acquired in other branches of learning, the public had reason to expect. Whether this proceeded from the difficulty of the subject, or from their want of attention in treating it, I shall not pretend to determine; but must be so just to their memory, as to own that I attribute it, in a great measure, to the former; particularly, since, though I have provided my self with many more materials, than have been made use of by any of those writers, yet there are some points, which I cannot clear up by the authority of the ancient authors; for which reason, I chuse rather to submit them to the consideration of the learned, than endeavour to establish any system of my own upon unsupported conjectures.

Concerning the original institution of the Roman senate, this is the substance of the account given of it by DIONYSIUS of Halicarnassus, who is much more particular than LIVY in every thing relating to this subject.

I. After ROMULUS had divided all the people into three tribes, and subdivided each of these into ten curiæ, he formed the senate in the following manner: Their body was to consist of one hundred persons, all patricians; of

I. Τριχῆ νεϊμας τὴν πληθὺν ἀπάσαν — εἰπεὶτα τῶν τριῶν παλιν μοιρῶν ἑκάστην εἰς δεκά μοιρας διελών — ἐκαλεῖ δὲ τὰς μὲν μείζους μοιρας, τριβύς· τὰς δ' ἐλαττέρας, κερίας — ἐκ τῶν πατρικίων ἀνδρῶν ἑκατὸν ἐπιλεξάμεν — αὐτὸς μὲν ἐξ ἀπάντων ἕνα τὸν ἀρίστον ἀπέδειξεν — τῶν δὲ φυλῶν ἑκάστη προσεταξε τρεῖς ἀνδρας ἐλεσθῆαι — ἑκάστη φράτρη παλιν ἐκελευσε τρεῖς ἐκ τῶν πατρικίων ἐπιλεξῆαι — τὸν τῶν ἑκατὸν ἐξεπληρωσε βουλευτῶν ἀριθμὸν — ἐξ ὧν ἑκατὸν ἀνδρας ἕως αἱ φράτρηαι προσχειρισάντο, τοῖς ἀρχαίοις βουλευταῖς προσεγεγραψάν. Dionys. Hal. B. ii. Εὐθύς γὰρ ἅμα τῷ παραλαβεῖν τὴν

ἀρχὴν, τὸν δημόσιον οὐχλὸν οἰκείον ἑαυτῷ ποιῆσαι προθυμήθεις — ἐπιλεξάσας ἀνδρας ἑκάστον ἐκ πάντων τῶν δημόσιων — πατρικίους ἐποίησε, καὶ κατέταξεν εἰς τὸν τῶν βουλευτῶν ἀριθμὸν, (Ταρκυνίῳ Πρισκίῳ) καὶ τότε πρῶτον ἐγένοντο Ῥωμαίοις τριακοσίοι βουλευταὶ τῶν οὐλῶν διακοσίοι. id. B. iii. Ἐβουλευσατο μὲν γὰρ τριακοσίους αὐτὸς κατὰ τὸ ἀρχαῖον ποιῆσαι (ὁ Αὐγύς). Dion Cass. B. liv. Παραλαμβάνει τὴν βασιλείαν ἐναντῶ δευτέρῳ μάλισα τῆς μίας καὶ τετρακοσῆς ολυμπιάδῳ ὁ Ταρκυνίῳ. Dion. Hal. B. iii. L. Sulla 11. and Q. Metellius consuls for the year 674.

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these he himself chose one, and ordered each of the tribes, and each of the curiæ, to chuse three : All these together amounted to the number required : So that, the senate, in its original institution, consisted of one hundred patricians, ninety nine of whom owed their seats there to the choice of the people. This was also observed in the addition of the hundred Sabines made, some time after, by ROMULUS, and TATIUS, who were all chosen by the curiæ : These were also patricians, which then was, and, for many years after, continued to be, a necessary qualification for all, who were admitted into the senate ; since we find that TARQUINIUS PRISCUS, in order to ingratiate himself with the people at his accession, chose out of their body one hundred persons, whom he first made patricians, then senators. From this time, the complement of the senate was three hundred, and, in all probability, continued so till SYLLA's time, that is,

fulares. Αυτη δε τη βυλη, δια τας εασεις και τας πολεμικας παμπαν ολιγανδρεια, προσκατελεξεν (ο Συλλα) αμφι τας τριακοσις εκ των αριστων ιππεων, ταις φυλαις αναδης ψηφον περι εκαστα. Appian, B. i. Civ. W. There is a passage in the epitome of the 89th book of Livy, which is thought to relate to this addition made to the senate by Sylla ; the passage is as follows : *Senatum ex equestri ordine supplevit* : The sense of which seems to be, that he filled up the vacancies of the senate with knights, not that he made any addition to it ; but, it plainly appears by the passage of Appian beforementioned, that he encreased their number. However, the author of the epitome, who, certainly, was not Livy, is not much to be depended upon ; for, in the epitome of the 60th book, he says that *C. Gracchus added six hundred knights to the three hundred senators*, ut

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sexcenti equites trecentis senatoribus admiscerentur : id est, ut equester ordo bis tantum virium in senatu haberet ; *to the end that the order of knights might have twice as much power in the senate.* This is so worded, that it cannot be construed to relate to the Sempronian law, concerning the judges : For, by that law, the judicature was totally transferred from the senate to the knights, as may be seen at large in Appian, B. i. Civ. W. and, very particularly, in Velleius Paterculus, B. ii. c. 32. who says that *Cotta divided the judicature, which C. Gracchus had transferred from the senate to the knights, and Sylla from the knights to the senate, equally between the two orders* : *Cotta judicandi munus, quod C. Gracchus ereptum senatui ad equites, Sylla ab illis ad senatum transtulerant, æqualiter inter utrumque ordinem partitus est.* And

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about five hundred and thirty four years, which is the number of years comprised between the first year of TARQUINIUS PRISCUS, and the second consulship of SYLLA; who, to strengthen his party in the senate, and, at the same time, to repair the losses it had sustained by the death of many of its members in the late commotions, encreased their number, probably, to more than four hundred: These additional senators were, like the former, chosen by the people.

II. From this time, to the fourth consulship of CÆSAR, that is, during the space of thirty four years, I shall not pretend to ascertain the precise number of which the senate consisted: It is certain, however, that it exceeded four hundred; and, probably, the complement was the same that SYLLA left.

III. CÆSAR, the year before his death, and after he had overcome all opposition, among the various methods made use of by him to reward those, who had preferred his cause to That of their country, introduced so many of his creatures into the senate, that the number of senators amount-

here, by the way, I cannot help taking notice of an error in Plutarch, in his life of C. Gracchus, where he says, that *he committed the judicature to three hundred senators, and as many knights.*

ὁ δὲ τριακοσίους τῶν ἰππέων προσκαλέλεξεν αὐτοῖς ἑσὶ τριακοσίους, καὶ τὰς κρείσσεις κοινὰς τῶν ἑξακοσίων ἐποίησε.

II. The interval between the second consulship of Sylla, and the fourth consulship of Cæsar, particularly, the latter part of it, is so much illustrated by Cicero's writings, that I am surpris'd we should not be able to gather out of them what the complement of the senate was, during that period. All I can find is, that they were above four

hundred; since in his 14th letter of the first book to Atticus, he gives an account of a certain division of the senate, in which *there were four hundred for the affirmative, and fifteen for the negative*; homines ad quindecim curioni nullum senatus-consultum facienti assenserunt: ex altera parte facilè quadringenti fuerunt. There is another passage to the same purpose, in his speech to the senate, after his return from banishment; he there tells them, that *there were four hundred and ten senators present*: quo quidem die cum quadringenti & decem senatores essentis.

III. Μηδεν διακρινων μητ' ει τις σβαλιω-  
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ed even to nine hundred. It will be easily believed that this recruit proved a greater addition to his power, than to the dignity of the senate; particularly, when it is considered that they consisted of new-made citizens, half-barbarous Gauls, soldiers, and the sons of freed-men. But CÆSAR was outdone in this, as in every other excess, by the triumvirs; for they, it seems, brought slaves into the senate. By these additions, the number of senators came to exceed a thousand. The history of the Roman senate, under the emperors, is so disagreeable a subject, that I shall not pursue it: For, what can be more afflicting, than to behold a wife, a virtuous, and a venerable assembly, become weak, abandoned, and despicable? transformed from all that is great, and glorious, to all that is mean, and infamous; from being the scourge of tyrants, to become their flatterers, and wretchedly submitting to be not only slaves, but the instruments of slavery. Let us turn our eyes, therefore, from the ruins of this fair building to the qualifications, that were required in a Roman senator, when the senate deserved to be called by CINEAS, the ambassador of PYRRHUS, an assembly of kings.

IV. Before the expulsion of the kings, the vacancies in the senate were filled up by them; and, after their expul-

της, μητ' εἰ τις ἀπελευθερῶ παῖς ἦν, ἐνεγράψεν ὡς καὶ ἐνακοσίως τὸ κεφαλαίον αὐτῶν γενεσθαι. Dion Cass. B. xliii. *Cæsar dictator legit in senatum civitate donatos, et quosdam è semi-barbaris Gallorum.* Sueton. Life of Cæs. Εἰς τε τὸ βεβλημένον καὶ δούλους ἐνεγράψαν. Dion Cass. B. xlvi. *Erant enim super mille, et quidem indignissimi, post necem Cæsaris, per gratiam et præmium adlecti, quos orcinos vulgus vocabat.* Sueton. Life of Aug.

IV. *Hoc si polluit nobilitatem istam vestram, quam plerique oriundi ex Albanis et Sabinis, non genere nec sanguine, sed per cooptationem in patres habetis, aut ab regibus lecti, aut, post reges ex actos, jussu populi.* Liv. B. iv. c. 4. *P. Licinius Calvus tribunus militum consulari potestate—vir nullus ante honoribus usus, vetus tantum senator, et ætate jam gravis.* Id. B. v. c. 12. *Majores nostri, cum regum potestatem non tulissent, ita magistratus annuos crea-*

sion, those senators, who had not a right to a seat in the senate, by virtue of some magistracy, were chosen by the people: So that, though the magistracy was the seminary of the senate, out of which it was annually supplied, yet there were other senators (probably chosen when the vacancies were too many to be filled up by the magistrates of the year) who were invested with that dignity by the people, without having borne any magistracy at all. These senators were chosen promiscuously out of the plebeians, as well as the patricians, even before the people were, by law, ca-

*verunt, ut concilium senatus reipublicæ præponerent sempiternum; deligerentur autem in id concilium ab universo populo, aditusque in illum summum ordinem omnium civium industriæ ac virtuti pateret. Cic. for Sext.* I have said that the time, when the people obtained the privilege of being chosen *immediately* into the senate, must have been between the years 263 and 314; because it is plain, from Dionysius of Halicarnassus, that it was after the affair of Coriolanus, which happened in the first of those years; for he says that, *from that time, the democracy gained ground upon the aristocracy, by the peoples being made eligible into the senate*, and, by several other concessions made in their favor, of which he there gives a particular account, *καὶ ἐνθαυτῷ ἀρξάμενος ὁ δῆμος, ἤρθη μέγας· ἡ δὲ ἀριστοκρατία πολλά τε ἀρχαῖα ἀξιωματῶς ἀπέβαλε, βάλῃς τε μέλεχεν ἐπιτρέψασα τοῖς δημῶσιν*, &c. Dion. Hal. B. vii. The year 314 was remarkable for the punishment of Sp. Mælius, who was, as it appears, a plebeian; which is not at all contradicted by Livy's saying he was *ex equestri ordine*; for the order of knights was common both to the

patricians, and plebeians; since, not birth, but the possession only of four hundred thousand sesterterii, that is, of 3229 l. 3 s. 4 d. sterling gave a title to it. After Mælius had received the punishment he deserved, Livy makes L. Quintius Cincinnatus, the dictator, tell the people, that it was monstrous in Mælius to imagine that the city, *which could scarce digest his being a senator, would suffer him to be their king, ut quem senatorem concoquere civitas vix possset, regem ferret.* B. iv. c. 15. Sp. Mælius therefore, though a plebeian, might have been elected into the senate: It is also certain that we find the people in possession of this privilege in the year 353, when P. Licinius Calvus was chosen consular tribune. Upon the whole, as the affair of Coriolanus suggested the reflexion I have mentioned to Dionysius of Halicarnassus, and, as that affair happened only two years after the institution of the tribunes of the people, by which the people were admitted into the senate by virtue of that magistracy, it is very probable they soon after obtained the right of being elected *immediately* into that assembly.

pable of being either consular tribunes, or consuls. When the people obtained the privilege of being chosen senators in this manner, I cannot determine ; but shall observe that it must have been between the years of Rome 263, and 314. This, however, is certain, that the senators of both kinds were chosen by the people, with this difference, that one sort of them were elected immediately into the senate ; and the others, into those magistracies, that gave them a right to a seat there.

V. All magistrates, such as consuls, prætors, censors, ædiles, tribunes of the people, and quæstors had a right to a seat in the senate, during their magistracy ; after the ex-

V. *Tum C. Canuleius pauca in senatu vociferatus. Liv. B. iv. c. 1.* και τῆτο ἐπεισαν ἡμᾶς οἱ συμβεβηκοὶ το ἀρχεῖον (το τῶν δημαρχῶν) εἶσαι παρελθεῖν εἰς τὴν βελλην. *Dionys. Hal. B. vii. ἐπέβη συναρχεῖτες εἰς τὸ βελλεῦτηριον οἱ συνεδροὶ, παρρησιῶν καὶ τῶν δημαρχῶν, ὑπερ ἀσφαλείας τε καὶ σωτηρίας τῆς πόλεως ἐσκοπῶν. Id. B. x. Ουτε γὰρ πρῶτος τις ἀνεβη τῶν συναρχόντων εἰς τὸ ταμειῖον Κάτωνος, ὅτε ὕπερος ἀπηλθεν ἐκκλησίαν δὲ καὶ βελλην ὕδαμιαν παρήκεν. Plut. Life of Cat. of Ut.* The curule magistrates were the consuls, prætors, censors, and curule ædiles ; no authorities are brought to shew that these sat in the senate, during their magistracy, it being a thing so well known. *Ologinta præterea aut senatores, aut qui eos magistratus gessissent, unde in senatum legi deberent. Liv. B. xxii. c. 49.* It is most probable that the censors observed the same order in calling over the senate, with regard to those, who had been magistrates since the last time it had been called over, that was followed by M. Buteo, who, being the oldest censo-

rian, was created dictator to perform the duty of the censors, in reading over the names of the senators, and to supply the vacancies occasioned by the death of great numbers of them, who had lost their lives during the second Punic war : Here the curule magistrates are first called over, in the order they had been created magistrates ; then the plebeian ædiles, the tribunes of the people, and the quæstors ; *recitato veterē senatu, inde primos in demortuorum locum legit, qui post M. Æmilium et C. Flaminiū censes curulem magistratum cepissent, necdum in senatum lecti essent ; ut quisque eorum magistratus primus creatus erat : tum legit qui ædiles, tribuni plebei, quæstorescve fuerant. Liv. B. xxiii. c. 23.* This, therefore, seems to have been the order observed by the censors, in calling over the names of those, who had been magistrates since the last call of the senate. As to the right I have said those, who had been curule magistrates, enjoyed, of being admitted into the senate during the interval

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