

## The Constitution of the Roman Republic

Source: Polybius 6.11.11-6.18.3; John Porter, translator.

*Polybius here sets forth a general analysis of the Roman constitution, which he had had ample opportunity to observe first-hand, at the time of the Second Punic War (i.e., the late third century BCE).*

I have already mentioned the three divisions of government in control of state affairs. Regarding their respective roles, everything was so equally and fittingly set out and administered, in all respects, that no one, not even any of the Romans themselves, could say for certain whether their system of government was aristocratic in its general nature, or democratic, or monarchical. And this uncertainty is only reasonable, for if we were to focus on the powers of the consuls it would appear to be altogether monarchical and kingly in nature. If, however, we were to focus on the powers of the Senate, it would appear to be a government under the control of an aristocracy. And yet if one were to look at the powers enjoyed by the People, it would seem plain that it was democratic in nature. As for the parts of government controlled by each element, they were at that time and (with a few exceptions) still are as follows:

The consuls, when in Rome prior to leading out their legions, are in charge of all public affairs. For all of the other public officials, with the exception of the tribunes, are below the consuls and subject to their authority, and it is the consuls who introduce ambassadors to the Senate. In addition to the powers just mentioned, the consuls introduce to the Senate urgent matters for its consideration and bring about the detailed implementation of its decrees. Moreover, it is the consuls' duty to consider all matters of public concern which are to be decided by the People: they summon the assemblies, introduce measures requiring a vote, and have authority over the execution of the decisions of the majority. Further, they enjoy nearly autocratic powers as regards preparations for war and the general conduct of military affairs in the field. It is within their power to give whatever commands to the allies that they think right, to appoint military tribunes, to levy soldiers, and to choose those fit for military service. When in the field they also may punish any of those under their command whom they wish. And they have the power to dispense whatever public funds they might propose, a quaestor being appointed to accompany them and carry out their orders in such matters. As a result, one might reasonably say, if one were to look at this section of the government, that the Roman constitution was a pure monarchy or kingship....

The Senate, first of all, has control of the treasury, for it has complete authority over all revenues and expenditures. For the

quaestors are unable to disburse funds for any particular purpose without a decree from the Senate, the only exception being in the case of the consuls. The Senate is in charge of by far the most important and the greatest expenditure of public funds—that which the censors make every *lustrum*<sup>1</sup> for the repair and construction of public works: it is through the Senate that the funds are allocated to the censors. Similarly, crimes committed in Italy requiring a public investigation—for example, treason, conspiracy, poisoning, assassination—all fall under the jurisdiction of the Senate. In addition, if some private person or one of the communities in Italy requires legal settlement of a dispute or indeed the assessment of a penalty or aid or protection, all of these things lie in the Senate's care. And indeed, if it should be necessary to send an embassy to any people outside of Italy—either to effect a truce, or to call for aid, or to impose duties on them, or to accept their submission, or to declare war on them—the Senate makes provision for such things. In the same way, when embassies arrive in Rome, the Senate handles the question of how to deal with them and what reply is to be given them. Not one of the above matters is presented to the People for consideration. As a result, if one were in Rome when the consuls were not present, the constitution would appear altogether aristocratic in nature. This, indeed, is the firm conviction of many of the Greeks and likewise of many eastern kings, on account of the Senate's authority in nearly all dealings that these foreign peoples have with Rome.

After this who would not reasonably enquire as to just what sort of role is left in the Roman state for the People, and just what that role is, seeing that the authority of the Senate extends over the various jurisdictions that I have detailed—and over the greatest of all, that being revenues and expenditures—while the consuls in turn have absolute authority concerning preparations for war and operations in the field? But in fact there is a role left for the People as well, and a most weighty one. For the People alone amid the organs of state have jurisdiction over the conferring of rewards and punishments, these representing the sole bonds by which kingdoms and states and, in short, all human society are held together.... The People often pass judgment, then, even where a financial penalty is concerned, whenever the punishment for a crime involves a substantial penalty, and especially when the accused have held high office. And the People alone pass judgment in capital cases.... It is the People who grant offices to the deserving, the most noble prize for virtue in a state. They also have authority over the ratifying of laws and—the greatest of their powers—they deliberate and pass judgment concerning war and peace. Also, as for military alliances, truces, and other treaties, they approve the particulars,

<sup>1</sup> The censors took the lustrum every five years.

rendering them valid or rejecting them. The result is that, with a view to these powers, one might reasonably say that the People have the greatest role in the state, and that the constitution is democratic in nature.

I have now indicated how the various functions of the state are divided among the different parts of the government. Now I will indicate how each can counteract the others, should it so wish, or work in harmony with them. Whenever the consul sets out with his forces, invested with the aforementioned powers, he appears to have absolute authority as regards the mission at hand, yet he requires the cooperation of both the People and the Senate, and without them he lacks sufficient power to bring his operation to a successful conclusion. For it is clear that supplies must always be sent to accompany his armies, but neither food nor clothing nor pay for the soldiers can be allocated without a decree of the Senate, with the result that the commander's plans are rendered ineffectual if the Senate chooses to be negligent or obstructionist. Furthermore, it lies with the Senate whether the commander's plans and designs ultimately come to fulfillment or not, since the Senate has the authority to send another commander out to supersede the old at the end of a year's time or to extend the command of the consul in the field.<sup>2</sup> It also has the power to celebrate and thus increase the fame of the consul's achievements, or to belittle them and render them obscure. For the celebrations that they call triumphs, in which the spectacle of the general's achievements is brought strikingly before the eyes of the citizens, cannot be organized as is fitting—and at times cannot be held at all—unless the Senate should concur and should provide the requisite expenditures. As for the People, it is altogether necessary for the consuls to court their favor, even if they should happen to be quite far from Rome. For it is the People who reject or ratify truces and other treaties, as I have noted above. Of greatest weight is the fact that, upon laying aside their office, it is before the People that they must submit an account of their actions. The result is that it is in no way safe for the commanders to slight the Senate or the good will of the People.

The Senate, in turn, which enjoys so much authority, first of all must pay attention to the masses and court the favor of the People in matters of public concern. The most important and greatest enquiries into crimes against the state, and the penalties thereby adjudicated—those that involve the death sentence—cannot be carried out by it unless the People first ratify what it has proposed. The same is true of those things that concern the Senate itself: for if ever anyone introduces a law that would strip the Senate of some part of the powers accorded it by tradition, or would abolish their right of precedence in seating and other honors accorded senators, or, indeed, would effect a reduction in their livelihoods—the People have authority over all such matters, whether to pass

them or not. Most important of all, if a single one of the tribunes interposes his veto, the Senate is unable to put into effect any of its resolutions; indeed, it cannot even convene or come together at all. And the tribunes are bound always to effect the will of the People and to be guided by their wishes. As a result of all of these factors, the Senate fears the masses and is ever mindful of the People.

Similarly, in turn, the People are subordinate to the Senate and must have regard for its wishes, both in public matters and private. Many projects are contracted out by the censors for the repair and construction of public works throughout all of Italy—so many that one could scarcely number them all—and also the rights to collect the revenues from many rivers, harbors, gardens, mines, lands—everything that falls under Roman control. All of the aforementioned are administered through the People, and nearly everyone, so to speak, has an interest in the contracts and the works derived therefrom. For some in fact purchase the grants of these contracts from the censors, others act as partners in such ventures, others provide sureties for the purchasers, and others still pledge their property to the public treasury for this purpose. But the Senate has authority over all of these procedures: it is able to grant extensions and, in the case of an unforeseen catastrophe, can lessen the contractor's liability, or can release him from his contract altogether should he prove unable to complete it. And there are in fact many ways in which the Senate either greatly harms or greatly benefits those who have charge of public works, for all of the aforementioned are referred to it. Most important, it is from the Senate that judges are appointed in most public and private suits that concern charges of any weight. As a result, everyone, being bound to the good will of the Senate and fearing the uncertainty of litigation, takes care with regard to obstructing or opposing its wishes. Similarly, as regards the initiatives of the consuls, the People are loathe to oppose them since all citizens, both privately and collectively, fall under their authority in the field.

Such then are the powers of each of the parts of government both to oppose one another and to work in conjunction. In unison they are a match for any and all emergencies, the result being that it is impossible to find a constitution that is better constructed. For whenever some common external danger comes upon them and compels them to band together in counsel and in action, the power of their state becomes so great that nothing that is required is neglected, inasmuch as all compete without fail to devise some means of meeting the emergency, nor do they dally in reaching a decision until too late, but each, both communally and individually, work together to complete the task that lies before them. The result is that their unique form of constitution comes to be unconquerable and successfully achieves every goal upon which it resolves.

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<sup>2</sup> A consul can remain in command by being made a proconsul, that is, an ex-consul acting in the capacity of a consul.