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XI.17 On executive authority in the same republic

- The Spirit of Law - Book XI. On the laws that constitute political freedom in their relation to the constitution -

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XI.17 On executive authority in the same republic

If the people were jealous of their legislative authority, they were less so of their executive authority. They left it almost entirely to the senate and the consuls, and reserved to themselves only the right to elect the magistrates and to confirm the acts of the senate and the generals.

Rome's passion was to command, and her ambition was to subject everyone ; she had always usurped, and was still usurping ; she continually had great causes ; her enemies were conspiring against her, or she was conspiring against her enemies.

The state of things required the senate, obliged to conduct itself on the one hand with heroic courage, and on the other with consummate wisdom, to be in charge of things. The people vied with the senate for every branch of legislative authority, because they were jealous of their freedom ; they did not vie with it for the branches of executive authority, because they were jealous of their glory.

The part that the senate took in the executive authority was so great that Polybius says foreigners all thought Rome was an aristocracy. [1] The senate administered the public funds and farmed out the revenues ; it was the arbiter of the affairs of allies ; it decided on war and peace, and directed the consuls in this regard ; it set the number of Roman and allied troops, distributed the provinces and armies to the consuls or prætors, and when their year of command was over it could give them a successor ; it awarded triumphs, received and sent embassies ; it named kings, remunerated them, punished them, judged them, gave or retracted the designation of ally of the Roman people.

The consuls raised the troops they were to lead into war ; they commanded the armies on land or sea ; disposed of the allies ; in the provinces they had all the authority of the republic ; they gave peace to vanquished peoples, imposed conditions for it, or sent them to deal with the senate.

In the earliest times, when the people took some part in the business of war and peace, they exercised rather the legislative than the executive authority. They scarcely did more than confirm what the kings, and after them the consuls or the senate, had done. Far from the people being the arbiter of war, we see that the consuls or the senate often waged war despite the opposition of their tribunes. But in the giddiness of prosperities, they increased their executive authority. And so they themselves created the tribunes of the legions, which the generals had named until then [2] ; and some time before the first Punic War they decreed that they alone would have the right to declare war. [3]

[1] Book VI. [*Les cinq premiers livres*, [p. 208](#).]

[2] In the year of Rome 444. Livy, first Decade, book IX. The war against Perseus appearing perilous, a *senatus consultum* ordered this law to be suspended, and the people consented to it (Livy, fifth Decade, book II).

[3] They took it away from the senate, says Freinsheim, second Decade, book VI.