

of these it is hard to grasp the behaviour of the contestants. Moreover, knowledge of constitutional norms may help us to choose between accounts given by ancient (or modern) authorities or to fill gaps in our evidence. Again, a proper understanding of constitutional norms is a safeguard against anachronistic political judgements based on subjective principles. How otherwise can we properly evaluate the deaths of Tiberius Gracchus and Julius Caesar or Cicero's actions against the Catilinarians? There is a further justification of a quite different type. Polybius' and Cicero's view of the Republic as a mixed constitution, in which, at its acme, the balance of elements produced harmony and stability, has had an important effect on Renaissance and post-Renaissance political theory (see Chapter XIII). It may be, however, that recent generations have been more impressed by the myth than the reality. Without an attempt to grasp the reality, this cannot be assessed.

The fact that the Republic was a natural growth creates also the fundamental problem in analysing it. It was not a written constitution, nor was it entirely unwritten. Two questions may make the problem clearer. First, how could Romans during the Republic find out what was proper constitutional practice in any particular political situation? Secondly, what were the sources of law, i.e. what was the authority which sanctioned a given constitutional practice?

Sources of Legal Authority

By the second century sc the Romans were regularly publishing copies of statutes on bronze in public places, probably 'in a position where it can be correctly read from ground level', as the texts of the statutes themselves say, when referring to the publication of essential notices.' Copies were also kept on tablets or papyrus in the treasury or its associated record-office. The purpose of publication has been much discussed recently. To what extent was it merely symbolic, to what extent genuinely intended for information?⁵ Clearly, in a certain sense it was the assertion of the law's existence. At the same time it is unlikely that the majority of the Roman people had the capacity to read, still less to understand legal texts. Nevertheless, men with skill in legal language could have understood them and told the others, and those in public office were obliged to read either the public copies on bronze or those in the treasury. The same is true of senatus consulta, the minutes of senate meetings, after a decree had been made and had not been vetoed by tribunes (those vetoed were on occasion written down,⁶ but it is unlikely that they were ever displayed in public places). We have copies of a number of senatorial decrees published for diverse reasons in what is intended to be a readable form. Especially important were those which urged magistrates to penalize certain kinds of activity, such as the decree about the Bacchanals of 186 sc and the imperial decree found at Larinum forbidding senators and equites to become gladiators.'