

POMPEY'S COMMANDS IN THE 50's: HOW CUMULATIVE?*

In Sept. 57, Pompey received the *procuratio de annona* for five years with proconsular imperium¹). He was also consul II 55, then proconsul of Spain for five years from Mar. 1, 55²). Finally, he was consul III, 52 (from the end of February). Were these powers held concurrently?

The question asks whether in these two consulships he was also holding the proconsular *procuratio*, and during the third consulship the proconsulship in the Spains as well. A truly extraordinary cumulation of office. It is generally accepted, although sometimes there is reticence. Some modern scholars note that Pompey still held the *procuratio* in 54, together with the Spanish command³). The consular and proconsular *imperia* in 52 are accepted by others, despite greater difficulties⁴). It will be further noted that while attention is paid to the cumulation of the third consulship, commonly nothing is said about the presumably similar combination in 55: consulship with proconsular *procuratio*⁵).

A few moderns have recognised the problems in Pompey's

* The following observations are offered as a tiny token of gratitude to Edwin Judge, whose lectures on Roman history will never be forgotten by those fortunate enough to have attended them, and who, in the midst of endless provocative and original interpretations, in fact suggested the conclusions of this paper, more than twenty years ago.

1) Cicero (*Att.* 4. 1) does not specify the imperium, only that it was not *maius*. It was proconsular: so Gelzer, *Pompeius* 1949, 157; Broughton *MRR* 2. 203, but cf. 2. 603: 'imp. consul.' It is not specified by Cary, *CAH* 9. 530 ('wide powers'), van Ooteghem, *Pompée le grand* 1953, 362 (but cf. 374: *procos.*).

On the title of Pompey's command in 57, see Jean Béranger's most stimulating *Recherches sur l'aspect idéologique du Principat*, 1953, 191.

2) The lex Trebonia was passed after his entry on the consulship (*Plut. Crass.* 15), and before the lex Licinia Pompeia (*Pomp.* 52), and before the end of March, because Pompey was in Campania in April (*Cic. Att.* 4. 10. 2). Most sources link the law to Caesar's five year extension: all to run until Mar. 50? cf. Carcopino *Hist. romaine* 1943, 2. 784.

3) Adcock, *CAH* 9. 620, van Ooteghem, 412.

4) Ed. Meyer, *Caesars Monarchie* 1922³, 177; Carcopino, 2. 841; Gelzer, 184; van Ooteghem, 460; de Martino, *Storia della costituzione* 3. 1966, 159.

5) Meyer, 177 and Broughton *MRR* 2. 219 are exceptions.

career in the 50's. His staying in Italy and not going to Spain in 54 is called 'une violation flagrante des normes gouvernementales'⁶). Mommsen put his finger on the problem for 52: 'a consul who is at the same time proconsul is at once an actual consul and a consul's substitute'⁷). Even that searcher after the Pompeian principate, Léon Homo, pointed to three problems in 52: the sole consulship as an innovation, the repetition of the office held just three years before, and the fact that 'by definition, no man could be a consul and a proconsul at once'⁸).

It is time to collect the evidence for Pompey's powers in the 50's, one of our best documented periods of the Republic. We have almost one hundred letters of Cicero and more than a dozen speeches, the comments of Caesar, Plutarch's *Lives*, and the continuous account of Dio – to mention only the major authorities. If we are to accept such a fundamental overturning of the Republican constitution in the way commonly claimed, and such a significant precedent for the Augustan Principate, we may expect comment somewhere. And remember the outcry, fully documented, over Pompey's powers in the 60's. Evidence will now be collected for Pompey's actual magistracies and for his movements, given the importance of the *pomerium* in distinguishing magistracy from promagistracy. In all cases, the contemporary and fullest evidence of Cicero will be considered first, then that of other sources.

Pompey left Rome in connection with his duties in the *procuratio* in 57, and is noted as absent in December of that year (Cic. *QF* 2.1)⁹). In January 56, he supported Spinther 'in senatu' (*Fam.* 1.1.2), but the phrase does not necessarily mean the *curia* in the forum. Later in the year, Cicero was to recall that Pompey was not attending the senate when the Egyptian question was being discussed (*Fam.* 1.7.3), but this may refer more to February, when he was under attack from Clodius¹⁰). Also in January, Cicero dined with Pompey (*Fam.* 1.2.3), without specifying where. Pompey had many houses in and around

6) Carcopino, 833.

7) *Roman History*, trans. Dickson (Macmillan) 5. 146, n.

8) *Roman political institutions* 1929, 182.

Strangely, there is, as far as I can see, no discussion of this matter in Ch. Meier's *Res publica amissa*, 1966, even in his stimulating discussion of the difficulties of Pompey's position in the 50's (pp. 144, 288f.).

9) Dio 39. 14 has Pompey entertaining at his house late in 57. This is taken to be at Alba (Carcopino, 772; van Ooteghem, 369).

10) Tyrrell and Purser, 2. 75.

Rome; perhaps on this occasion the meeting was at his property in the Campus Martius¹¹). In February, Pompey spoke at Milo's trial in the forum, when he was accused by Clodius of *vis* (*QF* 2.3.2, *Fam.* 1.5 b, *Mil.* 40, 68)¹²), but when the senate was summoned to the *curia*, Pompey went home. When it did meet again on Feb. 8, it did so in the temple of Apollo, 'ut Pompeius adesset' (*QF* 2.3.3), and Pompey was there to reply to Cato's attacks on him. This temple was in the Campus Martius, outside the *pomerium*, and it is usually assumed that this was the reason Pompey, as proconsul, could be present. Some years later, Cicero recalled that Pompey had entered the city to be present at Sestius' trial in March (*Fam.* 1.9.7)¹³). By April, he had received further grants for his work in the *procuratio* and left for Sardinia; he had been living at his suburban villa (*QF* 2.5.1, 3). It was on his way to Sardinia and Africa that he attended Luca (*Fam.* 1.9.9). In the second half of the year, Pompey personally defended Balbus at his trial (*Cic. Balb.* 2, 17, 59). He was accused of usurping citizenship, under the *lex Papia* of 65 (*Cic. Balb.* 52). Since this law did not establish a *quaestio*, it is often assumed that the case would have come before the *quaestio maiestatis*, which would have met in the forum. Appian specifies that Pompey was canvassing for the consulship in the Campus Martius (*BC* 2.17). Dio also notes the canvassing: at one point Pompey rushed into the senate (39.30), but the word he uses (*synedrion*) was not necessarily the *curia* in the forum¹⁴). Thus, in sum, the year 56 is extraordinary as far as Pompey's movements are concerned. There are references to his presence in the senate, but just once there is stress on its meeting in a place where he could be present. More striking, there were three trials (of Milo,

11) On Pompey's properties, see I. Shatzman, *Senatorial wealth and politics* 1975, 389. There is no comment on either matter in Tyrrell and Purser, How or Shackleton Bailey.

12) These preliminary hearings were certainly in the forum (mention of *rostra*, *QF* 2.3.2) (so B. Rawson, *The politics of friendship* 1978, 121). In the *comitia tributa* (Tyrrell and Purser, 2. 42); no comment, Shackleton Bailey, ed. *Fam.* 1. 301. Usually just noted as 'before the people' (Klebs *RE* 1. 2272, Gelzer, *Cicero*, 160).

13) No comment on this remarkable point in Tyrrell and Purser 2. 193, van Ooteghem 377. Shackleton Bailey gives no explanation: 'Pompey will have been exempted for this occasion from the rule that entry within the city boundary entailed forfeiture of imperium' (ed. *Fam.* 1. 309).

14) Compare the *maiestas* trials of Cornelius, 66 (Ascon. 60C) and Gabinius, 54 (*Cic. QF* 3. 1. 24, Dio 39. 63). There is nothing in *CAH* 9. 619, 710; Gelzer *Pompeius* 164f.; van Ooteghem, 390.

Sestius and Balbus), all probably within the city, at which Pompey was present, which have excited virtually no comment from modern writers.

During Pompey's second consulship, Cicero notes his movements only outside the city: at Cumae in April (*Att.* 4.10, 4.9), and at his Alban villa (4.11). This is natural since his duties would be centred *within* the city, and his absence would therefore be noticed. In October, he was in Rome for the games celebrating the opening of his theatre (*Fam.* 7.1), which was actually in the Campus Martius.

Although proconsul of the Spains, Pompey did not, of course, go to his province¹⁵). In 54, writing to Caesar, Cicero alludes to Pompey's *commoratio* longer than he anticipated, thus preventing Cicero's going out on service with him (*Fam.* 7.5). What function was Pompey delaying over? What was Cicero's office? That was in April. There are two further references to the same matter at the end of the year: Cicero is to be appointed legate on the Ides of Sept. (*QF* 3.1.18) and to leave Rome on the Ides of January, 53 (*Att.* 4.19.2), but he did not ever take up the office. The way the matter is referred to, it seems unlikely that Cicero is still talking about his legateship in the *procuratio*. Spain is the obvious solution¹⁶). By October, the trial of Gabinius for treason was the major topic, and Pompey's intervention to save him was mooted (*QF* 3.2.1); he solicited the jurors on his behalf (3.3.3), but was outside the city (3.4.1). In the same month, Pompey induced Memmius to reveal to the senate his infamous election compact (*Att.* 4.17.2), but there is nothing about his or the senate's whereabouts. Then the cryptic 'Pompeius abest' in December (*QF* 3.9.3). Few have commented on it, but Gelzer offered a clever combination with the news in the preceding

15) Why did Pompey stay in Italy? Preoccupation with the food supply (Adcock, *CAH* 9. 620, Gelzer *Pompeius*, 169); because of difficulty with the levies (Meyer, 176)?; to protect the triumvirs' interests and because of Julia's health (Carcopino, 797); these last two explanations in different places (van Ooteghem, 416 cf. 427). cf. 'er [wollte] den Schwerpunkt seiner politischen Stellung nach Rom verlegen' (Gelzer, 175).

Simplest of all: 'Though proconsul of Spain he resided in the suburban vicinity of Rome, contemplating the decline of the Republican government and hastening its end' (Syme, *Roman revolution*, 38).

16) Spain: Tyrrell and Purser, 2. 174; Shackleton Bailey, *Letters to Atticus* 2. 226; Meyer, 176; Adcock, *CAH* 9. 622; van Ooteghem, 430. For the food-supply, Gelzer *Pompeius*, 178; *Cicero* 205. The whole episode is unknown to Broughton *MRR*: see Cicero's career 2. 627 and Supp. 64, perhaps because he did not take up the post.

month of disastrous floods at Rome (*QF* 3.7.1), which he suggests damaged the food supply again¹⁷). The suggestion is ingenious but not compelling. Pompey may simply have been away from Rome at one of his Italian properties.

So much for Cicero's evidence for Pompey's status and movements after his second consulship. Later sources add various notes. Velleius tells us that in his second consulship, Pompey was voted the Spains, but administered them through legates for three years, since he was *praesidens urbi* (2.48.1). The same authority, though, does not mention the *procuratio* in 57. Asconius tells us that at Scaurus' trial for extortion in Sept. 54, Pompey gave him a character reference by letter, because he was outside the city as proconsul (28C). Plutarch (*Pomp.* 53) suggests Pompey stayed in Italy through attachment to Julia. Appian notes only that he did stay after being assigned Spain and Africa (sic), but gives no reason (*BC* 2.18). He also implies that Pompey entered the city for Gabinius' trial in October 54, contrary to Cicero's clear statement (above), and as well misdates the trial to 52 (2.24). Dio is explicit that during Gabinius' trial, Pompey was in the suburbs (39.55.6) and not present at the trial (39.62.2). The full explanation is given a little later: he had been away looking after the food supply after the floods, but hastened back for the trial, but then as proconsul could not enter the *pomerium*, so he addressed the people on Gabinius' behalf outside it (39.63)¹⁸.

Caesar himself alludes to Pompey's position in 53: 'ab Cn. Pompeio proconsule petit, quoniam ipse ad urbem cum imperio rei publicae causa remaneret...' (*BG* 6.1.2). Whatever does Caesar refer to by this vague phrase? Dio claims that in the electoral chaos of 53, Pompey was entrusted with the task of quelling the disturbances, but a moment later says that great delays were caused by his being absent; finally he arrived and arranged for the election of the consuls (40.45-46). On this important matter, Cicero unfortunately gives only dark hints (*Fam.* 2.5); other sources make no such mention of Pompey (e.g. Plut. *Pomp.* 54, App. *BC* 2.19)¹⁹.

17) *Pompeius*, 178.

18) Pompey as procos. had to stay outside Rome (Meyer, 165, Gelzer, 178, 184) and the senate had to meet outside the *pomerium* if he were to attend (Meyer, 177).

19) Dio is accepted by van Ooteghem, 434. How Pompey managed the elections we are not told (Gelzer, 181).

Thus Pompey was appointed sole consul 52. Cicero is impressed with his position: the courts are controlled by his *potentia* (*Fam.* 5.18.2), he is 'clarissimus et potentissimus vir' (7.2.2), possessing 'tantas opes' (7.2.3). There are a number of important references to Pompey's position in the *pro Milone*: 'tota re publica suscepta' (66); 'sed quis non intellegit omnis tibi rei publicae partes aegras et labentes, ut eas his armis sanares et confirmares, esse commissas?' (68); he has been given *exercitus* and *dilectus* to restore order in Rome (70). And he was present, of course, at Milo's trial (71).

There is one further piece of information from Cicero which requires special note: he refers in a letter (*Fam.* 13.75) to the *procuratio* and Pompey's control of it in the past tense. This letter is usually dated 52 or 51 solely on the assumption that the *procuratio* ran its full five years. It is, in fact, unfortunately without a date.

Later sources again add details. Asconius tells us that, although in January 52 Pompey was summoned 'ad populum' to explain his attitude to Milo (51C), the senate was still meeting before his consulship 'in porticu Pompeii' (i.e. at his theatre outside the *pomerium*)²⁰ 'ut Pompeius adesset' (52). While consul, in pretended fear of Milo, he was sometimes not *domi* but *in hortis* (36)²¹. At Milo's trial, in April, he was generally *ad aerarium* (40-41), that is, near the temple of Saturn. Livy notes that Pompey was appointed consul in absentia (*Epit.* 107), and Plutarch agrees, specifying his return to the city after appointment (*Pomp.* 55). Thus the senate had to meet him outside the *pomerium* before his appointment (Dio 40.50), but he entered the court with armed men when Milo was tried (40.53). Appian alone has the important note that in 52 Pompey had two provinces (he means Spain and Africa, cf. 2.18), an army, finances, and autocratic power in the city (2.23). Admittedly this is the historian who makes the above error about his provinces, and dates the *procuratio* to 53, and Cato's command in Cyprus and the trial of Gabinius both to 52 instead of 58 and 54 respectively! Finally, it was during his third consulship that Pompey's command in Spain was extended for another five years. Plutarch

20) Platner and Ashby, 428.

21) Pompey's *horti* were outside the *pomerium* on the Pincian hill (van Ooteghem, 408; Platner and Ashby, 240).

cf. Plut. *Pomp.* 40: mention of a country seat with splendid gardens, and later house attached to his theatre.

notes it in the last five months, after he had appointed Metellus Scipio as his colleague (*Pomp.* 55). Dio implies the same date (40.56), although he has already alluded to it (40.44). No reasons are advanced by these two writers for the extension.

I am, unfortunately, unable to discover who first put forward the idea among modern scholars for the accumulation of powers by Pompey. It is, however, well known that one man has had a preponderant influence here: Eduard Meyer. In his *Caesars Monarchie und das Principat des Pompeius*, 1922³, he saw Pompey as the conscious precursor of the Augustan Principate. For example:

‘Mit der proconsularischen Gewalt verband er, wie Augustus, wenn die Politik es erforderte, das reguläre Oberamt des Consulats, wie im Jahre 55 so 52. Außerdem verwaltete er wie dieser dauernd die cura annonae, welche die Ernährung der hauptstädtischen Bevölkerung in seine Hand legte und so das mächtig anschwellende Proletariat von ihm abhängig machte; auch ihre Verwaltung, deren Kompetenz das ganze Reich umfaßte, erforderte zahlreiche Hilfskräfte aus denselben Kreisen als legati pro praetore. Es fehlte nur diejenige Funktion, welche Augustus mit klarem politischem Blick zur eigentlichen Trägerin der Stellung des Principats im Innern erhob, die tribunizische Gewalt... Den Ersatz für sie mußte bei Pompeius die Unterstützung durch die Demagogen und die Anarchie bilden, die er, seit Clodius sich ihm unter dem Druck Caesars gefügt hatte, fortan fest in der Hand hielt und für seine Zwecke zu benutzen verstand.’²²)

The main evidence offered was Cicero's *Republic*. Indeed, Meyer claimed that Cicero himself indicated that he had Pompey in mind for his *moderator* or *princeps* (*Att.* 8.11.1), but all this passage states is that Pompey neither before nor now at the beginning of the civil war has ever considered the happiness or virtue

22) Meyer, 177. The idea had many followers, especially L. Homo, *Roman political institutions*, 1929: Pompey was pursuing ‘the full Principate’ (p. 180), ‘a little patience and the Principate could not escape him’ (183)! For criticisms, cf. among others, Carcopino, 841. For more insightful parallels, Syme, 38. Homo's interpretations are rather regressive. For example, Pompey's commands in 67/66 were ‘the first legal realisation of the theory of the Principate’ (174).

of the citizens. Rather the passage then indicates Pompey's *lack* of connection with Cicero's ideal²³). Furthermore, Meyer admitted the heavy Greek inspiration of the treatise, notably Plato's *Politikos*. Meyer's theory was, in short, a blatant case of retrojection.

Part of the problem was a confusion over the term *princeps*²⁴). It came to be one of the most basic titles for the new autocratic government, but was also fundamental to the Republic, only usually in the plural. There is certainly nothing to be deduced from the application of the title to Pompey. Cicero had been calling Pompey this since at least the early 50's: 'princeps civium' (*PC* 41, referring to 59); 'princeps civitatis' (*PRS* 4, *Sest* 84), 'quem omnium iudicio longe principem esse civitatis videbat' (*Dom.* 66), all referring to 58-57; universally admitted to be 'princeps in re publica' (*Planc.* 93, in 54); and best of all: 'cum autem in re publica Cn. Pompeius princeps esset vir, is qui hanc potentiam et gloriam maximis in rem publicam meritis praestantissimisque rebus gestis esset consecutus' (*Fam.* 1.9.11). Certainly, in relation to all other politicians, even Caesar, Pompey was preëminent in honours, *auctoritas*, *dignitas* and everything else that gave a Roman standing²⁵). Still, it is worth noting that Cicero also refers to the position of Pompey, Crassus and Caesar in 54 as 'summorum civium principatus' (*Fam.* 1.9.21) and to Caesar's overturning of all laws, human and divine, to gain a *principatus* (*Off.* 1.26).

What conclusions then can be drawn from the above evidence? Although Meyer's dogmatism has been commonly rejected, have we freed ourselves from the basic conclusions of his theory? Let us consider the *procuratio de annonae* first. How long did it last is the crucial question. The grant was for five years, but that is ambiguous. Was this a fixed limit, comparable with the annuality of the ordinary magistrate, or was it a maximum, with power rather to be laid down on completion of the

23) The solution to the identity of the *moderator* is simpler: 'Zweifelloso hat Cicero bei seinem Idealbild des princeps civitatis mehr an sich als an Pompeius oder irgendeinen anderen gedacht' (H. Strasburger, *HZ* 175, 1953, 245).

This is surely Cicero's own implication: 'sex (libri) de re publica, quos tum scripsimus, cum gubernacula rei publicae tenebamus' (*Div.* 2. 3).

24) Cf. the excellent discussions in C. Wirzubski, *Libertas as a political ideal*, 1960, 114f. and J. Béranger, 55f.

25) Syme, 30.

specified task²⁶)? Plutarch (*Pomp.* 50) implies that the food crisis was overcome within a short while – before Luca – which is what one would expect of Pompey's already tested organising genius. Yet Cicero shows that Pompey was still occupied with the *procuratio* late in 56. What of his legates? They might provide vital evidence. We have only the two Cicero's, and M. Titius (*Fam.* 13.75, undated as we have seen). Marcus was certainly legate in the *procuratio* in 57, but later references to a legateship seem better referred to Spain²⁷). Quintus is commonly mentioned as in Sardinia in 56 (*QF* 2, 2, 1, 4, 2.3.7, 2.4.7, 2.5.3, *Fam.* 1.9.9). Apart from that there is a seemingly anomalous reference (*Scour.* 39) in 54 to his recent (*nuper*) return from the island, but obviously there is no reason why this cannot refer back to 56. By 54, Quintus was certainly legate to Caesar in Gaul (*Att.* 4.14.2 etc.).

We have two seeming references for the *procuratio* in 54, but they are not without problems. Velleius (2.48.1) talks about Pompey as *praesidens urbi*. Is this really the *procuratio*? Dio (39.63) is more definite about the food-supply, but has misdated the floods (Nov.) before the trial of Gabinius (Oct.). Furthermore, early in 53 he has Pompey away from the city (40.45), but this time deliberately to increase chaos and ensure his appointment as dictator. Strange that Cicero mentions both the floods and Pompey's absence, but *without connection*. And notice that Velleius mentions this urban position and Dio the *procuratio* for different purposes: to explain why Pompey must stay near Rome and why he must be away respectively. We may link with all this yet another example of vagueness: Caesar's tantalising reference to Pompey's staying near the city in 53, 'rei publicae causa' (*BG* 6.1). If these people mean the *procuratio de annona*, why do they not say so?

It may still be asked, why in fact did Pompey not go himself to Spain in 54? Was it not the *procuratio* which required his staying in Italy and near the capital? Our ancient sources mention only the *praesidium urbi* (Velleius) and affection or concern for Julia (Plutarch). Most modern authorities believe that he was protecting the interests of the coalition, or seeking to fur-

26) A rare distinction, this: made especially by Balsdon, 'Consular provinces under the late Republic' (*JRS* 29, 1939, 57f., 167f.) at 73.

See in general the neglected U. Coli, 'Sui limiti di durata delle magistrature romane' (*Studi Arancio-Ruiz* 4, 1953, 395-418).

27) cf. n. 16.

ther his own position²⁸). Caesar had managed both to have a major military province and to keep some influence over the capital. Pompey feared that going off to Spain would remove him too far from the centre of things. Besides, public order in Rome was breaking down, with riots and elections not being held. Here was his pretext, and Caesar's acceptance of his new preeminence had been extorted at Luca.

I suggest, then, that there is no solid evidence for his *procuratio* after 56. Pompey was indeed in a dilemma. He would want to demonstrate his organising ability by quick success (compare the pirate command in 67), but had of course to prolong the task to keep *imperium* until his next office (note his desperation to obtain a new command in the early 50's). This proconsular *procuratio* lapsed when he took his second consulship, with which it was both incompatible and unnecessary. All the talk about Pompey and the city in 54 and 53 refers simply to his presence outside it, waiting in fact for the call to step in and take up that *praesidium urbi* which eventuated in 52.

There is a further matter concerning the *procuratio* which has still to be solved. His power was, as most admit, proconsular. Yet he is specified as entering the city several times in 56 (and only in that year, as far as I know), for various trials. Most modern scholars disregard this, relying on the assertion that the senate met outside the *pomerium* so that he could attend (*QF* 2.3.3)²⁹). Mommsen, on the other hand, accepted his appearance within the city, but offered no explanation³⁰). Yet centuries before, one had been offered, and it seems to me to be the only possibility:

‘The reason for the meeting outside the walls cannot have been connected with the *imperium* held by Pompey, for though, as a rule, to enter the city involved the loss of *imperium*, Pompey had just done so to speak for Milo, and did so again to bear testimony to Sestius' merits. [We might add, for Balbus also.] Hence he must have been in this matter ‘*legibus solutus*’ (Manutius).’³¹)

28) cf. n. 15.

29) e.g. Gelzer, *Pompeius*, 158.

30) *SR* 2. 660 n.

31) How, *Select letters of Cicero*, 2. 194. Paulus Manutius (1512–1574) published commentaries on the letters to Atticus, 1547 and *ad Familiares*, 1562.

Here then *is* an interesting precedent for Augustus, strangely overlooked.

Now for the situation after 55. His movements where specified place him outside the city or the *pomerium*, or near the city. Naturally, after his election as consul for the third time, he came inside. But what happened to his proconsular imperium, granted in 55 for five years?

The crux of the matter is simply stated. It is not merely anomalous, but nonsensical, to combine magistracy with pro-magistracy. There is one case which is an exception, and not uncommon in the Republic: the granting of special higher powers for a particular task to a magistrate. The leading examples are the Spanish governors who were usually praetors, but with proconsular imperium. And sometimes quaestors left temporarily in charge of provinces were given higher power³²) – but we never have a praetor with *propraetorian* imperium, or a quaestor with *proquaestorian* power, for obvious reasons. Yet we are asked to believe that in 52 Pompey held consular imperium and proconsular in two totally different *provinciae*³³).

The theory of the Republican constitution was, however, being increasingly overridden. The neat schemes of modern discussions have all too often proven theoretical. We may begin by stating that Pompey did not have to give up his government of the Spains when he was appointed consul. His consular power would allow him to keep control of them, but is there any evidence that he lost, as we should expect, his proconsular power in 52? Yes, it has always been there, but desperately argued away³⁴): his reappointment in the latter part of 52 for a

Compare: 'No permanent dispensation for him to enter the city without laying down his imperium was included in the terms of the law; instead he received an ad hoc dispensation whenever circumstances made his presence in the city essential.' (R. Seager, *Pompey, a political biography*, 1979, 112) – a less convenient hypothesis, albeit more traditional, although Pompey had been 'legibus solutus' for his consulship in 70 (*L. Epit.* 79).

32) Mommsen, *JR* 2. 16.

33) It is not without interest that the only writer to hint even at a continuation of Pompey's concern with the food-supply after his second consulship (Dio) was working a century after the great upheaval in imperial powers in the early second century (see M. Hammond, *Antonine Monarchy* 1959, chap. 2) and that the first public appearance of proconsul as a title – alongside consul – is in the inscriptions of Trajan (*ILS* 301 etc.), who set the fashion for all his successors.

34) Or ignored. Gelzer, for example, comments only on the fact that the grant was probably by plebiscitum (*Pompeius* 192).

further five years. How otherwise is one to explain this, if he retained that power all along. Let two examples of reasoning suffice. The extension in 52 was 'by virtue of his law on the provinces'³⁵). That law, however, required a five years' interval between office in Rome and promagistracy in the provinces.

Or Pompey

'meanwhile by being consul at Rome had, according to strict practice, ended his proconsular government in Spain and so the senate, to make an honest proconsul of him, [!] voted his command in Spain, not for the remainder of his term but for a further period of five years beginning in 52'.

This is just after the admission that the new vote 'suggests that the incompatibility of his two offices was not overlooked'³⁶). The simplest solution has always been before us, but the desperate search for the breakdown of the Republic and for precedents for the Principate blinded us to it. With the consulship for the third time, proconsular power lapsed. At the end of his consulship, Pompey took the opportunity not only to gain a new grant but also to throw his command out of the careful parity with Caesar's which had been set up in 55.

Do Pompey's legates in Spain throw any light on his proconsular command? There are only two of them, one for each province: L. Afranius (cos. 60) and M. Petreius (pr. by 63). They are rarely named in the sources and usually referred to as Pompey's 'friends'. Velleius Paterculus is one of the few to give details, mostly erroneous: they governed Spain for three years and were of consular and praetorian rank (2.48, 50). No, they governed the Spains for Pompey from 55 until their surrender to Caesar in 49 (Caes. *BC* 1.37-38) and were both undoubtedly of propratorial rank under Pompey as proconsul. Velleius is confused by their standing in accordance with their own previous careers³⁷). Thus the continuity of the Spanish legates confirms that Pompey retained these provinces as consul, and

35) Homo, 182.

36) Adcock, *CAH* 9. 628 cf. 626.

37) Broughton *MRR* notes the two names from 55 to 49. In 52, however, occurs the strange distinction that Afranius 'probably continued under Pompey in Spain'; there is no such note for Petreius (2. 238). On their rank, there is only a note for Afranius in the index (2. 528) that he was 'probably pro-praetor'.

Velleius' reference to a *triennium* may be taken as a confusion over Pompey's change of status from proconsul to consul in 52.

What then of all Cicero's references to Pompey's position in 52 – his *potentia*, his control of the whole state and so on? The totally unprecedented sole consulship is the answer, and virtual martial law in the city³⁸).

Finally, there are two important pieces of evidence ex silentio. Nowhere in his *Commentaries* does Caesar use such an entirely overwhelming and dangerous accumulation of powers as a complaint against Pompey. Indeed, he compliments him for his measures to restore order in 52 (*B. G.* 7.6). There is nothing in *BG* 8.52, referring to his 'dominatio et arma' in 50, or in the various allusions to his motives and position in the first book of the *Bellum civile*. There is, indeed, the mention of 'novi generis imperia' (1.85.8), but this refers to Pompey's government of Spain in absentia and control of Rome by his presence outside the gates³⁹). Not even in *BC* 1.32 is there mention of Pompey's extraordinary position in the 50's where Caesar offers his own apology to the senate, specifying that he never sought 'extraordinarium honorem'. The other notable lack of comment occurs in Tacitus, who berated Pompey's third consulship on several occasions. He was the first to restrict Republican oratory (*Dial.* 38) and was the subverter of his own laws (*Ann.* 3.28). Most significantly, there is nothing about Pompey's position in the 50's in Tacitus' analysis of the transition from Republic to Principate at the beginning of the *Annals* – and that was obviously one of Tacitus' major interests.

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38) In all his erratic thoughts at the beginning of the civil war, it was possible for Cicero to claim that Pompey had begun defending the constitution during his third consulship (*Att.* 8. 3. 3, Feb. 49)!

39) This is Caesar's real complaint against Pompey (cf. *BC* 1. 2, 9, 11).