

I

THE TERMINAL DATE OF CAESAR'S
GALLIC PROCONSULATE*

The question of the date on which Caesar's command in Gaul expired has recently been reopened by Mr Stevens (below, p. 2, n. 6). His bold and original theories more than justify yet another contribution to the interminable controversy, but they also excuse this attempt at refuting them. This paper is concerned with re-establishing the view, which seemed so obvious to Mommsen and Hardy, that Caesar's governorship was to end on 28th February, 49 B.C. Since the last defence of this theory appeared (p. 2, n. 2), scholars have more and more inclined to the view that the terminal date was in 50, and it will therefore be my task first to discuss in turn their refutations of the 'traditional' view. I propose to deal last with Mr Stevens's theories, and then to suggest a new explanation of the important words of Caelius in *Fam.* 8, 8, 9, since I find it hard to accept either Mommsen's *sanctio* or Stevens's 'appointment-period'. It is hoped that some light may be thrown on the events of 55-50 B.C., and on the motives and actions of the principal actors. I do not, of course, pretend to have found the final answer to the puzzle, but perhaps some useful points may be established.¹

I 'LEGIS DIES' (*Att.* 7, 7, 6)

First for an attempt to prove that the Lex Pompeia Licinia of 55 B.C. extended Caesar's command in the two Gauls till *pridie Kal. Mart.* 49. This was Mommsen's conclusion,² and Hirschfeld³ and Judeich,⁴ who

* [*Journal of Roman Studies*, 36 (1946), 18-42.] I owe sincere thanks to Professor M. Cary, the Rev. M. P. Charlesworth, Professor H. Last, and my father, Dr V. Ehrenberg, who all most kindly read this paper in MS and contributed many most valuable corrections and suggestions.

¹ I have to apologize for the arrangement of this paper. The subject is so intricate that it is often necessary to discuss in one place passages and views also relevant in another.

² Th. Mommsen, *Gesammelte Schriften* iv, 92-145 (cited here as *Rechtsfrage*). In this he followed F. Hofmann (*De origine belli civilis Caesariani*, Berlin, 1857) whom otherwise he tried to refute.

³ O. Hirschfeld, 'Der Endtermin der gallischen Statthalterschaft Caesars,' *Klio* iv (1904), 76-87 (*Kleine Schriften* 310-29).

⁴ W. Judeich, 'Das Ende von Caesars gallischer Statthalterschaft und der Ausbruch des Bürgerkrieges,' *Rhein. Mus.* 68 (1913), 1-10.

Cambridge University Press
 0521202825 - Studies in Tudor and Stuart Politics and Government: Papers and
 Reviews 1946-1972, Volume One

G.R.Elton

Excerpt

[More information](#)

The terminal date of Caesar's Gallic proconsulate

attacked it, were driven from the field by Holmes¹ and Hardy.² But in more recent years new attacks have been made on the 'traditional' view: Professor Marsh³ postulated a date early in 50 as 'legis dies' and was followed, with elaborations, by Mr Stone.⁴ Professor Adcock⁵ tentatively put forward the claims of 13th November, 50, and Mr Stevens⁶ pointed to some date between July and October 50.

(1) *Was there a fixed date?*

Before discussing the actual 'legis dies' one must answer the objections of Mr Balsdon⁷ that there was no such date, and that the only way in which the extraordinary commands of the late Republic terminated was by a clause in the laws conferring them that they should not be discussed before a certain date⁸ unless the task for which the command was given had been carried out. Mr Balsdon's paper deals with a much larger field than does the present discussion, and a good many of his points are most convincingly stated. But one may doubt whether he has proved that there was no definite *terminus a quo*, and therefore no *terminus in quem*.⁹ To his objection that the Romans were a 'practical' people and unlikely to stand upon legal exactitude, it may be answered that they were also eminent legalists, and that both expediency and legal punctilio were satisfied by the arrangement, before 52 B.C., by which legally exact commands were automatically extended by the absence of supersession. The phrase 'exercitum tu habeas diutius quam populus iussit' (*Att.* 7, 9, 4) suggests that there was a definite end set to Caesar's command by the People's orders. More importance must also be

¹ T. Rice Holmes, 'Hirschfeld and Judeich on the Lex Pompeia Licinia,' *C[lassical] Q[uiarterly]* x (1916), 49-56.

² E. G. Hardy, 'The Evidence as to Caesar's Legal Position in Gaul,' *Jour. Phil.* xxxiv (1918), 161-221.

³ F. B. Marsh, *The Founding of the Roman Empire*² (Oxford, 1927), 275-88.

⁴ C. G. Stone, '1 March 50, B.C.,' *CQ* xxii (1928), 193-201.

⁵ F. E. Adcock, 'The Legal Term of Caesar's Governorship in Gaul,' *CQ* xxvi (1932), 14-26.

⁶ C. E. Stevens, 'The Terminal Date of Caesar's Command in Gaul,' *Am. Jour. Phil.* 59 (1938), 169-208.

⁷ J. P. V. D. Balsdon, 'Consular Provinces under the Late Republic,' *JRS* 29 (1939), 57 ff., 167 ff. (These articles are cited by authors' names only.)

⁸ A somewhat similar conclusion was reached by M. Gelzer (*Hermes* 63 (1928), 113 ff.), who also forgot that supposedly premature discussion was common and passed without remark.

⁹ Cf. Mommsen, *Staatsrecht* i³, 594 ff., for proof that definite termination (*Amtsfrist*) was the usual thing. Balsdon's attack on Mommsen's basic theories seems to me to be only partially successful.

Cambridge University Press

0521202825 - Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946-1972, Volume One

G.R.Elton

Excerpt

[More information](#)*The terminal date of Caesar's Gallic proconsulate*

ascribed to Hirtius' testimony about the one summer,¹ and to Cicero's mention of 'legis dies' and 'decem anni'.² If we take it, with Balsdon, that the Lex Pompeia Licinia simply deferred the date of discussion by five years (i.e., in his opinion, until 1st March, 50), and that from that moment supersession was constitutionally possible,³ then the phrase 'annorum enim decem imperium et ita latum' becomes incomprehensible. If anything had been carried, on Mr Balsdon's showing, it was a nine years' command – from 1st March, 59, to 28th February, 50.

The most serious objection still remains, and it is the one on which Mommsen's whole theory of the *sanctio*⁴ (which Balsdon takes over in a new form) was wrecked. If no discussion was allowed before a certain date, why did it continually take place? Why did L. Domitius in 58 and 56 (Suet. *Div. Iul.* 23, 1; 24, 1) and M. Marcellus in 51 (ibid. 28, 2) try to start discussions four years, or two years, or one year before the appointed time?

Mr Balsdon tries to save his theory by the supposition that the law contained a double termination clause: no discussion before a certain date unless the task for which the command had been given was finished. Such 'alternative clauses' in laws always raise a doubt. There is no evidence whatever that Caesar in 59 and 55, and Pompey and Crassus in the latter year, received their provinces for the fulfilment of a special task. They were appointed governors to provinces, with special length of command and extraordinary powers, but not 'to wage war against the Helvetii and Ariovistus',⁵ or the Parthians, or for any other specific undertaking. Our authorities⁶ do not in the least suggest such a possibility in Caesar's case, and we are expressly assured that the Lex Trebonia contained no mention of the Parthian war (Plut. *Crassus* 16, 2). The only bit of evidence which hints that such a clause may have existed⁷ is no

¹ BG 8, 39, 3. Hardy (p. 175) shows that the passage argues a definite end, not a permissive one.

² *Att.* 7, 7, 6; 7, 9, 4.

³ Though Balsdon's attack on Mommsen's interpretation of the Sullan system is serious, it is by no means final. Mommsen does admit the difficulties, but cites as exceptions what to Balsdon become the rule (*Rechtsfrage* 119 ff.).

⁴ Mommsen deduced the existence of a clause (*sanctio*) in the Lex Pompeia Licinia forbidding discussion of Caesar's provinces before 1st March, 50, thus enabling Caesar to stay till the end of 49, from *Fam.* 8, 8, 9, and Hirtius, BG 8, 53 (*Rechtsfrage* 139).

⁵ Are we to believe that the Lex Vatinia would have allowed Caesar's recall in 57 because these enemies had been defeated? L. Domitius – in 58 – could on no account have claimed that the war was over.

⁶ Suet., *Div. Iul.* 22, 1; App., *BC* 2, 13, 49; Dio 38, 8, 5.

⁷ Suet., *Div. Iul.* 28, 2: 'Marcellus . . . rettulit ad senatum ut ei succederetur ante tempus, quoniam bello confecto pax esset ac dimitti deberet victor exercitus' (for a discussion of

The terminal date of Caesar's Gallic proconsulate

proof: Marcellus, obviously looking for some plausible excuse for recalling Caesar prematurely, found it in the fact that the establishment of peace seemed to make the general's further presence unnecessary. His surprising consideration for the soldiers awaiting their demobilization shows that he was not quoting a clause of the law but merely putting a superficially reasonable case. One may agree that the law made some mention of the task to be performed, that the *Lex Pompeia Licinia*, e.g., contained a few words about Caesar's difficulties in Gaul and the necessity of continuing him in office there.¹ But one must disagree when this possibility is turned into a legally binding clause and made to explain difficulties which only arise in connection with the theory. If, however, no such alternative clause can reasonably be postulated, the *sanctio*, in whatever form, falls down. One must therefore conclude that Mr Balsdon has failed to discredit the 'legis dies'.

(2) *General argument*

Before dealing in detail with the objections to the 'traditional' view and the alternative solutions put forward, it may be permissible to review once again the basic reasons for assuming a date which Mommsen considered as 'proven beyond refutation',² especially as one or two new points may emerge.

That the *Lex Pompeia Licinia* renewed Caesar's provincial appointment for five years was conclusively proved by Hardy,³ who in the process had to throw over Dio's unsupported testimony which speaks of three years (Dio 39, 33, 3; 44, 43, 2). While the three years are demonstrably based on false reasoning,⁴ Dio's apparent conviction that Caesar's command ended in 50 deserves some attention, especially as his words suggest that he is contradicting a prevailing opinion. Yet if we here ignore Hardy's insistence on Hirtius 8, 53, and admit that M. Marcellus was trying to recall Caesar before the 'legis dies',⁵ the rest of his argument (*loc. cit.*) supplies the answer. Dio thought that the motion 'ut Caesari succedatur' meant immediate supersession, not – as it did

this passage, cf. Stevens, p. 176). Domitius, in 56, may have suggested no more than a recall on the legal day (Suet., *Div. Iul.* 24, 1).

¹ Such words, e.g. as Cicero used in the speech (*de prov. cons.* 35) of which the law was the practical outcome. If Balsdon were right Cicero would have been ill-advised to mention the successes already obtained (*ibid.* 34).

² *Rechtsfrage* 127: 'unwiderleglich erwiesen'.

³ Pp. 163 ff. His argument is final in many respects.

⁴ Cf. Marsh p. 280.

⁵ Cf. p. 25.

Cambridge University Press

0521202825 - Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946-1972, Volume One

G.R.Elton

Excerpt

[More information](#)*The terminal date of Caesar's Gallic proconsulate*

(cf. p. 8, n. 2) – the appointment of a successor for a future date. He therefore confused Marcellus' proposed date of premature recall – probably 1st March, 50 (*Att.* 8, 3, 3) – with the 'legis dies', and thought that what was proposed was an immediate, and even more premature, recall in 51.

It is not so clear, however, on what date Caesar's second quinquennium started. Mommsen assumed the most straightforward explanation: it was added to the first, which expired on 28th February, 54 (*de prov. cons.* 37), and reached thus to 28th February, 49. This interpretation is the one most easily reconciled with the words of our authorities when they speak of the Lex Pompeia Licinia. The Latin writers¹ use 'prorogare imperium (in quinquennium)' – to vote another (five years') command. Appian (*BC* 2, 17, 63)² translates this correctly as ἐπιψηφίζειν ἄλλην πενταετίαν, while Dio (39, 33, 3) employs μηκύνει, 'to prolong'. Plutarch's testimony,³ though he cannot be pressed for legal exactitude in his wording, also suggests the vital fact of addition. Thus we may assume that the operative clause of the Lex Pompeia Licinia ran something like this: 'ut Caesari imperium in quinquennium prorogetur'. 'Prorogari' means normally prolongation from the date of expiry,⁴ and the word must be twisted at least a little to represent a new grant of office antedating the end of the old. The natural interpretation of our sources is, therefore, that the second quinquennium ran from where the first left off, so that what little we know about the provisions of the law entitles us to claim that Mommsen's date offers the most obvious solution.

There would be no problem at all if our information were no more than these comparatively straightforward statements. But there are a number of other passages which seem difficult to reconcile with the 'traditional' view. Some such passages, i.e. those advanced by Hirschfeld and Judeich, have already been fitted into Mommsen's theory by Holmes and Hardy, and no repetition of their arguments is necessary except where they have been attacked by later scholars.

(3) Professor Marsh's theory

Marsh decides that the 'legis dies' was early in 50. He declares that the language of Dio (39, 33) is explicit for 50, and that Appian (*BC* 2, 26 f.,

¹ Cic., *Att.* 7, 6, 2; *Phil.* 2, 10, 24; Suet., *Div. Iul.* 24, 1.

² Cf. also 2, 18, 65.

³ *Pomp.* 51, 5; 52, 4; *Caes.* 21, 6; *Crass.* 15, 7.

⁴ Mommsen, *Staatsrecht* 13, 636 ff.; iii, 331, 1089 ff., and the examples given in Lewis and Short.

The terminal date of Caesar's Gallic proconsulate

98 ff.) supports him. We have already disposed of Dio and have sought to explain how his error arose. Undoubtedly he believed the end to have been in 50, but it can be shown why he thought so, and why he thought wrongly, and such circumstantial evidence as he produces (it amounts to almost nothing) is obviously shaped to support a view already held. Appian is not much of an aid to Marsh's theory. He does not mention any specific date, and his vague and confused account fits any 'legis dies' that has yet been suggested.

Marsh next takes Caelius' report to Cicero of the compromise proposal of November, 13 (*Fam.* 8, 11, 3), but the detailed discussion of this passage must be reserved for later,¹ when it may be hoped that it may be satisfactorily explained on the assumption that the November talked about was in 49 and the 'legis dies' 28th February, 49. He further repeats Hirschfeld's argument about Cicero's words in December, 50. In two letters (*Att.* 7, 7 and 9) Cicero uses words which at first sight might be taken to show that the 'legis dies' was then already past. Yet Hardy's explanation (pp. 168 ff.) that Cicero was talking about the future is perfectly tenable.²

The first passage (*Att.* 7, 7, 5-6) runs as follows:

Senatum bonum putas per quem sine imperio provinciae sunt? Numquam enim Curio sustinisset si cum eo agi coeptum esset; quam sententiam senatus sequi noluit' [cf. *Fam.* 8, 13, 2]; 'ex quo factum est ut Caesari non succederetur. . . . Quid ergo? exercitum retinentis cum legis dies transierit rationem haberi placet?

There seems no doubt that Cicero here meant to express his annoyance at the Senate's failure to supersede Caesar in time, and that the normal date on which a commander would be superseded was undoubtedly the day to which his command ran, his 'legis dies', or later if his successor was late in arriving. If that day had already passed, if Cicero's argument had been that the Senate had failed to appoint a successor on Caesar's (past) 'legis dies', he would surely have said 'ut Caesari non successum esset'. Thus the words 'ut Caesari non succederetur' point to a 'legis dies' yet to come. If it be contended that Cicero was speaking about the Senate's failure, not in the past on the 'legis dies', but in the present, as it were in the thirteenth hour, the reply is that the words do not

¹ Below, pp. 19 ff.

² His argument loses none of its force when it is admitted that Cicero's ten years did not necessarily mean 120 months, even though he may have been speaking with legal exactitude (Mommsen, *Rechtsfrage* 105 ff.).

Cambridge University Press

0521202825 - Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946-1972, Volume One

G.R.Elton

Excerpt

[More information](#)*The terminal date of Caesar's Gallic proconsulate*

say this. The plain statement that no successor is appointed is best taken to refer to the normal date of taking over, not to a belated succession. At their most sober interpretation, the words discussed cannot be dangerous, are indeed helpful, to our view.

The case appears to be strengthened by the words 'cum legis dies transierit'. Mr Stevens has pointed out¹ that the word 'transierit' can be either future perfect (*cum temporale*) or perfect subjunctive (*cum concessivum*). Even if this is admitted, the phrase still appears to refer to the future. Grammatically, it can depend on 'retinentis' or 'haberi', or on 'placet'. The argument that Cicero is talking about a past 'legis dies' can only base itself on the assumption that it depends on 'placet', the meaning then being 'Do I approve, although the day has passed, that. . .'. This does violence to the Latin and makes very little sense; for the point of the sentence was obviously not Cicero's disapproval at this time but the fact of a tenure of power prolonged beyond the 'legis dies' until the elections. The only election which Cicero can have had in mind on 27th December, 50, lay in the future, in the summer of 49. Whether therefore one translates 'Do I approve that he shall have his candidature while still retaining his army, when the day appointed by the law will have passed', or substitutes for the last clause 'although the day has passed', makes little odds. When the elections of 49 came round, Caesar's 'legis dies' would certainly have passed, whenever it may have been. So one may conclude that, though finality is out of the question, this letter points much more strongly to a future 'legis dies' than a past one.²

This impression is corroborated by a close study of the other letter (*Att.* 7, 9). Mr Stevens supposes that in speaking as though in a senatorial debate (*ibid.* 4) Cicero perhaps had in mind the motion of early December, in which case we may assume that even then a speaker might have spoken of a past 'legis dies'. But the whole letter deals with Cicero's plans for the future: he is considering what he is to do, not – rhetorically – the chance that has been missed. The four possibilities (*ibid.* 2–3) are all in the future (and, by the way, there is no indication

¹ P. 196, n. 118.

² True, if *transierit* is future perfect Cicero would be saying that in December, 50, the 'legis dies' was yet to come. There are few parallels for a concessive *cum* with the perfect subjunctive. Lewis and Short are silent (p. 496; 2. iv). I can find two examples: Caesar, *BG* 1, 26, 2 (cf. ed. Rice-Holmes, p. 30 n.) where the verb in the main clause is in the perfect tense, and Nepos 9, 3, 4, where a concessive meaning is possible but not certain. Quotations for a temporal *cum* with the future perfect and a future in the main clause are numerous: e.g. Lewis and Short p. 491 (2.I.A.3.d.α), and Cicero, *Att.* 7, 9, 1; *de fin.* 1, 63; *Brut.* 96; *de re pub.* 2, 48. But tempting though it is to claim this passage fully for our view one must admit the existence of some ambiguity.

Cambridge University Press

0521202825 - Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946-1972, Volume One

G.R.Elton

Excerpt

[More information](#)*The terminal date of Caesar's Gallic proconsulate*

here that Caesar is already overstaying his allotted time). Clearly and naturally, Cicero is thinking of the approaching, not the past, crisis. As he told Atticus (7, 1, 4), Caesar's enemies concentrated their efforts on preventing the 'absentis ratio', and in the circumstances that could only be done by recalling him before he could use his privilege. Hence the plea ascribed to Caesar – 'habe meam rationem'.¹ As he has the 'ratio absentis' for 49 he considers it unfair to recall him before he has used it (cf. *BC* 1, 9, 32). All the motions concerned with this question, those of 1st March, 50, early December, 50, and 1st January, 49, were attempts to do this. All of them pointed to the future,² and it is only reasonable to suppose that all three contemplated the same thing – Caesar's supersession on the 'legis dies'. Cicero was envisaging such a motion with a debate to follow, a motion 'ut Caesari succedatur' which had to be passed – and the veto avoided – by the time his term expired. Finally it may be said that the question 'exercitum tu habeas diutius quam populus iussit, invito senatu?' (ibid. 4) becomes nonsensical if the 'legis dies' is assumed to have passed by December, 50. How could Cicero make the point 'Are you to have your army beyond the date fixed by the people's orders?' if that date lay in the past – if, that is, Caesar was already holding his army longer 'quam populus iussit'? These last words seem to make certain that Cicero was thinking of circumstances in which a future 'legis dies' was an essential condition.

Marsh next cites a passage which seems more dangerous to the 'traditional' view than any yet propounded. On 19th January, 49, Cicero wrote to Atticus (*Att.* 7, 11, 1) 'atque haec ait (sc. Caesar) omnia facere se dignitatis causa. Vbi est autem dignitas nisi ubi honestas? Honestum igitur habere exercitum nullo publico consilio?' As they stand, these words seem to declare that in January, 49, Caesar no longer held his army by the People's 'decision'. But, says Marsh, if the *Lex Pompeia Licinia* was still in force, then he did hold his army 'publico consilio'. Therefore, the term granted by the *Lex Pompeia Licinia* had already expired.

The answer is partly to be found in the general tone of the letter. Cicero compares Caesar to Hannibal, he accuses him – in Greek, for greater dramatic effect – of *tyrannis*, of horrors, of 'six hundred other crimes'. It is difficult not to feel that the letter was written under the

¹ Probably no more than 'consider my interests'. Or is it an allusion to the 'ratio absentis', and the 'habe tu nostram' which follows a Ciceronian pun?

² That 'ut Caesari succedatur' could only mean 'that a successor is to take over at some (future) date' is clearly brought out by Hardy (pp. 176 and 182).

Cambridge University Press

0521202825 - Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946-1972, Volume One

G.R.Elton

Excerpt

[More information](#)*The terminal date of Caesar's Gallic proconsulate*

highest emotional stress, with its mass of Greek quotations, classical allusions, and despairing outcries. There is here no sober statement of legal fact. Would the lawyer Cicero normally have used so vague an expression as 'publico consilio' if he meant to say that a law had expired? 'Nulla lege populi Romani' is what we should have expected from him. The vagueness of the statement, together with the expressions of horror at the man who had turned against his country, give us the clue to Cicero's meaning: a monster like Caesar could no longer lead a Roman army with the People's consent. When we then remember that on 7th January the Senate passed the 'consultum ultimum', i.e. virtually outlawed Caesar (BC 1, 5, 3 f.), we can see that Cicero was actually basing his opinion on a legal step. The last decision taken at Rome had to all intents deprived Caesar of his army and made him a rebel if he continued to hold it.

But it did not mean that Caesar was no longer proconsul under the terms of the Lex Pompeia Licinia, nor does Cicero say so. Caesar tells us (BC 1, 10 f.) that the Senate were prepared to negotiate with him even when he had reached Ariminum, provided he returned to Gaul and dismissed his army. Why should they wish him to go to Gaul unless he was still recognized as proconsul? In other words, the Senate were trying, by a legal quibble, (a) not to break the Lex Pompeia Licinia, and (b) to fulfil the decision 'ut exercitum dimittat' which had been followed by the *consultum ultimum* (BC 1, 2, 6 f.). Cicero's wild words may be a reflection of the official policy or they may be simply a product of rage and fear, but in no case do they prove that the Lex Pompeia Licinia had expired.

Apart from putting forward these passages, Marsh argues that 1st March, 49, cannot have been the 'legis dies' as the two months from January, 49, would, on Mommsen's showing, already have given Caesar his command till the end of 49, and would thus have rendered superfluous the *sanctio* (in which Marsh believes implicitly). For some it is impossible to accept the theory of the *sanctio* (below, p. 23); and a case has been made out¹ that Cicero's argument about the two months (*de prov. cons.* 36 f.) was not quite so convincing as the orator would have us think. At any rate we may well believe that Caesar would make doubly sure. Marsh also shows surprise that the controversy should be thought to have started about two years before time, with the discussions of April, 51. It is quite natural that the question of Caesar's supersession, the problem of how to prevent him from stepping straight

¹ Cf. p. 27, n. 1.

Cambridge University Press

0521202825 - Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946-1972, Volume One

G.R.Elton

Excerpt

[More information](#)*The terminal date of Caesar's Gallic proconsulate*

from proconsulship into consulship, should have engaged attention so early, if only because of its importance to his enemies.¹ And in July, 51, Caelius foresaw a two years' wrangle about Caesar's succession (*Fam.* 8, 5, 2). He could only do so at that time if there was reason to believe that Caesar wanted and could stay another two years in Gaul.

It remains to consider Professor Marsh's own suggestion. He puts the 'legis dies' 'early in 50'. He argues that the Lex Pompeia Licinia and the Lex Trebonia were passed at about the same time, and that both laws assigned the respective provinces for five years from the day of their passage. The former point is hardly in doubt, but the latter is much less certain. The two laws did two quite different things: the Lex Trebonia assigned provinces to the consuls of the year (55), the Lex Pompeia Licinia extended the command of an existing proconsul. It has been suggested above (p. 5) that the latter law declared 'ut Caesari imperium prorogetur', but a corresponding phrase could most certainly not have stood in the Lex Trebonia. The one law authorized a fresh *imperium*, the other – by a recognized constitutional custom² – prolonged an existing one. The idea that the two laws were in any way similar in content or effect lacks therefore the first basis – a similar purpose. There can be no doubt that the Lex Trebonia, following the precedent of the Lex Vatinia, conferred the *imperium* on the consuls before the expiration of their consulship,³ though whether from the date of passing cannot be known and is also immaterial. But it does not follow that the Lex Pompeia Licinia became operative on the same date.

Marsh further claims that the 'legis dies' of the two laws must have been roughly the same, considering that equal powers were to be conferred on the three partners by the legislation of 55. But it seems certain that Caesar firmly intended to become consul for a second time after he had finished with Gaul, and that he wished to avoid an interval as *privatus*. It is generally agreed that some steps towards this end, such as the promise of the 'absentis ratio', were taken already at Luca. Pompey would have been extremely undiscerning if he had failed to see that such preparations destroyed any idea of equality which might have been

¹ I agree with Stevens that Hardy's suggestion that M. Marcellus was trying to avail himself of a possible doubt as to the continued force of the Lex Sempronia in the hope of avoiding the veto is untenable. The appointments of Cicero and Bibulus in 51 prove that the Lex Sempronia was no longer considered relevant. For a reason for Marcellus' early action, cf. p. 32.

² Cf. p. 5, n. 4.

³ This is conclusively proved by Crassus' departure – *paludatus* – on (probably) 14th November, 55 (*Att.* 4, 13, 2).