

Christopher S. MACKAY Granting extraordinary *imperium* by election under the later Republic

This paper aims to examine the interrelated development of the procedures by which elections were used to grant *imperium* to *privati* (citizens without *imperium*) and to appoint specific magistrates with *imperium* to disputed commands, and it will be shown that much remains to be done to understand the development of technical constitutional issues in their *political* context.

There is no lack of discussion of the constitutional procedure by which *imperium* was granted to individuals (e.g., Mommsen, *Staatsrecht*, and Jashemski, *Origins, Hist. of Proconsular and Propraetorian Imperium*), but this work is basically antiquarian, that is, it consists mostly of ad hoc discussion of the facts without trying to trace the development of the practice itself over time or to interpret the long-term development in the context of contemporary politics. This has led to much confusion both over the exact practice itself (the role of election is often misunderstood) and its implications (e.g., Gruen, *Last Generation of the Roman Republic* 540, asserts that “the dispatching of competent *imperatores* on special missions did not entail the crumbling of civil government”, but the practice is in fact a violation of prior constitutional procedure). Brennan’s *Praetorship* shows that it is possible to convert a discussion of constitutional matters into an analysis of administrative and political issues.

The basic argument is both to show in outline how the practice developed and to place this in a political context. In the 210s special elections granted *imperium* to a series of *privati* who were to serve as extra magistrates in Spain. The need for this procedure lapsed with the creation of two praetorships for Spain in 197. The practice was then revived in 131 when there was a dispute within the senate over who should suppress the revolt in Asia. This precedent was then used by Marius in 107 to gain command in Numidia against the wishes of the senate, and the same procedure was repeated in 88, though Marius was now a *privatus*. Once again, Pompey gained the command against the pirates in the face of senatorial opposition through an election mandated by law in 67. The next year, the farce of an election was eliminated, and the *lex Manilia* directly granted him command in Asia, and this form of *privilegium* then became common in the dysfunctional late Republic (e.g., *lex Vatinia*, *lex Trebonia*, *lex Pompeia-Licinia* and the transfer of command for Antony and Dolabella in 44). In effect, a procedure that was initially a stopgap necessitated by military exigency during the Hannibalic War was converted into a means for certain powerful (and popular) individuals to gain power despite the senate’s opposition. By 66, the initial pretense that the procedure was not meant to confer power on anyone in particular (hence the use of theoretically impartial elections) was given up, and the laws did not mandate elections but simply transferred power to specific individuals by name.