The Best Lack All Conviction
The Senate against Caesar 60-49 B.C.

Research Thesis

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"Turning and turning in the widening gyre
The falcon cannot hear the falconer;
Things fall apart, the centre cannot hold;
Mere anarchy is loosed upon the world,
The blood dimmed tide is loosed, and everywhere,
The ceremony of innocence is drowned,
The best lack all conviction, while the worst
Are full of passionate intensity..."\(^1\)

-William Butler Yeats

_The Second Coming_

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On January 10th, 49 B.C., Julius Caesar stood on the northern bank of the Rubicon. Behind him stood the Thirteenth Legion. A decade of wars in Gaul had made them fiercely loyal, perfectly disciplined, and extremely powerful. Before him lay Italy. It was under the jurisdiction of the Senate, and the protection of Pompey the Great. It was only a few days ago that the Senate had passed the Final Act, effectively declaring Caesar an outlaw. Without his legions, he was at the mercy of a hostile Senate. He would have faced certain prosecution and probable exile or worse. But, that was not an option for Caesar.

When Caesar did lead his army across the Rubicon, he in essence declared civil war. This conflict was a crucial step in transformation of Rome from the Ciceronian Republic to the Augustan Empire. It would have profound effects on the future of western civilization, if not the entire human race. The question is; how did Caesar, one of the greatest strategists in history, find himself in such a position? It is not because Caesar intended to become a tyrant. Rather, Caesar was forced to march on Rome because of the hatred of a faction of the Senate and flaws in the Roman Constitution.

These flaws placed necessary actions in opposition to the “liberty” of aristocrats. The Senate, which following the reforms of Sulla had become dominate in the state, maintained an inconsistent and arbitrary policy towards these actions. Actions by Pompey were tolerated as necessary for the survival of the state. The same was not said of Caesar’s deeds. Pompey was hailed, initially, as a savior to the republic, while Caesar was its greatest threat. This was despite that the fact that Pompey’s actions were more troublesome in terms of quality and quantity. The Conflict between Caesar and the Senate came to a head in 49.
The Senate declared Caesar an outlaw. In so doing, they violated the sacrosanct Tribunes of the People right to veto. They gave Caesar a cause for war. It was not a war that many wanted. According to Caesar, the de facto declaration of war was made “against the convictions of the majority.”\textsuperscript{2} This decree was brought about because Pompey, who had begun to fear Caesar, sided with the minority of the Senate who opposed his former ally.\textsuperscript{3} This was necessary for the war to come about. Without Pompey’s political and military support, it seems doubtful that the minority would have been able to enact the legislation against Caesar.\textsuperscript{4} But, war could have been avoided. The Senate could have accepted what was now necessary; that the Republic, in lieu of reform, would have to rely on strong men for stability. While the Senate seemed to be aware of this in the 70’s, it was forgotten by 49 B.C. At this time, the Senate lacked all conviction of their supposed duty as aristocrats. In order to preserve their position in the state, they declared war against Caesar, under the guise of saving the republic from a “tyrant.”

But, there is no evidence in Caesar’s pre-Rubicon career that shows that he wished to become a tyrant, or at least none that shows that Caesar had ambitions that were significantly different than those of any other prominent Roman of his time.\textsuperscript{5} Some in the Senate opposed Caesar because they wished to take over command in Gaul, for their own benefit.\textsuperscript{6} Pompey abandoned Caesar

\textsuperscript{3} Ibid, 7.
\textsuperscript{6} Caesar, \textit{Civil War}, 5.
because his rise threatened Pompey’s preeminence. But, there is no clear tyrannical intent. The rift between Caesar and his opponents shares a common source. The rift that developed between the Senate and Caesar is the result of the Senate’s unprincipled appeasement of Pompey. The Senate, by granting extraordinary and unprecedented favor to Pompey, raised him to a dangerously high level of preeminence. The Senate denied Caesar similar favors, and punished him for seeking them. These acts of favor set in motion a series of events that undermined the legitimacy of the Senate and resulted in the unraveling of the fabric of the Republic.

First, Caesar’s career and actions must be scrutinized. There have been many different opinions on what Caesar intended by marching on Rome. Did he cross the Rubicon to become a tyrant, or to protect his rights? Each argument has been dismissed as mere propaganda from both sides of the issue. Adrian Goldsworthy points out that “no contemporary evidence supports [the] claims” that Caesar always intended to be a tyrant. Other authors agree with this statement. All that the evidence can support is that Caesar was a very ambitious man. But he lived in a society that rewarded ambition. He was an individual who was not afraid of going against the political currents. In fact, it can be argued that Caesar’s early career is marked by an aversion to tyranny, both dictatorial and oligarchic.

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7 Ibid.
One of the first acts of Caesar that Plutarch tells us about is when Caesar refused to obey Sulla’s wishes and divorce his wife. Caesar risked his life in doing so. It seems likely that a man, who was totally consumed with his desire for power, as some would have us believe, would have tried everything to ingratiate himself with the Dictator. But he did not. He defied Sulla’s wishes, and for that he was nearly proscribed.\(^\text{12}\) This defiance demonstrates Caesar’s hostility to arbitrary and capricious power.

The next episode that demonstrates Caesar’s opposition to tyranny was during the Senate’s meeting on the Catiline conspiracy. Caesar rose to object to the motion to execute the leaders of the conspiracy, without a trial. He instead proposed that the accused be imprisoned until the crisis had passed. Then they would be put on trial. According to Sallust, he swung the chamber to his side. Only Cato’s speech was able to convince the Senate to put those nobles to death.\(^\text{13}\) But Caesar, it seems had the better argument. Granted, his motion was without precedent, but that was because the Republic had never faced such a crisis before. Rome was not a place that feared innovation. They conquered the world by doing what was necessary even if it had not been tried before. It seems doubtful that a nation, the size of Rome, with ubiquitous slavery, could not keep six nobles alive and locked up until trial. That would be a better and more just precedent to create than the one that Cato advocated. By killing these men without a trial, the precedent was created that Roman citizens, even nobles, could be killed if the Senate believed it to be necessary. Trials were luxuries of

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\(^{12}\) Plutarch, *Life of Cæsar*, 199.  
peace and security. This precedent seems to contradict the idea that Cicero provides in his speeches against Verres that a Roman citizen would be safe even in “farthest India,” by simply declaring “I am a Roman citizen.” What good is being a Roman citizen, if it can protect you on the far side of the world, but cannot protect you at home? Clearly, this was a controversial idea, because Cicero himself was exiled, by one of his opponents, for killing the conspirators of Catiline without a trial. In this light, Caesar seems to be the advocate of legal restraint, while Cato is throwing the rule of law to the wind in the name of necessity. Advocating for legal restraint is not the course one would expect a future tyrant to follow.

Besides his actions themselves, some historians point to Caesar’s opulence as a sign that Caesar had excessive ambition. There is no question that Caesar’s rise to power was expensive. Plutarch notes that Caesar ran up such a cost in one election that he said he would either return home victorious, or an exile. Another election campaign cost him so much that Caesar’s debtors refused to let him out of the city until Crassus had covered the loans. It is true that Caesar was an ambitious man and that he enjoyed the benefits of his success. However, he was an ambitious man in a society that encouraged it. One could only advance in politics if one had bestowed great deeds, or beneficia onto the Roman people. The people then were supposed to reward those with the greatest beneficia with higher office. For example, Caesar spent his own money

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16 JFC Fuller, Jullius Caesar (New Brunswick, New Jersey: Rutgers University Press), 315.
17 Plutarch, Life of Caesar, 203.
18 Ibid, 206.
in 65 B.C. to refurbish the Appian Way, in order to get votes for his bid to become Aedile. In order to win election to the Praetorship, the next office up the Cursus Honorum, Caesar and his colleague threw gladiatorial matches and put on shows, at a great cost to themselves. Extravagant spending was not unique to Caesar and it does not signal a secret desire to eventually defy the Senate.

Caesar was notable for the relative scrupulousness that he observed in his rise to power. Granted, the Senate did allow him to become Aedile two years early. But this was a minor office with a minor exemption. To highlight how traditional Caesar’s career was, compare it to the rise of Pompey. One of Sulla’s lieutenants, Pompey was given the unprecedented honor of a triumph before holding any office. Not even the great Scipio Africanus had asked for such an honor at such an age. Following the death of the Dictator, the Senate gave Pompey command against a rebellious general named Sertorius in Spain. In order to command his troops, the Senate awarded him proconsular imperium. This was normally reserved for men who had held the highest office in the state. It was unprecedented to give it to a man who was too young to even enter the Senate. The next extraordinary step in Pompey’s career was his election to the Consulship in 70 B.C. He was merely 34 years old, and had yet to hold any of the offices that an individual normally would have been required to hold before becoming Consul. Pompey was the same age as Caesar was when Caesar became

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19 Goldsworthy, 105.
20 Ibid, 106.
21 Ibid.
22 Ibid, 81-84.
Aedile, two offices below the consulship. Pompey was not even a senator yet. 23 This was a clear circumvention of the Sullan Constitution, and yet the Senate gave him these honors. 24

Shortly after his term as consul ended, Pompey was given command over the whole Mediterranean to deal with widespread piracy that threatened the Roman grain supply, by the *Lex Gabinia*. 25 According to Plutarch, this seemingly limitless power was very troublesome to some in the Senate, who tried to block it. 26 Following this command in the Mediterranean, Pompey went to deal with the invasion of Asia Minor by Mithridates. The motion to give Pompey this command, and the expansive diplomatic powers, was proposed by the tribune of the plebs. The Senate was not able to oppose it. 27 He replaced the commander there, and subsequently went well beyond the scope of his commission. 28 Pompey tried to create a new settlement of the provinces in the east, a task that was well within the traditional jurisdiction of the Senate. At this point, the Senate became so worried about his power that they refused to confirm Pompey’s actions. Finally, the Senate refused to shower Pompey with honors. But, in so refusing, the Senate forced Pompey into the alliance with Caesar and Crassus. 29 This alliance would become a source of contention over the years. The Senate was unable to resist the showering of honors onto the Triumvirs. 30

24 Goldsworthy, 92-93.
28 Plutarch, *Life of Pompey* 93.
29 Appian, 73-74.
30 Gelzer, 34.
But this cannot be dismissed as mere populism run amok. Pompey was given numerous commands and in 52, he was named sole consul by the Senate, a mere three years after last holding the office.\textsuperscript{31} This was done to counter the rampant gang violence in the city.

Yet, it seems to be a case of fighting fire with a bigger, more destructive fire. A single consul fundamentally undermines the core principle of the republic: no one should have too much power. Cato recognized this when he opposed the motion initially by saying that “the laws ought not see protection from Pompey, but rather Pompey from the laws.”\textsuperscript{32} This motion clearly went against tradition. But eventually, he declared that this motion was a necessary evil.\textsuperscript{33} The second reason that this is so troubling is that Pompey was appointed not elected.\textsuperscript{34} This was one of the few avenues of political expression that was available to those outside the nobility.

But more important than the break with precedent, more important than the usurpation of one of the few truly democratic institutions in Rome, is the fact that the Senate had put into law the fact that Pompey was now the most prominent man in Rome. He was the only one who could solve the crisis. He was more competent than any other Senator. He was more competent, and as a result, had more \textit{auctoritas}, than all other senators. The bar was that much higher for all other senators, including Caesar.

It should be noted here that this paper is not disputing the necessity of the above actions. What is being claimed is that doing what is necessary is not
the same as doing what is right. If to use the words of John Adams, a state is to be “a government of laws and not of men,” then attention must be paid to what is right.  

35 The very concept of the rule of law depends on it. It seems that in Ancient Rome, the law had always maintained a limit on how prominent men became. The government had developed with this in mind. If the chief concern of the law was no longer preservation of aristocratic liberty, but effective government, that is fine. If that is the case, then there must be reform of the institutions of state. But it is not clear that this was the case. Based on how the Senate treated Cato in 49, it seems that the dominant concern of the law was always preserving aristocratic liberty.  

36 If that is so, then there is no justification for punishing Caesar in light of Pompey’s acts.

When Caesar’s career is compared with Pompey’s, it is clear that nothing he asked for was without precedent. In fact, the Senate itself had given it all before to Pompey. He merely asked for equal honors. Despite the opposition of the Senate, the people gave Caesar an extraordinary command in Gaul. It was similar to Pompey’s. It is noteworthy that this bill, which allotted provinces to the Caesar, was created in absence of Senatorial input.  

37 Normally, foreign commands were well within the Senate’s purview.

But even so, Caesar sought nothing as drastic as most of Pompey’s exceptions. This comparison between the careers of Pompey and Caesar is significant because many authors, both classical, such as Plutarch, and modern,
such as Fuller, see Caesar as always aiming towards absolute power.\textsuperscript{38} What is more likely, based on his record, is that Caesar wanted to become dominant in the same way that Pompey and Scipio had. Aiming for absolute power would have been a very novel goal. But the only novel thing was how far the Senate was willing to go to oppose Caesar.

To call Caesar’s early career definitive evidence of his aiming for the dictatorship is to ignore the objective facts. It does not show any more inclination to tyranny than any other military leader that had preceded him. His early career demonstrates his interest in being rewarded for his military accomplishments but it does not support the conclusion that Caesar was always planning to become a tyrant.

It is true that some members of the Senate, most notably Cato, had always opposed preeminent men like Pompey and Caesar.\textsuperscript{39} Their hardened resolve does not indicate anything tyrannical about Caesar’s intentions. It just means that in 49 B.C., they had an opportunity to oppose him. To use the wording of Thucydides, “the strong will do what they have the power to do, while the weak will accept what they have to accept.”\textsuperscript{40} Before Pompey’s apparent shift of allegiance from Caesar to the Senate, the Triumvirate dominated politics. Cato and his allies tried in vain to stop them. They simply had no power. They simply could not check the power of Caesar, Pompey and Crassus. In 60 B.C., the three most powerful men in Rome were driven together for mutual advantage. For the

\textsuperscript{38} Plutarch, \textit{Life of Caesar}, 201; JFC Fuller, \textit{Jullius Caesar} (New Brunswick, New Jersey: Rutgers University Press), 14.
\textsuperscript{39} Plutarch, \textit{Life of Cato}, 299.
next decade, Cato tried to oppose the Triumvirate with little success. He was
dragged from stages for trying to oppose bills.41 He tried to have Caesar turned
over to some German tribes for waging an illegal war. But the motion garnered
no support.42 He had taken an oath to prosecute Caesar. But he was never able
to bring him to trial.43

But now they had Pompey.44 Now they could oppose Caesar. To be fair,
Cato and his allies opposed the whole Triumvirate. But Caesar was the weaker of
the two. Cato warned Pompey that he should not suppose that Cato was his
friend, simply because he supported Pompey at the time.45 In the Civil Wars,
Cato is said to have planned to demand that Pompey submit to the authority of
the Senate after Caesar had been defeated.46 The Senate opposed Caesar because
it could, not because of something fundamentally despotic about Caesar. There
just is not the evidence to support that claim.

Furthermore, even after his victory at Pharsalus, and his ascension to the
Dictatorship, it is not clear that Caesar wanted to become a king, or anything like
it. It must not be forgotten that Sulla had also become dictator by marching on
Rome. He eventually abdicated his power and the Republic picked up more or
less where it left off. He also served longer than the traditional six-month term.47
There are many other examples of dictators using their powers for good ends,

42 Goldsworthy, 275-7.
43 Ibid, 364.
44 Ibid, 363-5.
46 Ibid, 305.
and who abdicated their power shortly after their crises were averted. Famously, Cincinnatus was named Dictator, and then surrendered his powers once the invading army had been dealt with, after a mere sixteen days in office. Being a Dictator in Ancient Rome did not necessarily mean one had an evil intent, as modern Dictators often do. But, Caesar was assassinated only months after becoming dictator. His time in power was far too short to discern his true intention. We are left to speculate and hypothesize. But one aspect of Caesar’s short dictatorship lends itself to the conclusion that Caesar was not trying to become king. That was his policy of Clementia or clemency towards the defeated Senate. Brutus, Cassius, Cicero and numerous others were given full and unconditional pardons by Caesar. Anyone who surrendered to him was given such merciful treatment. Even Cato, who had been an opponent of Caesar since the Catiline Conspiracy, believed that he too would be pardoned. He killed himself precisely so Caesar could not do this, and thereby have implicit superiority over him.

It also seems probable that Caesar would have pardoned Pompey. One could make the case that part of why he became so livid with Ptolemy is because by murdering Pompey, the young king had denied Caesar the chance to pardon the most preeminent Roman since Scipio. It seems logical that Caesar would

50 Goldsworthy, 477-8.
51 Plutarch, *Life of Cato*, 312-316.
52 Meier, 406; Goldsworthy 433.
have pardoned Pompey. He had pardoned everyone else.\textsuperscript{53} And he had intended to pardon Cato, despite his inevitable opposition to Caesar. By murdering Pompey, he would have undone all the benefits of pardoning everyone else. But by being merciful, Caesar would have shown his sincerity. Because he was assassinated so early, we will never know what Caesar truly intended.

What we do know is that Caesar’s mercy was unparalleled in Roman history.\textsuperscript{54} Marius and Sulla, the prior two men to wage civil war, had spilled their opponents’ blood by the gallon. Marius died before his true intentions could be known, and Sulla relinquished his power.\textsuperscript{55} It does not seem logical for Caesar to let all his opponents survive if he was trying to become dictator for life. Just for a comparison, the Second Triumvirate who were clearly aiming for something more than preeminence, carried out proscriptions that eliminated their opponents. Octavian consented to the murder of Cicero, specifically because it would solidify his partnership with Antony, thereby consolidating his power. \textsuperscript{56}

Since this policy of clemency cost Caesar his life, it demands extreme scrutiny. Romans kill tyrants. That is founding idea of the Republic.\textsuperscript{57} So, if Caesar was trying to become a tyrant, he clearly erred by letting men live who would have been motivated to follow this legacy.\textsuperscript{58} To say that Caesar simply made a mistake by pardoning his opponents does not work either. He clearly

\textsuperscript{53} Goldsworthy, 433.
\textsuperscript{54} Goldsworthy, 390.
\textsuperscript{57} Plutarch, \textit{Life of Brutus}, 572.
\textsuperscript{58} Ibid, 572-573.
knew what he was doing when he crossed the Rubicon. His conduct of the Civil War was sound.

During the Gallic Wars, he was renowned for his mercy. But he was also willing to kill when necessary.\(^{59}\) Some will say that there is a difference between killing Gauls and killing Senators. But Caesar does not seem to be a man who would have made such a distinction. He found some Gauls worthy enough to enroll in the Senate. It is not clear whether this says more about how highly he thought of Gauls, or how little he thought of the Senate.\(^{60}\) But the fact that they were near the same level is revealing. Furthermore, he marched on Rome, and waged war on the Senate. That indicates at least openness to harming senators. Therefore, it does not seem likely that Caesar would have refused to kill senators if he had believed even for a moment that it would benefit him to do so. The motivations of the assassins clearly show that if he had intended to become a tyrant, he should have killed them all.

But, Caesar did not do that. He pardoned every one of them. Not only did he do this, but also instead of exiling them, he gave many of them positions in the government. Brutus and Cassius were both made praetors. Decimus Brutus was given the governorship in Cisalpine Gaul. Cicero was preeminent to some extent in the Senate.\(^{61}\) Caesar was about to head out to campaign against the Parthians, and he was giving many of his former enemies very prominent positions in his extended absence. While he was in the East, well removed from daily control of the state, Caesar’s assignment of his former opponents to these

\(^{60}\) Goldsworthy, 476.
\(^{61}\) Goldsworthy, 477-8.
positions meant that his former enemies would be in effective control over large portions of the government.\textsuperscript{62} If Caesar was trying to be a tyrant, he was going about it stupidly. If a study of Caesar’s career tells us anything, it proves that Caesar was not a stupid man.

Caesar’s assassination prevents us from knowing what he actually intended. His term as dictator was simply too short. But his comparatively normal career, coupled with his mercy after Pharsalus, both point to him wanting to be something other than a tyrant. He may have wanted the preeminence that Pompey and so many other Romans had enjoyed or perhaps he envisioned a temporary dictatorship in the mould of Sulla. It does not matter which. It is true that by 44 B.C., he had gone beyond what all other Dictators had done.\textsuperscript{63} However, the hostility of the Senate in 49 B.C. cannot be easily understood as the mere opposition to a budding despot. By 44 B.C., he may have changed his mind, after having fought the bloody civil war. But that does not seem to be his intent initially. It seems more likely that the Senate’s opposition was more political than existential. The Senate had already established a dangerous precedent when it acquiesced in Pompey’s rise to power because it was politically expedient. By the time the Senate decided to defy Caesar instead of acquiesce to his demands, he had become too powerful to be destroyed short of Civil War. The Senators’ decision to react differently to Caesar than they had reacted towards Pompey does not supply proof about Caesar’s actual intentions.

\textsuperscript{62} Plutarch, \textit{Life of Brutus}, 576-7.  
\textsuperscript{63} Goldsworthy, 493.
It simply shows certain factions in the Senate hated Caesar and had the power, with the backing of Pompey, to act on that hatred.

**Flaws in How the Republic Was Run, Rather Than Defects in Caesar’s Personality, Set the Stage For Civil War**

Since Caesar’s career does not provide objective evidence that Caesar was tyrannical by nature, we must look to the Senate’s opposition to Caesar to see if there is any justification for the Senate’s hatred of him. The immediate cause of the conflict, according to Caesar, was the “unwarrantable precedent in the constitution” that arose from the Senate’s actions in January 49.\(^64\) The Senate, wishing to act against Caesar, passed the *Senatus Consultus Ultimum*. This act, last passed in 63 B.C. to deal with the conspirators of Catiline, “allowed the consuls to override a Roman Citizen’s basic rights.”\(^65\) The Tribunes of the People, exercising their sacred right of veto, tried to block the motion. Senators attacked them.\(^66\) The bill passed. Caesar was an outlaw. By turning to violence, the Senate had challenged well-established constitutional precedents. This right of the people’s representative to block legislation had survived Sulla’s tyranny.\(^67\) Caesar had his *causus belli*.

But this war was really about long smoldering issues. The violation of the Tribune’s sarcosantity merely provided the fuel that turned these embers into a full flame. As described above, Caesar had lifelong opponents in the Senate. But, besides their continual, if impotent opposition to Caesar in the years right before the Civil War, some senators took their opposition to new levels. Cato wanted

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\(^{64}\) Caesar, *Civil War*, 7.


\(^{66}\) Appian, 86.

\(^{67}\) Caesar, 7.
the Senate to turn Caesar over to the Germans for waging an unjustified war. A Consul named Marcellus had a man from Novum Corvum beaten without cause. This was a major affront to Caesar, because Caesar had founded the Colony and given the colonists Roman Citizenship, which would have protected the man from such an unjustified beating. Granted, Caesar’s opposition to the Opitimate faction did much to engender their hatred. Caesar had Cato arrested for opposing legislation. But it appears that the monopolization of glory by both Caesar and Pompey was the principal source of tension with the Senate. The Republic was supposed to be something akin to a meritocracy, where those who achieved great things in the lower offices were promoted to the higher positions. But the opportunities for offices diminished the higher you rose.

To have two men, effectively controlling most of the opportunities for glory significantly hindered the rise of many of Caesar’s and Pompey’s opponents. They were excluded from command in Gaul and Spain because of the Triumvirate’s domination of it. Caesar and Pompey both had extraordinarily long commands, in extremely lucrative and volatile areas. As a result, their relative dignitas and auctoritas were far above all others. The need for military glory is what motivated Crassus to invade Parthia. Glory meant advancement, no matter how prominent you were. The careers of other senators were being

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68 Goldsworthy, 276.
69 Gelzer, 174.
70 Meier, 331.
71 Meier, 208.
74 Goldsworthy, 296.
hampered by a lack of opportunity for conquest. Resentment smoldered for years among the opponents of the Triumvirate. 75

This concern may have been moot had Caesar and Pompey remained united. All they needed was to work together and they would have been able to dominate the state. Had they remained allied, civil war may have been averted. Pompey’s vanity and paranoia demanded that he must be the unquestioned master of the Republic. 76 He had after all been given extraordinary honors in his younger life. It is not surprising that he would come to resent and fear Caesar and his growing list of accomplishments. Every single Gallic village that was captured, every ounce of gold that flowed into Italy, and every slave that was sold in Rome enhanced Caesar’s reputation. 77 Every bit higher Caesar rose, the more Pompey feared him. In the words of Lucan, “Caesar cannot now bear anyone ahead, nor Pompey any equal.” 78 The more frightened of Caesar becoming equal to himself Pompey became, the closer to the Senate he drifted. 79

In doing so, Pompey gave the Senate the means to oppose Caesar that they had not had since 60 B.C. No more was Cato dragged out of the forum for opposing the Triumvirate. Now the Senate passed the Senatus Consultus Ultimum, the suspension of the constitution in the name of preserving the state. Caesar was alone and vulnerable. Pompey had abandoned his ally. Divided, the Triumvirate and the state fell into a civil war that destroyed the Republic.

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75 Caesar, Civil War, 5.
76 Goldsworthy, 370-371.
77 Fuller, 19.
79 Goldsworthy, 364-7.
But this was not inevitable. In order to understand why this came about, we must look closely at how the Senate acted over the years and how the Republic was supposed to work. Was it even possible for the Senate to act in such a way as to avert its fate? Had they stuck to their principles in 71 B.C. and opposed Pompey, they would have never been in the position they found themselves in when Caesar decided to cross the Rubicon. In 71 B.C., the Senate gave into Pompey too easily. It may have been a hideous idea at the time, but they should have forced Pompey to submit, or declare war. Instead, they awarded his ambition, and disrespect for the law. Granted, a civil war had just ended. But it would have been better to wage a war then, when Pompey was clearly in the wrong, than to give him legal status. Constitutional precedents should not be established out of convenience or under duress. But the Senate did exactly that, and within three decades, a civil war would break out. Only this time, the Senate was in a much weaker position.

Philosophers such as Plato, Aristotle and Cicero seem to offer an explanation as to why granting these honors to Pompey was such a bad idea. The ideas of Cicero were obviously available to the Romans, as were the writings of Plato and Aristotle. They would claim that the Republic had become oligarchic. Over time, the Senate had begun to act purely in its own interests and not in what was for the long term good of the state. In so doing, the Senate soon found itself in a conflict that would ultimately lead to the end of the Republic. What is troubling is that there does not seem to be a concerted effort to destroy the Republic. To use Christian Meier’s terminology, the conflict with Caesar was part

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80 Gelzer, 31.
of the “crisis without alternative.” Each person, by acting in their own self-interest, brought about the destruction of the Republic, a result that no one wanted.

Before looking at the Roman Republic in particular, we must look at aristocracies in general, in order to see what threatens them. Classical sources such as Plato’s Republic, Aristotle’s The Politics and The Athenian Constitution, and Cicero’s The Republic and The Laws discuss aristocracies and the basis for their power. The works of these three authors were available to the Romans in 49 B.C. These three authors all give the most plausible defense of aristocracies available. Following Cicero, political theory became dominated with Divine Right Theory and then Popular Sovereignty. It is easy to dismiss the Republic’s failure on a lack of democracy. This is the best explanation as to why it failed as a state. But, using the teachings of the above authors, we can construct an argument as to why the Republic failed as an aristocracy.

For nearly five hundred years, it thrived as an aristocracy. It was this form of government that allowed Rome to conquer most of the known world. Its decline is one of the key questions in history. It is more plausible to believe that the Republic fell, not because Caesar aspired to become a tyrant, but because of a fundamental flaw in the system. As noted above, the evidence that Caesar wanted to become a tyrant is slim. Instead of illustrating Caesar’s desire to become a tyrant, Caesar’s Civil War can more properly be understood as a

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81 Meier, 357.
82 This is not to suggest that the history of the Republic was not marked by strife, civil unrest, or even civil war. However, notwithstanding these problems, the Republic had still been able to function and to accomplish extraordinary conquests and expansions. Since 212 B.C., it had extended its control over most of Europe, despite internal crises.
symptom of the disease that brought down the Republic. The Republic fell because by 44 B.C. Rome had become a nation of men, and not a nation of laws. An example of this is Pompey’s first consulship. Clearly, he was too young for the office. The law forbade it. But the law was changed to allow it. Not because of any legitimate reason, but out of necessity. The fact that Pompey was at the head of an army mattered more than the letter of the law. The fact that the Senate changed it of its own free will makes it worse. It gives legal sanction to Pompey’s consulship. It established a precedent that laws could be changed to appease powerful men. The law regulating the Consulship was sacrificed to do exactly that. It was sacrificed to avoid a new civil war. Instead, in 71, it became the first casualty of Caesar’s Civil War.

Had the Republic remained committed to furthering the long-term goals of the state instead of serving the short-term needs of individuals, then it would have survived the age of Caesar. There are numerous examples of the Senate acting in its short-term interest. The first would be the Senate’s habit of awarding extraordinary honors to men. The Senate gave extraordinary honors to Pompey early in his career. This could be justified as a purely pragmatic move. The prior civil war was too fresh. Denying Pompey honors would run the risk of a new war erupting.

The problem is that while this move clearly had a short-term benefit, it undermined the fundamental tenet of the Republic. Among the nobility, there was supposed to be relative equality. One man was not supposed to become too dominant. Great men like Scipio Africanus, and Cato the Censor, while

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preeminent, had their respective powers checked by their opponents.\textsuperscript{84} Cato the Censor had to defend himself in trials well into his eighties.\textsuperscript{85} Caesar, Crassus and Pompey were never prosecuted in their later lives. They had risen to such heights that simply having to defend themselves would be “a blow to [their] pride and auctoritas.”\textsuperscript{86} By allowing these men to rise to such heights, the Senate in effect made these men above the law. To follow the legal tradition of the Republic would now be an insult to these men. The one who was prosecuted would be inferior to the ones who were not. This was an unstable situation. Clearly, these men had been allowed to acquire too much auctoritas.

Furthermore, the reason there were two consuls was so that there would never be a man too preeminent. But when it came to Pompey, the Senate, which was supposed to dampen the flames of ambition, stoked them instead.\textsuperscript{87} They conferred unprecedented honors on Pompey. In doing so, they challenged the parity that was supposed to exist under the Republic.\textsuperscript{88} Augustus, during his reign used the title, Princeps, which roughly translates to “first among equals.”\textsuperscript{89} He understood the risks of appearing to be dominant when there was supposed to be equality. By the middle phase of his career, Pompey had as much auctoritas, or authority based on an individual’s achievements, than all other Senators. Before long, Pompey held commands that only enhanced his prestige.

\begin{itemize}
\item \textsuperscript{86} Goldsworthy, 371.
\item \textsuperscript{87} Cyril E. Robinson, \textit{A History of the Roman Republic} (New York: Thomas Y. Crowell Company, 1932), 303-304.
\item \textsuperscript{88} Rosenstein, “Aristocratic Values”, 380.
\end{itemize}
This, in effect, upped the ante on all other Romans who sought advancement. In order to approach the level of Pompey, senators, such as Caesar would have to achieve even greater things than they did before. Such unregulated and boundless ambition was eventually checked. But by the time it was, Caesar, Crassus, and Pompey had acquired such *auctoritas* and wealth that they were on par with the rest of the Senate.\(^90\) Their *dignitas*, or honor, was at such a high level that they could not be checked, lest they lose their prestige. The Senate had stoked the flames of ambition, and now they were running the risk of being burned by it.\(^91\) Aristotle says that this is one of the key threats to aristocracies.\(^92\) Tacitus points out that one of the key innovations of the Augustan Regime was that honors were regulated tightly to ensure that such a situation would not develop again.\(^93\)

This is not supposed to happen in aristocracies. But this is not the only concept that complicates understanding the Senate’s actions in terms of doing the right thing. The second idea that can be derived from the concept that the source of governmental legitimacy is based on doing the right thing is that people should be treated equally.\(^94\) Not equal in the modern sense, but rather that men, and only men, of an equal rank should have the same legal protections. The reason for this is deeply intertwined with the idea that republics must obey precedence.

\(^{90}\) Goldsworthy, 114.
\(^{91}\) Meier, 354-357.
\(^{93}\) Tacitus, 72.
Aristocracies are a thing of the past, for good reason. They have a tenuous grasp on legitimacy. They cannot appeal to modern ideas of popular sovereignty for the source of their power. There must be some other justification for rule. This was especially true of the system in place in ancient Rome that had only a few democratic trappings, which were easily circumvented by those who had aristocratic intent.\(^95\) However, in the context of contemporary thought in the time of ancient Rome, an aristocracy made sense. According to Aristotle, aristocracies derive their legitimacy and power from the idea of doing the right thing.\(^96\) Pursuant to this theory, the aristocrats know better than the common people.\(^97\) This idea, which can be traced to Plato’s Republic and can be found in Cicero’s Republic, is the foundation of the nobility’s claim to power.\(^98\)\(^99\) For most individuals, because the Senate was comprised of the best, they should be listened to without question. This is why auctoritas is so significant. The Senate, by virtue of having the most collective auctoritas, had the greatest right to rule. There do seem to be individuals who did not dogmatically follow the Senate, one of whom was Caesar.\(^100\) If the aristocrats fail to do what most consider to be the right thing, the source of their power is eroded in the eyes of men like Caesar. There are two key ideas that can be derived from these teachings that can be seen as essential to understanding why the Senate went to war with Caesar. The first of these is the idea that there can only be one right thing to do in a given

\(^{95}\) Polybius, 315.  
\(^{97}\) Obviously today, modern democracies and republics reject the notion that the aristocrats have ever known better than the common people.  
\(^{100}\) Meier, 358.
circumstance. If two situations are substantially similar, then they should be treated in the same way. A change in policy cannot be justified by the mere fact that the nobility likes someone more than someone else. As Cicero points out, rule by a group is not the same as an aristocracy. “Good sense” is required. 101 If the nobles act in such an arbitrary manner, then they run the risk of alienating someone without justification. Every decree of the Senate creates a precedent, which should determine and inform their future actions.

The comparison between Caesar and Pompey can be seen as one such case in which the Senate failed to follow precedent. This failure resulted in a fatal alienation of Caesar. Pompey was given extraordinary honors at an early age. 102 Pompey was given broad and nearly unlimited imperium, or the right to command troops. The Senate on the other hand, denied Caesar multiple privileges. In 60 B.C., the Senate denied him the right to be elected consul in absentia so he could celebrate a triumph. 103 Some of their refusals were potentially illegal. For example, a law had been passed that would have allowed Caesar to be elected Consul in absentia. Caesar also claimed that the law of the ten tribunes gave him the right to retain his command until his election to the Consulship. It was ambiguous as to what it actually meant. 104

Further complicating matters was the fact that power in the Republic was concentrated in the hands of the Senate. There was no such thing as an independent judiciary to which Caesar, Pompey or Cato could appeal to seek redress of perceived wrongs. The ones who were making the decisions were the

101 Cicero, The Republic, 74.
102 Plutarch, Life of Pompey, 81.
103 Meier, 183.
104 Goldsworthy, 364.
ones whom they affected. Checks and balances were far off conceptions, despite what Polybius may think.\textsuperscript{105} Although there was a significant role for the people in the Roman politics, the Senate dominated the political arena. Though to be fair, some senators did try to represent the people’s interests.\textsuperscript{106} But, every magistrate was enrolled in the Senate, with the theory being that if push came to shove, they would side with the Senate.\textsuperscript{107} Because power was so concentrated, it became imperative that the decisions that the Senate made be clearly the right ones. The Senate’s decision to oppose Caesar’s request does not appear to have been a clearly right choice.

Given the Senate’s previous acceptance of Pompey’s rise, there does not appear to have been a clearly legitimate basis for it to deny Caesar’s interpretation of the ambiguity. To be fair, Pompey’s extraordinary honors were given in part as a matter of necessity. Pompey, one of Sulla’s lieutenants, had crushed a revolt in Spain and had helped suppress Spartacus’s uprising. There was a fear that he had become too prominent to refuse giving him the extraordinary honors he desired. Furthermore, Pompey was just outside of Rome, at the head of a massive and loyal army. The blood of Sulla’s civil war had yet to dry.\textsuperscript{108} If Pompey was not honored for his \textit{beneficium}, there was a very real fear that he might no longer support the Republic. He may have even overthrown it.

\begin{itemize}
\item \textsuperscript{105} Appian, 67-68.
\item \textsuperscript{107} Robinson, 303-305.
\item \textsuperscript{108} Appian, 68.
\end{itemize}
Notwithstanding the justification, the fact that the Senate bestowed honors on Pompey established a precedent that there could be exceptions made to the laws. Granted, Caesar was not nearly as threatening in 50 and 49 as Pompey was in 71. But, did the Senate really want to try and make the case that the law applied to all of those who followed the rules, but that successful generals could flaunt it? This seems to almost be begging Caesar to march on Rome.

Caesar also had the compelling argument in that he was asking for a slight exception to the law. He wanted to be elected *in absentia*, while retaining his Gallic command. To Caesar’s eye, he was not asking for an exception to the law. He was interpreting the law in a favorable light, and asserting his rights as given to him by the people.\(^\text{109}\) What he was asking for was only slightly unprecedented, compared to the blatant evisceration of the law that Pompey had demonstrated throughout his career. Pompey was elected consul before becoming a senator, given *imperium* without limit, and given honors without parallel in the prior three decades. He also was elected consul *in absentia*. Therefore, the Senate could not reasonably expect to oppose Caesar and maintain legitimacy. In doing so, they were undermining the will of the people, albeit ambiguous, that was manifest in the law of the ten tribunes.\(^\text{110}\) The Senate had established a precedent of giving exceptions to laws on elections. Caesar was only asking for candidacy *in absentia* while retaining his command. The Senate had permitted


\(^{110}\) Caesar, *Civil War*, 7-8.
Pompey to circumvent election laws when it had suited his purpose. But they denied comparable exceptions to Caesar, thereby giving him a *causus belli*.

Now, this raises a key question. Did the Romans hold the idea of “precedent” as important as we do today? It would be unfair to fault them for not following the cornerstone of modern jurisprudence if it had yet to be discovered. Notably, it seems that recognizably similar ideas were at least being voiced at the time. In *The Catiline Conspiracy*, Sallust provides an account of the debate between Caesar and Cato on what punishment the conspirators deserved. Caesar reportedly says that,

“All bad precedents originate from measures good in themselves. When power passes into the hands of ignorant or unworthy men, the precedent you establish by inflicting extraordinary penalty on guilty men who deserve it will be used against innocent men who do not deserve it.”

The key idea here is not if Caesar himself actually said this, or even anything like this. What is important is that this idea existed at the time. The concept of setting good precedents was legitimate enough to merit its inclusion in Sallust’s book. It seems likely that if Sallust, who had been a politician, thought that following precedent was an idea with merit, then perhaps other Romans did too. It is therefore reasonable to judge the Senate’s actions towards Caesar in light of established precedent. When judged against this standard, it does not seem that the Senate’s refusal of Caesar’s request can be justified in light of its acceptance of Pompey’s demands.

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111 Sallust, 219.
As Caesar approached the Rubicon, the Senate had two viable choices available to it. The first one was the hard line that had consistently been advocated by Cato. According to Cato, the Senate should always oppose powerful men who jeopardize the collective liberty, no matter what the circumstances. “The law ought not to seek protection from Pompey, but Pompey from the laws.”112 This may be the difficult course, and quite possibly would have brought about Civil War sooner than actually happened. However, that might have been a good thing. By 49 B.C., circumstances were such that Caesar was able to defeat the Republic. The tragedy of the situation is that the point at which Pompey became frightened of Caesar was also at the same point at which Caesar could win a civil war. Had the Senate acted earlier, in conformance with Cato’s urgings, Caesar may not have been as strong as he eventually was. By passing the Senatus Consultus Ultimum the Senate made the choice clear for Caesar. He must fight or die. There would be no due process and no mercy. The co-conspirators of Catiline, Saturninus, Gaius Gracchus, Sertorius and many others had been subject to “the final act” before. They each had perished.113 As a result, Caesar knew that the Senate had told him that he would die if he did not fight.114 If the Senators were going to take a hard line, then they should have done so before he had the power to resist and overthrow the Republic.

By this time, however, the Senate was not able to oppose Caesar without the support of Pompey. That is why they should have not allowed Pompey to become strong enough to effectively dictate the course of the Senate. Had the

112 Plutarch, Life of Cato, 301.
114 Caesar, Civil War, 8.
Senators held Pompey in check earlier, they may have been able to keep Pompey from becoming as prominent as he did. If Pompey had not been allowed to become that strong, the Senate would not have been as dependent on him in its opposition of Caesar. In the same vein, if the Senate had followed principle and accepted precedent in its treatment of would-be tyrants, then Caesar would have known that there was a line he could not cross long before he was standing on the banks of the Rubicon.

Alternatively, the Senate could have adopted a second route, more or less championed by Cicero in 50 and 49, in its response to Caesar’s demands. The second route was the path of concession, or more harshly appeasement. These strongmen were now dominant in Rome. To oppose them would be to destroy the Republic. As a result, in Cicero’s view, it was better to remain alive, than to have the Republic destroyed. Tragically, the Senate attempted to pursue a third course, a course that proved fatal. The Senate decided too late to oppose Caesar and deny him the privileges that were comparable to those that Pompey had achieved. In doing so, they presented Caesar with the option of choosing death or crossing the Rubicon. The Senate left Caesar with no choice.

The sad reality of this Civil War was that it seems that no one wanted to see the Republic fall.¹¹⁵ Today, however, we clearly see that Caesar’s march on Rome was a pivotal moment in the transformation of the Republic into the Participate. There was no rebel like Catiline who burned with envy at his failure to become Consul. There was no Marius who was bent on slaughtering everyone

in his path. Each side, it seems believed that it was fighting to preserve the Republic. Cato and his followers thought that they were saving it from the ambitions of Caesar. Caesar believed he was protecting the Republic from the myopic jealously of a few senators.\textsuperscript{116}

The scene that played out over the last ten years of the Republic became something like a Prisoner’s Dilemma.\textsuperscript{117} Each side, by acting in purely in what they thought was their own best interest, brought about total disaster.\textsuperscript{118} Each side acted without empathy and without understanding the other’s perspective. Caesar presumed that if he took the “hard line”, the Senate would give him what he wanted and deserved. The Senate thought that if they stood firm, Caesar would naturally submit to their legal authority. Neither was willing to find common ground, for there was none to be had. The point at which Caesar would be satisfied was one that the Senate could not accept. This is what Christian Meier called, “Crisis without alternative.”\textsuperscript{119}

The Senate, by changing the law to suit Pompey’s ambitions removed a fundamental safeguard. Military glory was still a way to achieve renown.\textsuperscript{120} But in order to wage a successful and noteworthy campaign in the late Republic, one had to build a massive army to conquer a vast territory. This is why Pompey wanted the command against Mithradates, why Crassus attacked Parthia, and why Caesar conquered Gaul. By permitting advancement to successful generals,

\textsuperscript{116} Caesar, Civil War, 4.6.
\textsuperscript{117} The reference to Prisoner’s Dilemma is to a classic example that illustrates the game theory.
\textsuperscript{119} Meier, 357.
\textsuperscript{120} Rosenstein, “Aristocratic Values” 380.
which the Senate did in 71 B.C., they were stoking flames that they could no longer control. Cato is one of the few who recognized this risk. He clearly saw the road that the Republic was on. Others did not, until it was too late. Why would they oppose a system that gave individuals a clear path to glory? Caesar points out that for many, they opposed his power because they envied it, not because they necessarily feared a dictator.

But this could have all been avoided. The fight between Caesar and the Senate only became a “crisis without alternative” in the last few years of the Republic. It is not clear what was the point of no return. Was it Caesar’s consulship? Or was it Pompey’s second or third? Perhaps it was the actual passage of the *Senatus Consultus Ultimum* in 49 B.C. To know at what point the crisis became unavoidable is impossible to really know unless we had perfect knowledge of all the persons involved. What is clear though, is that by granting Pompey an exemption to the election laws in 71 B.C., the Senate put the Republic on a dangerous course. This act lit a spark, which took two decades to become a flame. But when it did so, it consumed the Republic. What is so unnerving about this is that the bill to grant Pompey an exemption to the law apparently seemed to be a good idea at the time. Only Cato would recognize the precarious safety of the Republic. It was based on a system that stoked and fueled ambition. Yet, the Senate set about stripping the law of its checks on the very same ambition. Montesquieu points out that “if the sentiments of Caesar and Pompey had resembled those of Cato, others would have had the same ambitious thoughts as

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Caesar and Pompey discovered; and since the Republic was fated to fall, it would have been dragged to the precipice by some other hand.”

The founding idea of the Republic was that power should be spread out among an aristocracy. The rise of Pompey was highlighted by the evisceration of the laws that were designed to realize this ideal. This change in the Constitution, together with the type of meritocracy that was in place in Rome at the time, cast that founding idea into jeopardy. The Ciceronian Republic reverted to a monarchy in the form of Augustan Principate because the fundamental principles of the state were cast off in the name of “practical necessity.” This is what happens when the rule of law is usurped by the rule of men. This is what happens when the “best” of the state lack the conviction to do what is right, and not what is easy.

Bibliography