

24 *Why Clodius wanted to become praetor in 52 instead of 53*

Since Publius Clodius had decided to cause problems for the state in his praetorship with all kinds of wickedness, and (since) he saw that the elections in the previous year (54BC) had been drawn out in such a way that he would not hold the praetorship for many months (in 53), and as (=qui) he did not consider the rank of the job, as others do, but he both wanted to avoid having Lucius Paullus as a colleague, a citizen of outstanding virtue¹, and sought a complete year in order to tear the state to pieces, suddenly he abandoned "his" year², and moved to the next one (52), not, as does happen, for some religious reason, but so that he could have, as he himself used to say, a full and complete year to hold a praetorship, that is to overturn the state.

25 *How Clodius tried to stop Milo becoming consul in 52*

It occurred to him that his praetorship would be crippled and weak with Milo as consul; moreover he could see that he was becoming consul with the total support of the Roman people. He went to join his (i.e. Milo's) rivals, but in such a way that he alone controlled their whole campaign - even with them unwilling, and that he bore the whole election on his own shoulders, as he used to say repeatedly. He started calling together the tribes³, he was a go-between, he was raising a new

¹ Paullus was going to be praetor in 53

² The first year he could hold that office - normally people wanted to hold an office then, as a sign of their success.

³ The members of the 35 tribes would often be persuaded (or bribed) to vote together.

“Colline” tribe⁴, by the selection of the most wretched citizens. The more (quanto) he became involved, the stronger (tanto) this man (i.e. Milo) became day by day. When a man who was totally prepared for any crime saw a very brave man, his greatest enemy, (was) very certain (to become) consul, and he realised that this had been made clear not only by the words but also often by the votes of the Roman people, he began to take action publicly and to say openly that Milo should be killed.

26 *Clodius planned to kill Milo*

He had brought down from the Apennines⁵ uncivilised country slaves, with whom he had devastated public woodland and raided Etruria⁶ - whom you used to see. The situation was not at all obscure. In fact he always used to say publicly that the consulship could not be taken from Milo but his life could be. He indicated this often in the Senate, he said it in meeting. What is more, when Marcus Favonius, a very brave man, asked him with what purpose he was behaving wildly while Milo was alive, he replied that in three or at most four days, he would die. These words of his Favonius⁷ immediately reported to Marcus Cato⁸ here.

⁴ There was a Colline tribe already, generally of lower class voters. Clodius presumably was just making up an unofficial tribe with that kind of person.

⁵ The high mountains inland.

⁶ north of Rome

⁷ an aristocrat and friend of Cato

⁸ an opponent of Caesar

27 Clodius left Rome to commit murder

Meanwhile when Clodius knew - for this wasn't difficult to know - that Milo had an important journey to Lanuvium, laid down by law and necessary, on the 18th January, to appoint a priest because Milo was the dictator⁹ at Lanuvium, he himself suddenly set out from Rome the day before, so that in front of his own farm - as was realized from the events - he could set a trap for Milo; and he set out in such a way that he left a lively meeting in which his wildness was needed, which was held on that very day, a meeting which he would never have left unless he wanted to be there at the time and place of the crime.

28 Milo's departure

Milo however, when he had been in the senate that day until the senate was dismissed, came home, changed his shoes and clothes, waited for a short while his wife - as happens - got ready and then set out at that time when Clodius already could have returned if in fact he was going to come to Rome on that day. Clodius met him lightly-equipped on a horse, with no carriage, with no baggage, with no Greek companions - as he normally would have been, and without his wife - which he almost never was, when this 'ambusher' who had prepared that journey for the purpose of committing a murder¹⁰ was travelling with his wife, in a carriage, wearing a cloak, with a accompaniment of slave girls and boys¹¹, which was large, heavily-equipped, womanly and delicate .

⁹ mayor

¹⁰ ironical reference to Milo

¹¹ to perform at the ceremony in Lanuvium, perhaps

29 *The fight*

He met Clodius in front of that man's farm, at almost the eleventh hour¹² or not much later. Immediately several men with weapons made an attack on Milo (hunc) from higher ground. Men in front (adversi) killed the carriage-driver. When however this man (Milo), having thrown back his cloak, jumped down from the carriage and started defending himself fiercely, those who were with Clodius¹³, with swords drawn started in some cases to run back to the carriage in order to attack Milo from behind, in others to kill his slaves who were at the back - because they thought that Milo (hunc) had already been killed; of these slaves (ex quibus) those who were of loyal and ready spirit towards their master, some were killed, some - when they i) saw the fighting (pugnari) by the carriage, ii) were stopped from helping their master, iii) heard from Clodius himself that Milo had been killed and iv) truly believed it, they did this thing¹⁴, Milo's slaves - for I will say it openly, not for the sake of shifting the blame, but as it happened - this thing which each/any man would have wanted his slaves to do in such a situation, without their master ordering, knowing or even being there.

30 *Actions in self-defence (which also benefit every one else!)*

These things happened just as I have explained, jurymen: the ambusher was overcome. Force was overcome by force, or rather wild behaviour was crushed by

¹² an hour before sunset

¹³ another group

¹⁴ i.e. killed Clodius

excellence. I do not mention what the state gained, nor what you, what all good men (gained). It clearly would not benefit Milo (if I did), Milo who was born with this fate, that he could not even save himself without (quin) saving at the same time the state and (all of) you¹⁵. If this could not be done legally, I have nothing to offer in defence. But if reason has given this instruction (praescipsit) to the wise, necessity to barbarians, custom to all peoples, and even nature itself to wild animals, that they should always drive away all force from their bodies, their persons, their lives with whatever resources they can, you are not able to judge this action as criminal without (quin) also judging that all those who fall among criminals must die either by their weapons or by your verdicts.

31 *Although there has been criticism of the death, it comes down to who started it!*
If he had thought like this, it would have certainly been preferable for Milo to offer his neck to Publius Clodius - targeted not just once by him, and not on this occasion for the first time, than to have it cut by you, because he had not handed himself over to have it cut by that man. But if (sin) none of you thinks in this way, this then comes before the court, not whether he was killed - which we admit, but whether (it was done) justly or unjustly, which in many cases is often investigated. It is agreed that an ambush was made, and this is what the Senate¹⁶ decided was done against the state; it is not clear by whom it was made. Therefore a law was passed¹⁷ about this that there should be an inquiry. So, the Senate criticised the event not a person, and

¹⁵ i.e. it may be good that everyone benefited from the murder, but that does not justify it (but Cicero hopes that people will still be on Milo's side!

¹⁶ about three weeks before the trial

¹⁷ Pompey had proposed this.

Pompey proposed an enquiry about the legality, not what had been done. Surely nothing else therefore can come before this court except who set an ambush on whom? Clearly nothing: if Milo on Clodius, he should not be unpunished; if Clodius on Milo, then we (Milo and Cicero) should be free of guilt.

32 *Clodius wanted Milo out of the way.*

Therefore by what means can it be proved that Clodius made an attack on Milo? It is enough in the case of (in) that beast - who is so bold, so wicked - to explain that he (ei) had great reason, had great hopes obvious in the death of Milo, and had great benefits. Therefore that saying of Cassius "Who benefited?"¹⁸ should be relevant in these characters, even if the good are not led by any reward to do wrong, while the wicked often are by a small reward. But with Milo killed he would be achieving these things, not only that he would be praetor not with a consul with whom he could not commit any wickedness, but also that he would be praetor with those consuls with whom - even if they did not help, but at least connived - he certainly hoped that he could get away with those planned wild actions of his: they, as he himself reasoned, would not want to restrain his attempts, if they could, since they thought that they owed such a great favour¹⁹ to him, and if they did want to, they perhaps could hardly crush a very wicked man's wild behaviour, strengthened now by time.

¹⁸ Cassius, a tribune in 137, who said 'cui bono?'

¹⁹ if he had helped them to become consuls

34 *The death of Clodius was harmful to Milo!*

You have heard, jurymen, how much it was in Clodius' interest for Milo to be killed. Direct your thoughts now in turn to Milo. What interest did Milo have in Clodius' being killed. What reason was there why Milo - I won't say would think of doing it - would want it?²⁰ "Clodius was an obstacle for Milo in his hopes for a consulship." But he was becoming one with Clodius opposing it, or rather in fact he was becoming one all the more, and he did not have me as a better winner of votes than Clodius²¹. The memory of Milo's good deeds towards me and towards the state had an effect among you, jurymen, (and) my prayers and tears²², with which I felt that you were greatly moved at that time, had an effect, but fear of impending dangers had much more effect. For who was there of the citizens who could imagine an uncontrolled praetorship of Publius Clodius without very great fear of revolution? You could see that it would be uncontrolled unless a man was consul, who would dare and be able to restrain it. Since the whole Roman people realised that Milo was the only such man, who would hesitate to free himself from fear and the state from danger with his vote²³? As it is, with Clodius removed, Milo must now try by the normal methods to protect his rank/importance²⁴; that singular glory granted to him alone, which was increasing every day by his stopping the wild actions of Clodius, with the death of Clodius, has now disappeared. You achieved that you feared no citizen; he lost a chance to use his

²⁰ he is suggesting that people might think that Milo might like the idea of Clodius being removed but would not suggest that he would plan it.

²¹ i.e. ironically Clodius was helping Milo more than his friend Cicero was

²² asking the people to support Milo

²³ by voting for Milo

²⁴ by becoming consul

excellence, votes for his consulship and an unending source of glory for himself. And so the consulship of Milo which could not fail while Clodius was alive, finally began to be put to the test when he was dead. Therefore the death of Clodius was not only not beneficial to Milo, but even a hindrance.

35 *Who was more likely to be violent?*

'But his²⁵ hatred was enough, he did it angry, he did it as an enemy, he was avenging injustice, punishing for his own distress.' What? If these feelings were - I do not just say greater in Clodius than in Milo - were very great in his case and non-existent in the other, what more do you want? For why would Milo have hated Clodius, the seed-ground and building material of his own glory, except with that hatred of a citizen with which we all hate the wicked. It was natural for Clodius to hate first the man who protected my well-being²⁶, then the one who caused difficulties for his wild behaviour, the one who restrained his use of weapons, finally also the one who was prosecuting him; for Clodius was being prosecuted by Milo under the Plotian Law²⁷, until he died. Finally with what thoughts do you think that that tyrant could have borne this²⁸? And how great would have been his hatred, and in an unreasonable man how reasonable too?

²⁵ i.e. Milo's

²⁶ Clodius had had Cicero exiled; Milo was then behind his recall.

²⁷ a law about the use of violence

²⁸ the prospect of prosecution, or Milo's overall success against him(?)

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Therefore would Milo, imagining the day in the Campus Martius²⁹ which was hoped for and longed for by him, go to the respected auspice-taking of the centuries³⁰, with blood-stained hands, and displaying before him the crime, (and) the wicked deed, and admitting it?³¹ This is as impossible to believe in his case as it also would not be doubted in the case of Clodius, who thought that he would take power if Milo was killed. Well then, and this is what wild behaviour is all about, jurymen, who does not know that the greatest encouragement for criminal action is the hope of impunity. Which of the two then had this - Milo, who is now a defendant for an action³² that was either glorious or at least necessary, or Clodius who had despised trials and punishment in such a way that he did not enjoy anything which was right by nature or allowed by laws?

44 *Two jurymen and Favonius*

But why do I offer arguments, why do I discuss more points? I call on you, Quintus Petilius, an excellent and very brave citizen; I ask you Marcus Cato, to be a witness - men whom some kind of divine chance gave me as jurymen. You (pl) heard from Marcus Favonius that Clodius had said - and you heard it while Clodius was alive - that Milo would be dead in two! days. On the third day after he said it the deed was done. Since he had no doubts about revealing what he was planning, can you have doubts about what he did?

²⁹ where elections were held

³⁰ the Romans voted for the consuls and praetors by "centuries"

³¹ suggesting that the gods would be aware at least

³² i.e. the death of Clodius

45 *Clodius had no good reason for leaving Rome, Milo did.*

So how could he not be wrong about the day? I said just now³³. It was not difficult to know the fixed sacrifices of the dictator of Lanuvium³⁴. He saw that it was necessary for Milo to set out to Lanuvium on that very day when he did set out; and so he went ahead. But on what day? A day when, as I said before, there was a very wild meeting stirred up by a tribune (of the people), in his pay: a day, a meeting, shouts which he would never have left if he were not hurrying for his planned crime. Therefore there was certainly no justification for his journey, and also a reason for staying: Milo had no possibility of staying, and not only a reason for leaving, but also an obligation. What then if while (ut) Clodius knew that Milo would be on the road that day, Milo could not even suspect that Clodius would be?

46 *It was much easier for Clodius to know that Milo would be on the road*

First I ask how (qui) he³⁵ could have known this, the same thing which you cannot/do not need to ask in the case of Clodius; for although (ut) he had asked no one except his very close friend Titus Patina³⁶, he could have known that on that day it was necessary for a priest to be appointed in Lanuvium by the *dictator* Milo.; but here were very many others from whom he could very easily have known this: obviously all the people of Lanuvium. Where could Milo have asked about the return of Clodius³⁷? He

³³ v. section 27

³⁴ i.e. Milo

³⁵ i.e. Milo

³⁶ otherwise unknown, presumably from Lanuvium

³⁷ from his farm to Rome

obviously could have asked - see how I am being generous to you - he could have bribed a slave even, as Quintus Arrius, my friend,³⁸ said. Read the statements of your witnesses. Gaius Causinius Schola, from Interamna, a close friend of Clodius and also his companion³⁹, said that Publius Clodius had been going to stay in his Alban farm that day, but that suddenly it was announced to him that the architect Cyrus had died and so he suddenly decided to set out for Rome. Gaius Clodius, also the companion of Publius Clodius, said the same.⁴⁰

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Notice, jurymen, what great things have been achieved by these statements. First, Milo will certainly be cleared of setting out with the purpose of making an ambush for Clodius on the road: obviously if he was clearly (omnino) not going to meet Milo. Secondly - for I do not see why I should not do my own business too - you know judges that there were people who said, when supporting this trial⁴¹, that the murder had been done by the hands of Milo but because of the plans of someone more important. Obviously I was being described as a bandit and assassin by men who are wretched and outcasts. They are defeated by their own witnesses who say that Clodius would not have returned to Rome that day if he had not heard about Cyrus. I have breathed again, I have been set free: I do not fear that I can seem to have thought about something which I could not even suspect (would happen)⁴².

³⁸ possibly sarcastic

³⁹ on that journey

⁴⁰ i.e. Clodius had a good excuse for being on the road late that day (but also Milo could not have foreseen this)

⁴¹ rogatione - strictly the law which established the trial

⁴² that Milo should have a chance to attack Clodius on the road

48 *Why did Clodius leave his farm?*

Now I will deal with other matters. For this has been suggested: "In that case Clodius did not think about an ambush either, since he was planning to stay in his Alban farm" - if in fact he had not been intending to leave the villa in order to commit murder. For I realise that the man who is said to have given a message about the death of Cyrus did not give that message but that Milo was approaching. For what would he be announcing about Cyrus whom Clodius left dying as he set out from Rome. I was there with them, and I sealed his will with Clodius (simul). Moreover he had made his will openly and he had made Clodius and me his heirs. Was it announced to him finally at the tenth hour⁴³ the next day that the man whom he had left dying at the third hour⁴⁴ the day before, had died?

49 *Travelling by night*

Well, let's imagine it happened like that: what reason was there for him to hurry to Rome, for him to rush into the night? What hurry was caused by the fact he was an heir? First there was no reason why he needed to (opus est) hurry; then if there were any reason, what, I ask (tandem), was there that he could achieve that night, but which he would lose if he came to Rome the next morning? But in the same way that arrival in the city by night should have been avoided by Clodius rather than attempted⁴⁵, so too Milo, since he was the attacker⁴⁶, if he knew that he was going to head for the city by night, should have stopped and waited.

⁴³ late afternoon

⁴⁴ mid-morning

⁴⁵ because of the dangers at night

⁴⁶ ironical!

50 *He could have chosen a better place to murder him.*

He could have killed him by night; he could have killed him in a place suitable for an ambush and full of bandits. No one would have failed to believe him denying it⁴⁷, when everyone wants him to be safe/acquitted even though he admits it⁴⁸. First the place itself which welcomed and hid bandits would have taken the blame, and then the silent solitude would not have suggested Milo, and the blind night would not have revealed him; and then the many people mistreated by that man, robbed by him, driven from their possessions, many people also fearing these actions, would come under suspicion, in fact the whole of Etruria might be summoned as suspects⁴⁹.

51 *Why attack him in front of his house?*

And in fact on that day, Clodius certainly returning from Aricia⁵⁰, stopped off at his Alban house. Even if Milo knew this - that he had been in Aricia, he should have suspected that he he would turn off to his villa which was next to the road, even if he wanted to return to Rome that day. Why did he not meet him earlier, so that he could not stop in his villa, or wait in that area which he was going to come to during the night?

⁴⁷ murder

⁴⁸ involvement in the death

⁴⁹ because Clodius had dominated that area and treated people badly

⁵⁰ in the Alban hills

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I see that so far that everything makes sense, jurymen: for Milo it was even useful that Clodius was alive, for Clodius the death of Milo was very desirable for all the things which he wanted; his hatred of Milo was very bitter, he felt none for Clodius; Clodius' constant habit was to use violence, his was only to resist it; the death of Milo was threatened and announced publicly by him, nothing (like this) was ever heard from Milo; the day of this man's departure was known to Clodius, the day of his return was unknown to Milo; this man's journey was essential, that man's instead was even irrelevant; this man revealed openly that he would leave on that day, that man concealed that he would return on that day; this man changed his plans in no respect, that man invented a reason for changing his plans; this man, if he was making an attack, should have waited for night near the city⁵¹, that man, even if he did not fear Milo, nevertheless should have feared making a nighttime journey to the city⁵².

⁵¹ so Milo was not thinking of making an attack

⁵² so Clodius had some other reason for being on the road!