

CICERO, CLODIUS, AND MILO: A STUDY IN ROMAN POLITICS.

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OCT 27 1939

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Bachelor of Science

Oklahoma Agricultural and

Mechanical College

1937

Submitted to the Department of Foreign Languages

Oklahoma Agricultural and Mechanical College

In partial fulfillment of the requirements

for the Degree of

MASTER OF ARTS

1939

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ACKNOWLEDGMENT

I desire to take this means of expressing my appreciation to the members of the library staff for their valuable assistance. It is with sincere gratitude that I express my thanks to Dr. M. H. Griffin under whose kind supervision this work has been done.

G. D. W.

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CICERO, CLODIUS, AND MILO: A STUDY IN ROMAN POLITICS.

Chapter I. Introduction

The purpose of this thesis is to give some idea of the conditions in Rome of that period which brought about the downfall of the republic and caused the rise of a monarchy.

"From the time of the Gracchi, Rome had been moving toward monarchy. Owing to the corruption of the populace in the capital, the tremendous power of the tribune had grown occasionally into a virtual dictatorship (as with Caius Gracchus and Sulpicius). Owing to the growing military danger on the frontiers, the mighty authority of a one-year proconsul of a single province was sometimes extended, by special degrees, over vaster areas for indefinite time (as with Marius, Sulla, Pompey, Caesar). These two conditions (the corruption of the Roman citizens and the danger of barbarian invasion) made monarchy inevitable." ¹

I have attempted to show what part Cicero, Clodius and Milo have played during this period of transition.

Our knowledge of the events connected with and leading to the death of Clodius and the trial of Milo reaches us from sources which are of very different value. I shall take first the Latin writers. The most important of these are:

(1) Asconius, a learned Roman, who wrote notes upon a number of Cicero's speeches, possibly upon all, for the instruction of his sons. His sources of information were very extensive, since he not only quotes from the Acta, but also refers to historians, orators, and poets, whose works are now lost. He carefully points out writings which he

¹ West, Willis M., Ancient World, pp. 387-388.

looked upon as false, and wrote without bias. He especially interested himself in points of minute detail, such as the exact date of an event, the name of a speaker, or the point of an obscure reference.

(2) The letters of Cicero, especially those to Atticus, frequently contain confidential information of the highest importance, and throw great light upon the 'secret history' of the time. I have used Shuckburgh's translation of these letters. On the other hand, the speeches of Cicero are to be used with great caution, since they are colored by party spirit, and are not free from wilful misrepresentation. Roman orators felt no shame in such matters, and Cicero more than once confesses to having thrown dust in the eyes of a jury. ²

(3) There are casual notices in other authors. Among these may be included Velleius Paterculus. He seems to regard the murder of Clodius as an incident in the sole-consulship of Pompey, instead of the immediate cause which brought it about. This was natural, since the results were so important as to dwarf the accident which made them possible. Others included are Caesar, Suetonius, the epitome of Livy, Pliny the Elder, Seneca, and Valerius Maximus.

(4) The Scholia Bobiensia is a name given to what appears to be a group of comments of different date and value.

"On the whole, except as containing scraps from earlier authorities, and probably from Asconius, I should not be inclined to attach much importance to these scholia, at least so far as this speech is concerned." ³

² Quintilian, ii, 17, 21.

³ Clark, A. C., Pro Milone, p. xv.

We have also detailed accounts in three Greek writers, whom I take in order of importance.

(5) Plutarch refers to the trial and events connected with it in his lives of Cicero, Cato minor, Pompey, and Caesar. He gives us a great deal of independent information, which he seems to have taken from original documents. In his life of Cicero he refers to Tiro's memoirs of Cicero, letters of Cicero to Herodes, Gergias, etc., now lost, letters of Brutus to Atticus, and other contemporary writings. I have used A. H. Clough's translation of Plutarch's Lives.

(6) Dio Cassius, who was consul A. D. 229 under Alexander Severus, has written a valuable account of the incidents. His view of the situation is very just, while he gives independent information which appears to have been founded upon documentary evidence. He has a tendency to exaggerate, e. g. his account of Cicero's breakdown at the trial is certainly overdrawn. ⁴

(7) Appian makes many blunders in his version of the period. Clark accounts for it by supposing that he has compressed into this one year all the trials of which he had any record in his notes as having taken place at about this period. ⁵

The feverish anarchy which prevailed at Rome at the beginning of the last century B. C. was without doubt the most significant of the many alarming symptoms which pointed to the speedy dissolution of the Republican system of government. The

⁴ Ibid., p. xi.--Taylor, Cicero, p. 44.

⁵ Clark, op. cit., xi.

maintenance of public order was entirely neglected by the state, or rather was not recognized as a matter which concerned anyone. The individual had to take the law into his own hands. A Roman built his house to stand a siege, and when he went about the streets was accompanied by an armed retinue. The magistrates, so far from endeavouring to suppress disorder, were themselves often the chief offenders, the problem for the 'practical politician' of the day being how to hold the place of assembly against his rivals, while his hired gangs met in the name of the Roman people, and made binding throughout the civilized world any proposal, however mad or atrocious, which he cared to bring forward. The leading part in this carnival of misrule naturally fell to the tribune, who, in virtue of the sanctity of his person, enjoyed the singular privilege of being able to assault any other magistrate, while the injured person was unable to retaliate. Under these circumstances rioting became chronic at Rome. ⁶

In 78 B. C. men's attention was mainly occupied by certain evils, which, as long as Sulla lived, had given the government little concern, because if things grew serious, one nod of Sulla's head would suffice to set them right. When he died, these problems suddenly began to give alarm. There was suppressed unrest in Italy for several reasons. First, the children of the Proscribed were deprived of all political rights; second, the citizens of the Etruscan towns had escaped massacre but had not escaped confiscation. Finally, the numerous popula-

⁶ Clark, op. cit., xiv.

tion in the valley of the Po had obtained Latin rights from Pompeius Strabo, but wanted to become full citizens. All of these people were discontented. The wrecks of the bands of Carbo and the younger Marius were not entirely dispersed; some were pirates on the high seas, others freebooters in Mauretania. ⁷

The generation of statesmen which had grown up at the feet of the Scipios and the Gracchi, though it had exchanged much of the simple dignity of the old Roman character for a tasteless affectation of Hellenic culture, was still for the most part imbued with high and honorable principles, and devoted to the welfare of the state under the guarantee of public liberty. But its children had much degenerated from this standard. The vast accession of wealth and power which ensued from the conquest of the East overthrew all moral barriers to the torrent of selfish indulgence. Luxury and dissipation had reduced the noblest houses to beggary; a few crafty usurers had gathered up the plunder of a multitude of spendthrifts. Political and private gambling had converted men of birth and station into needy adventurers, all the more dangerous to the state from their high connections, and to individuals from their gallant bearing and seductive manners. ⁸ When the Roman returned home for a short respite from the wars he beheld few objects around him which

⁷ Oman, Sir Charles, Seven Roman Statesmen, p. 163.

⁸ Ibid., p. 167.

could allay the fever of his excited imagination. His pride was fed by trophies and triumphs, by his retinue of captive slaves, by the spoils of conquered palaces. In the intervals of danger and rapine few cared to relax into the tame enjoyments of art and literature, which had failed to save Greece from subjugation. The writers of Rome were few, and exercised but a transient influence on a small circle of students; nor were the ordinary habits of civil life such as to soften the brutal manners of the camp. The Romans lived at first in castes, afterwards in parties; even in public places there was little mingling intercourse of ranks, while at home they domineered over their clients as patrons, over their slaves as masters, over their wives and children as husbands and fathers.

Gaius Julius Caesar, a member of an old patrician family, now as a democratic leader was rising to prominence. He knew well the men of his times, and he was not deceived in thinking that, in a society altogether given up to luxury and pleasure, weakened beliefs only left room for self-interest. He took advantage of the evils of the period and organized a vast system by which he could further his interests. Gaul furnished the means. He pillaged it vigorously as he had conquered it.

"Seizing all that he found in the temples of the gods, and taking towns by assault, less to punish them than to have a pretext for plundering them." ⁹

⁹ Suetonius, Caesar, 54

With this money he made himself allies. Those who came to see him never went away empty-handed. He did not neglect to make presents to the slaves and freedmen who had any influence over their masters. While he was absent from Rome, Balbus and Oppius, who were his agents, distributed bounties in his name; they discreetly helped embarrassed senators; they became the treasurers of young men of high family who had exhausted the paternal resources. They lent money without interest, but the services by which they would have to repay the loans were well known to everyone. Never was corruption practised on a greater scale and displayed with more impudence. Almost every year, during the winter, Caesar returned to Cisalpine Gaul with the treasures of the Gauls. Then the market was opened, and the great personages arrived one after another. ¹⁰

At this moment the democracy did not appear to care much about political reforms; what it wanted was a social revolution. To be fed in idleness at the expense of the state, by means of gratuitous distributions very frequently repeated; to appropriate the best lands of the allies by sending colonies into the richest Italian cities; to arrive at a sort of division of property, under pretext of recovering from the aristocracy the public domain which it had appropriated, such was the ordinary idea of the plebeians; but what they most urgently demanded, what had become the watchword of all this party, was the abolition of debts, or, as they said, the de-

¹⁰ Boissier, Gaston, Cicero and His Friends, pp. 194-195

struction of the registers of the creditors (*tabulae novae*), that is, the authorized violation of public faith, and a general bankruptcy decreed by law.

The death-penalty had almost become obsolete; the sacred body of a Roman citizen was not subject to stripes or physical indignity. Outlawry, which had been substituted for death, could be evaded by going into exile. This provision might have some justification in the case of political offenders, but was ridiculous in the case of ordinary criminals. The Roman law, however, drew no distinction between the two classes. The felon or murderer could "take sanctuary" in exile, and there begin his operations anew.

The conclusion is startling, since it follows that crime of every description, such as is found in all large cities and must have been rampant at Rome, was, if committed by a citizen, protected from the sword of justice. Roman legislators had never contemplated the task of governing a large criminal population. The mob such as now existed, pauperized by public doles, brutalized by the horrors of the arena, and degraded by the continued infiltration of slave-blood, possessing nothing but a dagger to use and a vote to sell, was unfit for such extraordinary privileges.

"A generation, which allowed the owner to torture or put slaves to death, as the humor seized him, was strangely sentimental when the 'caput' of a Roman was concerned." ¹¹

¹¹ Clark, Op. Cit., p. xv.

Chapter II. Clodius and the Bona Dea Episode.

Publius Clodius is a most extraordinary figure in this remarkable period. He had no character. He had no distinguished talent save for speech; he had no policy; he was ready to adopt any cause or person which for the moment was convenient to him, and yet for five years this man was the omnipotent leader of the Roman mob. He could defy justice, insult the consuls, beat the tribunes, parade the streets with a gang of armed slaves, killing persons disagreeable to him; and in the Senate itself he had his influential friends and acquaintances who threw a shield over him when his audacity had gone beyond endurance. ¹²

"His quarrel with Pompey implied a breach in his alliance with Gabinus; accordingly he set his gangs upon him, wounded his attendants, and broke up his consular fasces. Then he put up an altar of incense and, standing before it with veiled head, consecrated all the goods of the consul to the temple of Ceres as at a solemn sacrifice." ¹³

"On another day the tribune Sestius was assailed with equal violence; he was left for dead on the ground, but none of his wounds proved mortal." ¹⁴

The Roman nobles, who were always ready to overlook peccadillos in an aristocrat, petted Clodius, and evidently looked on him as an amusing person, not quite responsible for his actions. ¹⁵ He was devoid of all conscience, and paraded

¹² Froude, J. A., Caesar, p. 257.

¹³ Strachan-Davidson, J. L., Cicero, p. 242.

¹⁴ Ibid., p. 243.

¹⁵ Cicero, Ad Familiares, i 9, 19.

his contempt for law, order, and morals in an unblushing manner, which was characteristic of the young men of the day. As a politician his chief object was to associate with low companions, and so successful was he in this that he is known to history, like his equally famous sister, Clodia, not by his patrician name of Claudius, but by the popular pronunciation of the name.

In 62 B. C., when Julius Caesar was Pontifex Maximus, notice was drawn to this young patrician, Clodius; when, in search of Pompeia, Caesar's wife, with whom he was in love, he entered the Regia, the official residence of Caesar, in female disguise, and broke in upon the worship of an archaic deity named Bona Dea, whose rites were forbidden to men. A maid, who was in on the intrigue, ran to tell Pompeia, but as she was away a long time, Clodius became uneasy and left his post and walked from one room to another, still taking care to avoid the lights, until at last the maid of Aurelia, Caesar's mother, met him and questioned him as to his identity. Clodius told her he was waiting for Pompeia's own maid and betrayed himself by his voice. The woman went shrieking that she had discovered a man. Aurelia covered the sacred things and stopped the proceedings, and having ordered the doors to be shut, went about with lights to find Clodius, who had hidden in the maid's room. The women knew him and drove him out of the house, and went home and told their husbands the story. In the morning, it was common knowledge.

The Senate at first took up the scandal with a show of

vigor and secured the institution of a special court of inquiry by the Comitia Centuriata; Fufius, a tribune proposed in Clodius' interest a bill providing that the jury should be chosen by lot, whereas a consular bill directed the praetor to select the jurymen.

"When the day came for proposing the bill in accordance with the vote of the senate, a crowd of our dandies with their chin-tufts assembled, all the Catiline set, with Curio's girlish son at their head, and implored the people to reject it. Moreover Piso the consul, who formally introduced the bill, spoke against it. Clodius' hired ruffians had filled up the entrances to the voting boxes. The voting tickets were so manipulated that no 'ayes' were distributed." 16

Quintus Hortensius Hortalus, who was one of the prominent supporters of the consular bill, fearing that it would be vetoed at last by Fufius, suggested that it might be well to paralyze his opposition by accepting Fufius' own bill as a substitute. The guilt of Clodius, he thought, was so evident that no jury, however constituted, could fail to find a true verdict on the question of the fact. 17

"In his alarm lest Fufius should veto the law which was to be proposed in virtue of a senatorial decree, he failed to see that it was better that the culprit should be left under a cloud of disgrace and dishonour than that he should be trusted to the discretion of a weak jury." 18

Accordingly, the experiment was tried; the consuls withdrew their bill and that of Fufius was carried unopposed. When the jury came to be empanelled, it was evident that the lot had

16 Cicero, Ad Atticum, i., 14.

17 Forsyth, Life of Cicero, i., p. 151.

18 Cicero, op. cit., i., 16.

fallen unluckily. The challenges of the accused cleared out the best of the men, while those of the prosecutors could make little impression on the mass of indifferent characters whose names had come from the ballot box.

"There never was a more rascally lot collected round a gaming table." ¹⁹

Clodius' defense was an alibi. He had produced witnesses to swear that he was never near Caesar's house that night, but was fifty miles away at Interamna. Cicero had happened to meet him in Rome only three hours before, and he now earned Clodius' deadly hatred by coming forward in disproof of the alibi. Cicero was at this time his friend, for Clodius had been useful to him in the conspiracy of Catiline, as one of his most forward assistants and protectors. Clodius had been the one who had impeached Catiline for extortion and oppression, thus disqualifying him as a candidate for consul.

"Saepe obiecit Clodio Cicero socium eum coniurationis Catilinae fuisse; quam rem nunc quoque reticens ostendit. Fuerat enim opinio, ut Catilina ex urbe profugerat in castra Manli centurionis, qui tum in Etruria ad Faesulas exercitum ei comparabat, Clodium subsequi eum voluisse et coepisse, tum dein mutato consilio in urbem redisse." ²⁰

"He afterwards formed one of Cicero's body-guard at the execution of Catiline's friends." ²¹

However, Cicero is said to have testified not so much for the truth's sake as to preserve his peace with Terentia his wife, for she had a grudge against Clodius on account of his sister

¹⁹ Ibid., i., p. 16.

²⁰ Asconius, In Milonianam, 55.

²¹ Plutarch, Cicero, p. 626.

Clodia's wishing to marry Cicero. Cicero, writing immediately after the trial to Atticus, expressly tells him that he had said as little as he could.

"I drew in my sails, seeing the neediness of the jurors, and gave no evidence beyond what was so notorious and well attested that I could not omit it." ²²

When Cicero came forward to give his evidence and the partisans of Clodius hooted and attempted to mob him, the jurors rose as one man and interposed their persons for his protection.

"When I was produced as a witness, I suppose you have been told how the shouts of Clodius' supporters were answered by the jury rising to their feet to gather round me, and openly to offer their throats to P. Clodius in my defence." ²³

They protested likewise against the coercion of the court by Clodius' rabble, and applied to the Senate for an armed guard, which was immediately granted. Hortensius, the prosecutor, was triumphant, and all the world believed that a verdict of guilty was inevitable. But a powerful factor had been left out of consideration.

Marcus Licinius Crassus was the richest man in Rome; he loved power and influence and was ready to spend freely when a political object was in view. It had doubtless been settled between the two--Crassus and Caesar, that Clodius would be useful to them in the future, and that he must be saved at all costs. Crassus accordingly paid down an enormous sum of money, and in the course of two days bought the votes of a majority

²² Cicero, op. cit., i., 16.

²³ Cicero, loc. cit.

of the jury.

"You know Bald-head, the Nanneian millionaire, that Panegyrist of mine, whose complimentary oration I have already mentioned to you in a letter. In two days' time he settled the whole business--he summoned them to an interview, made a promise, offered security, paid money down." ²⁴

Each of the purchased jurors in the case of Clodius, who was acquitted by a vote of thirty-one to twenty-five, received something like four hundred sesterces--a condition of things which filled the mind of Cicero with the most gloomy forebodings for the future of the Republic. ²⁵

"A state of things which seemed fixed and founded on the union of the better class and the prestige of my consulate, unless some power above have mercy upon us, has been surely made to slip from our hands, by this one verdict, if you call it a verdict, when thirty individuals, the most frivolous among the Roman people, upon receiving some paltry coin, are destroying all human and divine principle." ²⁶

Under such provocation the great master of denunciation could not keep silent. After denouncing Clodius in the Senate and elsewhere, he published a carefully prepared invective against him of which only a few fragments survive.

"O extraordinary prodigy! O you monster! are you not ashamed at the sight of this temple and of this city, nor of your life, nor of the light of day? Do you, who were clad in woman's attire, dare to assume a manly voice--you whose infamous lust and adultery, united with impiety, was not delayed even by the time required to suborn witnesses to procure your acquittal. Did you, when your feet were being bound with bandages, when an Egyptian turban and veil were being fitted on your head,

²⁴ Ibid.

²⁵ Taylor, Hannis, Cicero, p. 193.

²⁶ Cicero, loc. cit.

and when you were with difficulty trying to get down the sleeved tunic over your arms, when you were being girdled with a sash--did you never in all that time recollect that you were the grandson of Appius Claudius?"²⁷

The case was also prejudiced by the nonchalant attitude of Caesar. On the mere rumor that his third wife Pompeia had been the object of Clodius' gallant adventure, he divorced her. Yet he refused to give evidence against Clodius and when asked why he divorced her he replied merely that his family must be above suspicion. Cicero upbraided him for 'lack of gall' in not resenting the affront which Clodius had put upon him.²⁸ But as Caesar had just been engaged in an intrigue of his own which caused Pompey to divorce his wife, Mucia; he doubtlessly felt that his appearance in the character of the injured husband would be somewhat ridiculous. When we recollect that Pompey consoled himself for the loss of Mucia by taking Caesar's own daughter to fill her place, it must be owned that Roman husbands accepted these mishaps rather calmly.

The acquittal was a heavy blow to the hopes of the constitutional party. The scandal was so notorious that it seemed to proclaim the hopelessness of orderly government and pure justice in Rome.

"That settlement which you used to ascribe to my policy, and I to Providence, which seemed firmly established by the union of loyal citizens and by the events of my consulship, has now crumbled beneath our feet, unless Heaven takes pity on us, all through this single verdict--if indeed one can call it a verdict--that thirty men, as worthless and base, as you could find in our state, should

²⁷ Taylor, loc. cit.

²⁸ Cicero, De Haruspicum Responsis, 18, 38--Taylor, loc. cit.

take money to outrage all law and all right, and that when every man and, let alone men, every beast in Rome knows that a thing was done, Thalna and Plautus and Spongia and riff-raff of that sort should decide that it was not done." 29

Young Clodius, after his escape from prosecution by the marvelous methods which Crassus had provided for him was more popular than ever. He had been the occasion of a scandal which had brought infamy on the detested Senate. His offence in itself seemed slight in so loose an age and was as nothing compared with the enormity of his judges.

29 Cicero, loc. cit.

Chapter III. Clodius Becomes Tribune; Exiles Cicero

Caesar was determined to have a great provincial command, and the control of a powerful army; and to gain this object he planned to combine all the powers which were at the moment useful to him. He could count on his old ally Crassus, and also Pompey. If these three could agree on common action, they might hope to overcome all opposition, and this hope would be almost a certainty if the cooperation of Cicero could likewise be secured. His presence in the coalition would disarm the hostility of the middle class and of the country people of Italy, his character would give respectability to the new party, and his eloquence would sway public opinion to its side. ³⁰

Cicero declined any partnership with Caesar, but it was not clear whether he would venture on active opposition. After his refusal, Cicero gave up active politics and was dividing his time between literary pursuits and forensic practice. Caesar was resolved to hold him in check, and to accomplish this he possessed an effective instrument in Clodius, who was not without political experience.

His first public experience had been as leader of a mutiny in 74 B. C. while he was in the army under Lucullus, his brother-in-law. Clodius had ingratiated himself secretly with the Fimbrian troops, thus named because Fimbria before had persuaded them to kill the consul Flaccus, and choose him as their leader.³¹ Clodius stirred them up against Lucullus, using flattering speeches

³⁰ Strachan-Davidson, Op. cit., pp. 202-203.

³¹ Plutarch, Lucullus, p. 363.

to them, who had been accustomed to being flattered in such a manner, and so they listened not unwillingly to Clodius, and called him the soldier's friend, for the concern he professed for them, and the indignation he expressed at the prospect that

"there must be no end of wars and toils, but in fighting with all nations, and wandering throughout all the world they must wear out their lives receiving no other reward for their service than to guard the carriages and camels of Lucullus, laden with gold and precious goblets; while as for Pompey's soldiers, they were all citizens, living safe at home with their wives and children, on fertile lands, or in towns. If indeed we must never have an end of fighting, should we not rather reserve the remainder of our bodies and souls for a general who will reckon his chiefest glory to be the wealth of his soldiers." 32

Clodius had a grudge against Cicero and a debt of gratitude to Caesar and Crassus. He had come out of his trial with a determination to be revenged on the persons from whose tongues he had suffered most severely in the senatorial debates. He would be pleased to wipe off both scores at once, and to inflict punishment on Cicero, nominally for having put the Catilinarian conspirators to death, really for not being sufficiently submissive to the triumvirs. To deliver this attack it was necessary that Clodius should become tribune of the people, but he was debarred from the office by his patrician birth. The obstacle might be removed by his adoption into a plebeian family, and such adoptions were in the control of Caesar as Pontifex Maximus. Caesar was prepared to use this control according as Cicero behaved.

In 59 B. C. Cicero had made an attempt to dissuade Pompey from joining Caesar, but when his fears were realized, he could

32 Ibid., p. 364.

no longer restrain himself from a public display of indignation as follows: Caius Antonius, Cicero's colleague in his consulship, who had since grossly misconducted himself in the province of Macedonia, was put on trial for extortion and complicity in the Catilinarian conspiracy. Cicero was counsel for the defense, and as he himself tells us,

"Uttered in the course of my speech some complaints regarding the present state of the nation, which seems to me to bear on the case of my unfortunate client." 33

This was at noon and Cicero's remarks were immediately reported to Caesar, who accepted these words as evidence that Cicero meant to throw in his lot with the opposition, and he instantly took up the challenge. At three o'clock the same afternoon Clodius was transferred to the plebs. Pompey officiated as augur on the occasion. He took the precaution of exacting from Clodius a solemn engagement that he would make no attack on Cicero; but Clodius' promises were notoriously worthless, and he was ready to make any number of them if only Pompey would put him in a position in which he would have the power to break them. 34

Clodius was already quaestor, and so a senator; but he was too young to aspire to the higher magistracies which were open to him as a patrician. In 60 B. C. desiring a tribuneship for his own ends, he had sought to remove the disqualification of his patrician blood through admission into a plebeian gens, but

33 Cicero, Pro Domo, 16, 41--Strachan-Davidson, op. cit., 214.

34 Strachan-Davidson, op. cit., p. 215.

had been disbarred from standing for office by the consul, Metullus Celer, who insisted that his adoption, not having been attested and confirmed by the Comitia Curiata, was not legally valid.

"A certain tribune named C. Herennius, is trying to transfer Clodius to the plebs, and is actually proposing a law to authorize the whole people to vote in Clodius' affair in the Campus."³⁵

Thanks to Caesar's good offices, now his 'traduction ad plebem' was accomplished with all due solemnity.

After his adoption he began playing dangerous pranks. He announced that he would stand for tribuneship as an opponent of the triumvirs and with the intention of canceling Caesar's laws.

"In that case," retorted the chief pontiff and the officiating augur, "we shall deny that we ever made a plebeian of you."³⁶

Consequently, the quarrel was patched up, and before Clodius was elected tribune he and Caesar were again fast friends.

Thus invested in plebeian status, he stood for the tribuneship of 58 B. C. and secured the election. Upon entering his tribuneship he lost no time in showing his colors. On January 3, 58 B. C. he brought forward no less than four new laws. He passed a law which restored complete freedom of association in Rome. Thus fresh collegia sprang up and provided him with an excellent recruiting field, out of which he formed a highly organised force of personal supporters. He

³⁵ Cicero, op. cit., i, 18.

³⁶ Ibid., ii, 12, 1.

now openly announced that he intended to attack Cicero, while Pompey as vehemently protested that he would allow no such thing. 37

"He declares that there is no danger; he takes his oath to it; he adds that Clodius will have to pass over his dead body before he shall do me any harm." 38

"It would be an everlasting disgrace to him, he says, of any mischief came to me, through the man into whose hands he placed a weapon of offence, when he allowed him to become a plebeian." 39

Caesar however had determined otherwise. It was a principle of Caesar's policy that Cicero must be brought over to his side. Sometimes he tried to attract him by friendly offers and delicate acts of kindness, sometimes to drive him by well-directed strokes of chastisement. The means employed might differ, but in pursuit of the end Caesar never wearied. He knew full well that the great orator must be either a useful ally or a dangerous enemy, and that he could not afford to neglect him.

So far as outward position went, Caesar's offers were meant to be honorable and complimentary to Cicero; and in after years Caesar unhesitatingly appealed to them as evidence of his good will. Then years later Cicero writes:

"When he is justifying his conduct, he always throws on me the blame for the occurrences of that time; I was so bitter against him, he says, that I would not accept even honors from his hand." 40

37 Cambridge Ancient History, ix, p. 522.

38 Cicero, op. cit., ii, 20, 2.

39 Ibid., ii, 22, 2.

40 Ibid., ix, 2, b. 1.

But these honors would effectually have closed Cicero's mouth. He was offered either a vacant place on the board of commissioners for executing Caesar's Agrarian Law, or else the post of Caesar's lieutenant in Gaul. Finally he was allowed the option of simple retirement by the acceptance of an honorary commission, which would have removed him for a year from Italy.

All these offers Cicero declined. He claimed complete freedom of action, and thought himself strong enough to face the attack of Clodius unaided.

"I am now bearing myself so that every day increases my forces and the good will with which I am supported. I let politics alone, and work with all my might in my old field of labour, the law courts. I find that this is favourably regarded not only by my clients but by the public. My house is thronged, crowds come to greet me, the memory of my consulship is revived; I am promised support and I have raised my hopes, till I sometimes think that the struggle which lies before me is a thing to be welcomed." 41

As soon as Clodius had consolidated his dominion in Rome, he launched his long-delayed attack. He called a 'contio' outside the wall so that Caesar might attend and express his views as to Cicero's conduct during his consulship. Caesar said in answer to questions on that subject that, while he condemned, as he had always done, the illegality of the executions of Catiline's confederates, as the matter had long passed, he was opposed to harsh measures. 42

Clodius brought in a bill 'that anyone who had put citizens

41 Ibid., ii. 22, 3.

42 Dion., xxxviii----Plutarch, Cicero, p. 627.

to death without trial should be outlawed.' Although couched in general terms, this measure was clearly designed to meet a particular case.

"It was Cicero alone, though he was not named in this law, that was meant to be affected by it. Thus a man, who had performed the highest services to the state, received, in return for having saved his country, the penalty of exile."⁴³

Cicero publicly recognised Clodius' proposal as directed against himself.

"Our Publius is threatening me: he is hostile, and a storm is hanging over my head which should bring you post haste to town. Pompey displays no common affection for me."⁴⁴

He and his friends put on mourning and commended themselves to the people. The Roman Knights, always friendly to Cicero, stood by him on this occasion, and the Senate proclaimed its sympathies by a decree enjoining every member to lay aside the dress of his order as in times of public calamity. The consuls nullified this proceeding by an edict forbidding any senator to appear except in his proper robes.

Clodius commanded the streets with gangs of ruffians whom he had enrolled under the pretence of founding the street guilds. When we think of the Roman mob we must not forget that it was much more frightful than our own, and was recruited from more formidable elements. Below the vagabond strangers and the starving workmen, the ordinary tools of revolution

⁴³ Lee, Francis H., Velleius Paterculus, ii, 45.

⁴⁴ Cicero, op. cit., ii, 19.

there was that crowd of freedmen demoralized by previous slavery, to whom liberty had given but one more means for evil doing; there were those gladiators, trained to fight man or beast, who made light of the death of others or themselves; there were, still lower, those fugitive slaves, who were indeed the worst of all classes, who, after having robbed or murdered at home and lived by pillage on the road, came from all Italy to take refuge and disappear in the obscurity of the slums of Rome, an unclean and terrible multitude of men without family, without country, who outlawed by the general sentiment of society, had nothing to respect as they had nothing to lose. It was among these that Clodius recruited his bands. Enlistments were made by Clodius in open day, in one of the most frequented spots in Rome, near the Aurelian steps. The new soldiers were then organized under energetic leaders. They assembled by districts in secret societies, where they went to receive the password, and had their centre and arsenal at the temple of Castor. When election day arrived, and a popular manifestation was wanted, the tribunes ordered the shops to be closed; then, the artisans were thrown on the public streets, and all the army of the secret societies marched together toward the Forum. There they assembled, not honest folks, who feeling themselves the weaker party, stayed home, but gladiators and herdsmen, and the battle commenced.⁴⁵

⁴⁵ Boissier, op. cit., pp. 211-212.

"Imagine London with the slave population of New Orleans, the police of Constantinople, and the industrial condition of modern Rome, and think of the political state of Paris in 1848: You will have some idea of republican Rome in its last days." 46

The tribunes had found a new way of obtaining unanimity of votes for the laws that they proposed; namely, to beat and drive away all who took it into their heads not to agree with them.

Cicero had a plausible pretext in his execution of Cati-line's accomplices, for which the Senate had indeed given him a moral if not a legal sanction. In Clodius he had a prosecutor whose past relations with him guaranteed that he would not play into his hands. Cicero sent entreaties to Caesar and Pompey; he sought the aid of the new consuls; he extended his supplications to passers-by in the streets of Rome; he even played with the idea of rousing all Italy to a crusade against the coalition.

All appeals to Pompey were unavailing. When Cicero prostrated himself at his feet in his villa, he said that he could do nothing against the will of Caesar; that as a private citizen he could only refer those who appealed to him on this subject to the consuls. The only hope left was in an appeal to the sympathy of the people, and with that end in view Cicero humbled himself by passing through the streets in mourning supported by the whole equestrian class garbed in the same fashion--twenty thousand of the noblest youths in Rome changing their clothes

46 Mommsen, Theodor, History of Rome, iv, p. 490.

as a manifestation of sorrow and affection. 47

Under such conditions Lucullus alone advised him to remain and face the issue; if necessary, backed by his friends, to fight in the streets with the armed mobs of Clodius. But wiser friends, such as Cato and Hortensius, advised him to go away for a time, confident in the hope that in a few days he would return in triumph. Before yielding to such counsels, he took from his house a valued statuette of Minerva, goddess of wisdom as well as of war, carried it to the Capitol, and there set it up with the inscription, "guardian of the city". 48

On the eve of the vote of the bill, he left Rome in self-imposed outlawry, accompanied beyond the walls by tearful friends who assured him that he would soon be recalled. He retired to Thessalonica and Epirus, the residence of his wise and faithful friend Atticus and remained in exile until the summer of 57 B. C. On the same day Clodius presented a bill in the assembly interdicting Cicero by name from fire and water, and providing that no one should receive him in his house within five hundred miles of Italy. It was further enacted that if he should be seen within the forbidden limits, he with all who gave him shelter, might be killed with impunity. After being branded as a traitor to the commonwealth his mansion on the Palatine was given to the flames, and soon afterward his other villas were sacked and laid waste. Thus a great Roman, who had only a short time before

47 Taylor, op. cit., p. 201.

48 Ibid., p. 203.

saved the life of the state, was outlawed and driven into exile by the mandate of the ancient popular assembly instigated by a clever and dissolute demagogue who was the electoral agent of Caesar. The rest of his property was exposed to sale by daily proclamation, but nobody came to buy. By these forces Clodius became formidable to all noble citizens, and, was being followed by the common people, whom he had filled with insolence and licentiousness.

Another statesman, who shared with Cicero the honor of being feared by the triumvirs as a leader of opposition, was Marcus Porcius Cato. Caesar had proposed a law, dividing almost all of Campania among the poor and needy citizens. Nobody dared speak against it, but Cato, whom Caesar pulled from the rostra, and dragged to prison; yet Cato did not cease to speak, but as he went along, continued to speak against the law and advised the people to put down all legislators who proposed the like. The senate and the best of the citizens followed him with sad and dejected looks, showing their grief and indignation by their silence, so that Caesar could know how much they were offended. Caesar still persisted; thinking that Cato would make an appeal, but when he saw that Cato did not intend to do it, ordered one of the tribunes to procure his release.⁴⁹

It was determined to remove Cato from the city, and if the duty assigned to him could bring him into difficulty or disrepute, the better would his enemies be pleased. At the insti-

⁴⁹ Plutarch, Cato, pp. 554-555

gation of his patrons, Clodius engaged the people to impose upon the most just and virtuous of the Romans the odious task of dispossessing Ptolemy, king of Cyprus of his kingdom, upon the grounds wholly frivolous. Cato was required to bring the luckless monarch's treasure to Rome, and to annex his island to the empire. To this cruel charge another was added: the restoration of certain political exiles to the commonwealth of Byzantium. Cato acted in blind obedience to the orders of the people: But if Clodius hoped to corrupt him by the handling of so much wealth, he was disappointed; and when Cato returned, two years later, the demagogue had fallen too far in popularity to be able to damage his credit by false insinuations.

"To praise Cato for his honesty, would be rather derogatory to him than otherwise; but to accuse him of ostentatiously displaying it, would seem but just; for when all the populace of the city, together with the consuls and the senate, poured forth to salute him as he was sailing up the Tiber, he did not disembark to meet them until he arrived at the spot where the treasure was to be landed." 50

50 Lee, loc. cit.

Chapter IV. Cicero's Return; Rioting in Rome

In 58 B. C. Cicero and Cato being thus put out of the way--Caesar being absent in Gaul, and Pompey looking on without interrupting--Clodius had amused himself with legislation. He gratified his corrupt friends in the Senate by abolishing the censor's power to expel them. He restored the cheap corn establishments in the city--the most demoralising of all the measures which the tribunes had introduced. He re-established the political clubs and workmen's guilds, which were hotbeds of distinctive Radicalism. He took from the Senate such power as they still possessed of the regulation of the Provinces, and passed it over to the Assembly. One measure only he passed which deserved commendation, though Clodius should have none for introducing it. He put an end to the impious pretense of 'observing the heavens' of which conservative officials had availed themselves to obstruct unwelcome motions. ⁵¹ Because of this custom a magistrate could halt and delay elections by pretending to have heard thunder or to have seen lightning, as those natural phenomena were thought to be bad omen. ⁵²

In general politics the young tribune had no definite predilections. He had threatened at one time to repeal Caesar's laws himself. He attacked alternately the chiefs of the army and of the Senate, and the people allowed him to do what he pleased without losing their confidence in him. He went every-

⁵¹ Boissier, op. cit., p. 199.

⁵² Cicero, op. cit., i, lv, 3.

where spreading terror with his body guards of slaves. He quarrelled with the consuls, beat their lictors, and wounded Gabinius himself. 53

By May 58 B. C. Clodius had become intolerable to the better class of people in Rome. He sold governorships and other posts for the benefit of his fellow-citizens. He at length ventured to cross the path of Pompey himself when he accepted money from the King of Armenia to procure the release of his son, who had been brought to Rome as a hostage, and in pursuance of his bargain carried off the young prince from the custody in which Pompey had placed him. When Pompey tried to oppose force by force, Clodius not only defeated him on the streets, but attempted his life by means of an assassin. Pompey was obliged to barricade himself in his own house for the remainder of Clodius' year of office. 54

Clodius had been useful so far; but a check was needed for him, and Pompey decided at last that Cicero might now be recalled. Clodius' term of office ran out and as the tribunes for the new year were friendly towards Cicero, Caesar was consulted by letter, and gave his assent to the recall of Cicero. Cicero, now aware of the efforts which were being made for him, looked for new allies in an imprudent quarter. His chosen friend was now Annius Milo, one of the new tribunes, a man as disreputable as Clodius himself; deep in debt, and looking for a province to indemnify himself--famous hitherto in the schools

53 Froude, op. cit., p. 259.

54 Strachan-Davidson, op. cit., p. 240.

of gladiators, in whose arts he was proficient, and whose services were at his disposal for any lawless purpose. 55

A decree of banishment could only be recalled by the people who had pronounced it. But Clodius, though no longer in office, was still master of the streets, still the idol of the mob, and two of the tribunes, who at first were inclined to Cicero, had been won over by him. When Lentulus Spinther brought Cicero's case before the Senate, a tribune reminded him of a clause, attached to the sentence of exile, that no citizen should in future move for its repeal. After repeated adjournments, the Senate voted that the question should be proposed to the Assembly. In anticipation of a riot the temples on the Forum were occupied with guards. The Forum itself and the Senate-house were in possession on Clodius and his gang, reinforced by some gladiators whom he was training, Clodius maintained in a speech that the proposal to be submitted to the people was itself illegal, and ought to be resisted by force. Fabricius, one of the tribunes, had been selected to introduce it. When he presented himself on the rostra, there was a general rush to throw him down. The Forum was in theory still a sacred spot, where the carrying of arms was forbidden; but the new age had forgotten such obsolete superstitions. The guards ran out of the temples with drawn swords. The people were desperate and determined. Hundreds were killed

55 Froude, op. cit., p. 261.

on both sides, Quintus Cicero who was present for his brother, narrowly escaping with life. 56

"Meministis tum, iudices, corporibus civium Tiberim compleri, cloacas referciri, e foro spongiis effingi sanguinem...Caedem tantam, tantos acervos corporum extractos, nisi forte illo Cinnano atque Octaviano die, quis unguam in foro videt?" 57

The mob remained masters of the field, and Cicero's cause had to wait for better times. Milo had been active in the combat, and Clodius led his victorious bands to Milo's house to destroy it. Milo, on the other hand attempted to bring Clodius to justice, but found his family connections too powerful. There was as yet no censor chosen, due to the rioting, and without a censor the praetors pretended that they could not carry on the prosecution. Finding law powerless, Milo imitated his antagonist. He resolved to meet Clodius with his own weapons and himself hired a band of gladiators; many of Cicero's friends seem to have contributed to bear the expense. The two champions fought and neither could drive his adversary from the field. It was sufficient however for Milo to hold Clodius in check, and as soon as he had accomplished this, the public feeling in favor of Cicero's recall bore down all other obstacles. 58 The recall was again proposed in the Senate, and Clodius was alone in opposing it. When it was laid before the Assembly, Clodius made another effort; but voters had been brought up from other parts of Italy who outnumbered the city rabble; Milo and his gladiators

56 Ibid.

57 Cicero, Pro Sextio, 35, 36 quoted in Froude, loc. cit.

58 Strachan-Davidson, op. cit., p. 244.

were in force to prevent another burst of violence; and the great orator and statesman was given back to his country. The Senate passed decrees commending Cicero's safety to the protection of all magistrates in the provinces, thanks to those communities which had sheltered and comforted him. 59

As Cicero approached the city in September the Senate came to welcome him; he was placed in a gilded chariot waiting to receive him outside the gate; and as he passed through the Forum along the Via Sacra to the Capitol the entire population went out to receive him.

"It seemed that all the city was drawn from its foundations to come and salute its liberator." 60

At his brother's house, where he was going to live, he found the most eminent members of the senate awaiting him, and at the same time congratulatory addresses from all the popular societies of the city.

Cicero appeared in the Senate the day after his return, where he offered the profoundest thanks to his friends and the bitterest abuse to his enemies, attacking especially Gabinius and Piso, nominees of Pompey and Caesar, who had been consuls during the preceding year. 61

Cicero, again popular with the people, took by force the records of the tribuneship of Clodius from the Capitol. When the Senate assembled Clodius complained of Cicero's actions.

59 Froude, op. cit., p. 263.

60 Cicero, op. cit., iv, 1.

61 Taylor, op. cit., p. 211.

Cicero answered that Clodius had never been legally elected tribune, and whatever he had done while acting in that office was void. Cato interrupted Cicero and said that although he had not approved of Clodius' action, he thought that Clodius had been legally elected tribune. For a long time afterwards Cato and Cicero were enemies because of this disagreement in the Senate.⁶²

Afterwards the famine riots occurred in which armed and trained bands of desperadoes led by Clodius went to the Capitol and attacked the senators with stones. There had been a deficiency of grain in the provinces, especially in Sicily, from which Rome drew her main supply. The streets, even the Forum were so insecure that Cicero did not dare to stir abroad.⁶³

Cicero immediately used his efforts to reconcile the senate to Pompey: and by speaking in favor of the law upon the importations of corn, helped make Pompey master of all the Roman possessions by land and sea. By that law, there were placed under his control for the regulation of grain, all ports, markets, and storehouses, and all the concerns both of merchants and husbandmen. This action gave occasion to the charge brought against it by Clodius that the law was not made because of the scarcity of corn, but the scarcity of corn was made, that they might pass a law, whereby Pompey's power might be revived again, and Pompey reinstated in a new empire.⁶⁴

⁶² Plutarch, Cicero, p. 556.

⁶³ Cicero, op. cit., i, 1.

⁶⁴ Plutarch, Pompey, p. 458.

In the midst of these troubles Cicero was still pursued by Clodius who, after destroying his house on the Palatine, had hoped to keep the owner out of possession of the ground by building upon it a temple dedicated to Liberty, levelling at the same time the adjoining portico of Catulus, a monument of that man's victory over the Cimbrians.

As the land had been dedicated (*ad pios usus*), a question arose for the decision of the college of Pontiffs, to which Cicero addressed in September, 57 B. C. the oration known as *PRO DOMO SUA*. He attempted to establish illegality by proving that the illegally elected tribune Clodius could not consecrate anything. The college decided simply that if he who had performed the office of consecration was not legally authorized to do so, then the area in question should be returned to Cicero. This was done and he was indemnified by a senatorial decree that his damage should be born by the state and his house rebuilt at the public expense.⁶⁵

The house of Clodius near to that of Cicero on the Palatine, was more magnificent, having cost the enormous sum of 14,800,000 sesterces and was adorned with Greek paintings and statues. The house of Cicero was a little lower down the hill, a circumstance which explains his threat to increase its height, so as to shut out Clodius from a view of the city:⁶⁶

"Tollam altius tectum, non ut ego te despiciam, sed ne tu aspicias, urbem eam, quam detere voluisti."⁶⁷

⁶⁵ Cicero, *op. cit.*, iv, 2.

⁶⁶ Cicero, *Pro Domo*, 43 quoted in Taylor, *Cicero*, 212.

⁶⁷ Cicero, *De Haruspicum Responsis*, 15 quoted in Taylor, *loc. cit.*

Clodius was now but a private citizen; but private citizens might resist the sacrilege which Cicero was attempting by building on sacred land. Clodius marched to the Palatine with his gang. He drove out the workmen, broke down the walls and wrecked the adjoining house which belonged to Cicero's brother Quintus. The next day he attacked Cicero in the Via Sacra, and nearly murdered him; yet the consuls and tribunes did not interfere. 68

"On the 3rd. of November the workmen were driven from the site of my house by armed ruffians; the porticus Catuli, was battered down; the house of my brother Quintus was first smashed down; with volleys of stones thrown from my site, and then set fire by order of Clodius, firebrands having been thrown into it in the sight of the whole town, amidst loud exclamations of indignation and sorrow. That madman runs riot; thinks after this mad prank of nothing short of murdering his opponents; canvasses the city street by street; makes open offers of freedom to slaves." 69

"On the 11th. of November, as I was going down the Sacred Way, he followed me with his gang. There were shouts, stone-throwing, brandishing of clubs and swords, and all this without a moment's warning. He might have been killed himself, but I am now on a system of cure by regimen; I am tired of surgery." 70

"On the 12th. of November he tried to storm and set fire to Milo's house, and so openly was this done, that at eleven o'clock in the morning he brought men there armed with shields and with their swords drawn, and others with lighted torches." 71

The Senate professed regret, and it was proposed to prosecute Clodius; but his friends were too strong; and it could not be done.

68 Froude, op. cit., p. 268.

69 Cicero, op. cit., iv, 3.

70 Ibid.

71 Ibid.

In 56 B. C. Clodius was the popular candidate for the aedileship; he was supported by his brother Appius Claudius, the praetor, and the clientele of the great Claudian family. The election was to be held on the 18th. of November. Milo and his gladiators took possession of the polling place in the night, and no one was allowed to vote. 72

"The upshot was that, had not Milo served his notice of bad omens in the campus, the elections would have been held." 73

The assembly met the next day but was broken up by violence. Cicero was in his glory.

"I think," says Cicero, "the elections will not be held; and Publius will be brought to trial by Milo, unless he is killed first. If he puts himself in Milo's road during a riot Milo will certainly do it; he is quite resolved and announces it openly; he has no fear of falling as I did, for he puts his trust in no one but himself." 74

Clodius had no luck when he tried to carry the war of prosecutions at law into the enemy's camp. His accusation of Milo before the people came to nothin, and a charge of rioting which he brought before a jury against Publius Sestius, who was tribune exerted himself to procure Cicero's return, led to a signal triumph for Clodius' opponents. 75

However, when the year of Milo's tribunate was over, Clodius was chosen aedile without further trouble. He was quick to suggest to the people after the college of sooth-sayers had declared that some deity had been offended because

72 Froude, op. cit., p. 268.

73 Cicero, loc. cit.

74 Ibid.

75 Strachan-Davidson, op. cit., p. 255.

consecrated places had been devoted to profane uses, that the real culprit was Cicero who had pulled down the temple of Liberty on the site of his new house. Thereupon Cicero delivered the oration known as DE HARUSPICUM RESPONDIS, in which, after tearing to tatters the dreadful past of the brother of the Clodias, he exhorted all citizens of every class to put aside their mutual animosities as the best means of regaining the favor of the gods and their former prosperity. Despite his recent attempt to murder him in the streets, Clodius had not cowed Cicero.

"But my hatred for Clodius is not greater this day than it was then, when I knew that he was scorched as it were with those holy fires, and that he escaped in female attire from the house of the Pontifex Maximus, after attempting an act of atrocious licentiousness." 76

After his election Clodius impeached Milo for the interruption of the Comitia earlier. Milo appeared to answer; but there was another riot, and the meeting was broken up. When Milo again presented himself for trial Pompey came forward on the rostra to speak. He was received with howls and curses from Clodius' hired ruffians and his voice could not be heard for the noise. Pompey held on undaunted, and commanded occasional silence by the weight of his presence. Clodius rose when Pompey had finished, and rival yells went up from the Milonians. Consequently there was a riot between the factions and many were killed or wounded. The working men being unarmed got the worst of the conflict, and Clodius was

76 Cicero, De Haruspicum Responis, 15 quoted in Strachan-Davidson, loc. cit.

flung from the rostra. All sides were mustering their forces in view of an impending fight to the finish. 77

Relations became more violent on the Campus Martius on election days. Now men did not take the trouble to buy public offices; they found it more convenient to seize them by force. Groups went before daylight to the Campus Martius. Collisions took place on the roads leading to it. Each party hastened to arrive before its adversaries, or, if these were already established there, attacked them in order to dislodge them; naturally the appointments belonged to those who remained masters of the place. In the midst of all these armed men there was no security for any one. Men were forced to fortify themselves in their houses for fear of being surprised. They could only go out with a train of gladiators and slaves. To go from one quarter of the city to another, they took as many precautions as if they had to traverse a desert country. In the midst of Rome there were real battles and regular sieges. It was an ordinary custom to set fire to the house of one's enemy at the risk of burning down a whole quarter and no election of popular assembly took place without bloodshed.

Cicero clung to Milo. Milo, at least, would revenge his wrongs upon Clodius.

"Clodius was Milo's predestined victim. Titus knew how an armed citizen who burned temples and honest men's houses ought to be dealt with. Titus was born to extinguish that pest of the Commonwealth." 78

77 Cicero, Ad Quintum Fratrem, ii, 3.

78 Cicero, De Haruspicum Responsis quoted in Froude, op. cit., p. 274.

Milo was a natural fighter, a born gladiator, one who was for cutting all political knots with the sword. He was ambitious, and aspired to the consulship; but the dignity was scarcely in his reach. His family was not of the highest; he was deeply in debt, and he had neither eloquence nor ability. His best chance was to attach himself to some powerful friend whose gratitude he could earn. Just such a friend he seemed to find in Cicero. He saw the orator's fortunes very low, but they would probably rise again, and he would be grateful to those who helped him in his adversity.

The *ager publicus* in Campania had been exempt by an old law under the Gracchi from paying rent. Caesar ignored the law and attempted to colonize with the poor people and his veterans. Cicero opposed this action of Caesar and had been debating against it in the Senate. In 55 B. C. Pompey sent to Cicero a request, which was equivalent to an order, that he should suspend all action on the question of the Campanian land until he himself should return to Rome from Capua where he was acting as one of the twenty land commissioners. 79

"By way of recommending Caesar's cause and dignity to me, he begged that I would not assail them, if I could not or would not defend them." 80

So far Cicero had no choice but to submit, but he had still to decide how to shape his general policy in view of changes made by the conference of Lucca. The consulships for this year, 55 B. C. had been settled on Pompey and Crassus, and their

79 Cicero, Ad Familiares, i, 9, 10.

80 Ibid., i, 9, 9.

future provinces had been determined for them at the conference of Lucca at the renewing of the triumvirs. Gaul had been given to Caesar for five years more and Spain to Pompey. But all these arrangements were as yet secret; and Cicero argued the question of the Provinces as if the Senate really had the disposal of the provinces. He urged that the provinces named should be Syria and Macedonia, and he protested against any scheme which should cut short Caesar's career of conquest.

Pompey and Crassus returned to Rome from Lucca for the elections; however, the consuls for the year refused to take their names as possible candidates. Clodius had been the spokesman for Crassus and Pompey and had persuaded the people to elect them. The consuls and the Senate appealed to the Assembly; the people would not listen to them, but began rioting. The senators were driven back into the Curia, and Clodius followed them there. The officers forbade his entrance. Furious young aristocrats seized him, and would have murdered him in their rage if Clodius hadn't shrieked for help. His followers rushed in with lighted torches, swearing to burn house and Senate if any harm came to Clodius. As Crassus was in Rome with thousands of Caesar's soldiers it was not safe for the Senate to fight longer.

The renewal of the triumvirate and the consular elections were followed by a period of quiet at Rome, and the Senate moved along the lines which the Three had traced for it. Caesar continued in his untiring efforts to win the regard of Cicero, and to unite him to himself by every bond of personal and political friendship. For instance, when Clodius wrote to Caesar with

some calumnies against Cicero, Caesar showed his contempt by not answering the letters, and he took care that this should come to Cicero's ears. 81

81 Cicero, Ad Quintum Fratrem, iii, 1, 11.

Chapter V. Clodius' Death and Milo's Trial

In 53 B. C. Clodius was reappearing on the scene. He had been silent for two years, content or forced to leave the control of the democracy to the three chiefs; Crassus, one of whom was now gone. Clodius was as popular as ever. Authority, which had been weak before, was now extinct. Milo and Clodius roamed the streets, each with his armed gang and leaders and followers alike carried their lives in their hands.⁸²

At that time Milo was candidate for the consulship, and Clodius for the praetorship. A more objectionable candidate than Milo could hardly have been found. He was no better than a patrician gladiator. The popular party led by the tribunes made a sturdy resistance. There were storms in the Curia, tribunes imprisoning senators, and the senate tribunes. As it was obvious that Milo's chief object was a province which he might misgovern, Pompey forced the Senate to pass a resolution, that consuls and praetors must wait five years from their term of office before a province was to be allotted to them; but senatorial resolutions did not pass for much, and what a vote had enacted a vote could repeal. The agitation continued. Pompey's destined father-in-law, Scipio Metellus, was in competition with Milo, and this circumstance now inclined Pompey to favor Clodius. Bribery and intimidation were carried on to a reckless extent on both sides. When the time came, the tribunes forbade the elections. The year expired;

⁸² Froude, op. cit., p. 343.

the old magistrates went out of office, and Rome was left again without legitimate officers to carry on the government.⁸³

On January 17th. B. C. Clodius and Milo came into collision on the Appian Way some ten miles from Rome. The victory in this battle remained with Milo, and Clodius was left dead on the Road.

"Publius Clodius was killed by Milo, then a candidate for the consulship, in a quarrel that arose on their meeting near Bovillae; an act of bad precedent, but beneficial to the public." ⁸⁴

The body was found the same night and brought to the city. The death of Clodius caused intense excitement among the lowest classes in Rome. The corpse was seized and burned by a tumultuous mob in the Forum. The flames spread and destroyed the Curia Hostilia, the ordinary meeting-house of the Senate. As a consequence, stormy discussions followed in the House; Milo was fiercely attacked by the relatives of Clodius and was defended with equal vigor by Cicero, Cato, and Marcus Marcellus. The tribunes were divided between the one party and the other.

Rome now turned to Pompey as the only man capable of restoring order. The Senate issued its proclamation of martial law. Another decree elected Pompey sole consul. His first caution was to enlist a strong body of troops. He next passed severe laws against rioting and electoral corruption, and provided a machinery for trials under them, by which the bribing

⁸³ Strachan-Davidson, *op. cit.*, p. 286

⁸⁴ Lee, *op. cit.*, ii, 47.

of a jury was made almost impossible. 85

The special objects of these laws were to shorten the proceedings, to make corruption impossible, and to curb the eloquence of the orators. The hearing of evidence was to be the chief part of the trial. Two hours only were allowed for the speech of the prosecuting counsel, and three for the reply. The jurors who were to vote were only chosen out of a larger body on the morning of the last day; a clever provision which put bribery out of the question. These measures were wise ones for Pompey found Rome in anarchy. The only remedy was to proclaim a state of siege, and to proceed by martial law. The orators were highly indignant at the 'gag' thus put upon their eloquence, and Caelius attacked Pompey as the 'gagger' with such violence that he could only be silenced by the threat of force. Pompey won general admiration by the fairness with which he formed the list of jurors, selecting the most honest, and distinguished men in Rome. Among them was the moralist, Cato, who on entering the box ceased to be a partisan; a formidable juror, whom the culprit hesitated to challenge lest it should be thought he had a bad conscience, and who incorruptibly condemned friend and foe alike. 86

The trial took four days, three of which were occupied by the examination of witnesses. On the first day there was an initial riot, and the court appealed to Pompey for protection, who on the next day marched his troops into the Forum; a

85 Strachan-Davidson, Op. cit., pp. 336-337.

86 Clark, A. C., Pro Milone, p. xxv.

novelty which made a profound impression. The mob now began to feel the weight of Pompey's heavy hand. The disorder continuing, he ordered his men to strike the rioters with the flat of their swords. The crowd thought they were playing, and became insolent, whereupon the soldiers used their weapons in earnest, and several rioters were wounded or killed. The witnesses were then listened to in silence for two days. The proceedings finally were wound up dramatically by the evidence of Fulvia, the wife of Clodius and of her mother, their hysterical grief making a deep impression upon the hearers. 87

"It must be remembered that there was insanity in the family, a fact which may throw light upon the excitable disposition of Fulvia." 88

All preparations were made for the next day. The evidence was put under seal, and the tablets upon which the votes were to be given under ballot examined, to ensure that there should be no difference between any of them, by which it might become known which way a juror had voted.

Milo, afraid that Cicero would be disturbed by such an unusual sight, and less successful in his defense, persuaded him to come into the Forum in a litter and rest there until the judges were ready and the court had been filled. Cicero, when he came in, at the sight of Pompey, was so confused that he could hardly begin his speech, for trembling; while Milo, was bold and fearless in his behavior, disdaining to let his hair grow, or to

87 Dio Cassius xl, 53 quoted in Clark, op. cit., p. xxvi.

88 Cicero, Philippics iii, 16 quoted in Clark, op. cit., xxvii.

put on the mourning habit. This seems to have been one of the principal causes of his condemnation. Cicero, however, was thought not so much frightened for himself as for Milo.

Milo was certainly in great danger, charged as he was with three distinct offenses--murder and illegal violence (*de vi*); corrupt practices at election (*ambitus*); organizing and belonging to unlawful clubs (*de sodaliciis*) each calling for a separate arraignment.

Cicero, who had throughout been tireless in his exertions, and who owed Milo a debt of gratitude for many deeds of faithful partisanship, was sole counsel for the defence. His nerve broke down in the presence of the drawn swords of the soldiers, and of the intense excitement of the by-standers. Asconius tells us that the speech which he actually delivered was taken down by shorthand writers, and that it differed widely from the oration which he afterwards published. Thus, the oration which we read today is not the oration delivered by him, but is a modified form of the original *Pro Milone*.

"Cicero cum incipere dicere, exceptus est acclamatione Clodianorum, qui se continere ne metu quidem circumstantium militum potuerunt. Itaque non ea qua solitus erat constantia dixit. Manet autem illa quoque excepta eius oratio; scripsit vero hanc quam legimus ita perfecte, ut iure prima haberi possit." ⁸⁹

Cicero's plea was self-defense. He contended that Clodius had declared in public speeches that Milo must be killed; that he could be deprived of life, but not of the consulship if he lived; that Clodius was the aggressor; that there was no pre-

⁸⁹ Asconius, *op. cit.*, 43, 8-12.

meditation on Milo's part; that his slaves had killed Clodius without his knowledge or consent to avenge the supposed death of their master. He stated the law of self-defense, then passing on, he gave his version of the facts. 90

"But Milo, as he had been that day in the Senate till it was dismissed, came home, changed his shoes and his garments, waited a little as men do, while his wife was getting ready, and then started at the time when Clodius might have returned, if, indeed, he had been coming to Rome that day. Clodius meets him unencumbered on horseback, with no carriage, with no baggage, with no Greek companions, as he was used to, without his wife, which was scarcely ever the case; while this plotter who had taken, forsooth, that journey for the express purpose of murder, was driving with his wife in a carriage, in heavy traveling cloak, with abundant baggage, with a delicate company of women, and maid-servants, and boys.

He meets Clodius in front of his farm, about the eleventh hour, or not far from it. Immediately a number of men attack him from the higher ground with missile weapons. The men who are in front kill his driver, and he had jumped down from his chariot and flung aside his cloak, and while he was defending himself with vigorous courage, the men who were with Clodius drew their swords, and some of them ran back toward his chariot in order to attack Milo from behind, and some, because they thought that he was already slain, began to attack his servants who were behind them; And those of the servants who had presence of mind to defend themselves, and were faithful to their master, were some of them slain, and the others, when they saw a fierce battle taking place around the chariot, and as they were prevented from getting near their master so as to succour him, when they heard Clodius himself proclaim that Milo was slain, and they thought that it was really true, they, the servants of Milo-----did, without their master either commanding it, or knowing it, or even being present to see it, what everyone would have wished his servants to do in a similar case." 91

90 Taylor, op. cit., p. 151.

91 Yonge, C. D., Pro Milone, pp. 165-166.

He tried to place the blame on Clodius' shoulders by proving that he had hoped to profit by Milo's death, and that bad men are tempted by a trifling gain, and that if Milo were killed, Clodius would control the consuls.

"An consules in praetore coercendo fortes fuissent? Primum Milone occiso habuisset suos consules; deinde quid in eo praetore consul fortis esset, per quem tribunum virtutem consularem crudelissime vexatam esse meminisset? Oppressisset omnia, possideret, teneret; lege nova servos nostros libertos suos effecisset; postremo, nisi cum di immortales in eam mentem impulissent, ut homo effeminatus fortissimum virum conaretur occidere, hodie rem publicam nullam haberetis." 92

He then compared the lives of the two men. Clodius had used violence against Cicero, Pompey, and others. The dagger he inherited from Catiline had never rested; Milo only used violence after he could not get a legal remedy, and then only in the causes of order.

"Quid simile Milonis? Cuius vis omnis haec semper fuit, ne P. Clodius, cum in iudicium detrahi non posset, vi oppressam civitatem teneret. Quem si interficere voluisset, quantae quotiens occasiones, quam praeclarae fuerunt! Potuistine, cum domum ac deos penates suos illo oppugnante defenderet, iure se ulcisci?" 93

An argument he used against Clodius was that three days before his death he had told Favonius that Milo had only three days to live. The day, the hour, the place, and the means at the disposal of the two all pointed to the guilt of Clodius. Milo was forced to leave Rome on the 18th., Clodius was required at Rome on that day for a meeting. Clodius could easily know that Milo would be travelling on the 18th. Milo could not know

92 Cicero, Pro Milone, 33, 89.

93 Ibid., 14, 38.

this of Clodius, since, according to the evidence of the latter's friends, he had not intended to travel at all, but to spend the night of the 18th. in his villa. This evidence clears Milo, since he could have had no knowledge of it. It does not, however, clear Clodius, since the statement was merely a blind. He was waiting for Milo, and came out to attack him.

"Interim cum sciret Clodius (neque enim erat difficile scire), iter sollemne, legitimum, necessarium ante diem XIII. Kal. Februarias Miloni esse Lanuvium ad flaminem prodendum, Roma subito ipse profectus pridie est, ut ante suam fundum, quod re intellectum est, Miloni insidias collocaret; atque ita profectus est, ut contionem turbulentam, in qua eius furor desideratus est, relinqueret, quam, nisi obire facinoris locum tempusque voluisset, numquam reliquisset." 94

According to Cicero no explanation can be given to the reason for Clodius' start on a journey just before night fall unless it was that he wished to waylay Milo. If Milo, however, had intended to waylay Clodius, his obvious course was to wait till the latter was near Rome, and to slay him under the cover of night. The only other alternative was to kill him before he reached his villa at all, when on his way from Aricia.

"Ubi vidit homo ad omne facinus paratissimus fortissimum virum, inimicissimum suum, certissimum consulem, idque intellexit non solum sermonibus, sed etiam suffragiis populi Romani saepe esse declaratum, palam agere coepit et aperte dicere occidendum Milonem." 95

"Quem igitur cum omnium gratia noluit, hunc voluit cum aliquorum querella, quem iure, quem loco, quem tempore, quem impune non est ausus, hunc iniuria, iniquo loco, alieno tempore, periculo capitis non dubitavit occidere?" 96

94 Ibid., 10, 27.

95 Ibid., 9, 25.

96 Ibid., 16, 41.

The fight took place near the estate of Clodius, where he had a thousand men employed.

"Videamus nunc id, quod caput est, locus ad insidias ille ipse, ubi congressi sunt, utri tandem fuerit aptior. Id vero, iudices, etiam dubitandum et diutius cogitandum est? Ante fundum Clodi, quo in fundo propter insanas illas substructiones facile hominum mille versabatur valentium, edito adversarii atque excelso loco, superiorem se fore putabat Milo et ob eam rem eum locum ad pugnam potissimum elegerat?" 97

Milo was handicapped by the size and character of his followers, and by the presence of Fausta, his wife. Clodius was prepared for fighting. He owed his death to the courage of his intended victim, and the loyalty of Milo's slaves.

"Age nunc iter expediti latronis cum Milonis impedimentis comparate. Semper ille antea cum uxore, tum sine ea; numquam nisi in raeda, tum in equo; comites Graeculi, quocumque ibat, etiam cum in castra Etrusca properabat; tum nugaram in comitatu nihil. Milo, qui numquam, tum casu pueros symphonicos uxoris ducebat et ancillarum greges; ille, qui semper secum scorta, semper exoletos, semper lupas duceret, tum neminem, nisi ut virum a viro lectum esse diceres." 98

The behavior of Milo since the event shows his consciousness of innocence, his trust in the people, in the senate, and in Pompey.

"Neque vero se populo solum, sed etiam senatui commisit, necue senatui modo, sed etiam publicis praesidiis et armis, neque his tantum, verum etiam eius potestati, cui senatus totam rem publicam, omnem Italiae pubem, cuncta populi Romani arma commiserat; cui numquam se hic profecto tradidisset, nisi causae suae confideret, praesertim omnia audienti, magna metuenti, multa suspicanti, non nulla credenti." 99

97 Ibid., 20, 53.

98 Ibid., 21, 55.

99 Ibid., 23, 61.

Cicero then disproves the rumors that have been spread against Milo. The rumors were that Milo was storing arms, and preparing for an overthrow of the city; also, that drunken slaves of his made confidences to a butcher about an attack on Pompey, and then wounded their confidant. Milo was charged with wearing a weapon in the senate, and promptly cleared himself. The other charges were equally groundless. This part of the oration was directed to Pompey, who had listened to the rumors. 100

"Quin etiam audiendus popa Licinius nescio qui de circo maximo, servos Milonis apud se ebrios factos sibi confessos se de interficiendo Cn. Pompeio coniurasse; dein postea se gladio percussum esse ab uno de illis, ne indicaret. Pompeio nuntiatur in hortos; arcessor in primus, de amicorum sententia rem defert ad senatum." 101

"Oppugnata domus C. Caesaris, clarissimi ac fortissimi viri, multas noctis horas nuntiabatur; nemo audierat tam celebri loco, nemo senserat, tamen audiebatur." 102

The argument is ended by an appeal to Pompey, to save an old friend, whom he may some day need.

"Quod si locus Miloni datus esset, probasset profecto tibi ipsi, neminem unquam hominem homini cariorem fuisse quam te sibi, nullum se unquam periculum pro tua dignitate fugisse; cum illa ipsa taeterrima peste se saepissime pro tua gloria contendisse; tribunatum suum ad salutem meam, quae tibi carissima fuisset, consiliis tuis gubernatum; se a te postea defensum in periculo capitis, adiutum in petitione praeturae; duos se habere semper amicissimos sperasse, te tuo beneficio, me suo." 103

100 Clark, Pro Milone, p. xxviii.

101 Cicero, Pro Milone, 24, 65.

102 Ibid., 24, 66.

103 Ibid., 25, 68.

Cicero acknowledged the crime but argues that the benefit to the state outweighs the offense. He declared that it was Providence at work, which caused the death of Clodius.

"Hic di immortales, ut supra dixi, mentem illi perdito ac furioso dederunt, ut huic faceret insidias. Aliter perire pestis illa non potuit; numquam illum res publica suo iure esset ulta." 104

If it were possible for Clodius to rise from the dead, everyone would shrink with horror from the prospect, and Pompey would himself refuse to call him forth.

"Quid? si ipse Cn. Pompeius, qui ea virtute ac fortuna est, ut ea potuerit semper, quae nemo praeter illum, si is, inquam, potuisset aut quaestionem de morte P. Clodi ferre aut ipsum ab inferis excitare, utrum putatis potius facturum fuisse?" 105

Milo, however, does not claim the glory. It was Heaven that tempted Clodius to his fall, and it was before the shrine of the Goddess whom he had outraged that he received the fatal blow. But for the interposition of Providence, ruin final and complete must have ensued.

"Non queo vetera illa populi Romani gaudia quanta fuerint iudicare; multas tamen iam summorum imperatorum clarissimas victorias aetas nostra vidit, quarum nulla neque tam diuturnam laetitiam attulit nec tantam." 106

"The killing was unintentional and we can only thank the Providence which made Clodius lay an ambush to attack so brave a man as Milo; but everyone of you must breathe more freely now that this ruffian is removed from your path; will you then bless the deed and yet punish the doer?" 107

104 Ibid., 33, 88.

105 Ibid., 29, 79.

106 Ibid., 28, 77.

107 Yonge, op. cit., p. 170.

The jurors appear to have argued differently. The two, Milo and Clodius, had held each other in check, but the survivor would be intolerable; Milo's occupation was gone, and they judged that he had better go too. Milo was speedily arraigned. 108

"Clodius vulneratus in tabernam proximam in Bovillano delatus est. Milo ut cognovit vulneratum Clodium, cum sibi periculosius illud etiam vivo eo futurum intellegeret, occiso autem magnum solacium esset habiturus, etiamsi subeunda esset poena, exturbari taberna iussit." 109

"-----; ibi P. Clodium tribus vulneribus acceptis Bovillas perlatum; tabernam in quam perfugerat expugnatam a Milone; seminainmem Clodium extractum---in via Appia occisum esse anulumque eius ei morienti extractum; -----ex servis Clodi qui dominum defenderant undecim esse interfectos, Milonis duos solos saucios factos esse; ob quae Milonem postero die XII servos, qui maxime operam navassent, manu misisse populoque tributim singula milia aeris ad defendendos de se rumores dedisse." 110

It was shown that Milo had evidently left Rome and the conflict had happened much earlier than was said, because the body of the murdered man had reached the capital not later than five o'clock in the afternoon. This disproved the assertion that Clodius had loitered on his way back to Rome till the growing darkness gave him an opportunity of attacking his adversaries. Then it came out that Milo had had in his retinue, besides the women and boys, a number of fighting men. Finally there was the damning fact, established, it would seem by competent witnesses, that Clodius had been dragged from his hiding-

108 Strachan-Davidson, op. cit., 287.

109 Asconius, In Milonianam, 33, 12.

110 Ibid., 37, 5.

place and put to death. 111

Furthermore it was shown that after the slaughter Milo searched the villa of Clodius in order to find and murder his infant son, and failing to discover him, killed the bailiff and two other slaves, while one faithful servant was tortured to death, Milo's men cutting him 'limb from limb'. 112

"Interrogaverunt eos M. Cicero et M. Marcellus et Milo ipse. Multi ex iis, qui Bovillis habitabant, testimonium dixerunt de eis quae ibi facta erant; coponem occisum tabernam expugnatam, corpus Clodi in publicum extractum esse. Virgines quoque Albanae dixerunt mulierem ignotam venisse ad se, quae Milonis mandato votum solveret, quod Clodius occisus esset. Ultima testimonium dixerunt Sempronia, Tuditani filia, socrus P. Clodi, et uxor Fulvia, et fletu suo magnopere eos qui assistebant commoverunt. Dimisso circa horam decimam iudicio T. Munatius pro contione populum adhortatus est, ut postero die frequens adesset et elabi Milonem non pateretur iudicium quae et dolorem suum ostenderet euntibus ad tabellam ferendam. Postera die, qui fuit iudici summus a. d. VII Idus Aprilis, clausae fuerunt tota urbe tabernae; praesidia in foro et circa omnis fori aditus Pompeius disposuit; ipse pro aenario ut pridie consedit saeptus delecta manu militum. Sortitio deinde iudicium a primo die facta est; post tantum silentium toto foro fuit, quantum esse in aliquo foro posset. 113

"Marcus Cato publicly gave his opinion in favor of his acquittal. Had he given it sooner, several would, doubtless, have followed his example and have approved of the sacrifice of such a member of the community, than whom there never lived one more pernicious to the state, or a greater enemy to all good men." 114

"Senatores condemnaverunt XII, absolverunt VI; equites condemnaverunt XIII, absolverunt III. Videbantur not ignorasse iudices inscio Milone initio vulneratum esse Clodium, sed post quam vulneratus esset iussu Milonis occisum." 115

111 Clark, op. cit., xxviii.

112 Ibid., xxii.

113 Asconius, op. cit., 42, 1-18.

114 Lee, op. cit., ii, 47.

115 Asconius, op. cit., 54, 15-20

Milo, convicted of the murder was allowed to go into banishment, and chose Massilia for his retreat.

"Milo in exilium Massiliam intra paucissimos dies profectus est. Bona eius propter aeris alieni magnitudinem semuncia venierunt." 116

On returning home Cicero composed for publication the speech he should have delivered in his defence. His vanity prompted him to send to his convicted client the splendid declamation he had executed. The exile sarcastically replied that he deemed himself fortunate that so convincing a speech had never been actually spoken;

"Else, I should not be now enjoying the delicious mullets of this place." 117

Milo's property was put up to auction after his departure, and purchased by a syndicate of friends, who wished to save as much of it as possible. 118

His debts amounted to the enormous sum of 70,000,000 sesterces; a record figure in the annals of Roman bankruptcy, upon which the syndicate undertook to pay a small fraction. Among those who took part in this transaction was Cicero himself.

Cicero could not save Milo, but when he brought Munatius Bursa to trial, who had taken a leading part in the rioting after the death of Clodius, the jury convicted Bursa against all efforts of Pompey on his behalf.

116 Ibid., 54, 9-11.

117 Dio Cassius, xi, 54 quoted in Strachan-Davidson, op. cit., p. 288.

118 Cicero, op. cit., v, 8, 2, 10.

"They were brave citizens who dared convict him against all the influence of the man who had selected them as jurors. They would not have done it, if they had not made my indignation their own." 119

With the death of Clodius, the disappearance of Milo, and the dispersion of the armed bands which had kept the city in an uproar, comparative peace and tranquillity once again returned to Rome.

119 Cicero, Ad Familiares, vii, 2, 3.

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