



Further Commentary Notes: Sections 24-52

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ita tracta esse comitia: the elections to the offices of state in the Roman Republic (*consuls* [of which there were 2], *praetors* [there were at this time 8], *tribunes* [10], *quaestors* [20], and *aediles* [4]) were in normal times held in the summer of the previous year. It was necessary under a long-standing law (the *lex Villia Annalis* of 180 BC) to have reached a stated minimum age in the year when the elections were held; for the praetorships, candidates had to be 39 (and for a consulship, 42).

However, in 54 BC the elections had been continually delayed, as the result of a combination of constitutional manipulation (declaring them technically invalid because of unfavourable omens, for instance) and, increasingly frequently, violent demonstrations by the rival gangs organised by Clodius and Milo. It was not until the summer of 53 that the office-holders for that same year could be elected (the absence of consuls and praetors at the start of 53 will have made it even more difficult to hold proper, technically valid elections). Not surprisingly, it had proved impossible to hold the elections for 52 in 53, so that 52 had opened (like 53) without any magistrates in office, other than tribunes, who had been elected and had taken office, as normal, on December 10th of the preceding year.

The situation was eventually resolved when later in the year the Senate appointed Pompey ‘sole consul’ and he proceeded to hold elections for the other offices – and to arrange for the trial of Milo.

anno superiore: commentators are not agreed about whether this means the delays occurred in (i) 54, the ‘previous year’ to 53 (the year in which Clodius took his decision to switch his candidature for a praetorship in 53 to one in the following year instead) or (ii) 53, the previous year to that when Cicero is addressing his audience. The second possibility is attractive, because on the issue of ‘delay’ over the elections and Clodius wanting a complete year in office, the year 54 seems irrelevant; if



elections had been held right at the end of 54, he would still have had a whole year as praetor, and it is the further delay in 53 that had started to worry Clodius. But Cicero may be using *anno superiore* vaguely, meaning that as Clodius assessed his position in 53, he saw (*videret*) delays that had started in 54 (*anno superiore*), and resulted eventually in less of 53 being available to him.

honoris gradum: one of the major benefits to anyone who gained office as praetor was that, regardless of for how long (a year, or less in troubled times) he held it, he would then be qualified to stand for a consulship two years later, for which holding the earlier offices was a legal prerequisite (the other benefit was the opportunity to go out and govern a province, perhaps for three years). But Cicero says that Clodius was not interested in this, and speaks elsewhere of a programme of legislation Clodius had intended to bring forward (here he states his intention **ad dilacerandam/evertendam rem publicam**), including the liberation of slaves on a large scale so as to destabilise the Republic still further (§87). (Cicero does discuss the possibility of Clodius' becoming consul towards the end of the speech, §§90-91.)

Lucium Paulum: this man (Lucius Aemilius Lepidus Paulus), whom it suits Cicero to describe as *singulari virtute civis*, was soon to accept an enormous sum from Caesar as a bribe not to fight against him when the civil war began in 49. He was indeed elected praetor for 53 (as Clodius apparently foresaw) and duly became consul in 50. When the 'Second Triumvirate' carried out proscriptions (purges) in 43, he risked being killed on the proposal of his own brother M. Lepidus, but apparently escaped from Italy.

conlegam (or *coll-*): those who held a particular magistracy formed a *collegium*, 'college', even if, as with the consuls, there were only two of them, and in theory any member of a *collegium* could overrule a *conlega*. There were eight praetors each year at this time.

dilacerandam: while *lacero*, 'I tear' (English 'lacerate' is derived from it), is a common word, this compound of it is not, this being its only occurrence in Cicero; it is meant as a deliberately striking and graphic word.



annum suum: the expression is a semi-technical one, and means usually (i) the first year in which a man was old enough to stand for a magistracy under the law (so Cicero himself, born in 106, was elected consul for 63 *suo anno*, having stood (in 64) at the earliest possible age, 42), but also (ii) merely the year two years after holding the previous office - there had to be a two-year gap at least between offices, so this was the first point when a man could seek election to the next office. In the case of Clodius, it is not quite clear which is meant. (ii) is certainly true, as Clodius had been *aedile* in 56 and in this sense the campaigning year 54 was ‘his year’. But that does not exclude (i), and Cicero might mean this.

non, ut fit, religione aliqua: *ut fit* is sarcastic; Clodius was not the man to let technical legal objections stand in his way, ever. It was entirely his own choice, says Cicero, that he postponed the year of his campaign for the praetorship.

plenum annum atque integrum: the synonyms give a firm ending to the sentence but reinforce this with a typical closing rhythm or ‘clausula’. The last five syllables give the pattern $\bar{\sim} \bar{\sim} | \bar{\sim} \bar{\sim}$, a ‘cretic’ + ‘trochee’ (which can instead be a ‘spondee’, $\bar{\sim} \bar{\sim}$), one of Cicero’s preferred rhythms for the end of a sentence. He has used *atque* before *integrum* rather than *ac*, despite the gap or ‘hiatus’ between vowels this creates, to produce this emphatic rhythm.

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mancam ac debilem: these words also have an identical meaning (‘synonyms’), and the reinforcement of an idea in this way is very common in any kind of oratory. Cicero has here put the more unusual of the two words (**mancam**) first to make the idea even more striking.

competitores: candidates needed to have announced that they intended to stand and to have had their candidature accepted by the consuls who would conduct the election. This would have happened in the previous summer (53 BC). For the two consulships, three candidates had emerged, P. Plautius Hypsaeus (who had the support of Pompey), Q. Metellus Scipio (whose daughter Pompey eventually married later in the year, whereupon he made Metellus Scipio his colleague in the ‘sole’ consulship he had held until then), and Milo himself. It seems that Milo, despite all he had been



doing for nearly six years to represent the interests of the Senate against the threat posed by Clodius, no longer enjoyed Pompey's favour (as had in fact been evident at least since 54). It is interesting that even so – with little to distinguish between the three candidates in terms of their politics – many people still considered Milo to have a reasonable chance of being one of the two elected.

totam is separated from **petitionem** by **ut**, and **tota** is similarly separated by **ut** from **comitia**; this slight dislocation of the word-order as well as the repetition **totam ut .../tota ut ...** ('anaphora') produces a firm emphasis on the idea behind the use of *totus*, that Clodius intended to take over complete control of these men's campaigns. **etiam invitis illis** further underlines Clodius' ruthlessness. These pro-Senatorial candidates would be unlikely to welcome Clodius' support. He was indeed not a man who could easily be opposed when his mind was set on some goal; in §74 and §75 Cicero gives a whole string of instances where Clodius simply occupied and even began building on desirable properties which their owners would not let him have on his own terms.

... sustineret: another firm *clausula* (see above), this time with the rhythm $\sim \bar{\sim}$, a 'double-trochee'.

tribus: the elections were decided by the voting of thirty-five 'tribes', voting units which each had a single block vote, which went to the candidate who had most support in that tribe. Membership of these tribes may originally have been determined by area of residence, but by this time had simply been passed down in families.

convocabat ... interponebat ... conscribebat: the imperfects suggest 'he started to ...' ('inceptive' imperfect), indicating a calculated plan of action. Clark notes that **conscribebat** has military overtones, of 'recruiting' an armed force.

Collinam novam: elsewhere (§87) Cicero talks mysteriously about Clodius' projected legislation (for which there is no evidence apart from Cicero's own remarks) to remove control over freedmen (ex-slaves) from their former owners and give them greater independence and a stronger political identity. This passage may



therefore mean that he planned to form a new tribe from freedmen, which would be a powerful electoral weapon for himself.

The *Collina* was an existing tribe, so this is unlikely to be Clodius' name for his new tribe. Editors once regarded it as synonymous with 'disreputable', the *Collina* being presumed to be the most lawless and violent tribe, but Clark points to the lack of any evidence that the *Collina* did have such a reputation, and suggests that as it was the largest of the four 'urban' tribes, it could have been split into two tribes once even more members were added by Clodius. This certainly fits Cicero's language very well (*Collinam novam*); but unfortunately there is no evidence either for any marked overcrowding in this particular tribe. As Clark mentions, the *Collina* was the fourth of the urban tribes and voted last, so it may be that Cicero simply means that Clodius was trying to create another urban tribe that would vote after the *Collina*.

ubi vidit homo ad omne facinus paratissimus fortissimum virum, inimicissimum suum, certissimum consulem: the first two superlatives form a pair of opposites; **inimicissimum**, a further superlative, is a logical result of that contrast; the climax – this most unwelcome realisation for Clodius – comes with **certissimum consulem**, which is reinforced by the alliteration.

occidendum Milonem: the verb coming, vividly, before the subject and the omission of *esse* make this abrupt and brutal.

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servos ... silvas publicas ... Etruriamque: this is one of several references to a private army maintained by Clodius, consisting of slaves or ex-slaves and based in a camp to the north of Rome in Etruria and the foothills of the Apennines (*ex Appennino deduxerat*). Cicero says in the course of this speech that Clodius made frequent visits to his *castra Etrusca* (§55) and that his activities in Etruria itself had been such a menace to the inhabitants of the area (some details in §74-75) that in the period after his death celebratory games were introduced there (§98). As this last point is presented as a known fact, his general description of Clodius' reign of terror in Etruria may well be accurate.



He is apparently alleging that tree-felling work in the *silvae publicae* in Etruria (this had been the main source of timber for ships in the Second Punic War over 150 years earlier) had been impeded by Clodius' gangs, presumably so that he could have the wood for his own purposes (**depopulatus erat**). Commentators have been worried by the fact that Clodius is known to have had an estate fairly distant from here, along the Aurelian Way to the west of the Apennines (Cic. Phil. 12, 23), but there seems no reason to confine him to one particular location; the point seems to be exactly that he ranged far and wide without restraint. He was engaged in building operations on the Appian Way near where he was killed, and perhaps in several other places also of which we do not hear, and may have wanted timber for this.

consulatum Miloni eripi non posse, vitam posse: the repetition of **posse** assists the contrast between **consulatum** and **vitam**, giving a sinister emphasis to **vitam**.

in contione: a *contio* was an official meeting which could be called by any of the ten tribunes (though anyone was entitled to speak); the purpose was to address people on some urgent topic, to gauge opinion, or simply to make a demonstration of the strength of feeling on some issue. At this period, they appear to have been frequent (several were called specifically on the subject of the forthcoming trial of Milo) and feelings often ran high.

quin etiam ...: Clodius did not care who heard his threats; he had made no secret of his wish to eliminate Milo either when speaking in the Senate, or at the public meeting (*contio*) which he evidently addressed, and he 'actually', **quin etiam** (with overtones of incredulity), uttered a very precisely worded threat against Milo's life to this man Favonius. Cicero has created here a structure with three elements, a 'tricolon', so the incriminating remark made to Favonius is the climax.

esse perituum: a classic rhythm with which to give a firm end to a sentence, called a 'clausula'. Of the handful recognised in ancient oratory, this is the most common, having the basic pattern $\bar{\sim}\bar{\sim}\bar{\sim}\bar{\sim}$ which can be 'resolved' into $\bar{\sim}\bar{\sim}\bar{\sim}\bar{\sim}$. Cicero is fond of finishing clauses with *esse videatur*, the same pattern as here.

vocem: the meaning of 'remark', rather than 'voice', is quite common.



hunc Marcum Catonem: the implication of *hunc* is that Cato, a substantial political figure in his own right, was in court as a member of the 81-strong jury. Cicero makes this explicit when he returns to this remark of Clodius in §44. The commentator Asconius says of the jury selected by Pompey that it was accepted that *numquam ... clariores viros neque sanctiores propositos esse* (Asc 38).

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Many manuscripts have **neque enim erat id difficile scire a Lanuvinis**: what the text should be is uncertain here, both **id** and **a Lanuvinis**, as well as the word-order, being suspect. The great Ciceronian editor A C Clark removed **a Lanuvinis** in his edition (of 1895), but reinstated it in his later Oxford Classical Text. Clark's view had been that it was simply an explanatory note that had found its way by accident into the text (a 'gloss' or '*scholium*'; there are hundreds of these in the manuscripts of Classical texts). It has been suggested that the words **a Lanuvinis** were intended to be humorous, heavily rubbing in how easy it was to find out about Milo's trip; but this does not work easily when the place-name Lanuvium has not yet occurred.

The three adjectives **sollemne, legitimum, necessarium** create a pleasing tricolon, though **legitimum** is perhaps difficult to justify – hardly 'allowed by law' (our 'legitimate'), but rather 'required by law', in which case it is not really different from **necessarium**; however, tricola are an entrenched feature of oratory.

ante diem tertiam et decimam: January and several other months had at this period (before the 'Julian' Calendar of 46 BC) only 29 days, so counting backwards 13 days from Feb 1 and including Feb 1 as one of the 13 days (this is what the Romans always did when calculating intervals of time), we arrive at 18 January for the fateful day when Clodius and Milo met on the Appian Way. Despite *dies* normally being masculine, it is occasionally feminine, for instance, as here, for an actual date. The use of the accusative **diem tertiam et decimam** looks strange ('thirteen days before the Kalends of February' would seem to need an ablative, like *haud multo post*, not an accusative), but these *ante diem* expressions are just formulae in which the number has been 'attracted' into the case that *ante* takes.



iter ... Miloni esse: the dative **Miloni** seems awkward ('there was a journey for Milo' = 'Milo had a journey <to make>'), but the use of the dative is helped by its regular use with a gerund or gerundive; Cicero is almost writing *iter Miloni faciendum esse*.

flaminem: this was a priest of *Juno Sospita*, 'Juno the Saviour', the patron goddess of Lanuvium, who was represented 'in goatskin and turned-up shoes, together with a spear and small shield' (Clark, following Cic. ND 1. 82), which is indeed, as Clark remarks, 'somewhat quaint attire'. The priest would be nominated by a committee of prominent citizens of Lanuvium; presumably Milo would be the chairman of the meeting.

quod erat dictator Lanuvi Milo: this also has all the appearance of a 'gloss' (see above) and perhaps ought not to be in the text. But dull footnote though it is, it does not follow that Cicero did not write it or at any rate add it in the published version of the speech; there are occasional instances in his speeches where a pedestrian note like this seems to have been added for a published version of a speech like a footnote, though it would have detracted from the effect of the live delivery in the trial itself.

Roma subito ipse profectus ...: **subito** injects haste into what has been a slow-moving narrative so far.

ante suum fundum: possessive pronouns (*suus, meus, noster* and so on) normally follow their noun, so that when they precede the noun there is always emphasis. Clodius, says Cicero, wanted to attack Milo in front of *his own* estate, which would give him an advantage (later Cicero refers to the large number of workmen Clodius had there).

fundum: it was not unusual for wealthy Romans to own a number of different estates in places convenient to themselves; Pompey the Great did (two of his residences are referred to in §54), and so did Cicero himself.

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venit ... mutavit ... commoratus est give the sense of a distinct lack of urgency; the contrast with Clodius' suspiciously leaving the city in haste supports the argument that Clodius had an ulterior motive but that Milo had none; the compound



commoratus est also contributes to the feeling that he was in no hurry at all. It is important for Cicero to lay stress on how late Milo set off.

venturus erat: ‘was going to come’ – it would be reasonable for Milo to assume, had he thought about it at all, that Clodius would be returning that afternoon, so if he had been intending to kill him on the road, he would have been setting off far too late; another indication of Milo’s innocence of any such plan.

The slight mismatch in this ‘if ...’ clause between the indicative of **venturus erat** and the subjunctive **potuisset** is not a difficulty. The **si quidem ...** clause is not really the ‘if-clause’ (‘protasis’) leading to ‘he could have returned’. Cicero is saying that by the time Milo was ready to start his journey, Clodius could already have returned to Rome, <if he had wanted to>; it would mean this even without the **si quidem ...** clause.

potuisset: textbooks on Latin prose composition sometimes state that when the verb in the main clause of a ‘would/should’ (‘hypothetical’) conditional is one of possibility (*possum* etc.), this verb should remain an indicative; but this is not an absolute rule, as this and many other examples make clear.

obviam fit: a dramatic opening to this account of an unexpected and unprovoked attack.

... **cum uxore veheretur:** Cicero makes a contrast with every detail of Clodius’ style of travelling in what he says about Milo’s; his first detail about Milo (**cum uxore**) answers his last point about Clodius (‘no wife’/‘wife’) and then he returns to the first statement he made about Clodius and neatly proceeds in the same sequence (**expeditus/paenulatus – in equo, nulla raeda/in raeda – nullis impedimentis, nullis Graecis comitibus/magno ... comitatu**).

magno et impedito ... comitatu: an elusive phrase to translate, but this extended description, turning on an abstract noun **comitatu**, draws attention to the unwieldy and predominantly feminine character of Milo’s entirely non-combatant entourage. Cicero conveniently omits to mention the bodyguard of ex-gladiators who also accompanied Milo, described in Asconius (33) as *magnum servorum agmen*.



Having given an almost static picture of the scene, with the two men's groups in complete contrast in respect of their appearance and intentions, Cicero brings it to life. 'Vivid' present tenses (**fit, faciunt, occidunt**) in short clauses are followed by more involved structures. The effect is to give an apparently logical analysis of how the situation unfolded, portraying the organised ruthlessness of Clodius' slaves (operating in two groups) and the heroism of Milo's slaves (also divided into two categories, this time inviting pity for those who **partim occisi sunt**). Milo's own innocence of any responsibility for what happened is stated in a brisk *tricolon* (**nec imperante nec sciente nec praesente domino**). However, a certain amount of disorder is also suggested – with different groups in different places and an inaccurate report (of Milo's death) being passed along the line – and this is very much part of Cicero's intention at this crucial point in the speech; clarity and precision are deliberately absent and most tellingly he does not say specifically that the slaves killed Clodius.

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This is a good point to consider *Cicero's presentation of the incident*.

Cicero describes this crucial episode in a lively pseudo-military style which is actually disturbingly unclear. A C Clark makes a comment about one of his statements that could well apply to the whole account: 'that it is meant to deceive is obvious from the vagueness of the details.'

Firstly, his setting the time of it at **hora fere undecima, aut non multo secus** is virtually impossible to accept. The jury will already have heard evidence that Clodius' dead body was left by the roadside and identified by a passing senator (Sextus Tedijs), who was being conveyed in a carriage by a team of slaves; he had the slaves place the body on the carriage and take it on to Rome. Even if Tedijs appeared on the spot almost immediately, on Cicero's timing most of that journey would have to have been in the dark, which is almost inconceivable granted the reputation of the Appian Way as notorious for muggings and murders after nightfall (which Cicero himself details later in the speech, e.g. §50). The senator was surely planning to arrive in Rome before nightfall, so for Clodius to have been killed, found, and carried by eight slaves on foot the 12 miles to Rome must have taken between



two and three hours – whereas that last eleventh ‘hour’ on a January afternoon would have allowed only around 40 minutes for all this to happen.

In any case, as we try to understand what movements Clodius and his men, up on some hillside, are supposed to have made when they saw Milo’s procession pass beneath them, the conclusion must be that if this really was his battle-plan – for this relatively small number of men to swoop down on Milo’s large entourage, dividing themselves as they did so, quite unnecessarily, into two groups (or even three) – it was suicidal lunacy. Whatever Cicero has said about how vulnerable Milo’s group were (all those boys and girls), it is evident from what he now says that his following contained armed slaves too (as of course it had to, for Milo’s protection).

We have an account of Milo’s trial and what had led up to it from a commentator on the speech, Q. Asconius, whose basic reliability there are no good grounds to distrust; indeed, he had access to official records which give a welcome authority to his statements. (It would be well worth reading at this point the [summary of Asconius’ account](#), which is included in these online resources.) He conflicts with Cicero in many details, but in three important respects particularly:

- (i) the timing – more credibly, at the *ninth* hour, not the eleventh;
- (ii) the concentration of the violence at one point only in Milo’s entourage, and the rear of it at that – not the complicated two- or three-pronged attack described by Cicero;
- (iii) the outcome of the scuffling – Clodius was only wounded, not killed; he met his death some time later in a different place.

Skilfully, however, Cicero retains some of the correct detail, if we follow Asconius; the encounter did involve *slaves*, and there was fighting *at the rear* of the line. And he carefully avoids stating that Clodius was actually killed and says just that the slaves ‘did what any man would expect his slaves to do in such a situation’. So the discrepancies with Asconius’ more lucid account are very glaring; but to someone in the court, who had heard hours of evidence-giving, some of it contradictory, and some just confusing, what Cicero says would not necessarily have come across as the distortion it is.



Cicero subtly introduces the idea of the later (and actually impossible) time because he will soon make it part of his case that Clodius could easily have got back to Rome himself much sooner and that therefore his delaying rather than doing this was highly suspicious. Notice how casually he presents it (**hora fere undecima, aut non multo secus**), the throwaway phrase actually drawing attention to the figure he wants to be remembered.

He dwells also on the contribution of Milo's slaves because in the aftermath of the incident, the issue of the behaviour of these slaves had become a matter of great controversy. Milo had freed a number of them to prevent them having to submit to interrogation under torture, an action that was interpreted as an admission of his guilt; here, Cicero creates a sense of admiration for their loyalty and heroism.

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vel potius: he corrects himself because the charge against Milo actually is one of *vis*, 'illegal violence' (rather like 'Grievous Bodily Harm'), so Cicero must not appear to admit the charge in the words he has just used.

nihil dico quid res publica consecuta sit ...: it would have been easy for him to have based the case on the advantages of being rid of Clodius, and friends had advised him to do this (Asconius 42), but he was unwilling to take this course, feeling that for individuals to by-pass the laws (even Milo in the case of Clodius) would ultimately weaken the rule of law itself.

nihil dico ... a favourite trick of an orator, to claim that he has nothing to say on the subject of X, but presenting X as such a strong point in its own right that it cannot be ignored (this technique can be called *praetermissio* ('passing by') or by either of two Greek words, *siopesis* ('being silent') or *paraleipsis* ('passing by')).

nihil sane id prosit Miloni ... servaret: an exaggerated, almost bombastic claim; Cicero means that there would be no point in arguing how much good Milo had done for Rome by getting rid of Clodius, because of course Milo was doing good to the Republic – he *always* did, he just couldn't help it. This is not altogether logical; but



what the weight of words allows Cicero to do is to dwell on the idea of ‘saving’ (*servo* is used twice), which leads him into the fundamental argument that self-defence (**se ... servare**) is always justified.

nihil habeo quod defendam: ‘I have no defence to offer’; the simplicity of his statement here contrasts with the elaborately worded justification of self-defence that follows.

Notice how in **sin hoc et ratio doctis ...** not only the list of four elements but the lengthening of the second clause in each pair help to reinforce this basic belief that self-defence is always justifiable.

At the climax of his list he also reverses the nom. + dat. order (**ratio doctis** etc.) he seemed to have established, as well as using the extra word **ipsa**; this adds further force to what he claims to believe does not need arguing anyway, and although there are four elements here rather than three (a ‘tetracolon’), the crescendo effect is similar to that in a tricolon.

a corpore, a capite, a vita sua ...: this is a rather contrived tricolon, as *caput* and *vita* have identical meanings, but it is nonetheless effective for that (the very unemphatic **sua** actually helps to create a climax by adding stress to the climactic word **vita**).

aut illorum telis aut vestris sententiis esse pereundum: a most unwelcome and almost ludicrous conclusion (notice the emphasis on **sententiis** produced by the parallel arrangement **illorum/vestris** and **telis/sententiis**); **aut ... aut ...** seems equivalent to ‘if not ... , then certainly ...’. The ‘rhythm’ at the end, $\sim \sim \sim \sim$, is one of Cicero's most frequently used *clausulae* (sentence endings with a particular rhythm), and gives great weight and finality to the statement.

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optabilius fuit for *fuisset*; there is some logic in this rule. To take this sentence as an example, notice the **dare iugulum** after **optabilius fuit**, and imagine the rather clumsy re-wording ‘it *was* the better choice, if Milo had thought ..., for him to offer his throat ...’ – looking at this hypothetical condition (Milo believing you would be so



cruel), the imagined consequence (that he would have asked Clodius to kill him) was in fact the better choice, once the situation had unfolded in that way.

This construction, indicative for subjunctive, is normal with impersonal subjects (e.g. *turpe fuit hoc facere*, ‘it would have been disgraceful to do this’), and therefore occurs regularly with the gerund + *esse* construction (*abeundum ei erat*, ‘he would have had to leave’), and with impersonal verbs like *licet*, *oportet*, etc. By an extension of the rule, it is quite common (though not, as some textbooks imply, obligatory) with *possum* and *debeo*; ‘we could have ...’ can be imagined as ‘it was possible for us ...’ – *si statim advenissemus, hoc miraculum videre potuimus* (or *potuissemus*).

quod si ita putasset: this idea that perhaps Milo should have let himself be killed by Clodius is deliberately fantastic; the technique of portraying the unwelcome consequences of some weakness in your opponent's argument is (still) called *reductio ad absurdum*. Here it is made even more grotesque by the way Cicero's language (**iugulari a vobis**) implies that the jurors would also, in a sense, be assassins; he uses the verb, in different forms, three times to underline how ghastly this completely unacceptable alternative would have been. **neque tum primum petitum** is not only repetitious but contains biting alliteration of *t* and perhaps urgency in the alliteration of *p*.

sin means ‘but if’, but it is usually used to give the second (and probably preferred) of two alternative possibilities, the first having already been stated (as here, and also earlier, in §30).

contra rem publicam: according to Asconius, Pompey had proposed a law under which, because the killing of Clodius, the burning of the Senate-House, and the siege, sustained for five days, on the house of the *interrex* Marcus Lepidus, were all *contra rem publicam*, the case should be tried by a court which would use a simpler procedure but could impose a harsher punishment. Clodius' supporters, principally the notorious tribune Bursa, opposed this, believing that a biased jury would be chosen and Milo would escape conviction. It is Cicero who tells us (*Pro Milone* §14) that Bursa ingeniously had the motion split into two, with the result that the



arrangements for the trial were not accepted (though eventually they were, because Pompey simply decreed it) but the statement that these events were *contra rem publicam* remained and was an embarrassment to Milo's case, because it appeared to be a decision prior to the trial (a *praeiudicium*) that Milo was guilty. Clark points out that although the proposal had first been put forward on the day before 1 March (in the extra 'intercalary' month inserted that year between February and March), an interval of at least a fortnight was required before it could be voted on, which means that the *contra rem publicam* vote had been passed at most only three weeks before the trial.

uter utri insidias fecerit: Cicero could hardly have expressed more simply or starkly the central question in the case as he presents it. Notice how the colourful language at the opening of the section has given way to the balder legal argument, with this as its climax and distillation.

ut ne sit impune ... tum nos scelere solvamur: although several editors explain these as parallel result clauses, this is not completely satisfactory in view of the irregular use of *ne* for *non* and still more because the 'result' idea, while it makes some sense, does not feel entirely natural (least of all with the emphatic conclusion of one section before the start of another). It seems preferable, with other editors (including Purton), to take these as imperatives: 'if Milo attacked Clodius, then let him not go unpunished; if it was the other way round, then let us be acquitted of guilt.' Imagining the 'regular' expression of this, *si hic illi, ne sit impune; si ille huic, tum nos scelere solvamur*, the first outcome sounds pinched and not emphatic enough; the addition of a redundant *ut* fills the phrase out so that it reads more smoothly.

32

quonam igitur pacto probari potest ...: we may see Cicero ironically pretending that this is a difficult question (the repeated *p* suggests defiance, or perhaps exasperation). It is in fact obvious that Clodius would have had reasons for wanting to kill Milo, and Cicero reinforces the sarcasm by placing Clodius' name at the end of the question where it cannot fail to be emphasised in actual reading. He answers his own question by deflating it: **satis est ...**, 'all I have to do is ...'.



The reply then becomes more sinister. It must have been curious to an audience to hear the feminine pronoun **illa** when they have been so used to hearing Clodius referred to as *ille*; Cicero seems about to make (and therefore in effect does make) a crude sideways swipe at Clodius' dubious sexual orientation (see §29); but it turns out to be preparation for a metaphor, in which Clodius is called a **belua**, with two familiar adjectives encircled by **illa ... belua**; then the hints that he stood to gain in (as yet) unspecified ways, and gain considerably (the repetition of **magnam**, followed by **magnas**) create a mystery that cries out for explanation.

illud Cassianum: L. Cassius Longinus was a famous name from the previous century (the last reference to him as still alive seems to come in 113 BC, over sixty years before this trial); although he was not primarily a legal but a political figure, he was renowned for the severity with which he presided over a court or special commission of enquiry, and remembered in particular for the maxim 'who stood to gain?', **qui bono**? This very unoriginal approach acquired an undeserved reputation and became a lawyer's 'tag'; Cicero refers to it often.

eludere, not having an object, looks as though it ought to mean 'play to his heart's content' (*e-* implying fullness, completeness, as in *edisco*, to learn by heart), but the dictionary gives no instance of its meaning this, even though it is so exactly what we want here – it is just what Cicero is about to spend several lines on, the question of whether Clodius as praetor would be subject to any controls or not. Editors seem to want to play safe and imagine 'us' or 'the state' as the object of **eludere**, meaning 'to mock', which gives good enough sense but equally involves making an assumption. Clark quotes Tacitus *Annals* 16, 28, *in iisdem furoribus ... eludere impune sinerent*, which could mean 'the senators allowed them to do what they wanted with impunity'; but it could mean 'mock them', the usual meaning of *eludo*. I would add Livy 1, 48, 'Servius Tullius had had his own way for long enough, insulting those who were his betters', *per licentiam eludentem insultasse*, but again 'had been mocking them' is a perfectly possible meaning, although I then feel the repetition in *insultasse* is rather pointless.

The grammar of **cuperent** is slightly odd, though this is hardly detectable in reading or translation; after **speraret**, as this is a continuation of Clodius' 'hope', a future



infinitive would be expected. It may that the form *cupituros esse* is unusual and this was a way of avoiding it; Cicero falls back on what borders on being direct speech, the imagined thoughts of Clodius.

vix possent frangere hominis sceleratissimi conroboratam iam vetustate audaciam: a fine, sonorous ending to the sentence – notice the placing of the three important words (**vetustate** probably has more emphasis than **conroboratam**), the final condemnation in **audaciam** being saved up for the end.

34

The opening words of this section, **audistis, iudices, quantum Clodi interfuerit** are not in any manuscript and an early editor has had to supply them; the manuscripts start with **fuerit**, which makes no sense. It may therefore be that more than this is missing, and the diatribe against Sextus Cloelius in §33 may have been more extensive than the §33 we have. However, the conclusion to §33 does read satisfactorily, and the digression does not really want to be too long. Its value has been as a diversionary tactic, to save Cicero from being at all specific about what exactly Clodius' legislative programme is supposed to have been; he has provided no details at all and spoken as though it can be presumed to be common knowledge. In a modern court, Cloelius' *librarium* – his manifesto for radical legislation when Clodius was elected – might have been requested as an exhibit, but Cicero is not even required to prove its existence.

lacrimae nostrae: this may be meant quite literally; to shed (or pretend to shed) tears in court or at an election was a technique of persuasion and not a matter for embarrassment. Exciting the emotions of an audience was all-important; defendants on a serious charge are known to have put on clothes of mourning, and their young children might be produced in court to arouse the sympathy of a jury.

Notice the rhythm of the three parts of the sentence from **valebat apud vos ...**; the first is quite measured (with the solemn alliteration of *m*), the second more direct, and slightly more complex because it includes a relative clause; the third is, contrary to usual practice, briefer, but very threatening, with its *m* sounds, long syllables, and the stark final word **timor**.



eum Milonem unum esse: this reads as a typically exaggerated claim, but Milo's capacity for neutralising Clodius' gangs (using gangs of his own) indeed appears to have been something which he, uniquely, possessed. If Milo had access to the manpower needed for this (possibly from his home town Lanuvium as well as from the poor of Rome), this would explain why someone otherwise so improbable in terms of his origins should have become the darling of the conservatives and their preferred candidate for the highest political office.

se metu, periculo rem publicam: an example of 'chiasmus' - an AB BA arrangement of words or ideas, where predictable repetition of the same pattern would be less effective. There is perhaps the suggestion that while personal peace of mind was important, consideration for the security of the state was absolutely paramount (**rem publicam** is emphatic at the end of the sentence, and given prominence by the chiasmus).

usitatis iam rebus: the monosyllabic **iam** and the colourless **rebus** throw great emphasis on the 'ordinary' approach to being elected that Milo now has to settle for.

enitendum est Miloni: as with hindsight it is so obvious that Milo was doomed, it seems extraordinary to see Cicero speaking of him as still a candidate for the consulship. Perhaps this admittedly minor detail is nonetheless evidence in its way that much of this speech is in its original form, rather than heavily edited for publication.

dignitas is not really 'dignity' but a man's 'standing', which includes the position he is entitled to have, which in Milo's case is the consulship.

gloria is another word for which the English equivalent is often misleading. It is what marks you out and makes you special, here the 'special privilege' of being the counterweight to Clodius. But if others regard this as a wonderful thing, then 'glory', in our sense, is what it becomes.

frangendis furoribus Clodianis iam Clodi morte cecidit: notice the rhetorical effects here, the alliteration of the 'fierce' *f* sounds, the use of the abstract *furor* in the



plural for ‘reckless acts’, and the variation from *Clodianis* to *Clodi*, itself creating a chiasmus.

hic exercitationem virtutis ... is the first element in a fine ‘tricolon’; this and the second use abstract *-io* nouns to suggest a quasi-clinical exposition of the areas in Milo has suffered, and they contrast with the sudden vivid image in the third element of Clodius as the **fontem perennem** of his *gloria*.

35

ultor ... punitor ...: nouns ending *-tor* almost always refer to people in a particular role or job (e.g. *pastor*, *senator*, *imperator*, *victor*). Cicero will sometimes use a verb to invent such a noun so as to draw attention to it, as he appears to have done with **punitor** here. He fires off a series of more standard *-tor* words a little later (**vexatorem**, etc.).

in illo maxima, nulla in hoc: the effect of this chiasmus is to stress **nulla**.

segetem ac materiam suae gloriae: a splendidly memorable phrase. **suae** coming before its noun makes it more emphatic (‘his own special glory’) but the result here is really alliterative (of *s*) and rhythmic, more resonant than *gloriae suae* would have been.

reus enim Milonis lege Plotia ...: the meaning is that a summons had been taken out by Milo against Clodius (apparently in 57 for an attack on his house), but it had never come to court, either because of the prevailing violence or because for a period Clodius held a political office which protected him from being put on trial; however, in theory at least he was always vulnerable to prosecution.

Laws are generally named after the magistrate who proposed them; this *lex Plotia* or *Plautia* was passed by one M. Plautius Silvanus in the 80s to combat the use of violence (*de vi*).

Classical texts, copied and re-copied innumerable times, are susceptible to various forms of ‘corruption’; that is, a manuscript may contain inaccuracies. One common type of corruption is when a note in the margin of a text (a ‘gloss’ or ‘scholium’) is



mistakenly copied into the text as though it is part of it. This sentence (**reus enim Milonis ...**) is a good example of this; it is so unnecessary, so pedantic and intrusive, and so unrhetoical, that it is hard to believe that it is part of the actual speech; as well as that, Cicero tells us (§39) that there were actually two untried accusations by Milo hanging over Clodius, so why should he mention only one of them here?

43

proponens: the present participle is used in a very exact way in Latin (unlike the perfect participle which can often in effect have a present tense meaning – e.g. *veritus* ‘fearing’). Here it is equivalent to *ubi proponebat*, ‘as he kept contemplating’.

qui se ipse ...: there is a textual problem here. The Oxford Classical Text (a much respected series of editions, abbreviated to OCT) prints *qui se ipse interfecto Milone ...*, where *ipse* is a little awkward. The manuscript tradition seems to have *qui se ille ...*, which is hopeless, as *ille* makes no sense when we have already had *qui*. Colson emends this to *cum se ille ...*, which certainly gives good sense. But something is wrong here. If a text is to be emended, we need to be able to see how the mistake occurred in the first place, and it is not clear how *cum* could have changed into *qui* in the manuscripts; and for that matter, with *cum se ille*, the *ille* seems overdone and pointless, since it is clear already that Clodius is the subject (normally, when *ille* is used to mean ‘Clodius’, it is to introduce him as a new subject). Falling back therefore on the OCT's *qui se ipse*, *ipse* must mean ‘for his part’, ‘as far as he was concerned’, and although this makes reasonable sense the position of *ipse* seems a little awkward (it can't be stretched to mean ‘who thought that he himself would reign supreme’, as this would require *se ipsum*; but perhaps that is what the reading should be).

quod caput est ...: there are some difficulties over precisely how to punctuate and therefore understand this sentence. Should we read this as *quod caput est audaciae, iudices, ...* followed by the rhetorical question, or as *quod caput est, audaciae, iudices, ...* (which is the punctuation in the OCT)? This second possibility would have to mean ‘Now this is my main point (*caput*) – members of the jury, you surely all know that the strongest temptation to criminal behaviour (*audaciae*) is the prospect of not being punished for the offence?’ That makes sense, but perhaps not quite the right



sense; the word *peccandi* becomes embarrassingly unwanted, because it sits uneasily as a second genitive dependent on *impunitatis*; quite apart from the verbal difficulty, this is just one of many points Cicero is making, and it is hard to see why he should want it taken as his ‘main point’ (*caput*). (It is also quite awkward to read the Latin with the pause after *est*.)

The meaning of *caput* here is either ‘major cause’ (as Colson suggests, though he is not happy with it) or ‘the most important aspect’. *quod caput est audaciae* can be imagined in brackets, simply a comment on what he is about to say: ‘(and this is the usual source of criminal behaviour) ...’; *quod* slips into the neuter gender to agree with *caput*, rather than feminine with *inlecebram*, because it is neuter in its own right (‘a thing which is’) (or possibly to agree with *caput*, by what is known as ‘attraction’).

qui nunc reus est: Cicero is saying that Milo obviously will not have felt he would be able to get away with the crime, as here he is in court, actually on trial for it; this is not very convincing, as presumably most criminals who end up in court hoped to get away with what they did.

44

Quintus Petilius is not otherwise known; we see from this reference that he was a member of the jury, and someone who, according to Cicero, had heard about Clodius making the threat; but he is really meant as a lead-in for the famous *Marcus Porcius Cato*, a staunch defender of the Republic who detested Clodius and all he stood for; his evidence is therefore not particularly significant. Cato, inevitably, sided with Pompey against Caesar when the Civil War began, and died in 46 at Utica in North Africa, committing suicide because, with the prospect of Caesar’s victory, he had no wish to outlive the Republic; in a very literal sense he was, therefore, ‘the last of the Republicans’. He was great-grandson of the Cato who in the 140s had insisted on the destruction of Carthage.

ex Marco Favonio audistis ...: Cicero has already referred to this remark (in §26), and he can be even briefer in his treatment of it now.



vivo Clodio: the commentators say that the point of this addition is to suggest that Clodius had had the opportunity to deny it; but did he have this opportunity if the rumour that he had said it never even reached him? The fact that he did not deny it could mean that he never knew about it, or indeed that the story was invented after his death and this is just a piece of decorative detail to add plausibility.

sibi dixisse: **sibi** is technically contrary to the rule about using a reflexive pronoun – that it should refer to the subject either of the clause that it is in, or to the subject of the whole sentence; here, Favonius is subject of neither the clause nor the sentence. However, in this sentence it is as though instead of saying ‘you heard from Favonius’, Cicero had said ‘Favonius told you’, which would indeed require *sibi*; the sentence flows perfectly easily, and neither Cicero or his audience would have felt this as a difficulty at all; Latin is very precise in its use of pronouns, but not over-precise; here, *ei* rather than *sibi* would have felt awkward and even pedantic. (Note that when a subject of a sentence is referred back to in a later clause, a reflexive pronoun is used only if the clause is Indirect Speech or a Purpose Clause; clauses which grow out of the main clause in a way other types of clause do not use a reflexive.)

Another point where too strict a grammatical approach might be taken arises with **cogitaret** (which some editors think should be *cogitarit*, for *cogitaverit*, the perfect subjunctive). Reviewing the three subjunctive verbs in this sentence, which is in ‘Primary Sequence’ (as the main verb **potestis** is a present tense), we see that **dubitarit** is a perfect subjunctive because *cum* with the meaning ‘since/because’ always takes a subjunctive, and the ‘rules’ say that in Primary Sequence perfect subjunctives should be used, not imperfect subjunctives; **fecerit** is also a perfect subjunctive, in an Indirect Question, perfect because of the Primary Sequence; **cogitaret**, therefore, also in an Indirect Question, seems out of place as an *imperfect* subjunctive in Primary Sequence; but the ‘continuing’ idea of ‘thinking/plotting’ seems important enough to override the normal rule here. There is so much variation in the manuscripts here that Clark, who prefers **cogitaret**, cannot argue for it from whether it is found in better or less reliable manuscripts, but as he says, using an imperfect subjunctive would be a very normal idiom.



It is interesting to see *dubito* used in its two different meanings, ‘hesitate’ and ‘doubt’; the verb is repeated for rhetorical effect, and it is unlikely that there would have been much of a jolt for the listeners; but some editors prefer to repeat *cogito* instead (*cogitare*, which one manuscript has).

45

negoti nihil: singular ‘quantity’ words (*multum, tantum, plus, aliquid, satis* etc.) take a genitive (‘partitive genitive’) of the noun they go with. **nihil** is regarded as a quantity word, so it too takes a genitive (all these words are regarded as nouns rather than the adjectives used in such expressions in English – not ‘much money’ but ‘a great quantity of money’ etc.).

Here, reversing the usual word-order (*multum pecuniae* etc.) to **negoti nihil** gives a suitable emphasis to **nihil**.

approperaret (= *ad + propero*, ‘to hurry’): the compound form is more vivid, giving a feeling of real bustle and haste.

at quo die?: Cicero makes it sound as though Clodius and Milo left Rome on the same day (Clodius in the morning and Milo in the afternoon of 18 January), but this contradicts what he said about the **insanissima contio** in §27, namely that it was on the day before. There seems to be no great significance in this; see the note following (§46 **illo ipso die**) on a similar adjustment to timings.

The commentator Asconius unfortunately decided to check the *Acta* of the Senate to see who had held a *contio* on 18 January (he should have been looking under 17 January), and found that two had been called, one by Sallust (better known as a historian but also an active politician and a supporter of Julius Caesar) and the other by Pompeius Rufus. As Cicero does not name the tribune who called the meeting here but writes of him as though the audience will be able to identify the man, and he does not elsewhere refer to Sallust or Pompeius (and in any case Asconius has got the wrong day), it is probably some other tribune who was responsible for this meeting; there certainly were other troublesome tribunes at this period, and still the tribunes were the only elected magistrates for 52.



ergo illi ne causa quidem ...: this sentence has a particularly elaborate structure. The repetition **causa ... causa ...** leads to an emphasis on **manendi** (what Clodius *should* have done); **manendi** is repeated, this time in connection with Milo; **nulla facultas** is stronger than **ne causa quidem**, and Milo had not just a **causa** for leaving but an actual **necessitas**; these nominative abstracts, placed after the verbs they go with (**manendi, exeundi**), create a sweeping ‘tricolon’ with the climax at **necessitas**.

46

illo ipso die: this is not correct; it is clear that the installation of the priest was to occur on the day after the fateful day, as is implied by §§27-29 and stated explicitly by Asconius in his account. Similarly, Cicero has contradicted himself on when Clodius actually set out from Rome, claiming he reluctantly left an ‘extremely wild public meeting’, which he said in §45 took place on the day Milo left Rome; but in §27 he described it happening on the day before (as in fact must have been the case; Clodius had to go to Aricia and start coming back before the encounter took place, which implies an overnight stay there). As his case is actually unaffected by which version of either of these timings is used, it may be that he decided merely to simplify his references to them at this point in the speech for greater dramatic effect; in §45 it also allowed him to say there was ‘no reason’ for Clodius to leave Rome, conveniently overlooking his trip to Aricia (which he knew about and refers to in §51).

Milo de Clodi reditu ...: by placing the names almost next to one another, Cicero again brings out the contrast he wishes to make between the different situations of the two men – Clodius fully apprised of Milo’s movements, but Milo entirely in the dark about those of his rival.

quaesivit? quaesierit ...: the repetition of the verb sets a pugnacious tone.

Quintus Arrius: the only point in giving his name here (he is not mentioned anywhere else in the speech) must be that Arrius had made this allegation of bribery in the course of the hearing of evidence that had preceded the trial; it is a detail, linked to his name, that Cicero has to deal with.



Arrius was, according to J S Reid, ‘a man who rose from a humble rank to the praetorship’, and opposing Milo and what he represented (as he apparently did by making the accusation referred to here) may have been a small step on his upward path. (Reid further suggests he may be the Arrius satirised by Catullus in Poem 84 for adding unwanted *h* sounds to words, but apart from the fact that Cicero, Catullus and their associates lived in a very small world, there is no real reason to make this link; Catullus calls him only ‘Arrius’, with no *praenomen* such as Quintus to identify him further.)

legite testimonia testium vestrorum: this ‘stage direction’ occurs from time to time in Cicero’s courtroom speeches, and it is to be supposed that there was a break in his delivery while a court official read out the relevant sections of the evidence.

Two textual problems occur in this section. After **sed erant permulti alii ex quibus id facillime scire posset** some texts (including the OCT) print **omnes scilicet Lanuvini** (‘all the people of Lanuvium, obviously’) and I have followed them, but with some reluctance, as the phrase is not in all the manuscripts and interrupts the flow, is not altogether logical, and looks very much like a marginal note in a manuscript that has found its way into the text (a ‘scholium’).

The other disputable words are a description of Causinius Schola (which I do think should probably not be in the text but many editions include it) as **cuius iampridem testimonio Clodius eadem hora Interamnae fuerat et Romae** (‘on whose evidence a long time ago Clodius had been at Rome and Interamna at the same time’). This refers to a much earlier but apparently still notorious case involving Clodius. In 62 BC he had, dressed as a woman, intruded into an all-female religious ceremony to honour a goddess known only as the *Bona Dea* (Plutarch says it was his voice that gave him away). There was a tremendous scandal (partly because it was believed that Clodius was trying to develop a relationship with the then wife of Julius Caesar, who was hosting the ceremony) and Clodius ended up in court; this man, Causinius Schola, gave him the alibi of having been in Interamna at the time, but Clodius was found guilty and Causinius utterly discredited as a witness. So, if the words are genuine, Cicero is not missing the chance here to present the man in an unflattering light.



Again, the authority of the manuscripts for these words is not strong, and the great Ciceronian editor A C Clark had no hesitation in excluding them from his text. In content, they do look very like a marginal comment (another ‘scholium’) that has mistakenly been copied into the text.

Three factors may point in the other direction and suggest that the words do belong in the text: it would not be out of character for Cicero to make a snide comment and perhaps raise a laugh about a person he disliked, even if it does not particularly help his argument (he likes to have it all ways); the words have a rhetorical ring to them (the sarcastic **eadem hora** does not read quite like a neutral commentator’s note); and if the words are removed, we are left with **et idem comes Clodi, Publum Clodium illo die ...**, where the repetition **Clodi/Clodium** is somewhat jarring. I speculate here that Cicero may have inserted these sentences (**dixit Gaius Causinius Schola ... Gaius Clodius**) in his published version of the speech as a summary of the witnesses’ statements to cover what would otherwise be an unsatisfactory gap without the statements themselves that had actually been read out in court (**legite ...**).

47

The important words **liberatur** and **insidiaretur** are brought forward in their clauses for emphasis.

hac rogatione: this is the ‘special proposal’ in the Senate that had established the court some six weeks before the trial was held on 7 April. The case had a very high profile, and it was seen as essential by most of those with responsibility for public order in Rome that Milo should be found guilty and exiled – as indeed happened – as this was the first chance in a long time to rid Rome of the appalling violence that had terrorised the population, cost lives, and prevented the normal operation of the constitution. So instead of passing under the jurisdiction of the standing courts, the trial was assigned under this law to a specially constituted court; emphasis would fall on the hearing of evidence (several days were assigned to this prior to 7 April), the jury would be appointed so close to the hearing that this would make bribery difficult (and it would in any case include well-known, respected figures), the president of the court would be not a praetor but an ex-consul, and the speeches would be limited to two hours for the prosecution and three hours for the defence.



maioris alicuius: Clark's delicious note reads 'it is doubtful whether Milo would altogether have relished this description of his relation to Cicero.' This most improbable accusation, that Cicero was an accomplice in a deliberate plot to kill Clodius, stuck to him; nearly ten years later, he was having to refute the charge when Mark Antony brought it up against him.

me videlicet ...: his incredulity turns to anger – 'Ah! Me as a robber, me as a cutthroat – that is how these pathetic creatures, these outcasts of society, were representing me!' His feelings are made vivid by the pairs of synonyms **latronem/sicarium** (the more colourful coming second) and **abiectionem/perditi** (separated out by intervening words to increase emphasis on each), and variation between **ac** and **et**.

iacent suis testibus ('they are refuted by their own witnesses'): editors seem concerned that although *iaceo* is used as a passive in this special sense, **suis testibus** is a straight ablative without *a*, even though the witnesses are agents (people) not instruments (things). This worry seems needless; although a small number of other words in Latin have an active form but a passive meaning (*venio venire* 'to be sold' and *vapulare* 'to be beaten', for instance) and these are used with *a*, it is not clear that *iaceo* is in the same category, particularly as these other words have only their passive meaning, unlike *iaceo*. It seems quite possible that **suis testibus** is simply a 'causal' ablative, 'they are flattened because of their own witnesses'. Notice how emphatic **suis** is, placed *before* the noun it is with.

potuerim: perfect subjunctive, rather than imperfect, because the imperfect subjunctive is not at home in Primary Sequence; subjunctive partly because it is in a subordinate clause which is part of Indirect Speech (**videar ... cogitasse**); but it feels more as though this is the 'causal' use of *qui quae quod* with a subjunctive (common in Cicero), '... because I could not even have imagined it beforehand.'

48

igitur, as a 'linking' word, generally appears as the second word in the sentence in Cicero. Here, coming first, it has a slightly ponderous effect, not deducing the point logically so much as recapping it to drive it home.



si quidem ... non fuisset: Latin prefers *nisi* to *si ... non*, unless there is a special reason for the separate negative; here there is strong emphasis, suggesting serious doubts, on **non**.

This is an extraordinary scene, Cicero and his sworn enemy meeting by Cyrus' deathbed because they are both to be beneficiaries of his will. Perhaps, however, occasional meetings between the two were unavoidable in this very enclosed society. What is puzzling is the nature of their connection with Cyrus and why they should be included in his will. Clark suggests he was grateful for the work they had put his way; other possibilities are that as a Greek, Cyrus may have felt unsure about the future of his firm after his death and wanted Cicero's legal skills to be available if there were difficulties; and that in the case of Clodius, it may have been, crudely, 'protection money', ensuring both continued operation of the business and, he would hope, more contracts. Several building projects of Clodius are mentioned in §§73-75, as well as the *insanae substructiones* of §53.

49

sit ita factum: the passive of *facio* in 'perfect tenses' (perfect, future perfect, pluperfect) fills the gap left by there being no perfect tenses from *fiō*, here 'happen'.

Why did Clodius change his mind and hurry back to Rome? There must have been a reason. Clark suggests he wanted to register his claim to the legacy as soon as possible, although Cicero says, surely rightly, that there was nothing he could have gained that night that he would have lost by waiting for the following morning. Clodius may have had other appointments the next day and arriving back mid-morning may not have allowed him time to go through the legal formalities, and perhaps his claim would have lapsed if he had not registered it early.

consequi posset: posset, rather than *potuisset*, means strictly 'would be in a position to gain' (as opposed to 'would have been able to gain') but the distinction between the two is very slight, resting on the 'continuing' idea of an imperfect tense. The present infinitive with *possum* and *debeo* is quite standard; English, in saying 'I *could have* done this', is unnecessarily doubling the past tense in using 'could' with 'have done'.



subsidentum atque expectandum: the heavy verb for ‘taking up position’, reinforced by the near-synonym ‘waiting there’, gives a sinister picture; this sort of brutal calculation is just what Milo did not descend to.

50

The hypothetical and exaggerated idea that even if Milo confessed he had done the deed, everyone would still want him acquitted is given rhetorical strength by the contrast between **neganti** and **confitemem** (which gains more emphasis as the second, and longer, word).

Also effective is the personification of the place (which would itself ‘have refuted the charge’ or possibly ‘have taken the blame’) and further personification, not just of the **locus**, but of **muta solitudo** and **caeca nox** as well. To make such abstract ideas the subjects of verbs is much less common in Latin than in English, except in deliberately colourful writing such as this.

The special character of the area is embellished even more by applying to it the *-tor* nouns **occultator** and **receptor**; nouns ending *-tor* are almost invariably used only of people, acting in a particular role (like *pastor* and *imperator*; see note on §35). Neither of the *-tor* words here is found anywhere else in Cicero’s writings, and he may have invented **occultator**; the other word **receptor** is found in legal Latin with criminal overtones, meaning a ‘receiver’ of stolen goods.

To describe **solitudo** as **muta** and **nox** as **caeca** is further bold use of language, applying words used normally of people to these personified abstracts; it is the people who are blind in the night, rather than the night itself.

51

Cicero returns to the facts after his self-indulgent digression, in which he briefly imagined what would have happened if Milo had murdered Clodius just outside the city, with a sobering **atque**, ‘furthermore’, followed by consciously simpler language.

ut meaning ‘although’ would not necessarily take a subjunctive, but *ut sciebat* would sound like an admission that Milo would definitely have known this; the subjunctive makes the possibility more vague.



illum Ariciae fuisse: what Milo could have known is repeated to assist the logic of the argument.

devertit Clodius ad se in Albanum: ‘Clodius went off the road to himself (= his home) on his Alban estate’, not *in Albano* (ablative) but *in* + accusative, as such expressions are always felt to be linked with the verb (‘he went off the road ... to his Alban estate’) and not as descriptive of a noun (‘his home on his Alban estate’).

quae viam tangeret: the subjunctive **tangeret** is easily explained by the rule that says that subordinate clauses like this in Indirect Speech must have their verbs in the subjunctive; but it seems likely that even were this not Indirect Speech, the verb would still be a ‘causal’ subjunctive, combining with *qui quae quod* to give a reason, that Clodius broke the journey at his estate because it lay on his route.

Cicero is making exhaustive use of his material; having briefly imagined Milo lying in wait outside the city so that he could attack after nightfall (which he did not do), he now points out that to kill Clodius he should have got to him before he reached the Alban estate (which he did not do either).

52

This is a remarkable section. Cicero condenses over twenty sections of the speech into a quite brief but extraordinarily powerful summary of the arguments he has presented. He reminds the jury of nine areas where the evidence exonerates Milo but incriminates Clodius:

1. standing to lose or gain (§§32-34)
2. animosity towards the other/the absence of this (§35)
3. preference for using violence/resisting violence (§§36-43)
4. public threats issued/no threats (§44)
5. knowledge of/ignorance of one another’s movements (§45-47)
6. the travelling itself innocent/suspicious (§45)
7. the openness/secretcy of each about his movements (§45-46)
8. consistency/inconsistency of behaviour (§§46-48)
9. not utilising the night/risking travelling at night (§§49-51)



It is well worth reviewing this section to uncover the masterly but disguised variation in treatment Cicero maintains in order to retain the audience's interest. He relies mostly on pronouns rather than the heavier names of the two men to point up his contrasts; sometimes the contrast presents Clodius first, followed by Milo, and sometimes the other way round – but there are only two shifts of direction in the entire passage, the second being particularly effective exactly at the point where predictability might have weakened the effect; sometimes the contrast is between two verbs, sometimes two adjectives, sometimes nouns (hence his use of the unusual *profectio* in point 5); words are placed exactly at the points where they will carry most interest and effect, sometimes following the pattern set in an earlier contrast, sometimes deliberately breaking it.

The effect is a brilliant vindication of Milo and a ringing indictment of Cicero's enemy Clodius.

constare: this is usually an impersonal verb, *constat* 'it is agreed'; so *constat inter omnes* 'everyone agrees'. Here there is a subject, **omnia**, which slightly changes this usual meaning to 'to be consistent' (also = 'agree', but in a different sense).

optatissimum is not only a superlative, but a fairly rare example of the superlative of what is originally the perfect participle of a verb (*opto* 'to wish for', so *optatus* 'wished for', but still felt to be as much a verb as an adjective). A few participles are used very naturally as adjectives (e.g. *amans* with superlative *amantissimus*) but as a rule it is a bold use of language to stretch a participle to behave like any other adjective.

mortem ... praedicatam palam: praedicatam is from *praedico praedicare*, not *praedico praedicere*). In fact some manuscripts have *praedictam*, from the more common verb. But A C Clark prefers *praedicatam*, arguing that it means 'to proclaim through a town-crier', 'advertise' the likelihood of Milo's death – a powerful image. In its favour are at least three considerations: (i) *praedictam* may be from a much more common verb than *praedicatam*, but that makes it harder to see why the 'error' of *praedicatam* was made (whereas the other way round it may be simply what a scribe thought was a correction of the less common word – or a word he did not know



– to the more normal word), (ii) most manuscripts actually have *praedicatam* (though establishing the right text is not done just by counting manuscripts), and (iii) *praedicatam palam* has a more rounded and sonorous impact, suited also to the end of the sentence. (The principle that it is likely that a correct but unusual-looking word will be simplified, whereas it is much less likely that something easy will be changed into something harder, is sometimes summed up as *lectio difficilior melior* – ‘the harder reading is the better’.)