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INDEX

MAURIZIO COLOMBO	<i>Exempla strategici, simboli geografici ed aquilae in alcuni passi di Ammiano Marcellino</i>	9
STEPHEN EVANS	<i>Sport and Festival in Od. 8. From Scheria to Beijing</i>	27
BENJAMIN GARSTAD	<i>The Oaths in Euripides' Medea</i>	47
LUCA MAURIZI	<i>C. Salvius Liberalis Nonius Bassus. Un monumento equestre ad Urbs Salvia?</i>	65
FABRICE POLI	<i>Une inscription latine inédite d'Auch</i>	85
OLLI SALOMIES	<i>Roman Names in Pisidian Antioch. Some Observations</i>	91
TIMO SIRONEN	<i>Minora Latino-Sabellica II. Un trofeo in osco da Poggio Cinolfo (AQ)</i>	109
HEIKKI SOLIN	<i>Analecta epigraphica CCXXXI–CCXXXVI</i>	131
SPYRIDON TZOUNAKAS	<i>Clodius' Projected Manumission of Slaves in Cicero's Pro Milone</i>	167
DAVID WARDLE	<i>The Bald and the Beautiful: Imperial Hair-envy and the End of Ptolemy of Mauretania?</i>	175
DAVID WOODS	<i>Pliny, Nero, and the 'Emerald' (NH 37,64)</i>	189
	<i>De novis libris iudicia</i>	197
	<i>Index librorum in hoc volumine recensorum</i>	271
	<i>Libri nobis missi</i>	277
	<i>Index scriptorum</i>	301

CLODIUS' PROJECTED MANUMISSION OF SLAVES IN CICERO'S *PRO MILONE*

SPYRIDON TZOUNAKAS

The invective against Clodius is a substantial part of Cicero's attempt to defend his client in his *Pro Milone*¹ and "it is generally acknowledged nowadays that information conveyed in the form of invective needs to be handled with care by the historian".² In this framework, two statements that are to be commented upon here are the orator's allegations regarding Clodius' projected legislation in paragraphs 87: *incidebantur iam domi leges quae nos servis nostris addicerent* ("at his own house laws were already being inscribed which would have made us subject to our own slaves") and 89: *lege nova, quae est inventa apud eum cum reliquis legibus Clodianis, servos nostros libertos suos effecisset* ("a new law was discovered at his house among the rest of his intended legislation, a law which would have made our slaves his own freedmen"), for which cf. also 33.³

¹ For the *Pro Milone* as an invective against Clodius, see C. Craig, "Audience Expectations, Invective, and Proof", in J. Powell and J. Paterson (eds), *Cicero the Advocate*, Oxford 2004, 187–213, esp. at 199–213. He relates (200) the tactic of accusing the adversary in the particular speech with what Quintilian will style ἀντικατηγορία or *mutua accusatio* (*inst.* 3,10,4; 7,2,9). On Ciceronian invective in general, see also A. Corbeill, "Ciceronian Invective", in J. M. May (ed.), *Brill's Companion to Cicero: Oratory and Rhetoric*, Leiden 2002, 197–217.

² W. M. F. Rundell, "Cicero and Clodius: The Question of Credibility", *Historia* 28 (1979) 301–28, at 301, who mainly investigates Cicero's portrait of Clodius until his attack on Piso in 55 B.C.

³ For all passages from the *Pro Milone* I cite the text of A. C. Clark, *M. Tulli Ciceronis orationes: Pro Milone, Pro Marcello, Pro Ligario, Pro Rege Deiotaro, Philippicae I–XIV*, Oxford 1918² (OCT). The translations of the two passages are those of D. H. Berry, *Cicero: Defence Speeches. Translated with Introduction and Notes* (Oxford World's Classics), Oxford 2000.

Asconius is a well-informed person and, according to his interpretation *ad loc.*,⁴ what is meant in the first statement is the proposal to permit freedmen to vote not only in the four urban tribes but also in the rural tribes; thus *servis* seems to mean here *libertis* or *libertinis* and possibly Clodius' scheme was merely a revival of the old proposal of the *populares* to distribute the votes of freedmen to all the tribes.⁵ With his second statement Cicero goes one step further by adding that Clodius was plotting to become a new *patronus* to a large number of freedmen.⁶ However, Cicero seems to represent Clodius' plans in a deliberately obscure and ambiguous way which appears exaggerated⁷ and allows for additional allusions. His allegations are not restricted to Clodius' possible intention to enhance the influence of the freedmen. The words *servis* and *servos* in both his statements, as well as his reference to "a law which

⁴ Ascon. *In Milonianam* 52 C.: *Significasse iam puto nos fuisse inter leges P. Clodi, quas ferre proposuerat, eam quoque, qua libertini, qui non plus quam in IIII tribubus suffragium ferebant, possent in rusticis quoque tribubus, quae propriae ingenuorum sunt, ferre.*

⁵ Cf. e.g. A. C. Clark, *M. Tulli Ciceronis Pro T. Annio Milone ad iudices oratio*. Edited with *Introduction and Commentary*, Oxford 1895, xvii, 28, 78; Berry (above n. 3) 270, who cites S. Treggiari, *Roman Freedmen during the Late Republic*, Oxford 1969, 49–50, 164–66.

⁶ Cf. Berry (above n. 3) 270; S. Treggiari, "A New Collina", *Historia* 19 (1970) 121–22, at 122.

⁷ Cf. e.g. N. H. Watts, *Cicero: The Speeches, with an English Translation, Pro T. Annio Milone*, in *L. Calpurnium Pisonem, Pro M. Aemilio Scauro, Pro M. Fonteio, Pro C. Rabirio Postumo, Pro M. Marcello, Pro Q. Ligario, Pro Rege Deiotaro*, London / Cambridge, Mass. 1931 (Loeb), 104 and 106, who regards the first statement as an exaggeration and comments on the second: "Clodius may have projected some scheme of extensive manumission; though we need not infer that C.'s statement rests on anything more solid than popular rumour". For Cicero's reference to Clodius' proposed legislation as an exaggeration, see also F. H. Colson, *Cicero, Pro Milone*. Edited with *Introduction and Notes*, London 1893, repr. Bristol 1991, 108–09, who also notes: "Once more we must remember that we have to consider not what Clodius actually proposed, but what Cicero thought he possibly might have proposed" (109); J. S. Reid, *M. Tulli Ciceronis Pro T. Annio Milone ad iudices oratio*, Cambridge 1894, repr. 1923, 134; A. B. Poynton, *Cicero, Pro Milone*. Edited with *Introduction and Notes*, Oxford 1902², 71; P. Fedeli, *Cicerone: In difesa di Milone (Pro Milone)*, Venice 1992², 185, n. 98. More generally for Clodius' legislation mentioned here, see L. Peppe, "Ancora a proposito di Cic. Mil. 32,87 e della legislazione di Clodio", in *Sodalitas. Scritti in onore di Antonio Guarino*, a cura di Vincenzo Giuffrè, Naples 1984–85, Vol. 4, 1675–87; cf. also M. Balestri Fumagalli, "*Libertas id est civitas* (Cic., *pro Balbo* 9, 24)", *Laboe* 33 (1987) 63–74, esp. at 68; T. Loposzeko, "Clodio e gli schiavi", *ACD* 21 (1985) 43–72; J.-M. Flambard, "Clodius, les collègues, la plèbe et les esclaves. Recherches sur la politique populaire au milieu du Ier siècle", *MEFR* 89 (1977) 115–53, esp. at 149–53; Treggiari (above n. 6) 121–22.

would have made our slaves his own freedmen", do not exclude a more literal interpretation which gives the impression that Clodius proposed an extensive manumission of slaves to his own political advantage, without the consent of their masters, and planned to make the new freedmen his own clients rather than their former masters'.⁸

Although the accuracy and reliability of Cicero's representation of Clodius' designs could be questioned, its usefulness to his overall argumentation is indisputable, as it facilitates his intended implications on multiple levels. Given the well-known negative opinion of slaves held by the ancient Greeks and Romans,⁹ it is clear that by his statements the orator intends to frighten the judges with the prospect of the materialization of Clodius' plans and, thus, portray Milo as the man who saved the Roman citizens from a great threat.¹⁰ Consequently, since Milo's action benefited the community, it should be judged accordingly and Milo should not be convicted for the murder he has been accused of. It is a line of defence Cicero employs often in the speech,¹¹ despite his claim in the *exordium* that he will not focus upon it.¹²

⁸ Cf. Colson (above n. 7) 108–09, who also remarks that the deliberate use of the word *servi* twice over would be a wanton insult to the great *ordo libertinorum*, whose loyalty is praised in *Catil.* 4,16 and of whom Cicero says in *Sest.* 97: *sunt etiam libertini optimates*; Berry (above n. 3) 270.

⁹ See e.g. Th. Wiedemann, *Greek and Roman Slavery*, London / New York 1981; S. R. Joshel and Sh. Murnaghan (eds), *Women and Slaves in Greco-Roman Culture: Differential Equations*, London / New York 1998.

¹⁰ More generally for the threat of Clodius' plans, see A. R. Dyck, "Narrative Obfuscation, Philosophical *Topoi*, and Tragic Patterning in Cicero's *Pro Milone*", *HSPH* 98 (1998) 219–41, at 223–24. For the view that "Cicero is deliberately alarmist", see Treggiari (above n. 6) 122. For the frequent exploitation of the Romans' fear of slaves in Cicero's orations, see F. Favory, "Clodius et le péril servile: fonction du thème servile dans le discours polémique cicéronien", *Index* 8 (1978–79) 173–205.

¹¹ This is evident especially in the part of the speech (72–91) that Cicero himself calls *extra causam* in 92.

¹² 6: *Quamquam in hac causa iudices, T. Anni tribunatu rebusque omnibus pro salute rei publicae gestis ad huius criminis defensionem non abutemur. Nisi oculis videritis insidias Miloni a Clodio esse factas, nec deprecaturi sumus ut crimen hoc nobis propter multa praeclara in rem publicam merita condonetis, nec postulaturi ut, quia mors P. Clodi salus vestra fuerit, idcirco eam virtuti Milonis potius quam populi Romani felicitati adsignetis. Sin illius insidiae clariores hac luce fuerint, tum denique obsecrabo obtestaborque vos, iudices, si cetera amisimus, hoc nobis saltem ut relinquantur, vitam ab inimicorum audacia telisque ut impune liceat defendere.*

Furthermore, the allegations that Clodius was planning laws that would undermine the civilian structure and the established order of Rome, disregarding the competent authorities, suggest his contempt for legitimacy and his intention to become a tyrant.¹³ At the same time, in this way Cicero succeeds in reinforcing his main line of defence (23 and 31: *uter utri insidias fecerit*), since such an unscrupulous man is more likely to have been the one who planned the ambush against his political adversary.

Cicero's attempt to equate Clodius with a tyrant is a central strategy in his defence, which allows the advocate to portray Milo's murder of Clodius as tyrannicide and thus as a justifiable one. For this reason Cicero ensures that Clodius is depicted as a *tyrannus* in various ways.¹⁴ Moreover, this depiction is further reinforced by the implied Greek historical *exempla*.¹⁵ In my opinion, the orator's allegation regarding Clodius' projected manumission of slaves, which has not yet been connected with Cicero's attempt to describe Clodius according to the stereotype of tyrannical conduct, should be interpreted in this light,¹⁶

¹³ For the practice of inscribing laws before they have been put to a vote as a characteristic example of a tyrant's behaviour, cf. *Cicéron, Pour T. Annius Milon*. Texte établi et traduit par A. Boulanger. Introduction et notes par J.-N. Robert (Classiques en poche 39), Paris 1999, 108, n. 183.

¹⁴ For Clodius as *tyrannus*, see especially M. E. Clark and J. S. Ruebel, "Philosophy and Rhetoric in Cicero's *Pro Milone*", *RhM* 128 (1985) 57–72, who place special emphasis on the Stoic basis of this equation, as well as J. R. Dunkle, "The Greek Tyrant and Roman Political Invective of the Late Republic", *TAPhA* 98 (1967) 151–71, esp. at 163 ff.; cf. also M. Vielberg, "Opium für die Optimaten?: Religiöses Argumentieren in Ciceros *Miloniana*", *Eranos* 93 (1995) 49–64, esp. at 56–63; K. Büchner, "Der Tyrann und sein Gegenbild in Ciceros 'Staat'", in id., *Studien zur römischen Literatur*, Band II: *Cicero*, Wiesbaden 1962, 116–47; R. Heinze, "Ciceros 'Staat' als politische Tendenzschrift", *Hermes* 59 (1924) 73–94.

¹⁵ 80: *Graeci homines deorum honores tribuunt eis viris qui tyrannos necaverunt—quae ego vidi Athenis, quae in aliis urbibus Graeciae! quas res divinas talibus institutas viris, quos cantus, quae carmina! prope ad immortalitatis et religionem et memoriam consecrantur—vos tanti conservatorem populi, tanti sceleris ultorem non modo honoribus nullis adficietis sed etiam ad supplicium rapi patiimini? Confiteretur, confiteretur, inquam, si fecisset, et magno animo et libenter, se fecisse libertatis omnium causa quod esset non confitendum modo sed etiam vere praedicandum.*

¹⁶ Besides, it is no coincidence that Cicero's first statement is directly followed by a reference to Clodius' greedy (87: *nihil erat cuiusquam, quod quidem ille adamasset, quod non hoc anno suum fore putaret*), which also constitutes a commonplace in the stereotype of tyrannical conduct; cf. e.g. J. R. Dunkle, "The Rhetorical Tyrant in Roman Historiography: Sallust, Livy and Tacitus", *CW* 65 (1971–72) 12–20, esp. at 15; Boulanger and Robert (above n. 13) 108, n. 183.

since it reinforces the equation *Clodius=tyrannus*. In Greek thought, the manumission of the slaves is a characteristic act of a tyrant. Here are some examples: Xen. *Hell.* 7,3,8: καὶ μὴν πῶς οὐκ ἀπροφασίστως τύραννος ἦν, ὃς δούλους μὲν οὐ μόνον ἐλευθέρους ἀλλὰ καὶ πολίτας ἐποίει, ἀπεκτίννυε δὲ καὶ ἐφυγάδευε καὶ χρήματα ἀφηρεῖτο οὐ τοὺς ἀδικούντας, ἀλλ' οὐς αὐτῷ ἐδόκει; Aristot. *Pol.* 1315a: οὔτε δούλων ἐλευθέρωσιν ἀνάγκη ποιῆσθαι τὸν τύραννον οὔτε ὕπλων παραίρεσιν. Cicero has a deep knowledge of Greek philosophical and political thought and turns to it to draw elements that support his intended insinuations. Consequently, by alleging that Clodius had planned the manumission of slaves, Cicero attributes to him a vice which is a characteristic of a tyrant. By combining this with other characteristically tyrannical vices, the orator aims at depicting Clodius' behaviour as in full conformity with the stereotype of tyrannical conduct. There are many commonplaces in the portrait of the Roman tyrant in political invective and it is not unusual for Latin authors to invent and believe rumours because they conform to everyone's preconception of how a tyrant behaves, or even to sacrifice historical accuracy in order to cast a historical figure in the mould of a tyrant. In other words, if a person is thought to act like a tyrant in other areas of his life, the writer could exaggerate and misrepresent his image assuming that his tyranny includes many more of the tyrannical commonplaces in order to achieve conformity with the stereotype of the tyrant.¹⁷

Such charges, directly connected with the aspiration to tyranny, are frequently found in the political invective of the late Republic, as most 1st century B.C. politicians faced similar accusations at some point in their careers. One of its variations is the accusation of recruiting slaves,¹⁸ which Cicero fires against Catiline in his *First Catilinarian*. In this speech, which could be regarded as the most famous Ciceronian invective,¹⁹ the orator's enemy is presented as *evocator servorum* through the voice of the personified Fatherland: *M. Tulli, quid agis? Tunc eum quem esse hostem comperisti, quem ducem belli*

¹⁷ For this practice and more generally for the portrait of the Roman tyrant in political invective, see Dunkle (above n. 16), esp. 15–20; cf. also id. (above n. 14).

¹⁸ For the ancient view on arming slaves, see recently D. B. Davis, "Introduction", in C. L. Brown and Ph. D. Morgan (eds), *Arming Slaves: From Classical Times to the Modern Age*, New Haven / London 2006, 1–13, at 3: "the ancient Greeks and Romans often expressed a strong ideological aversion to enlisting slaves in their armies", and, in more details, P. Hunt's paper "Arming Slaves and Helots in Classical Greece" in the same volume (14–39).

¹⁹ For this characterization, see Craig (above n. 1) 191, n. 8.

futurum vides, quem exspectari imperatorem in castris hostium sentis, auctorem sceleris, principem coniurationis, evocatores servorum et civium perditorum, exire patiere, ut abs te non emissus ex urbe, sed immissus in urbem esse videatur? (Cic. *Catil.* 1,27). The fact, however, that Sallust categorically claims that Catiline refused to recruit the slaves that turned to him²⁰ raises doubts as to the accuracy of Cicero's information and reinforces the possibility that he was employing one of the commonplaces in the political invective of the period and presenting it as though spoken by the Fatherland so as to make it more credible.²¹ Undoubtedly, Catiline's conspiracy casts a heavy shadow over the political life of Rome, even towards the end of the 50's decade, and in the extant version of the *Pro Milone* there are quite a few allusions to it.²² In this framework it is perhaps no coincidence that Cicero fires similar charges against his two political enemies. The implicit connection between Clodius and Catiline, which emerges in a number of other passages of the speech,²³ facilitates Cicero's aims on multiple levels, since in this way the advocate implies Clodius' dangerous nature, his disregard for legitimacy and his intention to corrupt the established order of Rome, following Catiline's example.

Of course it is well known that Cicero himself was accused of cruelty and tyrannical behaviour during the suppression of Catiline's conspiracy²⁴ and was

²⁰ Sall. *Catil.* 56,5: *interea servitia repudiabat, quous initio ad eum magnae copiae concurrerant, opibus coniurationis fretus, simul alienum suis rationibus existumans videri causam civium cum servis fugitivis communicavisse.*

²¹ More generally for the role of the personified *Patria* in the *First Catilinarian*, see recently S. Tzounakas, "The Personified *Patria* in Cicero's *First Catilinarian*: Significance and Inconsistencies", *Philologus* 150 (2006) 222–31.

²² Cf. e.g. 37: *Itaque quando illius postea sica illa quam a Catilina acceperat conquievit?*; 63: *Multi etiam Catilinam atque illa portenta loquebantur*; 103: *Quodnam ego concepti tantum scelus aut quod in me tantum facinus admisi, iudices, cum illa indicia communis exiti indagavi, patefeci, protuli, exstinxit? Omnes mihi meisque redundant ex fonte illo dolores.*

²³ See above n. 22 and cf. also 55 with Asconius' comments *ad loc.* This connection is evident even in other works of Cicero; see Clark (above n. 5) 34, who cites *Att.* 1,14,5 and *Pis.* 23; cf. also A. W. Lintott, "P. Clodius Pulcher – *Felix Catilina?*", *G&R* n.s. 14 (1967) 157–69, at 169, who in a general interpretation of Clodius' political *persona* notes that, according to Cic. *dom.* 72, Clodius was called *felix Catilina* by his satellites. For a comparison of the two persons, see T. Loposzko and H. Kowalski, "Catilina und Clodius: Analogien und Differenzen", *Klio* 72 (1990) 199–210 and B. Rink, "Diskussionsbemerkungen zu dem Aufsatz 'Catilina und Clodius: Analogien und Differenzen' von T. Loposzko und H. Kowalski", *Klio* 72 (1990) 211–15.

²⁴ Cf. Cicero's reference to this accusation in *Catil.* 1,30: *quorum auctoritate multi non solum*

exiled by Clodius on the grounds that a number of conspirators were executed without a trial. One of the accusations then brought against him was, again, that of recruiting slaves, which Cicero tries to refute.²⁵ It has already been noted that Cicero often reverses the accusations against his person by directing them in turn against his political adversaries.²⁶ Thus, it is very likely that the accusation against Clodius regarding his supposed project of extensive manumission of slaves could be interpreted as such a counter-attack.

One of Cicero's primary concerns in his effort to defend his client is to succeed in justifying Milo's manumission of his slaves after the murder of Clodius, so that this action is not deemed as a ploy to obviate their having to give testimony against their master under torture.²⁷ His main argument is that Milo's freeing of his slaves was an action imposed upon his client by morality, a gesture of gratitude towards those who had saved him during Clodius' ambush (56–58). In this framework, Cicero's allegations regarding Clodius' projected manumission of slaves appear to counteract Milo's action and lead to an implicit comparison of the two political adversaries: Milo freed the slaves that saved him, as required by moral principle and dignity, whereas Clodius planned to free slaves in order to corrupt the civilian and political structure of Rome.

Furthermore, the particular statements should be placed within a more general attempt on Cicero's part to connect Clodius with slaves. It is not by chance that this connection has already been suggested in the *exordium* of the

improbi verum etiam imperiti, si in hunc animadvertissem, crudeliter et regie factum esse dicerent.

²⁵ Cf. Cic. *Phil.* 2,16: *At etiam ausus es—quid autem est quod tu non audeas?—clivum Capitolinum dicere me consule plenum servorum armatorum fuisse. Vt illa, credo, nefaria senatus consulta fierent, vim adferebam senatui. O miser, sive illa tibi nota non sunt—nihil enim boni nosti—sive sunt, qui apud talis viros tam impudenter loquere! Quis enim eques Romanus, quis praeter te adulescens nobilis, quis ullius ordinis qui se civem esse meminisset, cum senatus in hoc templo esset, in clivo Capitolino non fuit, quis nomen non dedit? quamquam nec scribae sufficere nec tabulae nomina illorum capere potuerunt.* On this passage, see W. K. Lacey, *Cicero: Second Philippic Oration. Edited with Translation and Notes*, Warminster 1986, 169, who regards the particular mention to slaves under arms as "[a] good ex. of politicians' distortions" and a "stock political abuse", while J. D. Denniston, *Cicero: Philippics I & II. Edited with Introduction & Notes*, Oxford 1926, repr. Bristol 1990, 100, believes that out of necessity a certain number of reliable slaves were armed by Cicero, as is suggested by Cic. *Catil.* 4,16.

²⁶ Cf. e.g. Craig (above n. 1) 196 for some examples in the case of Clodius and Dunkle (above n. 14) 166 for an example in the case of Mark Antony.

²⁷ Dyck (above n. 10) 239.

speech, where (in paragraph 3), by stating that the citizens are on the side of Milo, the orator pretends that all the Clodians are slaves.²⁸ Another characteristic example is that in paragraph 26: *Servos agrestis et barbaros, quibus silvas publicas depopulatus erat Etruriamque vexarat, ex Appennino deduxerat, quos videbatis*. By highlighting this relationship, Cicero aims at the moral denigration of Clodius, emphasizes his low moral calibre and attempts to isolate²⁹ him from the national principles of Rome by drawing a connection between him and barbarism. It is obvious that such insinuations facilitate Milo's defence significantly, by implying that the loss of such a man was in the best interest of Rome.³⁰

University of Cyprus

²⁸ See Berry (above n. 3) 260; cf. also Colson (above n. 7) 48; Clark (above n. 5) 3; Fedeli (above n. 7) 155, n. 5; S. M. Cerutti, *Cicero's Accretive Style: Rhetorical Strategies in the Exordia of the Judicial Speeches*, Lanham – New York – London 1996, 120; Boulanger and Robert (above n. 13) 5, n. 6: "L'opposition *cives* contre clodiens prépare ainsi la description qu'il fera de ces derniers, en 26, où il les traitera d'esclaves et de barbares".

²⁹ For Cicero's general technique to isolate the *improbi*, see especially G. Achard, *Pratique rhétorique et idéologie politique dans les discours « optimates » de Cicéron* (Mnemosyne Suppl. 68), Leiden 1981, 110–42; for this technique in the *exordium* of the *Pro Milone*, cf. also M. von Albrecht, *Cicero's Style: A Synopsis, Followed by Selected Analytic Studies* (Mnemosyne Suppl. 245), Leiden / Boston 2003, 183 and 186–87, n. 40; Cerutti (above n. 28) 120.

³⁰ I would like to thank the anonymous referees of this journal for their valuable comments.