

A SLIP BY CICERO?

Atque illo die certe Aricia rediens devertit Clodius ad se in Albanum : quod ut sciret Milo illum Ariciae fuisse, suspicari tamen debuit eum, etiam si Romam illo die reverti vellet, ad villam suam, quae viam tangeret, deversurum (*Pro Milone* 51).

THIS passage is interesting in that its argument runs counter to the main picture which Cicero had earlier presented of the movements of Milo and Clodius before they met on the Appian Way in January 52 B.C. In an earlier passage (27) Cicero says: 'Interim cum sciret Clodius—neque enim difficile erat id scire—iter sollemne, legitimum, necessarium ante diem XIII Kalendas Februarias Miloni esse Lanuvium ad flaminem prodendum, quod erat dictator Lanuvii Milo, Roma subito ipse profectus pridie est, ut ante suum fundum, quod re intellectum est, Miloni insidias conlocaret.' Cicero remains true to this latter version in all the relevant arguments concerning the motives and movements of Clodius and Milo. Milo had legitimate business at Lanuvium, and hence a legitimate reason for being on the road at the time of the affray; Clodius' presence is explained by Cicero as due solely to the desire to place an ambush for his enemy at a convenient spot, i.e. in front of his farm, and for this reason he had set out from Rome a day before Milo, when his presence was really required in Rome:

At quo die? Quo, ut ante dixi, fuit insanissima contio ab ipsius mercenario tribuno plebis concitata: quem diem ille, quam contionem, quos clamores, nisi ad cogitatum facinus approperaret, numquam reliquisset. Ergo illi ne causa quidem itineris, etiam causa manendi; Miloni manendi nulla facultas, exeundi non causa solum sed etiam necessitas fuit. (45)

Clodius' farm, in front of which the affray took place, was a little beyond Bovillae as one went from Rome; it was certainly not *in* Aricia, but near the road linking Aricia to Rome.¹

Asconius' account is consistent in maintaining that the meeting occurred by chance and that Clodius was returning from Aricia where he had been addressing a public meeting: 'Occurrit ei circa horam nonam Clodius paulo ultra Bovillas, rediens ab Aricia . . .; erat autem allocutus decuriones Aricinorum' (*In Mil.* 27). Asconius, writing in the first century A.D., has no reason for subterfuge, and his report is clearly trustworthy. But this consideration does not explain either Cicero's phrase *Aricia rediens* or the inclusion of the supposition² *quod ut sciret*, etc., for Cicero was anxious to conceal the facts of Clodius' murder, and this required him to conceal also Clodius' movements beforehand. The general tenor of Cicero's account suggests that Clodius had gone from Rome to his farm, *not* to Aricia, and had set out from *there* to lay ambush for Milo. How are we to explain the inconsistency of Cicero's account?

I would suggest three possibilities:

1. Cicero may have been only too well aware of the verisimilitude of the account given by the prosecution and inserted the phrase as a concession

¹ *Mil.* 27, and 51; cf. Asconius, *In Mil.* 27.

² Cf. A. C. Clark's note ad loc.

- to the truth in the hope that it would go unnoticed by the majority of his listeners. If this was the case, however, he was taking a grave risk which jeopardized the impression given by the rest of his speech.
2. Cicero may have been speaking loosely. Clodius' farm was clearly within a few kilometres of Aricia and Cicero may have been guilty neither of subterfuge nor of confusion in naming Aricia rather than its neighbourhood as the starting-point for Clodius' return. If this is so, however, Cicero was guilty of extraordinary carelessness in a case where geographical details were of the utmost importance. Furthermore, he has elsewhere shown extreme care in controverting what must have been the account given by the opposition. It is therefore unlikely that in the present passage he is guilty of such a lapse.
 3. Cicero may have made a genuine slip. With his rough draft of notes on the case before him, he may have confused *two* accounts of Clodius' movements, namely the true account which he wished to conceal, and his own version, which he consistently maintains elsewhere in the published speech. He may have jotted down the main disagreements between the two sides, and one of these 'headings',¹ perhaps a note of a point made by the prosecution during the presentation of their case, reappears in the final edited version.

The prosecution's retort that Clodius had in fact gone to Aricia to address the *decuriones*, with the further allegation that Milo must have known this, was probably one of the chief factors in Cicero's discomfiture at the actual proceedings. It is possible, however, that later, when editing his speech for publication, Cicero thought of one way in which this argument might have been countered. Prosecution witnesses had stated that Clodius would have stayed on his Alban estate on the day (and night) of the murder but for a message which caused him to decide to set out for Rome: 'Dixit C. Causinius Schola, Interamnanus, familiarissimus et idem comes Clodi, P. Clodium illo die in Albano mansurum fuisse, sed subito ei esse nuntiatum Cyrum architectum esse mortuum, itaque repente Romam constituisse proficisci. Dixit hoc item comes P. Clodi, C. Clodius' (46 *ad fin.*). Clodius had clearly been on his estate that day—a difficult position for Cicero to counter until it occurred to him that *the position could be turned to Milo's advantage*, viz. 'Granted that Clodius was returning from Aricia, it is established that he called in at his estate on the day of the murder. Supposing Milo to have known that Clodius had been at Aricia, he ought to have suspected that Clodius would call at his villa, even if he were intending to go on to Rome the same day, and therefore might reasonably be expected, if really intending to ambush Clodius, to have tried to avoid the one spot least favourable for a meeting.'

It is an ingenious counter-argument and might have been used if Cicero had only thought of it at the time! Perhaps Cicero found it too difficult to adjust his earlier arguments when he came to edit the speech, but felt that this particular manoeuvre was too ingenious to be left out of the published version; or perhaps it was a genuine error of judgement.

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¹ Cf. Quintilian 10. 7. 30; Pliny, *Ep.* 1. 20. 8.