

THE TRIAL OF MILO IN 52 B.C.: A CHRONOLOGICAL STUDY

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Virtually all that we know or can infer of close chronology from January to May of 52 is based upon the commentary on the *Pro Milone* composed by Asconius in the middle of the first century A.D. Indeed, it is thanks to Asconius that we are able to follow events at some points almost day by day. But Asconius reports many events out of sequence, either for purposes of narrative convenience or because he is commenting on chronologically disconnected parts of Cicero's speech; he was, after all, not writing an historical account, but attempting to illuminate the political background of Cicero's remarks. Consequently, the precise relationship among all the events he reports is often obscured. Other sources provide but small assistance: Cicero's letters are unhelpful for this year, and the accounts of Dio and Plutarch are severely compressed. Nevertheless, Asconius is known to have consulted the *Acta* for the year, as well as other (now lost) historical accounts, and he goes to some lengths to make the dates, even the day in many instances, as clear as possible; had he so chosen, he could have provided exact dates for all events. We must therefore be very hesitant to convict him of conflation or inconsistency; events which cannot be fixed absolutely can usually be located with reasonable confidence in relation to those of known date; information from other sources, even when plausible or attractive, must be justified in the first instance against the information in Asconius.

This is not to say, of course, that Asconius makes no mistakes, or that statements in conflict with his testimony are *a priori* untenable; but in view of the known deficiencies of our other sources, we are obligated to begin with the evidence of Asconius, and we must grant to his demonstrable care and diligence the assumption (unless counter evidence is compelling) that he wrote what he intended and what he believed accurate. For unlike "literary" historians, Asconius had little interest in the style of his account or in the moral consequences of events; his concern was a uniquely modern one, that of what actually happened and when, as he is often at pains to

illustrate.¹ Most of the serious difficulties arising from this approach turn out to be textual, and these are not to be underrated. But Asconius in fact seldom contradicts himself; he has been too easily accused of conflating events where a more careful inspection reveals him to be quite in command of his material, even if his language is obscure.

In modern times there have been two attempts at disentangling the chronology in any detail. The chronography of A. C. Clark, in his edition of the *Pro Milone*, is frequently either inconsistent with his other remarks or demonstrably mistaken.² A. W. Lintott sharpens the picture considerably in his notes,³ but his was only secondarily a study of the chronology; several of his conclusions are unacceptable, primarily because they needlessly impugn the consistency of Asconius. A detailed and accurate register of all events, with full argumentation of controversial details, is badly needed.⁴ In the following pages, I have usually not included discussion or elaborate documentation of those points which raise no special difficulties, such as the date of Clodius' death; where Asconius provides vague (e.g., *post paucos dies*) indications, I have either noted that the date is approximate or placed it within what seem to be reasonable *termini*. I have also tried to resist writing a political commentary on the events described.

JANUARY 17

Clodius leaves Rome for Aricia (Cic. *Mil.* 27, cf. 48).

¹Cf. K. Büchner, *Cicero* (Heidelberg 1964) 250: "Der Bericht, in seiner Sachlichkeit doch überaus spannend, ist auf der Höhe der besten Geschichtsschreibung der heutigen Zeit. Ein heutiger Historiker könnte nicht knapper, präziser, mit besseren Belegen Historie schreiben als der Mann, der hier spricht."

²A. C. Clark, *M. Tulli Ciceronis Pro T. Annio Milone Ad Iudices Oratio* (Oxford 1895) lxiii, hereafter cited: "Clark, *Comm.*" The comments of A. B. Poynton, *Cicero: Pro Milone* (Oxford 1902²), are mostly derived from Clark; useful is the independent view of J. S. Reid, *M. Tulli Ciceronis Pro T. Annio Milone Ad Iudices Oratio* (Cambridge 1894, reprinted with Addenda 1916). I have not been able to see the pioneer edition of J. S. Purton (Cambridge 1890).

³A. W. Lintott, "Cicero and Milo," *JRS* 64 (1974) 62–78, hereafter cited: "Lintott."

⁴All dates given are pre-Julian; since the year 52 was intercalated, the months in question would follow this pattern: January 29 days; February 24 days (see note 37); Interkalarius 27 days; March 31 days; April 29 days. On difficult questions I rely on A. K. Michels, *The Calendar of the Roman Republic* (Princeton 1967) [hereafter cited: "Michels, *Calendar*"]. See also her essay, "The Intercalary Month in the Pre-Julian Calendar," *Hommages à Albert Grenier* III (Collection Latomus 1962) 1174–78.

JANUARY 18

The Senate meets in the morning, adjourning after the fourth hour, and Milo leaves shortly thereafter for Lanuvium (Asc. 35C), where he was scheduled to install a flamen on the 19th (Asc. 31C). Cicero describes Milo's departure in leisurely terms (*Mil.* 28), but his credibility is damaged by the fact that he also sets the confrontation between Milo and Clodius two hours late (see below); this lends substance to the charge of Milo's enemy Q. Metellus Scipio as reported by Asconius (35C, based on the *Acta*) that Milo left *subito*.

Q. Pompeius Rufus and C. Sallustius Crispus (the historian) each hold a *contio* (Asc. 49C), presumably either to continue obstruction of the consular elections or to promote the candidacy of P. Plautius Hypsaesus and (Q. Caecilius) Metellus Scipio against that of Milo.

About the ninth hour, the retinues of Milo and Clodius, who was on his way either to Rome or his Alban estate, cross paths; a fight breaks out, and Clodius is ultimately killed (Asc. 31–32C, Cic. *Mil.* 29). The time of the skirmish is placed by Cicero at the eleventh hour “or thereabouts”; but Cicero wants to place Clodius in his villa in Aricia till nightfall (*Mil.* 49, 51) and to dispel the suspicion against Milo that he had lingered on the road, perhaps to ambush Clodius. The testimony of Asconius is wholly consistent in insisting that the body reached Rome within an hour after nightfall (32C),⁵ and coheres with the charges of Milo's prosecutors as reported by Quintilian (6.3.49: *quod Bovillas ante horam nonam devertisset, dum Clodius a villa sua exiret*).

When the body reaches Rome in early evening, Clodius' wife, Fulvia, incites the crowd by displaying the body (Asc. 32C).

JANUARY 19

The corpse is brought into the Forum by T. Munatius Plancus and Q. Pompeius Rufus, thence into the Curia under the instigation of Sex.

⁵A reader points out to me that *ante primam noctis horam* means, “before (the end of) the first hour of night” rather than “before nightfall”; indeed, it would have been difficult for the body to reach Rome any earlier, since Clodius was killed during the ninth hour and the journey from Bovillae (about 12 Roman miles) by *lectica* would surely have required more than three Roman hours. On the other hand, this indicates that Teidius (or Tediudius) discovered the body fairly soon after the murder, probably early in the tenth hour, else he could not have got the body to Rome as soon as he did.

Cloelius⁶ (Asc. 32–33, 46C); Plancus and Rufus hold a *contio*, during the course of which Clodius' body is cremated in the Curia, which in fact catches fire and burns (Asc. 33C; see also below, note 15).

M'. Aemilius Lepidus is chosen to be the first interrex.⁷ The Clodians attack the houses of Milo (unsuccessfully) and of the newly elected interrex (see below on *January 19–23*), to which considerable damage is done (Asc. 43C).

According to his enemies, Milo commits atrocities on Clodius' Alban estate (Asc. 35C); in any case, upon learning that public opinion is more in his favor than the reverse, Milo returns to Rome this very night (Asc. 33C).⁸

JANUARY 19–23

The interregnum of M'. Aemilius Lepidus. Asconius (33C) clearly associates the beginning of Lepidus' interregnum with the burning of the Curia, the assault on his house, and the attack on the house of Milo; he further declares that all this occurred before Milo returned to Rome (*absentis Milonis*) on the evening of the 19th (*nocte ea . . . qua incensa erat Curia*). It appears that Milo had either not returned to Rome or had quickly left the city, planning voluntary exile. He was not far off, however, because as soon as he realized that the burning of the Curia by the partisans of Clodius had created more indignation than the murder itself, he was able to return that same night to resume his canvass for the consulship. The narrative of Asconius puts all this on the same day as the attack on his house as well as that of the interrex. There is no reason to extend this timetable; the situation is volatile, reactions are swift; there is nothing to indicate that this account is in any way conflated. But Asconius also gives another report of the siege on Lepidus' house (43C); at this point he emphasizes that the Clodians tried to compel Lepidus to hold elections because of the *recens invidia* against Milo, and that when Lepidus refused

⁶For the reading *Cloelius* instead of *Clodius*, see D. R. Shackelton Bailey, "Sex. Clodius—Sex. Cloelius," *CQ* 10 (1960) 41–42, and "Mumpsimus-Sumpsimus," *Ciceroniana* n.s. 1 (1973) 3–9.

⁷Asconius' reading, *M. Lepidus*, i.e., cos. 46, should probably be emended to M'. Lepidus (cos. 66), since the wife of the former was a Iunia, daughter of D. Iunius Silanus (cos. 62) and Servilia (sister of Cassius' wife and half-sister of Brutus), whereas our Lepidus is married to a Cornelia (Asc. 43C). Alternatively, M. Lepidus (cos. 66) was married twice (E. S. Gruen, *Last Generation of the Roman Republic*, Berkeley 1974, 104 [hereafter cited: *LGRR*]), but since he was already married to Iunia only two years after the Clodian affair (cf. Cic. *Att.* 6.1.25, from Feb., 50), this seems less likely. On the obstruction of the appointment of the interrex, cf. Asc. 30f, 33fC.

⁸On the S.C.U., which Dio appears to put on this same day, see below, *Between February 3 and February 10*.

to violate the custom that elections not be held by the first interrex, the Clodians laid siege to his house. On the whole, then, nothing in this report conflicts with the first (33C) or with the dating of the nomination of Lepidus to the 19th. But to introduce the second report, Asconius resorts to a strange chronological indicator: *post biduum medium quam Clodius occisus erat, interrex primus proditus est M. [sic] Aemilius Lepidus*. The peculiarity of *biduum medium* has not been sufficiently stressed, nor its sense carefully judged. Since it is otherwise unexampled, we are justified in using the historical context to assist in determining its meaning, but we must be prepared to face the consequences of that method. Lintott argues that the phrase “must” refer to January 20: *biduo post* always means “two days afterwards,” not “on the next day,” and Asconius’ phrase is equivalent to *biduo post . . . post meridiem*; support for the latter gloss is sought in Dio, who mentions the afternoon in his account.⁹ Lintott argues further that the turmoil of the 19th would not provide the solemn atmosphere suitable to the installation of the interrex. According to this view, however, the narrative in Asc. 33C must be conflated, for it seems evident from that passage that all the events are dated to the 19th; the potentially discordant passage is the sentence *domus quoque . . . repulsa est*, which must be regarded as chronologically unrelated to what precedes and follows, suggested to Asconius by the mention of attacks in general. But this view is unnecessarily convoluted and will not survive an objective reading of Asc. 33C, where (as stated above) nothing indicates conflation, and the phrase *absentis Milonis* (which resides in the sentence indicating that Lepidus was already interrex) is answered some lines later when Milo returns to the city on the very night of the burning of the Curia. The most obvious way to take *biduum medium* in 43C is, “the middle of a *biduum*,” which would allow a reckoning to the 19th if we take the 18th as the first day, and which has the additional virtue of reconciling Asconius’ two accounts. The difficulty with this is stylistic: if Asconius meant the 19th, why did he not simply write *postero die* or *postridie*? Certainty is not possible, but the adjective *medius* is common with all time-designations; perhaps Asconius intended to emphasize that this event occurred in the same two-day period following the *interfectio Clodi* as the other assaults mentioned in 33C: there was no time for delay, opportunity had to be seized where offered.¹⁰ The phrase,

⁹Lintott 70, note 94, reckoning inclusively. (Clark, *Comm.* lxiii, gives January 21.) The reference to the “afternoon” in Dio (40.49) is hardly justification for *post meridiem*.

¹⁰The events of the 20th are not likely to have been much more “solemn” than those of the 19th. Asconius (31C) implies that the Senate had been trying to appoint an interrex for some time, but had been obstructed by the tribune, T. Munatius Plancus (on whom see Gruen, *LGRR* 339, 346); it looks as though the Senate exploited the confusion following Clodius’ death to “convene the patricians” and nominate Lepidus.

then, could (*pace* Lintott) mean the same thing as *postero die*, though they are not equivalent. Finally, in Dio Cassius (40.49.2–5) all events which Asconius seems to put on January 19 are recounted together as though they happened on the same day;¹¹ this lends independent (though not conclusive) support to the chronology above and to our interpretation of *biduum medium*.

The Clodians besiege the interrex in his home throughout his five-day term (Asc. 43C: *per omnes interregni dies*), and are only driven off by Milo's supporters, it would seem, on the last day of his magistracy.

Milo supposedly frees the twelve slaves who had helped him the most, following outrages on Clodius' Alban estate (Asc. 35C).¹²

JANUARY 22

Milo tries to have an audience with Pompey: he will offer to withdraw his candidacy for the consulship. But Pompey refuses to see him and advises Milo not to continue causing him embarrassment by seeking an audience (Asc. 35, 51C).

JANUARY 23

Q. Pompeius Rufus accuses Milo in front of a *contio* of plotting against the life of Pompey (Asc. 51C).

Milo's supporters break up the attack on the house of the interrex.¹³

JANUARY 27 (APPROX.)

M. Caelius Rufus, the tribune, and Milo himself argue before a *contio* that Clodius had tried to ambush Milo.¹⁴

¹¹Dio intentionally includes the S.C.U. on this date, but this is an error: see *Between February 3 and February 10*.

¹²The evidence for this is a harangue in the Senate by Milo's enemy, Q. Metellus Scipio (see below, *February 18 [approx.]*); Metellus apparently said that the manumissions occurred *postero die* from the outrages, which are not dated; but if Milo returned to Rome on the night of the 19th, he is unlikely to have then left again on the 20th for Alba, and probably Metellus meant that Milo went directly from the slaying of Clodius to the villa at Alba.

¹³Placing this event on the 23rd depends, of course, on the argument above (see *January 19–23*); those who favor Lintott's interpretation of *biduum medium* will put the action of Milo's gang on the 24th (or 25th).

¹⁴Clark's emendation in the OCT of Asconius of the mss reading *aci* (or *acci*) *ipse* to *ac Cicero ipse* is arbitrary: the intrusion of (*c*)*i* here is palaeographically easy; Lintott (70, note 101) remarks further that Cicero himself mentions no such speech at *Mil.* 91. There is no reason why Milo should not have spoken on his own behalf. The date given here depends on Asconius' *post aliquot dies* (33C), which refers most directly to the previous sentence, in which

No other event can be dated with confidence into January.¹⁵ In fact, the next ascertainable date is an approximation, though probably a close one, to February 18 (q.v.). But it is certain that the S.C.U., which directed the magistrates “to see to it that the State suffer no harm,” and the decree closely associated with it which empowered Pompey to hold a levy from all Italy, were passed during this period (cf. Asc. 34C). It is logical to locate these decrees within the first ten days of February: they must follow closely on the disturbances in January, but the wording in Asconius implies that there were at least three interregna prior to the decrees.¹⁶

It has been usual to date Pompey’s show of distrust against Milo from January 22, when he spurned Milo’s offer of a political truce; but Asconius does not speak of Pompey’s fear of Milo except in connection with events following his return from the levy. The first rebuff (see above on *January 22*) is recounted with no mention of “fear” on Pompey’s part, only (potential) *invidia*; the accusation that Milo was plotting against Pompey was only made the day *after* Pompey had turned him away, in a speech made by the man who claimed to be following in Clodius’ footsteps (Asc. 50–51C), a claim which was unlikely to induce confidence in his statements in the eyes of Pompey. It appears that Milo’s opponents were still belaboring the theme of self-defense in mid-February; this suggests that the hearsay testimony provided by Pompey about a Milonian plot to kill him (Asc. 51C) occurred after that time, and indeed such a sequence of events would be harmonious with Pompey’s adopting a watchful stance after his return. I would place Pompey’s return and *metus Milonis* after February 18; all sources agree that the levy was carried out with great dispatch, but he

Milo resumes his canvass for the consulship; but this phrase cannot be wholly indefinite, and Asconius presumably means “after Milo resumed his activities” on the 20th. I allow about seven days for *aliquot dies*, not, to be sure, a firm figure.

¹⁵Clark, *Comm.* lxiii, and other early editors record a celebration of a *cena novendialis* for the dead Clodius on January 27 (better, reckoned inclusively, would be January 26). This was based on Dio Cassius 40.49.3 (*tên enatên to perideipnon . . . poiêsaî*); but Dio is discussing throughout this section (40.49.2–5) only events which he would date to January 19, that is the day after the slaying of Clodius: the cremation of the body, the burning of the Curia, the S.C.U. [*sic*], the attack on Milo’s house, the nomination of Lepidus. His point about the banquet is that it formed part of the carefully contrived destruction of the Curia. If this “banquet” is historical, it was not a *cena novendialis*; rather, it occurred “during the ninth hour” on January 19 (as translated, e.g., by E. Cary in the Loeb edition [vol. III, p. 481]).

¹⁶Asc. 33C: *fiabant interea alii ex aliis interreges*. But I think it impossible that the Senate waited until late February (Clark, *Comm.* xxiv, note 2) or early Interkalarius (Clark, *Comm.* lxiii). The decrees only make sense as a fairly quick response to the disruption in the city, certainly not 40 days or more after Clodius’ death. Lintott (71) dates the decrees to “February.” On a strict reading of Asconius, the earliest date for the decrees would be February 3.

could hardly have completed a *dilectus tota Italia* in less than two weeks.¹⁷

I therefore propose the following very rough schedule of events for the month of February:

BETWEEN FEBRUARY 3 AND FEBRUARY 10

The Senate directs the magistrates to protect the State (S.C.U.), and empowers Pompey to hold a levy throughout all Italy. Dio Cassius (40.49.5) puts the S.C.U. on the same day as the events which immediately follow the death of Clodius, which we have assigned to January 19, but this is certainly an error. Dio separates the S.C.U. from the decree on the levy, which he records immediately after Milo's return to Rome (40.50.1), presumably still in January.¹⁸ This is not impossible, but without other evidence I prefer to revert to a pedantic reading of Asconius (see note 16).

The Senate meets near the Theater of Pompey to order the rebuilding of the Curia (Dio Cassius 40.50.2–3).

Pompey leaves the city.

FEBRUARY 18 (APPROX.)

Q. Metellus Scipio delivers a scathing attack on Milo's plea of self-defense in a speech before the Senate (Asc. 34–35C). Asconius puts this "about 30 days" after Clodius' death; but since he could easily have verified the date from the *Acta*, we may assume that the approximation is very close.¹⁹

NEAR THE END OF FEBRUARY

Pompey returns to Rome, taking up residence in his Gardens outside the *pomerium* (Dio Cassius 40.50.2), and claiming to fear Milo (Asc. 34C).

¹⁷Pompey's "fear" is first mentioned in Asc. 36C to illustrate two anecdotes of events which must have occurred quite late (see on *Between March 15 and March 25*); the difficulties, chronologically speaking, concern Asc. 51–52C, where Asconius has given details in reverse order (and is consequently driven to overuse of the pluperfect tense). Commenting on Cicero's reference (*Mil.* 67) to Pompey's suspicions, Asconius first explains what those were and what basis there was for them; he then reports Pompey's paranoid measures to guard himself; and only now does he state, with apparent clarity, that all this happened after Pompey returned (52C: *cum redisset, venientem ad se Milonem unum omnium non admiserat*).

¹⁸See also Lintott 71, note 105.

¹⁹Lintott (71) gives "about 20th February."

LATE FEBRUARY OR EARLY INTERKALARIUS

Two young Claudii, nephews of Clodius, demand that Milo and his wife, Fausta, produce their slaves for interrogation before Pompey, a demand supported by a Valerius Nepos and Valerius Leo; in retaliation, one L. Herennius Balbus files a counterdemand for the slaves of Clodius, and M. Caelius Rufus summons those of Plautius Hypsaesus and Q. Pompeius Rufus. A hearing takes place in which six eminent Romans appear on Milo's behalf: the orator Q. Hortensius, M. Cicero, M. Marcellus, M. Calpidius, Cato the Younger, and Faustus Sulla (Asc. 34C).²⁰

Rumors are widespread that there will be a dictatorship, either of Pompey (Asc. 35-36C) or of Caesar (Dio Cassius 40.50.3).

INTERKALARIUS 21-24

The interregnum of Servius Sulpicius Rufus, the thirteenth interrex after the slaying of Clodius. Sulpicius' interregnum is cut short after the proposal that Pompey become sole consul (see *Interkalarius* 24) and the consequent holding of the consular elections; the timing of this maneuver had (or can be read as having) a nice propagandistic point, since it took place the day after the Regifugium, which was always celebrated five days before March 1.²¹

INTERKALARIUS 24

On the proposal of M. Calpurnius Bibulus, Pompey becomes sole consul (Asc. 36C: *V Kal. Mart.*, ²² Dio Cassius 40.50.4); the Senate declares that it

²⁰It would be of value to know the legal status of these proceedings. Interrogation before Pompey was presumably due to the fact that there were as yet no praetors (or consuls), and the flavor of the hearing is that of an attempt to file a formal charge against Milo (i.e., a *postulatio*). But the summoning of slaves as witnesses arouses interest, since it is debated whether they could testify against their masters under the Republic (A. H. M. Jones, *The Criminal Courts of the Roman Republic and Principate* [Oxford 1972] 115; R. A. Bauman, *Impietas in Principem* [Munich 1974] 43 f.), but Asconius seems to take it for granted here. A clue perhaps lies in the exceptions to the custom that slaves could not so testify; for they could in a case of treason (Bauman 44, note 96), which suggests that the attempt referred to here was to indict Milo *de maiestate*. A. H. J. Greenidge (*The Legal Procedure of Cicero's Time* [Oxford 1901] 378) points out that in trials of Vestal Virgins the accused was not permitted to manumit the slaves in question, i.e., she must have the slaves in her *potestas*; it is precisely the argument of Hortensius at this hearing that *liberos esse eos qui postulerentur* (Asc. 34C, line 18). (See also Cicero's arguments in *Pro Milone* 59; clearly, the evidence of the slaves was crucial at all points, but the Appii were unsuccessful in using it at this early stage.)

²¹I.e., *a.d. VI Kal. Mart.*: see Michels, *Calendar* 160-64. (The dates given depend on the argument under *January 19-23* [q.v.]; Lintott would give Interk. 22-24.)

²²Clark, *Comm.*, gives the 24th on p. xxiv, but the 25th on p. lxiii.

will allow Pompey to choose a colleague, but only after two months' time (Plut. *Pomp.* 54).

INTERKALARIUS 26

Pompey proposes two laws before the Senate, which would institute more severe penalties for both *vis* and *ambitus*, and would modify the procedure at both tribunals (Asc. 36C): in his first proposal, Pompey specifically mentions the death of Clodius.²³ Milo's supporters (correctly) interpret this as an attempt to instigate a *quaestio extraordinaria* against him; debate on this and the following day represents maneuvering by both sides to implement or to avert a special trial.

INTERKALARIUS 27

Q. Hortensius, supported by Cicero, proposes that the killing of Clodius, the burning of the Curia, the attack on the house of M'. Aemilius Lepidus, all be declared *contra rem publicam* (Asc. 44C, Cic. *Mil.* 14).²⁴

Q. Fufius Calenus proposes that the motion to hold a *quaestio extraordinaria* on the death of Clodius be considered apart from the motion to declare the events in question *contra rem publicam* (Cic. *Mil.* 14, Asc. 44–45C).

The proposal of Calenus is vetoed by T. Munatius Plancus and C. Sallustius Crispus (Asc. 44–45C).

MARCH 1

T. Munatius Plancus holds a *contio* at which he reveals to the People the proceedings in the Senate on the previous day, Interk. 27 (Asc. 44C).²⁵

Pompey's bills are formally promulgated.

M. Caelius Rufus threatens to veto both bills (Asc. 36C),²⁶ a threat which will persist for some days (see below).

²³For the sources, see *MRR* II, 234; discussion, Gruen, *LGRR* 234–39. Gruen (235, 238, note 116) takes for granted that trials under Pompey's new laws lasted five days; I argue below that Milo's trial lasted four (see under *April 7 [or 8]*), but otherwise I have no quarrel with his discussion.

²⁴Lintott 72 explains that this declaration was an attempt to give the trial of Milo precedence in the regular *quaestio de vi*, where the "charge could be submerged in the multitude of other acts of violence in which Clodius and Milo had been involved and the case turned into a judgement on Milo's whole political career."

²⁵On the text of Asconius here, and the identification of the speaker, see G. V. Sumner, "Asconius and the Acta," *Hermes* 93 (1965) 134–35.

²⁶Asconius does not give dates for the threatened veto of Caelius or for the formal promulgation of Pompey's bills; it is generally assumed that the latter occurred immediately,

The events between the promulgation of Pompey's bills and their enactment (see below on *March 26*) cannot be dated precisely. But the sequence suggested below must be more or less correct: Cicero was in Rome as late as Interkalarius 27 (q.v.) and attended the meeting of the Senate at which Milo was searched (see *Between March 15 and March 25*); meanwhile, he made a trip to Ravenna, where he discussed with Caesar the opposition of the tribune M. Caelius Rufus to the *privilegium* which would allow Caesar to stand for the consulship *in absentia*.²⁷ For such a trip he must have left soon after the *promulgatio* of the laws, and could hardly have been back in Rome for 11 to 14 days, even moving relatively fast over the Via Flaminia.²⁸

that is on March 1 (see below, note 29), and the former was probably in retaliation for the vetos of Plancus and Sallust the day before, following shortly after the formal promulgation.

²⁷D. R. Shackleton Bailey, *Cicero's Letters to Atticus III* (Cambridge 1968) 279, commenting on *Att.* 7.1.4, observes that this must have taken place in "winter" of 53/2; but Lintott (73 with note 126) is surely right in fixing the trip to March. Pompey's *divinus tertius consulatus* (*Att.* 7.1.4) did not begin till Interkalarius 24, and it is doubtful in any case that Cicero would have risked leaving Rome till after that appointment. It was only then that Caesar felt free to move into Transalpine Gaul to quell the revolt of 52 (*B.G.* 7.5: *cum iam ille urbanas res virtute Cn. Pompeii commodiorem in statum pervenisse intellegeret, in Transalpinam Galliam profectus est*).

²⁸W. N. Nichipor of the University of Minnesota points out to me that a messenger who rode at top speed, changing horses on the way, was supposed to have made the trip in three or four days in A.D. 238 (*Historia Augusta, Maximi Duo* 25.2: *quarta die* there must mean that he travelled during part of all four days), and this was regarded as remarkable; logically, then, he could have made a round trip in no less than seven (or eight) days. But Cicero was hardly riding at top speed on a horse all through the night; once at Ravenna, he did not merely deliver a message, but sought an audience with the proconsul, which would involve various courtesies, and was discussing the political fortunes of his friend, M. Caelius, which would entail diplomacy and tact. All this could have been accomplished in one day, but it may well have taken two or three. As for the trip, four years earlier Cicero took a whole day to go from Rome to Anagnia (about 55 km on modern roads), and he left *ante lucem* to do it (*Q. Fr.* 2.5); the Via Flaminia was of course a superior road, but 70 km per day seems a liberal estimate for a relatively hasty (non-military) journey in this period, and the distance by modern road from Rome to Ravenna is about 380 km, a trip, then, of roughly 5½ days each way for Cicero. The whole "embassy" must have consumed at least 11 days, by this estimate, and may have taken as many as 14. It is possible, then, that Caesar was informed of events in the city by Cicero himself (see note 27); his departure for Gaul in this year may in any case be dated no earlier than March 7 or 8 (Lintott 73 estimates that Caesar arrived in Transalpine Gaul about the third week of March).

BETWEEN MARCH 2 AND MARCH 14

Cicero goes to Ravenna; Caesar persuades him to influence M. Caelius Rufus into withdrawing opposition to the *privilegium* on standing *in absentia*.

Pompey tries to persuade Caelius not to veto his two bills; when Caelius manifests intransigent persistence, Pompey intimidates him into yielding by threatening to defend the State with arms (Asc. 36C).

Cicero returns to Rome.

Caesar sets out for Gaul.

BETWEEN MARCH 15 AND MARCH 25

Pompey dissolves a meeting of the Senate, alleging that he was afraid of Milo's arrival; at the next meeting, P. Cornificius accuses Milo of coming armed to the Senate: Milo raises his tunic to disprove the charge, upon which Cicero shouts out that all the charges against Milo are similarly invented (Asc. 36C).

T. Munatius Plancus holds a *contio*, before which he produces a freedman of a certain Lepidus, one M. Aemilius Philemo, who alleges that Milo had kept him and four other free men imprisoned for two months because they had witnessed the assassination of Clodius (Asc. 37C).

Plancus and his colleague, Q. Pompeius Rufus, bring a *triumvir capitalis* onto the Rostra, and attempt to elicit testimony from him that Milo's slave, Galata, had been arrested in the very act of murdering Clodius; but the *triumvir* will testify only that Galata had been taken as a fugitive in a *taberna*. The tribunes will now not allow the slave to be returned to Milo.

On the following day, M. Caelius Rufus and his tribunician colleague, Manilius Cumanus, steal Galata from the *triumvir's* home and take him back to Milo (Asc. 37C).

Continual assemblies are held by Plancus, Pompeius Rufus, and Sallust, assailing both Milo and his defender, Cicero. In spite of intense public pressure, including threats of prosecution and the disfavor of Pompey, Cicero refuses to abandon Milo (Asc. 37–38C).

MARCH 26

The two *leges Pompeiae* are passed by the assembly. By the *lex Caecilia Didia* of 98 it was required that a period of a *trinum nundinum* elapse between the *promulgatio* and the *rogatio* of a law. Since I agree with Michels that in this period *trinum nundinum* always meant an interval of

25 days, the laws could not have been enacted before March 25;²⁹ but we happen to know that the *nundinae* would have fallen on March 25 this year, so that the first available *dies comitalis* after the required 25-day interval was March 26.³⁰ This chronology has the added advantage of placing the beginning of Milo's trial quite close to the passage of the *lex Pompeia de vi* under which he was prosecuted.

L. Domitius Ahenobarbus is elected *quaesitor* for the new court established by Pompey's law (Asc. 38C).

Milo is charged with *vis* by two nephews of Clodius named Appius Claudius (see above under *Late February or Early Interkalarius*); they also charge him with *ambitus* under Pompey's second new law, and they are joined in this second charge by C. Ateius and L. Cornificius. P. Fulvius Neratus charges Milo *de sodaliciis* (Asc. 38–39C).

BETWEEN MARCH 27 AND APRIL 3

A. Manlius Torquatus holds a *divinatio* to choose among the four accusers *de ambitu*; the same App. Claudius (the elder) who will prosecute the charge *de vi* is selected to be the prosecutor *de ambitu*; the charge is co-

²⁹Michels, *Calendar* 191–206. On the other hand, Lintott (73, note 125—with references to his own earlier work) holds that *trinum nundinum* referred to a promulgation over three (actual) market days; in this case, the time would vary from 17 to 25 days. Explicit ancient evidence remains somewhat unclear; but Michels' view (*Calendar* 205, note 28) of the meaning of Cic. *Pis.* 9 is not as problematic as Lintott implies: she interprets *triduo post* there as January 7 (not “5 January” as Lintott states), to follow a three-day celebration of the *ludi Compitalicii* from January 2 (the day after the Compitalia) through January 4. (In his commentary on the *In Pisonem*, R. G. M. Nisbet [Oxford 1961, p. 67] assumes the essential accuracy of Michels' position, accepting Mommsen's 24-day *trinum nundinum* following a promulgation on December 10, the day Clodius took office; he thus arrives at January 4 for the passage of that bill.) I am persuaded rather by the total impact of Michels' argument, which is both philological and historical, and which brings relative order to the pre-Julian calendar (e.g., there would always be a *trinum nundinum*, 25 days, between the Nones and the end of any month, except February: *Calendar* 88). For this particular date, however, Mommsen's 24-day *trinum nundinum* also works, for March 24 was *dies fastus* (i.e., non-comital).

³⁰When the *nundinae* fell on a *dies comitalis*, the day became *fastus* and the assembly could not be convened: Michels, *Calendar* 40, 47, 105 f. Dio Cassius tells us (40.47.1) that the *nundinae* coincided with the Kalends of January in 52, so that they would have fallen on January 9, 17, 25; February 4, 12, 20; Interkalarius 4, 12, 20; March 1, 9, 17, 25. Michels (47) believes that *contiones* could not be held on these days either; but whatever may have been the rationale for the system early on, by Cicero's time the restriction plainly no longer applied to *contiones*: the *nundinae* in 52 fell on March 1, and Asconius (44C) explicitly dates a *contio* of Munatius Plancus to that day.

signed by P. Valerius Leo (see under *Late February or Early Interkalarius*) and Cn. Domitius (Asc. 39, 54C).

Both Torquatus and Ahenobarbus order Milo to appear on April 4 (Asc. 39C).

APRIL 4

Milo sends representatives, led by M. Marcellus, to the court of Torquatus. They are successful in their request to Torquatus to have the trial postponed until completion of the one for *vis* (Asc. 39C).

Appius Claudius demands that Milo produce some 54 slaves; Milo counters that those named are not in his *potestas*; Domitius the *quaesitor* rules that Claudius may select any of Milo's slaves for interrogation (Asc. 39C).

C. Causinius Schola testifies that he was present when Clodius was murdered; M. Marcellus tries to cross-examine, but the Clodians raise such an uproar that Marcellus takes refuge on the tribunal of Domitius. This disturbance elicits a promise from Pompey that he will come to the Forum himself the next day and keep order with an armed guard (Asc. 40C).

ON APRIL 5 AND 6

Pompey intimidates the Clodiani into keeping order during the hearing of witnesses. Testimony is taken from the residents of Bovillae on certain facts of the case: the killing of the inn-keeper, the storming of the inn itself, and the dragging of the body of Clodius out onto the public thoroughfare (Asc. 40C).

The Alban Virgins testify that an unknown woman had come to them to fulfill a vow on Milo's behalf because of the murder of Clodius (Asc. 40C).

M. Porcius Cato testifies that M. Favonius had told him of a remark made by Clodius on January 15, to the effect that Milo would be dead in three days (Asc. 54C).

On April 6, the last two witnesses are Clodius' mother-in-law, Sempronia, and his wife, Fulvia; their testimony is highly emotional and creates great sympathy among those present (Asc. 40C).

The court adjourns around the tenth hour. T. Munatius Plancus holds a *contio* urging the people to come in force for the actual pleading of the case, and not to allow Milo to slip away but to exert their influence on the jurors (Asc. 40C).

APRIL 7 (OR 8)

Shops throughout the city are closed, and Pompey stations guards around and within the Forum.

Lots are drawn at dawn to select 81 jurors who will hear the speeches of the prosecution and the defense.

Beginning in the second hour, the prosecutors, Appius Claudius, M. Antonius, and P. Valerius Nepos, present their case to the jury for two hours.

In late morning Cicero delivers the sole speech for the defense; near the beginning of the speech he is interrupted by a disturbance from the Clodiani, and the rest of his speech is rather uncertain (Asc. 41C).³¹

After the speeches, the defense and the prosecution each reject an additional five jurors from each of the three voting divisions of Knights, Senators, and Tribuni Aerarii (Asc. 53, 39C).

The remaining 51 jurors condemn Milo by a vote of 38 to 13 (Asc. 53C).

The date of the last day of the trial is hotly disputed. Asconius' account of the trial indicates four days, as outlined above; Cicero also refers to the *contio* of T. Munatius Plancus as *hesterna contio* (Mil. 3), which is perfectly consistent with this impression. The date of the beginning of the trial is not in question, since it is unlikely that *pr. Non. Apr.* (Asc. 39C) could be a corrupted figure. But the date of Cicero's speech is given in the MSS of Asconius as *a.d. VI Id. Apr.*,³² or April 8, and Cicero (Mil. 98) remarks that the speech is delivered on the *centesima lux* . . . *et, ut opinor, altera* from the death of Clodius; reckoned inclusively, this should also

³¹Cf. Asc. 42C: *itaque non ea qua solitus erat constantia dixit*. This is far from saying, apologetically or otherwise, that Cicero broke down and could not continue at all (Dio 40.54.2; Plut. Cic. 35.2–4); in fact, Asconius goes on to say that the whole original speech was taken down (*excepta*) and preserved (*manet*). (On p. 41C he refers to *tota oratio eius*, which is the spoken, not the published, version of the speech.) Other inaccuracies survive in modern accounts, even in Gruen, *LGRR* 339–42: Cicero was the sole respondent for the defense (Asc. 41C: *unus*); Hortensius spoke (34C) not here but at the earlier hearing before Pompey (see above under *Late February or Early Interkalarius*), and this applies to the rest of the impressive names listed by Gruen. M. Marcellus is explicitly stated to have participated in cross-examination of witnesses (among whom was Cato), but no other names are particularly given for the trial itself. The chronology of Cicero's revision is not strictly relevant here, but I hope to show elsewhere that it was done in September of this same year (a *terminus post quem*, therefore, for Milo's famous evaluation of Massiliot seafood). It should probably be mentioned that Brutus, as a result of Milo's condemnation, published a pamphlet in the form of a defense oration in which he adopted the position that Milo's killing of Clodius was a public benefaction (Asc. 41C), a theme similar to parts of Cicero's published speech.

³²Asc. 30C *app. crit.* On pp. 40–41C the MSS report *a.d. III* or *a.d. II*: a “V” has been lost or corrupted.

mean April 8. Further, in his account of the new procedure under the *lex Pompeia*, Asconius is most unclear about the number of days involved: according to the older interpretation of *quarta die* (Asc. 39C), there is a fifth day for the trial, the fourth day being left open;³³ but Clark argues³⁴ that *quarta die* is to be read with *adesse*, not with *iuberentur*, and that *in posterum diem* is either a legal pleonasm or a gloss, and concludes that in this passage Asconius also refers only to four days. Despite the recent argument for the older view given by Lintott (see note 33), I believe Clark is right. Had there been a “rest” day in the midst of this very tense trial, it is likely that Asconius would have referred to it, and even more likely that there would have been intensive activity on the part of both Milo’s supporters and his attackers on this day. The only such activity recorded is the *contio* of Plancus, which Asconius firmly sets late on his third (recorded) day³⁵ and which Cicero refers to as having occurred the day before his speech. We must therefore suppose either that Asconius was in error, although he probably took his report of the *contio* from the *Acta*, or that Cicero miscalculated to reach “102 days.” As Clark points out, one of the purposes behind Pompey’s new law was to speed up the judicial process: a rest day in the midst of such a trial is inconsonant with such an idea. If Cicero was in error, then we must emend the text of Asconius to read *a.d. VII Id. Apr.*, an emendation which is palaeographically unobjectionable, as Clark shows in full: corruption of such numbers was common enough, but unsurprising here when a scribe was faced with ADVIIIIDAPR. But it is argued that Cicero was unlikely to make a miscalculation about such an important date, one which he uses elsewhere as if it marked an epoch.³⁶ We should note, however, that Cicero was not always precise about such numbers: in the passage cited, Cicero apparently counted 560 days from the death of Clodius to July 22, 51, a period he should have reckoned at 561 days;³⁷ in *Att.* 1.13.5 Cicero tells Atticus that

³³So Lintott 73, note 132; but this note is somewhat misleading, inasmuch as Lintott implies that Cicero (*Mil.* 3) inevitably contradicts Asconius on the date of Plancus’ *contio*: see discussion above, and below note 35.

³⁴*Comm.* 128–29.

³⁵40C: *primo die* marks the assault on Marcellus by the Clodiani; *postero die* Pompey enters the Forum with an armed guard, and testimony is heard *per biduum*: the last testimony was given by Sempronius and Fulvia, following which Plancus held his *contio*. *Postero die* from this, the trial took place.

³⁶*Att.* 5.13.1: *Ephesum venimus a.d. XI Kal. Sext., sexagesimo et quingentesimo post pugnam Bovillanam.*

³⁷Bailey (above, note 27) 212 notes that Cicero would count both *termini* in making his computation. (But Bailey accepts Marquardt’s statement that February had 23 days in an

he must emend a date in the published version of a speech which referred to the great events of 63; and in the *First Catilinarian* (4) Cicero tells Catiline that the S.C.U. was 20 days old, when it was in fact 18.³⁸ It is, therefore, not out of the question that Cicero's "102 days" might be an error: who, besides Cicero, would trouble to check? No explanation of this error has yet been found satisfactory, but a date of April 7 for the *Pro Milone* reconciles all the evidence except Cicero's "102 days," whereas a date of April 8 entails serious readjustments in the evidence provided by Asconius, who was sensitive to the value of accuracy on such matters and who derived most of his precise information from official records.

APRIL 8 (OR 9)

Milo is condemned *de ambitu* in his absence (Asc. 54C).

APRIL 11 (OR 12, APPROX.)

Milo is also condemned in absentia for illegal electoral associations, and for *vis* a second time, under the *lex Plautia* (Asc. 54C).

AFTER OR ON APRIL 12 (OR 13, APPROX.)

One of Milo's gang, M. Saufeius, who had been instrumental in the storming of the inn at Bovillae, and who was the instigator of the actual killing of Clodius, is charged under the *lex Pompeia de vi* and acquitted by one vote (Asc. 54–55, 32C).

APRIL 13 (APPROX.)

Milo leaves Rome to go into exile at Massilia (Asc. 54C).

intercalated year, whereas it actually had 24 this year: we have no explicit testimony to this effect, but no calculation of Cicero's "102 days" will work out if February had 23 days; see also Michels, *Calendar* 159–61.) In 52 there were therefore 379 days, and 199 days in 51 up to and including July 22; subtracting the first 18 days of January (as we would reckon) gives 560 days, but Cicero should normally have included January 18 in his reckoning and subtracted only the first 17 days of January, giving 561 days. This is a rather bizarre example of Cicero's having produced the "correct" figure, apparently by accident. Alternatively, he did *not* include one *terminus* or the other, which would have been abnormal practice at this time. It is doubtful whether "560" could be defended here as a Ciceronian "round number" as in the example below from *Cat.* I.4 (note 38).

³⁸Cf. Asc. 7–8C: *hic* (i.e., in *In Pisonem* 4) *non subtilis computatio annorum facta est, verum summatim tempus comprehensum est . . . , haec consuetudo in ipsis orationibus est.*

AFTER OR ON APRIL 18 (APPROX.)

Saufeius is charged again, this time under the *lex Plautia de vi*, but is acquitted by 32 to 19 (Asc. 55C).

The dates for these events are not given by Asconius, but it is reasonable to assume that Saufeius was charged as soon as the final assault on Milo was completed, which Asconius puts *post paucos dies* from his condemnation for *ambitus*, which took place *postero die* from his condemnation for *vis*; April 12 is therefore a rough *terminus post quem* for Saufeius' first trial. According to the terms of the law, the trial should have lasted four days, concluding not earlier than April 15; his second trial followed *post paucos dies*, or not earlier than April 18. Meanwhile, Milo will have left Rome, since Asconius gives his departure *intra paucissimos dies* from his second conviction for *vis* (see under *April 11 [or 12, approx.]*). These approximations, however, are unlikely to be far off, since the pro-Clodians will have attacked while popular sentiment was still running high. On this analysis, the second trial of Saufeius ended not earlier than April 21.

AFTER APRIL 22

Sex. Cloelius (see above on *January 19* and note 6) is charged under Pompey's law and condemned by a huge margin (Asc. 55–56C).

I assume here that Cloelius was probably not charged until the easy acquittal of Saufeius demonstrated that popular sentiment had turned against the Clodiani.

When Clodius was murdered in January, Rome had already been in turmoil for some time. Public violence was commonplace, hired gangs had the run of the streets and the assemblies. The consuls of 53 had only been able to take office in July, because of scandals from the previous year, and their efforts to hold elections for 52 were thwarted by the thugs who supported the candidates. Milo and Clodius had been central figures in this unruly situation for some years, and the tension caused by their running for high office in the same year had caused 52 to remain without major magistrates; appointment of an interrex was obstructed successfully for weeks. The death of Clodius generated a series of political maneuvers which focused on the events leading up to the trial of Milo, and indeed continued through the trial itself.³⁹ These maneuvers continue to excite

³⁹For sources, see *MRR* II, 227 f., 334; in general, D. Stockton, *Cicero: A Political Biography* (Oxford 1971) 217–19; Gruen, *LGRR* 294–99, 337–45, 150–53.

discussion, but in not a few cases precise interpretation must await firm chronological decisions. Almost every major political figure of the time was seriously affected by the aftermath of Clodius' death and Milo's trial, and it is my hope that this study will assist in clearer analyses of their fates.⁴⁰

⁴⁰I am greatly indebted to the readers for *TAPA*, who saved me from a number of inconsistencies and errors, and to Professors Archie J. Christopherson (Cincinnati) and George R. Rochefort (College of St. Catherine's), who provided acute criticism and guidance at numerous points in this study. For the many points on which we still disagree, I take full responsibility.