

THE SPEECH OF M. T. CICERO IN DEFENSE OF TITUS  
ANNIUS MILO.

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THE ARGUMENT.

Titus Annius Milo, often in the following speech called only Titus Annius, stood for the consulship while Clodius was a candidate for the prætorship, and daily quarrels took place in the streets between their armed retainers and gladiators. Milo, who was dictator of Lanuvium, his native place, was forced to go thither to appoint some priests, etc.; and Clodius, who had been to Aricia, met him on his road. Milo was in his carriage with his wife, and was accompanied by a numerous retinue, among whom were some gladiators. Clodius was on horseback, with about thirty armed men. The followers of each began to fight, and when the tumult had become general, Clodius was slain, probably by Milo himself. The disturbances at Rome became so formidable that Pompey was created sole consul; and soon after he entered on his office, A. U. C. 702, Milo was brought to trial. This speech, however, though composed by Cicero, was not spoken, for he was so much alarmed by the violence of Clodius's friends, that he did not dare to use the plain language he had proposed. Milo was convicted and banished to Marseilles.

I. ALTHOUGH I am afraid, O judges, that it is a base thing for one who is beginning to speak for a very brave man to be alarmed, and though it is far from becoming, when Titus Annius Milo himself is more disturbed for the safety of the republic than for his own, that I should not be able to bring to the cause a similar greatness of mind, yet this novel appearance of a new<sup>1</sup> manner of trial alarms my eyes, which, wherever they fall, seek for the former customs of the forum and the ancient practice in trials. For your assembly is not surrounded by a circle of by-standers as usual; we are not attended by our usual company.<sup>2</sup>

For those guards which you behold in front of all the temples, although they are placed there as a protection against

<sup>1</sup> This was an extraordinary trial, held under a new law just passed by Pompey; and it was presided over, not by the prætor, but by Lucius Domitius Ahenobarbus, who was expressly appointed by the comitia president of the judges on this occasion.

<sup>2</sup> Pompey was present at the trial, surrounded by his officers, and he had filled the forum and all its precincts with armed men, for the sake of keeping the peace.

violence, yet they bring no aid to the orator; so that even in the forum and in the court of justice itself, although we are protected with all salutary and necessary defenses, yet we can not be entirely without fear. But if I thought this adverse to Milo, I should yield to the times, O judges, and among such a crowd of armed men, I should think there was no room for an orator. But the wisdom of Cnæus Pompeius, a most wise and just man, strengthens and encourages me; who would certainly neither think it suitable to his justice to deliver that man up to the weapons of the soldiery whom he had given over as an accused person to the decision of the judges, nor suitable to his wisdom to arm the rashness of an excited multitude with public authority.

So that those arms, those centurions, those cohorts, do not announce danger to us, but protection; nor do they expect us only to be calm, but even to be courageous; nor do they promise only assistance to my defense, but also silence. And the rest of the multitude, which consists of citizens, is wholly ours; nor is there any one individual among those whom you see from this place gazing upon us from all sides from which any part of the forum can be seen, and watching the result of this trial, who, while he favors the virtue of Milo, does not think that this day in reality his own interests, those of his children, his country, and his fortunes, are at stake.

II. There is one class adverse and hostile to us,—those whom the madness of Publius Clodius has fed on rapine, on conflagration, and on every sort of public disaster; and who were, even in the assembly held yesterday, exhorted<sup>1</sup> to teach you, by their clamor, what you were to decide. But such shouts, if any reached you, should rather warn you to retain him as a citizen who has always slighted that class of men, and their greatest clamor, in comparison with your safety. Wherefore, be of good courage, O judges, and lay aside your alarm, if indeed you feel any; for if ever you had to decide about good and brave men, and about citizens who had deserved well of their country, if ever an opportunity was given to chosen men of the most honorable ranks to show by their deeds and resolutions that disposition toward brave and good citizens which they had often declared by their looks and by their words, all that power you now have, when you are to

<sup>1</sup> Munatius Plancus, the day before, had exhorted the people not to suffer Milo to escape.

determine whether we who have always been wholly devoted to your authority are to be miserable, and to mourn for ever, or whether, having been long harassed by the most abandoned citizens, we shall at length be reprieved and set up again by you, your loyalty, your virtue, and your wisdom.

For what, O judges, is more full of labor than we both are, what can be either expressed or imagined more full of anxiety and uneasiness than we are, who being induced to devote ourselves to the republic by the hope of the most honorable rewards, yet can not be free from the fear of the most cruel punishments? I have always thought indeed that Milo had to encounter the other storms and tempests in these billows of the assemblies because he always espoused the cause of the good against the bad; but in a court of justice, and in that council in which the most honorable men of all ranks are sitting as judges, I never imagined that Milo's enemies could have any hope of diminishing his glory by the aid of such men, much less of at all injuring his safety.

Although in this cause, O judges, we shall not employ the tribuneship of Titus Annius, and all the exploits which he has performed for the safety of the republic, as topics for our defense against this accusation, unless you see with your own eyes that a plot was laid against Milo by Clodius; and we shall not entreat you to pardon us this one offense in consideration of our many eminent services to the republic, nor shall we demand, if the death of Publius Clodius was your safety, that on that account you should attribute it rather to the virtue of Milo, than to the good fortune of the Roman people; but if his plots are made clearer than the day, then indeed I shall entreat, and shall demand of you, O judges, that, if we have lost every thing else, this at least may be left us,—namely, the privilege of defending our lives from the audacity and weapons of our enemies with impunity.

III. But before I come to that part of my speech which especially belongs to this trial, it seems necessary to refute those things which have been often said, both in the senate by our enemies, and in the assembly of the people by wicked men, and lately, too, by our prosecutors; so that when every cause of alarm is removed, you may be able distinctly to see the matter which is the subject of this trial. They say that *that man ought no longer to see the light who confesses that another man has been slain by him.* In what city, then, are

these most foolish men using this argument? In this one, forsooth, where the first trial for a man's life that took place at all was that of Marcus Horatius, a most brave man, who even before the city was free was yet acquitted by the assembly of the Roman people, though he avowed that his sister had been slain by his hand.

Is there any one who does not know, that when inquiry is made into the slaying of a man, it is usual either altogether to deny that the deed has been done, or else to defend it on the ground that it was rightly and lawfully done? unless, indeed, you think that Publius Africanus was out of his mind, who, when he was asked in a seditious spirit by Caius Carbo, a tribune of the people, what was his opinion of the death of Tiberius Gracchus, answered that he seemed to have been rightly slain. For neither could Servilius Ahala, that eminent man, nor Publius Nasica, nor Lucius Opimius, nor Caius Marius, nor indeed the senate itself during my consulship, have been accounted any thing but wicked, if it was unlawful for wicked citizens to be put to death. And therefore, O judges, it was not without good reason, that even in legendary fables learned men have handed down the story, that he, who for the sake of avenging his father had killed his mother, when the opinions of men varied, was acquitted not only by the voices of the gods, but even by the very wisest goddess. And if the Twelve Tables have permitted that a nightly robber may be slain any way, but a robber by day if he defends himself, with a weapon, who is there who can think a man to be punished for slaying another, in whatever way he is slain, when he sees that sometimes a sword to kill a man with is put into our hands by the very laws themselves?

IV. But if there be any occasion on which it is proper to slay a man,—and there are many such,—surely that occasion is not only a just one, but even a necessary one, when violence is offered, and can only be repelled by violence. When a military tribune offered violence to a soldier in the army of Caius Marius, the kinsman of that commander was slain by the man whom he was insulting; for the virtuous youth chose to act, though with danger, rather than to suffer infamously; and his illustrious commander acquitted him of all guilt, and treated him well. But what death can be unjust when inflicted on a secret plotter and robber?

What is the meaning of our retinues, what of our swords? Surely it would never be permitted to us to have them if we might never use them. This, therefore, is a law, O judges, not written, but born with us,—which we have not learned, or received by tradition, or read, but which we have taken and sucked in and imbibed from nature herself; a law which we were not taught, but to which we were made,—which we were not trained in, but which is ingrained in us,—namely, that if our life be in danger from plots, or from open violence, or from the weapons of robbers or enemies, every means of securing our safety is honorable. For laws are silent when arms are raised, and do not expect themselves to be waited for, when he who waits will have to suffer an undeserved penalty before he can exact a merited punishment.

The law very wisely, and in a manner silently, gives a man a right to defend himself, and does not merely forbid a man to be slain, but forbids any one to have a weapon about him with the object of slaying a man; so that, as the object, and not the weapon itself, is made the subject of the inquiry, the man who had used a weapon with the object of defending himself would be decided not to have had his weapon about him with the object of killing a man. Let, then, this principle be remembered by you in this trial, O judges; for I do not doubt that I shall make good my defense before you, if you only remember—what you can not forget—that a plotter against one may be lawfully slain.

V. The next point is one which is often asserted by the enemies of Milo, who say that the senate has decided that the slaughter by which Publius Clodius fell was contrary to the interests of the republic. But, in fact, the senate has approved, not merely by their votes, but even zealously. For how often has that cause been pleaded by us in the senate? with what great assent of the whole body? and that no silent nor concealed assent; for when in a very full senate were there ever four or five men found who did not espouse Milo's cause? Those lifeless assemblies of this nearly burnt<sup>1</sup> tribune of the people show the fact; assemblies in which he daily used to try

\* After Clodius's death, Munatius Plancus, the tribune, exposed his body on the rostrum, and harangued the people against Milo; the populace carried the body into the senate-house, and made a pile of the seats to burn it, in doing which they burnt the senate-house, and Plancus himself with difficulty escaped.

and bring my power into unpopularity, by saying that the senate did not pass its decrees according to what it thought itself, but as I chose.

And if, indeed, that ought to be called power, rather than a moderate influence in a righteous cause on account of great services done to the republic, or some popularity among the good on account of dutiful labors for its sake, let it be called so, as long as we employ it for the safety of the good in opposition to the madness of the wicked.

But this investigation, though it is not an unjust one, yet is not one which the senate thought ought to be ordered; for there were regular laws and forms of trial for murder, or for assault; nor did the death of Publius Clodius cause the senate such concern and sorrow that any new process of investigation need have been appointed; for when the senate had had the power of decreeing a trial in the matter of that impious pollution of which he was guilty taken from it, who can believe it thought it necessary to appoint a new form of trial about his death? Why then did the senate decide that this burning of the senate-house, this siege laid to the house of M. Lepidus, and this very homicide, had taken place contrary to the interest of the republic? Why, because no violence from one citizen to another can ever take place in a free state which is not contrary to the interests of the republic. For the defending of one's self against violence is never a thing to be wished for; but it is sometimes necessary, unless, indeed, one could say that that day on which Tiberius Gracchus was slain, or that day when Caius was, or the day when the arms of Saturnius were put down, even if they ended as the welfare of the republic demanded, were yet no wound and injury to the republic.

VI. Therefore I myself voted, when it was notorious that a homicide had taken place on the Appian road, not that he who had defended himself had acted in a manner contrary to the interests of the republic; but as there was violence and treachery in the business, I reserved the charge for trial, I expressed my disapprobation of the business. And if the senate had not been hindered by that frantic tribune from executing its wishes, we should not now have this novel trial. For the senate voted that an extraordinary investigation should take place according to the ancient laws. *A division took place, it does not signify on whose motion, for it is not necessary to*

mention the worthlessness of every one, and so the rest of the authority of the senate was destroyed by this corrupt intercession.

“Oh, but Cnæus Pompeius, by his bill, gave his decision both about the fact and about the cause. For he brought in a bill about the homicide which had taken place on the Ap-pian road, in which Publius Clodius was slain.” What then did he propose? That an inquiry should be made. What is to be inquired about? Whether it was committed? That is clear. By whom? That is notorious. He saw that a de-fense as to the law and right could be undertaken, even at the very moment of the confession of the act. But if he had not seen that he who confessed might yet be acquitted, when he saw that we did not confess the fact, he would never have ordered an investigation to take place, nor would he have given you at this trial the power<sup>1</sup> of acquitting as well as that of cen-demning. But it seems to me that Cnæus Pompeius not only delivered no decision at all unfavorable to Milo, but that he also pointed out what you ought to turn your attention to in deciding. For he who did not assign a punishment to the confession, but required a defense of it, he clearly thought that what was inquired into was the cause of the death, and not the mere fact of the death. Now he himself shall tell us whether what he did of his own accord was done out of regard for Publius Clodius, or from a compliance with the times.

VII. A most noble man, a bulwark, and in those times, in-deed, almost a protector of the senate, the uncle of this our judge, of that most fearless man Marcus Cato, Marcus Drusus, a tribune of the people, was slain in his own house. The peo-ple had never any reference made to them in the matter of his death, no investigation was voted by the senate. What great grief was there, as we have heard from our forefathers in this city, when that attack was made by night on Publius Africanus, while sleeping in his own house! Who was there then who did not groan, who did not burn with indignation, that men should not have waited even for the natural and in-evitable death of that man whom, if possible, all would have wished to be immortal?

<sup>1</sup> Literally, “this wholesome letter, as well as that melancholy one.” The letter A was the “wholesome” letter, being the initial of *absolvo*, I acquit; the letter C the melancholy one, being the initial of *condemno*, I condemn.

# END OF SAMPLE TEXT



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