

CLODIUS' BID FOR THE TRIBUNATE IN 60 B.C.

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During 60 B.C. the patrician P. Clodius Pulcher was unsuccessful in a bid for the tribunate. The main purpose of this article is to show why he failed to secure that office. A secondary purpose is to prove that Clodius formed an alliance with Pompey and attempted to use it to his own advantage in his tribunician campaign.

When his quaestorship of 61 in Sicily expired, Clodius made a swift journey to Rome in order to seek the tribunate (*Cic. Att.* 2.1.5). He wasted little time. By January 20, 60, no less than three measures concerning his eligibility for the tribunate had been proposed. At first, he persuaded several tribunes to move that patricians be eligible for the tribunate (*Dio Cass.* 37.51.1). When the proposal failed, Clodius induced the tribune C. Herennius to propose that the *Comitia Centuriata* vote on his transition to plebeian status.¹ We can assume that Herennius' bill was vetoed. Otherwise, the consul Q. Caecilius Metellus Celer, Clodius' brother-in-law, would not have later promulgated a measure dealing with Clodius' *transitio ad plebem*. Metellus' proposal, which was nothing other than a token gesture of good will to a brother-in-law, also failed (*Cic. Att.* 1.13.5, 8).

Metellus' measure was probably vetoed by the tribunes, who in March vetoed Herennius' renewed attempts to make a plebeian out of Clodius (*Cic. Att.* 1.19.5, 11). After Herennius' new proposals were defeated,

Clodius took matters into his own hands. He abjured his patrician rank before the *Concilium Plebis* and took up plebeian status. Then he announced his tribunician candidacy (Dio Cass. 37.51.1-2). Such a means of assuming plebeian rank was clearly illegal. Had it been legal, Clodius would have resorted to this more direct method in the first place; he need not have bothered with other more cumbrous methods. Clodius' assumption of plebeian status before the *Concilium Plebis* also shows that his move was illegal. The *Concilium Plebis* had no power to sanction a change in civil status. If it had had that power, the tribune Herennius would have referred Clodius' *transitio ad plebem* to it and not to the *Comitia Centuriata*. It is also significant that the consul Metellus opposed Clodius' candidacy by claiming that his change in status was unconstitutional. He certainly did not make this claim without proof. Dio Cassius (37.51.2) explains Metellus' position by stating that only a *lex curiata* could effect Clodius' transition to plebeian status. A *lex curiata*, however, was not the sole means of doing this: as has been noted above, a law of the *Comitia Centuriata* could also bring it about. Metellus, therefore, was able to deny the constitutionality of Clodius' "new standing" on the grounds that neither the *Comitia Curiata* nor the *Comitia Centuriata* had sanctioned it.

Metellus was the main opponent of Clodius' candidacy. He opposed Clodius violently and unwaveringly (Cic. *Cael.* 60; *Att.* 2.1.4-5). At least three factors brought about this change of position. Firstly, Metellus had lost *auctoritas* through the measure he had promulgated on behalf of Clodius (Cic. *Att.* 1.18.5). He would regain his standing with his fellow *optimates* by the stern behaviour he now adopted towards his brother-in-law. Secondly, Metellus may have suspected the rumoured incestuous relationship of his wife with her brother Clodius to be more than gossip (Cic. *Att.* 2.1.5). Thirdly, Clodius was probably helping Pompey to acquire popular support for Flavius' tribunician bill which proposed a distribution of land to Pompey's former soldiers and to the populace. The mere fact that Clodius allied himself with Pompey was reason enough for Metellus to resist his candidacy: Pompey, Metellus' former commander (Dio Cass. 36.54.1-2), had alienated him by divorcing his sister Mucia even though she had borne him two sons.² Clodius,

then, by supporting Flavius' bill thoroughly annoyed Metellus who, because of his hatred of Pompey and his alignment with Pompey's enemies, was doing all in his power to frustrate the bill: he opposed the bill so persistently that the tribune Flavius imprisoned him (Cic. *Att.* 2.1. 8; Dio Cass. 37.50.1-4).

There is no direct statement in the sources that Clodius helped Pompey to canvass the Flavian bill in the *Concilium Plebis*. Plutarch, however, in his *Cato Minor* and *Pompeius* provides information which, compared with that from other sources, allows us to conclude that he probably did so. In *Cato Minor*, Plutarch states:

Lucullus struggled with Pompey over the arrangements in Pontus -- each wanted his own *acta* upheld -- and Cato came to the aid of Lucullus who was clearly wronged. Pompey, defeated in the senate and currying popular favour, called the soldiers to a distribution of land. However, when Cato opposed Pompey in this as well and dealt a setback to the bill, then Pompey allied himself with Clodius, at that time the boldest of the demagogues. (31.1-2)³

Here Pompey reacts to the setback dealt by Cato to his agrarian bill by allying himself with Clodius. Through this alliance Pompey became directly involved with the *plebs*. Plutarch depicts this in his *Pompeius*:

Lucullus immediately engaged Pompey. By a violent attack he was victorious over him with respect to his own arrangements which Pompey had nullified and he had his way in the senate with the help of Cato. Pompey, downtrodden and defeated, was compelled to flee to the tribunes for refuge and to ally himself with young hot heads. Clodius, the most disgusting and boldest of these, raised him up and threw him at the people's feet. Making the rounds of the forum with Pompey ignobly in tow, he used him as the guarantor of what was proposed and said for the gratification and flattery of the people. Clodius even asked a reward from Pompey, as if he were a help rather than a hindrance. (46.3-5)⁴

Since Pompey became involved with the *plebs* through Clodius after Cato obstructed the agrarian bill, he probably did so to get his help in drumming up popular support for the bill and thus to offset the damage done to it by Cato. This is probably what Plutarch has in mind when he says that Clodius had Pompey guarantee what was proposed (γραφομένων) to gratify and flatter the people: γραφομένων would be a reference to Pompey's agrarian bill.

The agrarian bill, which Plutarch alludes to, can be identified with Flavius' land bill: both were tribunician bills, which Pompey supported, and which provided for a distribution of land to Pompey's soldiers. Moreover, the Flavian bill contained a clause giving land to the populace: this may be specifically what Plutarch is thinking about in the *Pompeius* when he says that Pompey was the guarantor of what was proposed to gratify and flatter the people.⁵ Besides this, Dio Cassius furnishes information which allows Plutarch's agrarian bill to be identified with the Flavian bill on a chronological basis. While Plutarch in *Cato Minor* shows that Pompey resorted to the agrarian bill after the senate refused to ratify his Eastern *acta*, Dio points out that at that time Pompey had recourse to the Flavian bill. Dio makes the further point that after Pompey finally gave up on the Flavian bill, he sponsored no further measures in 60 (37.49.5-50.6). Plutarch's agrarian bill, therefore, could be none other than the Flavian bill. From this discussion it can be concluded that the bill, which Clodius helped Pompey to canvass in the *Concilium Plebis*, was the Flavian bill.

There was nothing in their past relations which prevented Clodius and Pompey from forming an alliance in 60. In 67 Clodius had contributed to Lucullus' supersession by Pompey in the command of the war against Mithridates and Tigranes through the role he played in the mutiny of Lucullus' troops (Cic. *Har. Resp.* 42; Dio Cass. 36.17.2; Plut. *Luc.* 34). Then in 61, when the senate sought to have Clodius condemned for his intrusion on the *Bona Dea* sacrifice, Pompey adopted a neutral position towards his prosecution (Cic. *Har. Resp.* 45; *Att.* 1.14.1-3; and below, n. 7).

An alliance between Pompey and Clodius was politically expedient. Pompey needed Clodius' aid in canvassing the Flavian bill. Clodius, on

the other hand, allied himself with Pompey in order to bolster his campaign for the tribunate: an alliance with such a preeminent political personage increased his political stature and disposed the *plebs* to consider his candidacy in a more favourable light. There are no chronological problems with this conclusion. Flavius promulgated his land bill by January 20, 60 (Cic. *Att.* 1.18.6,8). He was still attempting to pass the bill into law on June 1 by which time he had imprisoned Metellus for his opposition to it (Cic. *Att.* 2.1.1, 6 and 8). Flavius must have persisted in his efforts for a while after this, since Metellus, according to Dio (37.50.4), continued to resist the bill following his release. During the period when the Flavian bill was active Clodius was able to use an alliance with Pompey to improve his chances for the tribunate: his campaign started in March and lasted till late July, the usual period for tribunician elections.⁶ Pompey probably allied himself with Clodius during or after the month of March. At that time Flavius' land bill was running into trouble (Cic. *Att.* 1.19.4,11; 2.1.1,6). This will have prompted Pompey to enlist Clodius' aid.

Pompey's alliance with Clodius did not work out. It ended when Pompey took a stand against Clodius' tribunician candidacy (Cic. *Har. Resp.* 45). Clodius' behaviour was responsible for Pompey's volte-face. Plutarch points out in general terms that Clodius was more of a hindrance than a help to Pompey (*Pomp.* 46.4-5). The cause of this probably was that Clodius had used Pompey to promote his tribunician candidacy and had not been attentive enough in canvassing the Flavian bill.

Clodius was not elected tribune (Dio Cass. 37.51.2). He did not stand a chance: the opposition to him was too overwhelming. Besides Metellus and Pompey, the senate opposed his candidacy (Cic. *Har. Resp.* 45). In the early months of 61 it had gone to considerable lengths to have Clodius convicted for his intrusion on the *Bona Dea* ceremony, but he had secured his acquittal allegedly through bribery.⁷ It is not surprising, therefore, that the senate, a year later, adopted a hard line towards his candidacy. In addition, the tribunes, who had vetoed Herennius' motions concerning Clodius, probably resisted it. In all likelihood they had vetoed Herennius' motions because they did not wish a patrician to share in an exclusively plebeian political right. For the

same reason, they would have come out against Clodius' candidacy. Together, Metellus, Pompey, the senate and the tribunes wielded sufficient political power to effect Clodius' defeat at the polls.

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NOTES

¹ Cicero states: "is [Herennius] ad plebem P. Clodium traducit idemque fert ut universus populus in campo Martio suffragium de re Clodii ferat" (*Att.* 1.18.4). As Shackleton Bailey points out, the place of assembly, the *Campus Martius*, and the fact that "universus populus" was to vote indicate that the *Comitia Centuriata* was the assembly in question (*Cicero's Letters to Atticus*, [Cambridge 1965] I, 332).

² *OCD*² "Mucia", 702; *Cic. Att.* 1.12.3; *Dio Cass.* 37.49.3. Pompey's reason for divorcing Mucia may have been adultery on her part (*Plut. Pomp.* 42.7; *Suet. Iul.* 50.1). On the other hand, he may have been clearing the way for the marriage-alliance which he offered to Cato on his return from the East (*Plut. Cat. Min.* 30.1-6).

³ Λευκόλλου δὲ περὶ τῶν ἐν Πόντῳ διατάξεων στασιδάσαντος πρὸς Πομπηΐον (ἠξίουν γὰρ ἰσχύειν ἑκάτερος τὰ ὑφ' αὐτοῦ γενόμενα), καὶ Λευκόλλῳ Κάτωνος ἀδικουμένῳ περιφανῶς προσαμύνοντος, ἐλαττούμενος ὁ Πομπηΐος ἐν συγκλήτῳ καὶ δημαγωγῶν, ἐπὶ νομῆν χώρας ἐκάλει τὸ στρατιωτικόν. ὥς δὲ κἀνταῦθα Κάτων ἐνιστάμενος ἐξέκρουσε τὸν νόμον, οὕτω Κλωδίου τε περιείχετο, τοῦ τότε θρασυτάτου τῶν δημαγωγῶν.

⁴ ἐπὶ δὲ Πομπηΐον εὐθύς ἀτίξας καὶ λαβόμενος ἐντόνωσ αὐτοῦ περὶ τε τῶν διατάξεων ἃς ἔλυσεν ἐκράτει, καὶ πλεον εἶχεν ἐν τῇ βουλῇ συναγωνιζομένου Κάτωνος. ἐκπίπτων δὲ καὶ περιωθούμενος ὁ Πομπηΐος ἠναγκάζετο δημαρχοῦσι προσφεύγειν

καὶ προσαρτᾶσθαι μεираκίους· ὧν ὁ βδελυρώτατος καὶ θρασύ-
 τατος κλώδιος ἀναλαβὼν αὐτὸν ὑπέρριψε τῷ δήμῳ, καὶ παρ'
 ἀξίαν κυλινδούμενον ἐν ἀγορᾷ ἔχων καὶ περιφέρων ἐχρῆτο τῶν
 πρὸς χάριν ὄχλου καὶ κολακείαν γραφομένων καὶ λεγομένων
 βεβαιωτῆ, καὶ προσέτι μισθὸν ἦτει, ὥσπερ οὐ καταισχύνων,
 ἀλλὰ εὐεργετῶν, ὃν ὕστερον ἔλαβε παρὰ Πομπηίου.

⁵ For Flavius' bill see Cic. *Att.* 1.18.6; 1.19.4; Dio Cass. 37.50.1.
 For the other measure see Plut. *Cat. Min.* 31.1-2. Plutarch does not
 say that the agrarian bill was a tribunician bill. However, this can
 be inferred from the fact that Pompey turned to the *plebs* with the
 agrarian bill after the senate refused to ratify his Eastern *acta*.

⁶ For instances of tribunician elections held at this time see
 Cic. *Att.* 1.1; 4.15.8. See also Shackleton Bailey, *Cicero's Letters to
 Atticus* I, 289-290.

⁷ Cic. *Att.* 1.12.3; 1.13.3; 1.14.5; 1.16.5. For a detailed study
 of the *Bona Dea* affair see J.P.V.D. Balsdon, "Fabula Clodiana," *Historia*
 15 (1966) 65-73.