

CHAMPIONS OF THE CROWD

Aediles in Roman Society

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Contents

Acknowledgements	3
Abstract	5
INTRODUCTION.....	7
1. STAGE.....	25
1.0 Introduction	25
1.1 Aedes	34
1.2 Circus	52
1.3 Rostra	71
1.4 Ornatus	90
1.5 Viae	110
1.6 Fora	119
1.7 Conclusion: <i>Arbitratus</i>	136
1.8 Map displaying aedilician spaces in republican Rome	141
2. SCRIPT	142
2.0 Introduction	142
2.1 Talking like an aedile	147
2.2 Talking about aediles	169
2.3 Thinking about aediles	192
2.4 Conclusion: Idealized aediles	203
3. AUDIENCE AND CAST	207
3.0 Introduction	207
3.1 Mingling with the audience	211
3.2 Understudies	242
3.3 Walk-on parts	257
3.4 Antagonists	288
3.5 Conclusion: <i>Facilis aditus</i>	305
CONCLUSION	306
Bibliography.....	311

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Salimmo sù, ella prima e io secondo.

Abstract

This thesis provides a social history of the plebeian and curule aedileships of the Roman republic. It examines the relationship between aediles and the Roman people, both in the idealized form described by the Roman aristocracy and from the perspective of the aediles' audience, the 'crowd'. To do this, it looks at where aediles interacted with the people, how they communicated, and which groups of people they interacted with. It asks several questions usually unasked in studies devoted to the constitution of republican Rome. How did Rome's politicians communicate ideas to the people and their peers? In what spaces did they interact? What did Rome's politicians think the social role of a magistracy was, or ought to be? And, more elusively, what did the Roman people expect of their magistrates?

The thesis is divided into three sections. The first provides a topography of the aedileship of the republic, allowing us to see where aediles opted to interact with the Roman people. The purpose of this section is to set the scene and to map attested aedilician theatres of interaction. The second section looks at how the aristocracy spoke and wrote about the aedileship. It analyses how some Roman aristocrats expected aediles to act, and how they imagined the people expected them to act. The final section investigates the question of popular expectations further. It examines the interactions that an aedile could anticipate having during his year of office. It questions how aediles comported themselves before the Roman people. Men who held the aedileship were expected, both by their peers and the people at large, to perform on the public stage and interact with the people in a distinctive, aedilician, way.

But it will not be long
 Ere this be thrown aside,
 And with new joy and pride
The little Actor cons another part;
Filling from time to time his 'humorous stage'
With all the Persons, down to palsied Age,
That Life brings with her in her equipage;
 As if his whole vocation
 Were endless imitation.

William Wordsworth, *Ode: Intimations of Immortality from Recollections of Early Childhood*, 99-107.

INTRODUCTION

*uindice seruabat nullo sua publica uolgus;
iamque in priuato pascere inertis erat.
plebis ad aediles perducta licentia talis
Publicios: animus defuit ante uiris.
rem populus recipit, multam subiere nocentes:
uindicibus laudi publica cura fuit.¹*

Writing at the beginning of the first century AD, the poet Ovid committed a large section of book five of his *Fasti* to an interrogation of the origins of a public festival called the *Floralia*. Although Flora was an old Italian deity, a public festival was not celebrated in her honour until the middle of the third century BC.² Its introduction, Ovid writes, was inextricably tied to the socio-economic situation at Rome. Instrumental to the introduction of her cult were two brothers named L. and M. Publicius Malleolus who held the magistracy of ‘plebeian aedile’ or ‘aedile of the *plebs*’ (*aedilis plebis*). In the 240s, ‘a few’ (*quisque*) wealthy men had been accumulating their wealth ‘from illicit sources’ (*de uetito*). Rome’s ‘crowd’ (*uolgus*) had, for a time, lacked ‘champions’ (*uindices*). Until, that is, the election of these men to the plebeian aedileship. The aptly named brothers emerged as the people’s champions after years of neglect of the law, bringing these wealthy men to trial and using the fines to provide ostentatious gestures of ‘care for the people’ (*publica cura*). The narrative preserved by Ovid formed a central part of Romans’ understanding of the aedileship. As Dan-el Padilla Peralta puts it, the Publicii became ‘important players in the formation and memory of the aedileship’.³

¹ Ov. *Fast.* 5.285-90.

² All dates from antiquity are henceforth BC unless otherwise stated.

³ Padilla Peralta 2018: 295.

These men used their year in office to leave their physical mark on the city. They used the proceeds of the fines to pave a road connecting the Aventine hill with the Forum Boarium, a commercial hub near the city's fluvial port. They also vowed a temple to Flora, in the vicinity of an existing temple at the heart of the plebeian consciousness, the temple of Ceres. Striking in Ovid's account is the activeness of the *populus* during the public trial. The presence of such brave aediles gave them confidence to 'take up the case' (*rem populus recipit*). Ovid's *populus* acted in its own interests with the assistance of their aedilician champions. The poet leaves tantalizing gaps in how this negotiation between the people and their *uindices* played out. This thesis examines the relationship between men like the Publicii and the *populus*, the *uolgus*. It looks at where aediles interacted with the people, how they communicated, and which groups of people they interacted with. It provides a social history of the plebeian and curule aedileships of the Roman republic.

Ovid's encomium is clearly over the top: he glamorizes the men and the office, eulogizing these two men as being crucial for the repression of the greed of the wealthy. One of the central challenges facing this thesis, then, is to read through the perspective of the elite authors of later periods to understand the view of the contemporary Roman people. The 'plebs'-eye view' is difficult, though not impossible, to uncover, as Robert Morstein-Marx has shown.⁴ The dualism between aristocratic bias and popular opinion sits at the heart of the thesis. It chiefly aims to understand how the Roman aristocracy conceptualized the aedileship and how normative aristocratic behaviour conditioned their self-presentation before the Roman people. Aristocrats such as Ovid certainly thought that historical aediles of the republic were universally praised by the *uolgus*, winning *magnus*

⁴ See Morstein-Marx's (2004: 207-30) 'thought-experiment' by adopting a 'plebs'-eye view' to understand the popular reception of Cicero's *contiones*.

fauor. But this thesis provides a blueprint for how we might come to appreciate and uncover the Roman people's perspective and reception of political offices, and the men who held them.

Why this thesis? There has been a recent surge in interest in Roman magistracies.⁵ The predominant approach to the aedileship in modern scholarship, and to Roman magistracies in general, remains positivistic. It attempts to reconstruct a coherent constitutional picture of the aedileship at given points of Roman history based on evidence scattered over time written by authors who gave little thought to aspects of life as familiar and omnipresent as urban magistrates. Aedilician activity was so quotidian and obvious that it was barely worth mentioning. The outcomes in modern scholarship have, admittedly, been outstanding. It is a testament to Theodor Mommsen's exhaustive study of the functions of Rome's magistracies that it took more than a century for a comprehensive study of the aedileship to follow.⁶ His study systematically discussed the office's origins and, especially, 'functions', the 'Hauptthätigkeiten'.⁷

Two comprehensive studies have followed in recent years. Anne Daguet-Gagey's 2015 survey of the aedileship is the most comprehensive to date. The greatest service of her work, among many others, is its contribution to our understanding of the aedileship during the Principate, especially oversight of market affairs.⁸ Despite professing to survey the office from Cicero's aedileship (69) onwards, it also capably discusses the evidence for the early aedileship. It sets out, successfully, to discuss 'la nature de leurs prérogatives, les

⁵ Consulship: Pina Polo 2011; praetorship: Brennan 2000; quaestorship: Pina Polo and Díaz Fernández 2019; tribunate: Lanfranchi 2015.

⁶ Mommsen, *Röm. Staatsr.* 2³.1.470-522. Cf. before him Schubert 1828.

⁷ Mommsen, *Röm. Staatsr.* 2³.1.497 n. 1. Kunkel and Wittmann 1995: 474-509 provide an updated survey of aediles' 'Funktionen'.

⁸ Daguet-Gagey 2015: 453-619; cf. 2012: 63-77.

modalités de leur activité, les relations entretenues avec les autres figures de l'administration urbaine'.⁹ Maximilian Becker's 2017 study provides the most detailed study of the early aedileship. His study is diachronic, providing a full survey of the evidence for, and previous scholarship on, the aedileship's origins and early development.¹⁰ Its greatest achievement is the furnishing of an unparalleled discussion of the evidence for the fifth century. Out of his rich survey emerge several sensible and cautious conclusions. The true origins of the aedileship are irrecoverable, despite numerous previous attempts, and are better expressed by plausible hypotheses than firm conclusions.¹¹ Both studies, thanks to their enormous breadth, remind us to be cautious when assuming that the tripartite division assigned to the aedileship in Cicero's *De Legibus* comprises the full gamut of aedilician roles.¹² It is much more diverse than that.¹³

The aedileship, because of this remarkable diversity, has attracted several smaller, more focused, studies. Luigi Garofalo's 1989 monograph remains the most comprehensive single study of the criminal competencies of aediles. Dario Sabbatucci, meanwhile, investigated the religious aspects of the aedileship.¹⁴ He argued that the aedileship was an early *sacerdotium*, a priesthood that over time shed many of its religious duties but retained its link with temples and *ludi publici*. His thesis is controversial, and, as I will discuss (1.1 below), not grounded in strong evidence. But his study did raise important questions about the boundaries between the religious and political responsibilities of Roman magistrates.

⁹ Daguet-Gagey 2015: 3.

¹⁰ Becker 2017: 37-139. Cf. Soltau 1882 on origins.

¹¹ See esp. Becker 2017: 62.

¹² Cic. *Leg.* 3.7: *suntoque aediles curatores urbis annonae ludorumque sollemnium*.

¹³ Other studies, generally positivistic, include Ernst 1990 (origins); Michelon 2011 ('funzioni'); Pérez Zurita 2014 ('competencias'). Pérez Zurita also provides an excellent study of the municipal aedileship in Italy (2011b: 99-204) and Spain (pp. 205-476).

¹⁴ Sabbatucci 1954: 255-333.

Indeed, in the Roman conception of political office, the idea that such a boundary existed was unthinkable.

Any disagreements with individual points in previous scholarship may seem minor and trivial. Objections are made in this thesis only when germane to my broader argument. To provide two incidental examples, I argue that aediles did exercise extensive ‘*Spielgebungs-kompetenz*’ before the late third century (*contra* Becker) and that Cicero was a plebeian, not curule, aedile (*contra* Daguet-Gagey). These conclusions have repercussions for how we interpret first-century conceptualizations of the social role of the early aedileship. But this thesis is not polemical or agonistic. It does not set out to rewrite the magistracy’s constitutional history. Nor does it claim that any particular approach to Roman magistracies is superior. But it does offer a different approach. How we study these institutions is simply, as Susan Treggiari succinctly puts it, ‘a question of emphasis or focus’.¹⁵ Certain aspects of Roman political history have been neglected in the admirable desire to understand the inner workings of Roman political and administrative practice. As I have suggested, there is a tantalizing gap, in ancient literature as well as modern, in the relationship between the Roman people and the aediles they elected. Little has been written on how aediles communicated with the Roman people; in what distinctive ways an aedile comported himself before ‘his’ *uolgus*; and almost nothing on what the people thought of their aediles. More remains to be said about, to quote Daguet-Gagey, ‘les relations entretenues’ by aediles with other members of Roman society.

Previous scholarship also tends to assume a teleological position. When discussing the aetiology of the aedileship, the question of why the aedileship was created is often

¹⁵ Treggiari 2002: 5.

asked: what administrative need did it fill? This modern trend admittedly follows a Roman urge to understand the origins of their own political offices. Ancient stories about the creation of the plebeian and curule aedileships, and especially the aedileship of Ceres instituted by Julius Caesar, tend to conceive of these offices as filling a political, social, or administrative need, which suggests a Roman impulse to explain aetiology in teleological terms. The aedileship, in this view, was created *for* something. It would be perverse to argue that the aedileship had no purpose. But attempting to identify what Romans had in mind at the creation of a political office whose origins lay at least five centuries ago is problematic. This thesis asks different questions.

A picture emerges in modern scholarship of a set of duties or responsibilities ('prerogatives', 'missions', 'tâches', 'mansioni', 'Tätigkeiten', etc.) which men elected to the magistracy were obliged to carry out. The language is often passive. Aediles were charged with overseeing the market; they were instructed by the senate to deal with grain shortages; they were obliged to fund and oversee public games. In some instances, this is true. Oversight of certain *ludi publici* was a fundamental and non-negotiable aspect of an aedile's year in office. These were fixed parts of the Roman calendar. But this thesis takes as axiomatic the principle that aediles enjoyed a significant degree of agency and independence. It argues that the aedileship was a plastic magistracy, one which allowed its holders, according to 'their own discretion' (*arbitratu eius*, as our literary and epigraphic sources consistently term it), to assume different personae and pursue different causes. There existed a broad range of norms but few fixed duties or responsibilities.

Many studies of the aedileship are also narrowly teleological in a second sense. The aedileship is frequently treated as a mere stepping-stone. This instrumentalizing perspective does indeed manifest itself in ancient literature. Cicero conceived of it as a

primus ascensus on the road to higher honours: that is, it could be described as such with the benefit of hindsight by a man who had already reached the *summa laus* a decade earlier.¹⁶ There was also a conceptual link between lavish *munera*, whether during one's aedileship or not, and future elections. There is no doubt that Roman aristocrats recognized a connection between success in past political office and future electability. So Cicero, when weighing up candidates' chances for election to the praetorship or consulship, could cite a past aedileship as a factor falling in their favour. M. Aemilius Scaurus' notoriously lavish displays of 58 stood his campaign for the consulship of 53 in good stead: 'nevertheless, his aedileship is remembered not without gratitude, and the memory of his family is an important factor among rural voters' (*sed tamen habet aedilitas eius memoriam non ingrattam et est pondus apud rusticos in patris memoria*).¹⁷ Cicero, musing over the chances of L. Aelius Lamia in getting elected to praetorship, cites his *magnificentissima munera* during his aedileship of 45 as one of the decisive factors falling in his favour.¹⁸ The *summa gratia* that he obtained would help him significantly in his winning the praetorship for 42.¹⁹ And Plutarch, with the benefit of hindsight, certainly saw Caesar's curule aedileship of 65 as a key stage in his career. He judges that the aedile 'treated the people in such a way that everyone sought out new magistracies and honours with which to reimburse him' (οὕτω διέθηκε τὸν δῆμον, ὡς καινὰς μὲν ἀρχὰς, καινὰς δὲ τιμὰς ζητεῖν ἕκαστον αἷς αὐτὸν

¹⁶ Cic. *Leg.* 3.7.

¹⁷ Cic. *Att.* 4.16.6. The litotes, as it happens, does not mask meiosis. Scaurus lost, despite preposterous levels of bribery (Broughton 1991: 21-2).

¹⁸ Cic. *Fam.* 11.17.1.

¹⁹ Cic. *Fam.* 11.16.3. He evidently won the election (Plin. *NH* 7.173; Val. Max. 1.8.12).

ἀμείψαιντο).²⁰ Political advancement was a primary motivation for many in the aristocracy.

Modern scholarship tends to focus on these political and instrumental motivations.²¹ The widespread view that a lavish aedileship was necessary for political advancement stems from using the *cursus honorum* as central to analysis of Roman politics: advancing one's career is everything, and therefore ascending the *cursus* is critical for personal prestige and elevation of one's *gens*.²² Aediles, then, play the long game: the year in which they held the aedileship became, at least in the late republic, something of a year-long canvass, a legitimate means of *largitio* to gain an advantage over other aristocrats.²³ As a result, the importance of the aedileship to Roman aristocrats as an end in itself tends to be ignored. 'It was not so much the aedileship itself', argues Andrew Lintott, 'but its value in assisting men to even higher offices which would have encouraged competition and bribery.'²⁴ Teleology and instrumentality dominate the study of the aedileship perhaps more than that of any other Roman magistracy.

These assertions are difficult to substantiate with quantitative evidence. The aedilician *fasti* are too patchy to allow us to recognize patterns with certainty. Nevertheless, the data leave themselves open to manipulation. It is certainly true that a significant number of attested aediles, especially curule aediles, would go on to become praetors. Israel

²⁰ Plut. *Caes.* 5.9. It is worth noting that Plutarch conflates the official actions of Caesar's aedileship with his non-aedilician lavish gladiatorial games. Cicero (*apud* Suet. *Iul.* 9.2) subsequently traced the beginnings of Caesar's aims of *regnum* to the latter's aedileship.

²¹ See e.g. Piganiol 1919: 245; Balsdon 1969: 260-3; Nicolet 1976: 482; Deniaux 1987: 298-9; Beacham 1991: 158; Dyck 1996: 445; Millar 1984b: 12; Vasaly 2009: 125; Steinby 2012: 71-2; Holleran 2003: 51; Giovannini 2015: 62; Deniaux 2016: 178-9; Becker 2017: 155.

²² Wiseman 1971: 143-81 (esp. p. 161); Beck 2005a: esp. 22-30; Hölkeskamp 2010: 77, 91-3.

²³ Cf. Balsdon 1969: 262 ('a vote-catching preparation for later candidature for the praetorship and the consulship'); Jakobson 1999: 37 ('a long-term investment by the aediles ... to pave one's way to higher magistracies').

²⁴ Lintott 1990: 15.

Shatzman found that three-quarters of all known aediles went on to become praetors.²⁵ But the bald statistical evidence does little to prove a causal connection between lavish spending and electability. It should hardly come as a surprise that the four holders of an illustrious political office would go on to be elected to one of the six (or eight, by Cicero's time) offices of praetor. One's family name was also an important, though not decisive, factor.²⁶ Furthermore, the incompleteness of the evidence leaves room for doubt: only a relatively small number of aediles is known to us, and these men are known only because an aspect of their career was worthy of remark.

It is not my purpose to deny the utility of the *gratia* received from a successful aedileship. The stepping-stone thesis is perfectly defensible. But, as Catherine Virlouvet argues, it would be reductive, 'trop simpliste', to view aristocratic motivations as simply instrumental or 'basement politique[s]'.²⁷ I suggest that, by describing the aedileship simply as a 'stepping-stone', we fail to take into account the complexities of Roman social relations, ignoring the diversity of aristocratic motivations on the one hand and the people's relationship with the political classes on the other. Treating the aedileship as a means of canvassing for the praetorship risks overlooking one of the critical differences between these offices. Aediles were elected by, and sometimes presided over, either the *comitia tributa* or *concilium plebis*. It was the final stage in one's career in which these men would play an integral role in tribal assemblies before seeking election in the timocratic *comitia centuriata*. It may be asked why aediles would attempt to cultivate such a broad base of support if their 'electorate' changed drastically from one election to another.

²⁵ Shatzman 1975: 159-67.

²⁶ Gruen 1974: 177-80.

²⁷ Virlouvet 1997: 245.

The modern focus on instrumentality has been challenged. Paul Veyne, for instance, critiques the notion that it was 'décisif d'avoir fait largesse quand on était édile et rédhibitoire de ne l'avoir pas fait'.²⁸ With his sociological approach, he concluded that the affection of the Roman people was the essential motivation behind an aristocrat's euergetism: competition for votes can be understood more generally, and more accurately, as elite competition for the goodwill of the people. Votes are a mere manifestation of this desire. Veyne's views are not irreconcilable with the stepping-stone doctrine. However, following Veyne, I intend to shift the focus away from instrumentality to help us gain a deeper understanding of the aedileship as a social institution. An understanding of motivations, essential in any sociological enquiry, is rightly at the heart of numerous discussions on ancient euergetism.²⁹ But motivations for behaviour during one's year of office are much more complex than simply vote-catching. This thesis, then, seeks to uncover the social, political, and cultural motivations of aediles, and what response they anticipated from the Roman people, beyond simply securing a vote at future elections. This thesis will therefore try to look beyond the view that the Roman aristocracy conceptualized the office only through an instrumental lens.

This thesis, then, offers a social history of a political office. Political history and social history are intertwined. To quote Susan Treggiari again, 'How politics were organised for a particular group may have a major impact on social life'; and a socio-historical approach allows us to investigate how an element of Rome's political

²⁸ Veyne 1976: 420. Cf. Morgan 1990: 28.

²⁹ Weber 1947: 89-91; Campbell 1990: 103-5. Literature on motivations and Roman (imperial) euergetism: Goffin 2002: 20-32; Lomas 2003: 39-42. Virlouvet 1997: 227 n. 1 admits of the need for further research on the motivations behind republican euergetism. On motivations behind Greek euergetism, see Ma 1999: 181-213; Domingo Gyax 2016: esp. 73-5; 224-34.

organization left an impact on various social groups, both ideologically and tangibly.³⁰ This is not a methodology per se, but a matter of perspective ('a question of emphasis or focus'). The present work of social history is not motivated by a 'contempt' for political history; the boundaries between the two are artificial.³¹ Adopting a social history approach to Roman political institutions allows us to ask different questions. How did Rome's politicians communicate ideas to the people and their peers? In what spaces did they interact with each other? What did Rome's politicians think the social role of a magistracy was, or ought to be? And, more elusively, what did the Roman people expect of their magistrates? Some avowedly similar approaches have been attempted. Thibaud Lanfranchi, for instance, sets out to study the 'prosopographie sociale' of the early tribunate primarily by analysing the social background of the men who held the office; what emerges is an 'image sociale' of the men who occupied the tribunate.³² But his approach is limited to a social history of the men themselves who held the office. By design, it is not equipped to inform us about what social connections tribunes established, and were expected by their peers to establish, with others. This thesis therefore offers a novel perspective for analysing not just the aedileship, but Rome's political culture.

At the heart of this approach is communication. One particularly enlightening method is provided by Filippo De Vivo's work on the political culture of the Venetian republic. Discussing 'political communication' in a broad sense in early modern Venice, De Vivo analyses interactions between people otherwise politically disenfranchised and the

³⁰ Treggiari 2002: 5.

³¹ So Burke 2001: 17-18.

³² Lanfranchi 2015: 21, following the methods suggested by Nicolet 1970b: 1221-6. Comparable, though far less useful, is Suolahti's approach to the censorship, avowedly a work on 'social structure', which reached the unstartling conclusion that censors were 'exceptionally aristocratic' (1963: 137).

small aristocracy of public officials. Such a process allows him to take into consideration social groups normally ignored by studies of 'high politics' and to analyse the spaces in Venice where this communication took place.³³ The nature of the evidence for Rome is quite different; we need to cast our net wider. Therefore, the present thesis, in the absence of detailed evidence for 'material' and 'verbal' communication (with the exception of a handful of aedilician inscriptions and fragmentary speeches), adopts an even broader approach to symbolic communication, already used by some Roman historians.³⁴

Jörg Rüpke has, for example, explored how religious rituals 'enabled and enforced a complex communication', a communication across all members of Roman society, from magistrates to slaves.³⁵ Rome's regular institutions such as *ludi* were spaces where, according to Egon Flaig, the consensus of the Roman aristocracy could ritually be communicated to the Roman people.³⁶ *Ludi*, being something of a 'consensus ritual', played an important role in maintaining Rome's 'face-to-face' society, reinforcing the authority of the political classes while thrusting the people and the politicians together at close quarters.³⁷ All politics is communication: building work, public trials, solemn oversight of religious festivals.³⁸ They are all designed to communicate certain ideas to certain people. Magistrates' every action communicated something about their political persona: the way they hoped to be seen by their audience. Karl-Joachim Hölkeskamp has conceptualized consuls as the 'leading actors' on Rome's public stage, their every action as a 'spectacle'

³³ De Vivo 2007: 3.

³⁴ Definition of symbolic communication: Hölkeskamp 2017: 457-71.

³⁵ Rüpke 2012: 319. Cf. 2000: 31-49 on literary communication.

³⁶ Flaig 1994: 18-22; 2003: esp. 232-4 on *ludi* as spaces of communication. Cf. Sumi 2005: 27-9.

³⁷ Rüpke 1995: 618-22; Hölkeskamp 2004: 234-42; 2010: 72-3.

³⁸ Hölkeskamp 2010: 55-6; 2017: 472-80; Rosillo-López 2017b: 1-2.

which the people, the '(spect-)a(c)tors', would observe and take an active part in.³⁹ The public arena was one in which the people were convinced that their participation mattered, though perhaps a mirage,⁴⁰ fostering a two-way dialogue between magistrate and *populus*, in which an individual in the crowd becomes a '(spect-)a(c)tor'.⁴¹ This focus on communication ultimately allows us to look beyond narrowly political and administrative questions. Instead of concentrating on the *what* of the aedileship, this thesis asks *where* aediles interacted with the people, *how* they did so, and with *whom* they communicated. Naturally, questions about *what* aediles were doing, *when* they did it, and especially *why* they did it (i.e., the aristocratic motivations behind these forms of symbolic communication) will be asked throughout the discussion, but these are not the central organizing principles. The first three, as we shall see shortly, form the basis of the tripartite division of the thesis.

Why aediles? There was significant overlap between magisterial norms. Like aediles, censors could build; urban praetors had a *tribunal*; quaestors had a treasury and an important relationship with *apparitores*; tribunes prosecuted *apud populum*. The roles of Rome's political offices overlapped, creating a baffling web of minimalist bureaucracy. What quaestors did, aediles did more lavishly; what aediles did, censors (intermittently) did on a grander scale. Even a capable civil servant like Frontinus, writing in the first century of our era, was perplexed by the division of labour. Even in Rome's official records he found discontinuity (*in eis ipsis legibus uariatur*), with duties concerning the water supply sometimes carried out by aediles, sometimes by censors, and sometimes even by

³⁹ Hölkeskamp 2011: 166-81.

⁴⁰ Cf. Connolly 2007: 47-8 on the *contio* as 'an affirmation of the consensual fantasy of membership in an ideal civic body'.

⁴¹ Hölkeskamp 2011: 162. Cf. Kyle 1998: 9. Cf. Potter 1996: 147-55 on this phenomenon in the Principate.

quaestors.⁴² But the amalgam of norms and relationships associated with the aedileship seemed to encourage a particular mode of behaviour. There was something distinctive, if not unique, about how aediles comported themselves in the public eye.

The approach adopted in this thesis could therefore realistically be attempted for any Roman magistracy, just as Hölkeskamp did for the consulship. As he observes, ‘any public appearance of magistrates in high office, in different places, social and institutional contexts, ritual as well as other formal roles ... is staging a spectacle of its own, regularly and continuously throughout their year of office’.⁴³ But each office was thought by ancient writers to have its own distinctive ideology. Velleius Paterculus paints C. Sentius Saturninus (cos. 19) as a paragon of ‘the ancient custom and strictness of the consuls’ (*ueterum consulum more ac seueritate*), which manifested themselves in his harsh punishments exacted against *publicani* and in his strict oversight of elections. In this way, he ‘played the consul’ appropriately (*egit consulem*). Velleius believed that there was something distinctive about the republican consulship that Saturninus was evoking. There were discrete ideas, ideals, and ideologies associated with each political office at Rome. Holders of the censorship, too, immediately become more dignified and austere in the literary record by virtue of their election; praetors stamped their own distinctive praetorian identity onto Rome’s physical spaces.⁴⁴ This ideology is particularly distinctive in the tribunate.⁴⁵ Cicero famously presents two prevailing aristocratic views of this office in *De Legibus*. The tribunate is by nature subversive and rabble-raising, argues Quintus, to which Marcus responds that, be

⁴² Front. *Aq.* 2.95-6.

⁴³ Hölkeskamp 2011: 166.

⁴⁴ Censorship: Cic. *Fam.* 3.13.2; *Cael.* 35. I am grateful to Alex Antoniou for bringing these passages to my attention. Praetorship: Kondratieff 2010: 96-101.

⁴⁵ Steel, Gray, and van der Blom 2018: 3-4.

that as it may in some situations, it forms an intrinsic part of the Roman political system; it provides accountability, keeps the *plebs* happy, and prevents mob rule.⁴⁶ The system is fine; a small minority of wicked men abusing the tribunate is the problem.

The aedileship gets barely a mention in *De Legibus*. Other magistrates are represented as the republic's true champions: praetors and consuls defend the republic and the *salus populi*; tribunes defend the *plebs'* interests at Rome.⁴⁷ Tribunes are usually identified as the Roman people's (self-professed) champions, *uindices omnis iuris sui*, as Macer called them.⁴⁸ They could comport themselves in a distinctive way upon entering office: P. Servilius Rullus (tr. pl. 63) was accused by Cicero of putting on 'a different facial expression, a different tone of voice, a different gait' (*alio uultu, alio uocis sono, alio incessu*) after his election to the tribunate.⁴⁹ Plutarch echoes this ideological view of the tribunate, writing that tribunes do not position themselves above the people, but instead 'equate themselves to ordinary citizens in their appearance, dress, and way of life in their interactions with them' (ὁμοιοῦσθαι καὶ σχήματι καὶ στολῇ καὶ διαίτῃ τοῖς ἐπιτυγχάνουσι τῶν πολιτῶν).⁵⁰ This ideology he contrasts with that associated with the consulship and praetorship, which are distinguished by their 'loftiness' (ὄγκος); the aedileship, meanwhile, falls between the cracks.⁵¹ But this thesis argues that aediles, too, comported themselves in a distinctive way. Like the Publicii, they might present

⁴⁶ Quintus' attack: Cic. *Leg.* 3.19-22; Marcus' defence: 3.23-6. Summary of arguments in Dyck 2004: 493, 503-4.

⁴⁷ Cic. *Leg.* 3.8, 3.23.

⁴⁸ Sall. *Hist.* 3.34.1M. Cf. Millar 1998: 209-10; 2002: 96-8, 102, 169-70.

⁴⁹ Cic. *Agr.* 2.13.

⁵⁰ Plut. *Quaest. Rom.* 81.

⁵¹ ὄγκος (in the sense of 'arrogance' or 'aloofness') often has negative connotations in Plutarch when describing Roman aristocrats' interactions with the people (Plut. *Comp. Alc. Cor.* 3.2; *Cat. Mai.* 14.2, 16.6; *Crass.* 7.3; *Pomp.* 18.2, 23.3; *Caes.* 57.2; *Cat. Min.* 3.2).

themselves as champions of a particular cause that they, from their aristocratic perspective, deemed to be beneficial to the 'people' or 'crowd'. The very magistracy that they held encouraged, for one year at least, a distinctive way of being and interacting.

This thesis is divided into three sections. Following Hölkeskamp's conceptualization of the Roman republic as a theatre, the magistrates as actors, and the people as spectators and actors, it adopts theatrical metaphors for each section. Within each section are chapters exploring individual topics pertaining to the general theme. The first section is titled 'Stage'. It provides a topography of the aedileship of the republic. This approach allows us to see where aediles opted, often 'at their own discretion' (*arbitratu eius*), to interact with the Roman people. The chapters within the section are divided by location: temples, the Circus Maximus, the *rostra*, roads, and *fora*. The purpose of this section is to set the scene, to demonstrate the publicness of the aedileship, and to map attested aedilician theatres of interaction. Questions about the origins and role of the aedileship are interwoven throughout. In this section, broadly focused on republican evidence from the fifth to the second centuries, we begin to develop an understanding of the norms and ideals that became associated with the aedileship.

The second section examines these ideals in greater detail. Whereas 'Stage' looks mostly at non-verbal forms of communication through aedilician manipulation of civic space, 'Script' looks at how the aristocracy spoke and wrote about the aedileship. What was distinctive about the aedileship that allowed its holders to identify themselves as champions for prosecuting, for example, a few rich men who grazed their herds on public land? What emerges is a complex picture of what certain members of the Roman aristocracy thought that the people expected of them, which itself has a self-reinforcing influence on aedilician behaviour. The chapters are divided by medium of communication. The first two

look at oratory: how aediles tended to talk before the people, and how one Roman (namely Cicero) rhetorically framed the magistracy before the people and juries. The third looks at Cicero's use of the aedileship in philosophical treatises, from which an idealized picture emerges, not dissimilar to Ovid's (reconstruction of the people's) championing of the Publicii. This section relies largely on first-century evidence, especially Cicero. The purpose is to provide a sketch of the, or at least an, ideology of the aedileship: how some Roman aristocrats expected aediles to act, and how they imagined the Roman people expected them to act.

The final section investigates the question of popular expectations further. Titled 'Audience and Cast', it examines the interactions that an aedile could anticipate having during his year of office. Bringing together the findings about aedilician norms generated over the centuries by the Roman aristocracy, it questions how aediles comported themselves before the Roman people, and what the people expected of their aediles. Men who held the aedileship were expected, both by their peers and the people at large, to perform in distinctive ways on the public stage, to be approachable and, to coin Martin Jehne's term, 'jovial'. These expectations are, again, ideologically charged. What this section offers, then, is a way of understanding social relations in the ancient world from the perspective of both the aristocracy and the people with whom they interacted. The first two sections tend to focus on one-way communication from aediles to the people. But I argue here that the people communicated their expectations to aediles too. Although the thesis concentrates on republican aediles, this final section uses imperial evidence, especially from Petronius, to develop our understanding of perceptions of the magistracy. To justify this mixing of republican and imperial evidence, it is argued that there was some degree of ideological continuity in Romans' conceptions of the aedileship, which is evident from the

similarities between rhetorical configurations of aedileship in the first centuries BC ('Script') and AD ('Audience and Cast').

The aedileship was generally held at a crucial point of one's political career. Election offered the individual, a man usually in his mid-thirties, an unrivalled opportunity to display himself and perform before the urban population. It was a magistracy in between.⁵² Men who held the office had to negotiate between the demands of the senate and the people. They were in charge of institutions avowedly designed to benefit Rome's urban population, and not just its voting public. They were not the republic's leading magistrates, but they were often, in the regular absence of magistrates *cum imperio*, among the most visible, the most present.⁵³ The aedileship represented a stage in one's career at which the man may con a distinctive part, in imitation of his predecessors, and enter, at the behest of his audience, a humorous stage.

⁵² Mazzarino 1945: 135; Becker 2017: 15.

⁵³ On the vexed question of who were the 'leading magistrates' or 'chief administrators' in the pre-Sullan republic: Sandberg 2001: esp. 104-16, 140; Drogula 2017: 104-7, 116-20.

1. STAGE

1.0 Introduction

Aediles communicated to the people by transforming the physical fabric of the city. This section examines the urban spaces from which, and with which, aediles communicated. The central assertion of this section is that the aedileship required its holders to appear frequently in the public eye. This appearance manifested itself in two forms. First, it was physical, in the sense that they appeared before the people at *ludi*, on the *rostra*, and at their *tribunalia*. Second, aediles enforced their presentness by imprinting themselves on the urban environment, communicating to the people through the physical memorialization of their year in office. The aediles' stage was a medium of non-verbal communication. And they could construct and embellish their own metaphorical stage, making improvements to the physical spaces of the city most closely associated with their office.

These spaces form the main divisions of this section: temples, the Circus Maximus, the speaking platform in the forum, roads, and marketplaces. There have been similar surveys for other political offices at Rome. Eric Kondratieff examined 'Tribunician Topographies' in his 2003 PhD thesis on the tribunate, tracing the 'physical context in which tribunician activity occurred' in the last two centuries of the republic.¹ His analysis was important in identifying the accessibility of tribunes, particularly in the forum, being an integral part of Rome's 'topography of punishment'.² Tribunes were remembered for their

¹ Kondratieff 2003: 124-226; 2009: 325-8.

² Kondratieff 2009: 327, following Coarelli 1985: 80-7 and Purcell (*LTUR* 2.333-4).

prominence, their physical presence in the forum, and for their accessibility. This section will subject the aediles to similar scrutiny, examining the spaces in the city in which they appeared and exploring how they interacted with the people from these spaces. It sets the scene for the final two sections of the thesis. Here I discuss the settings from which aediles could present themselves as the people's champions ('Script') and interact with the people ('Actors and Audience').

Aediles, as republican Rome's *curatores urbis*, lend themselves to topographical investigation. Their name is seemingly a toponym. *Aedilis*, as the most plausible etymological explanation for the word puts it, comes from one of the Latin words for temple, *aedes*. It appears to be a substantive form of an adjective that derives directly from the noun. Livy on one occasion calls plebeian aediles *duumviri aediles*, which may suggest that his Latin sources occasionally employed the old-fashioned adjectival form.³ But aediles appeared to acquire, over time at least, a much broader link with the city as a whole. I argue that the flexible notion of 'protection' (*cura*) of the 'city' (*urbs*) reflected the personal judgement involved in aedilician decision-making (*arbitratus*). Their rôle was intractably tied to their stage.

Why 'stage'? Shakespeare's oft-quoted line from *As You Like It* ('All the world's a...'), etc.) is something of a motif in Western literature, from Cicero to Plotinus to Wordsworth.⁴ The Romans certainly saw political affairs as taking place on a *scaena*, a public stage, played out before an audience. Musing on the political careers of Laelius and Scipio, Horace characterizes their retirement from politics as a withdrawal from the political 'stage', a time

³ Liv. 6.42.14. MSS differ slightly: OCT opts for *duumviros aediles*; alternatives are *duo uiros*, *duos uiros*, or simply *duos*. Plautus (*Poen.* 1012) uses *aedilis* as an adjective once.

⁴ Suet. *Aug.* 99.1; Plotinus, *Enn.* 3.2.15.45-51; *Anth. Pal.* 10.72. On this motif: Beck 1975: 33-68; Clark 1996: 281-2; Lebow 2012: 11-12.

‘when they withdrew themselves into retirement from the crowd and from the stage’ (*ubi se a uolgo et scaena in secreta remorant*).⁵ Rome’s politicians, actors on this political stage, conceived of themselves as performing on it before the audience of the *uolgus*. The *scaena* was both figurative and literal: Cicero could claim that the *contio* was the orator’s ‘most important stage’ (*maxima scaena*), that is, concurrently the most important setting for demonstrating one’s eloquence and the most important physical space in which to appear before the people.⁶ Modern scholarship has adopted this motif. As we saw in the ‘Introduction’, Karl-Joachim Hölkeskamp has conceived of the topography of Rome as a metaphorical stage for Rome’s elected officials.⁷ The public stage was a space from which magistrates would perform their rôle; their actions were performed for an audience comprising not just the urban *plebs*, but their fellow performers, past, present, and future. The metaphor hints at the constant interaction between magistrate and people in Rome’s face-to-face society.

This chapter examines how aediles fit into this spatial conceptualization of Roman political interaction, analysing their primary spaces of interaction: the ‘„Foren“ und Orte der Interaktion und Kommunikation zwischen der politischen Klasse und der Bürgerschaft’.⁸ Where were the *scaenae* from which aediles performed their rôles? The aedileship was an office which constantly brought its holder into the public eye. This came about not just through the aediles’ physical presence, but through the various ostentatious duties that they would perform for the physical fabric of the city. Temples could be built

⁵ Hor. *Sat.* 2.1.71-2.

⁶ Cic. *De or.* 2.338. Recurrence of this motif: Cic. *Planc.* 29; *Ad Brut.* 1.9.2

⁷ Hölkeskamp 2010: 71-4; 2011: 161-2, 166; 2017: 479-80. Cf. Dupont 1990: 185-9 on magistrates and people as players and spectators. On this broader sense of communication, see Flaig 2003: 232-4 *et passim*; Sumi 2005: 27-9.

⁸ Hölkeskamp 2017: 479-80.

and embellished; *ludi* would be held to placate the gods; roads could be paved. Although they were not on the literal *scaena*, they would fund *ludi scaenici* and sit in a prominent place overseeing these plays as *curatores*.⁹ One of their *maximae scaenae* was, instead, the *contio*. Aediles carried out prosecutions throughout the republic in what were *certamina* played out in the eyes of anyone who frequented the Forum Romanum. The forum was, in a way, their performance space, the space in which a man could build a political persona, a man who had (usually) never had access to such a prominent *locus* in his life.

So this section traces the history of the aedileship through the spaces with which it was associated. These spaces are grouped into topographically themed chapters, sequenced (roughly) according to when they are first attested in the evidence. It begins with a discussion of aediles at the temple of Ceres, the plebeian aediles' so-called 'headquarters'. I argue that care for the physical fabric of the city, the things belonging to the *plebs*, was thought by later writers to be a characteristic of early aediles. Whether their name derived from the *aedes Cereris* in particular, as some scholars suggest, or from *aedes* (plural) in general cannot be inferred with any certainty. But temples were thought, by later authors at least, to be at the heart of their early interactions with the *plebs*.

The second chapter ('*Circus*') examines aediles' early links with the Circus Maximus. There is abundant evidence for aedilician *cura* of most of Rome's *ludi publici*. By the mid-second century, plebeian aediles were responsible for the organization of three sets of games, *curule* two. Each of these games culminated in events held in the Circus Maximus. This was one of their key performance spaces. I argue that the *ludi plebei* were never held in the Circus Flaminius and were probably a lot older than some modern

⁹ Plaut. *Poen.* 36-9.

scholarship asserts. At the very least, there is no evidence that they were 'founded' in 220. This chapter therefore argues that, by the late third century, there existed an established norm linking aediles with the physical space of the Circus Maximus and the *uallis Murcia* in general.

Third, the space of aedilician trials is discussed ('*Rostra*'). Much like tribunes, aediles had the capacity to prosecute for a diverse range of crimes in *iudicia publica*. These were generally held in the forum in the public eye, and aediles would routinely conduct *contiones* during these public trials. The *rostra* represented an important *scaena* for aediles, a space from which they could develop their political persona, which was especially important for men at this stage of their careers. The process entailed some degree of dialogue between people and magistrate: the latter would often rely on informers to bring matters to his attention. People could, as it were, do people in to the aediles. If it reached the stage of a public trial, which was not always the case, the aedile would seek to convince the people of the accused's guilt. A successful conviction, by vote of the people *tributim*, would allow the aedile to raise public funds for his *munera*.

The next chapter, '*Ornatus*', brings together the themes discussed in the previous three chapters. Trials were a way of accumulating *multae* to fund lavish projects. From at least the fourth century, aediles tended to use this money in politically potent ways. The *ornatus*, aedilician adornment of the city, would remind the people of the trial. What emerges, then, is a kind of distributive logic, a tendency in the way aediles left an imprint on the physical space of the city. Their *ornatus* evoked lasting memories of their gifts to the community, of which the trial itself was one, during their year of office. They were placed in key strategic locations throughout the city associated with aedilician spectacles: the forum, the temples of Ceres and Jupiter, the Circus, and the route of the *pompa circensis*.

These benefactions formed something of a monologue, both to rivals (fellow members of the aristocracy) and to their public (the Roman people).

The fourth and fifth chapters ('*Viae*' and '*Fora*') examine aediles' association with roads and markets. Aediles could elect to pave roads from at least the fourth century. They left their mark on these spaces with milestones, reminding the passer-by, at every mile, of their service to the individual road user and to the community as a whole. Linked with this is the aedilician association with markets. In imperial evidence, aediles appear to be Rome's market official *par excellence*. The republican picture is much more complex, largely because our evidence tends to home in on spectacular games, ignoring the apparently more mundane evidence of repairing roads and issuing edicts in the market. A handful of oblique references in Plautus' plays points to aediles' early responsibility for market affairs. What unites these apparently disparate spaces is a tendency (to claim) to enhance *utilitas*, to make Rome's streets easier to traverse, and to make market affairs run smoothly according to their *arbitratus*.

Changes in Roman society extrinsic to the aedileship precipitated shifts in aedilician topographical norms, but these were subtle. For example, although *iudicia publica* begin to fade out of the evidence in the first century, due largely to the rise of *quaestiones perpetuae*, aediles maintained the (theoretical) capacity to prosecute *apud populum*.¹⁰ The means of funding had already begun to shift from public funds and *multae* to private expenditure, as *ludi* became increasingly lavish. The spaces of communication remained largely constant, but the scale was much greater. The aedileship remained practically untouched until the

¹⁰ Decline of *iudicia publica* as a source of aedilician revenue from the mid-second century: Ziolkowski 1992: 259-60.

late first century in a legal sense. Even Sulla apparently saw no need to change the status quo.¹¹

In the absence of much good evidence about why (and the extent to which) the aedileship changed over the centuries, topographical patterns are sometimes identified as a clue to development and 'Wachstum'. Kurt Latte, for one, highlighted the importance of topography in tracing and interpreting the responsibilities of early plebeian aediles. Aediles' temple duties may well have ultimately evolved to occupy other responsibilities nearby, which 'aus Herkommen und Bedürfnis allmählich gewachsen sind'.¹² Topographical proximity is crucial, with the aediles taking up the cause of merchants in the nearby Forum Boarium in an expansion of their religious duties.¹³ This topographical and notional link between Ceres and markets (such as the Forum Boarium) may be given as a reason for aediles' assumption of the responsibility for Rome's market administration. If Ceres was not placated, the people would go hungry.¹⁴ Therefore, aediles' subsequent fuller *cura ludorum* may well have developed out of their religious duties in the temple of Ceres; and their market competence grew out an association with Ceres.¹⁵ The appeal of such an approach is its attention to the importance of the built environment in shaping aediles' relationship with the people. But whether these other duties 'derived from' their

¹¹ Santangelo (forthcoming). I am very grateful to Professor Santangelo for sharing this article with me in advance of publication.

¹² Latte 1934-36: 76 = 1968: 357; Becker 2017: 65-80 expands on his arguments (see esp. p. 65 on 'die nahe Lage' between the Forum Boarium and the temple of Ceres).

¹³ Latte 1934-36: 76 = 1968: 357 saw no contradiction in this evolution: 'Der Wirkungsbereich der plebejischen Aedilen fügt sich dieser Anschauung von ihrer Herkunft aufs Beste'. Cf. Sabbatucci 1954: 328 ('Sono ... le mansioni dell'edilità che da religiose divengono civili con l'andare del tempo; o meglio, esse rimangono in linea di massima le stesse; il cambiamento concerne soltanto la loro interpretazione'). Bayet 1951: 356; Le Bonniec 1958: 353 ('Les *ludi Ceriales* se donnent au Grand Cirque, qui est inséparable, topographiquement et religieusement, du temple de Cérés').

¹⁴ Lucil. 200M.

¹⁵ Cf. Bayet 1951: 356.

association with the temple of Ceres relies on conjecture and coincidence (as is so often the case in the early republic).¹⁶ So, in short, although this section pursues a broadly chronological structure, hypotheses on cause-and-effect, presented in passing throughout, are not fundamental to my argument.

I take a similar approach to constitutional matters. Questions of *Staatsordnung* and *Staatspraxis* will be discussed as we go, many of them in some detail, insofar as they have a bearing on how we interpret aedilician topographies. But these questions are not the focus of this section, nor the thesis as a whole. For example, my study of the link between aediles and the temple of Ceres must address the issue of when the aedileship was founded, and for what purpose. Similarly, the chapter titled ‘Circus’ engages with the debate over when aediles first became associated with the *ludi plebeii* and *ludi Ceriales* that were held in this space. By unpicking this tricky evidence, we can gain a better understanding of the social history of the aedileship, how and where its holders interacted with the people from the fifth and fourth centuries.

The picture that emerges from the evidence is one of diversity and mutability. The temple of Ceres is often cited as an (or the) early headquarters of plebeian aediles. But this notion of the aediles (or magistrates, for that matter) having a singular ‘headquarters’ is problematic. Polybius knew of a treasury of the aediles on the Capitoline.¹⁷ We know that their Greek ‘equivalents’, the *agoranomoi*, had their own *agoranomion*, in some instances at least.¹⁸ The only evidence we have for the aediles having access to a regular base of operations is a reference to the fifth century, hardly a reliable source for diachronic

¹⁶ Rickman 1980: 34-5. Cf. Spaeth 1996: 87.

¹⁷ Polyb. 3.26.1.

¹⁸ *Syll.*³ 313 l. 11; *IG* XII.5 129 ll. 44-5. Cf. Stanley 1979: 13-18; Fantasia 2012b: 35, 40. On *agoranomoi* in general: Fantasia 2012a: 35-45; Bresson 2016: 225-59.

continuity. The first-century *Tabula Heracleensis* has aediles draw lots to divide up their *procuratio* of the city.¹⁹ The division of duties before the first century, however, seems to be less systematized. It is also striking that, unlike tribunes, aediles do not appear to have a fixed physical presence in the forum.²⁰ They have curule chairs and *subsellia*, but these were not to be found in a clearly defined space.²¹ Surrounded by a gang of *uiatores*, presumably carrying the *sella curulis* or *subsellium* between them, the aedile would be mobile, conducting his business in an ill-defined area of the city.

Several *filis rouges* run throughout the analysis. There was an intrinsic link between the physical space of the city and aediles from their origins. This norm continued and expanded throughout the republic, culminating in Cicero's declaration that aediles were Rome's *curatores urbis*.²² That this term is 'schwammig und wenig fest umrissen' in *De Legibus* suggests that aediles were granted significant autonomy and *arbitratus* in their decision-making.²³ Aediles were not mechanical organs of the state, nor mere executors of senatorial or tribunician instructions. Their interactions with Rome's public spaces were often prompted by their individual or collective discernment, *arbitratu eius*. This chapter therefore traces a broad range of norms, not fixed rules or duties, that conditioned men who held the aedileship to gravitate towards certain aspects of *cura publica*.

¹⁹ *Tabula Heracleensis* ll. 25-6 = RS 1.24 (pp. 363-4). Robinson 1992: 9 speculates that the law points to an earlier division, based on the *regiones* attested in Varro, *LL* 5.45-6; Dion. Hal. 4.14.1; Liv. 1.43.13.

²⁰ Tribunes seated in forum: Liv. 42.33.1; Val. Max. 2.2.7; Zon. 7.15. Later move to Basilica Porcia: Plut. *Cat. Min.* 5.1. General role before the people: Polyb. 6.16.5; Gell. 3.2.11; 13.12.9; Plut. *QR* 81. Cf. Thommen 1995: 359-60 (tribunes' 'serviabilité'); Kondratieff 2003: 157-61 (their visibility).

²¹ Cf. Östenberg 2015: 14-16 on mobility of Rome's magistrates with many people in tow.

²² Cic. *Leg.* 3.7.

²³ Becker 2017: 180.

1.1 *Aedes*

This chapter investigates the *aedes* from which aediles allegedly derived their name, with particular focus on the evidence for the fifth century. The temple of Ceres is often considered to be the aediles' central *aedes*, which was designated as a kind of 'headquarters' for early plebeian aediles.¹ The temple of Ceres did indeed enjoy a special place in the collective memory of the plebeian aedileship, and may have been an important centre in their activities in the early republic. But if it did hold a unique position of importance in the fifth century, which remains uncertain, that did not last. Aediles were seemingly linked with a diverse range of sacred spaces. Because dealing with evidence for the early republic is problematic, this chapter aims to provide likely hypotheses and not firm conclusions. Certainty is impossible regarding what early aediles did and where they did it. The most significant hurdle in interpreting early evidence is the question of anachronism. Many of early aediles' responsibilities, especially as they are presented by Dionysius, look suspiciously similar to the things we know aediles did in the following centuries. The way aediles are represented in the literary record builds a picture of remarkable, perhaps misleading, continuity from the fifth century onwards. But some positive hypotheses can be made. From their earliest attestations, it appears that aediles were intimately tied with the built environment of the city, especially with temples and what Dionysius calls 'sacred spaces'.

¹ De Sanctis 1932: 442; Spaeth 1996: 87; Wiseman 1998: 37; Davies 2017: 26; *LTUR* 1.260 (Coarelli); Latham 2016: 86.

In the absence of much reliable evidence for the early republic, the suggestive etymology of *aedilitas* emerges as the strongest clue for the aedileship's earliest role.² *Aedilis* appears to come from *aedis/aedes*, 'building' or 'temple'. Varro believed this to be the case. He wrote that 'the aedile is the one who looked after sacred and private buildings' (*aedilis qui aedis sacras et priuatas procuraret*).³ Despite some dubious etymologizing elsewhere in his work, Varro's interpretation seems to be congruent with other evidence, even if a responsibility for 'private buildings' is not corroborated by any historical examples.⁴ Dionysius' account of the early aedileship makes for a compelling parallel. His description is problematic because he seems to have several competing traditions at his fingertips. Created as tribunes' 'assistants' (ὑπηρέται) 'for everything they needed help with' (ὅσων ἂν δέωνται), aediles were chosen by the people to preside over trials, look after 'both sacred and public spaces' (ιερῶν τε καὶ δημοσίων τόπων), and ensure that the market was well stocked.⁵ This formulation is suspiciously similar to what we know aediles did in subsequent centuries, and doubts should be raised about whether aediles were created for this very purpose. What follows, however, is a revealing statement about the most prominent role that (Dionysius believed that) these aediles played. 'These days, however, they are, in their native language, known as the "overseers of sacred places" because of one of the duties that they carry out' (νῦν μέντοι κατὰ τὴν ἐπιχώριον γλῶτταν ἀφ' ἑνὸς ὧν

² Extensive discussion: Becker 2017: 44-9.

³ Varro, *LL* 5.81. Fest. 12L supplies two alternatives: one linking it with *aedes* like Varro, the other proposing a link with the verb *adeo* (on which see *infra* § 3.1). In favour of Varro's reading: Becker 2017: 44-6. Cf. Pomp. *Dig.* 1.2.2.21; Prisc. *Gramm.* 2.118.15; Lyd. *Mag.* 1.35.

⁴ Mommsen was perplexed by Varro's statement: he suggests this was limited to private houses 'die jedem geöffnet sind' (*Röm. Staatsr.* 2³.1.511-12 n. 3). Cf. Maltby 1991: 10; De Melo 2019: 772. Accepting Varro's theory, De Melo suggests that the aedile may be described as a 'fire-keeper' (p. 998), owing to the Indo-European root of *aedis* ('to be hot, burn').

⁵ Dion. Hal. 6.90.2-3. Dionysius' δημόσιοι τόποι differ markedly from Varro's *aedes priuatae*. Dionysius may be translating *sacrum* and *publicum* (cf. Plaut. *Trin.* 1044).

πράττουσιν ἔργων ἱερῶν τόπων ἐπιμεληταὶ καλοῦνται). He seems to believe here that aediles did not acquire their names until later, acquiring their name by dint of their association with temples only later.⁶ Whether or not this is true, it is worth focusing on Dionysius' narrowing of the aediles' ἔργα. He, or one of his sources, was clearly aware of the repercussions of the name *aedilis*, with its links to Rome's religious topography. Although he asserts that this was just one part of their role, he implies that this became the most prominent. 'Sacred spaces' are at the heart of the history of the aedileship, even if Dionysius believed that this was not the original reason for its creation. *Aedilis* is therefore a toponym, linking the magistrate, if we can accurately call it that in the fifth century, with physical spaces of religious importance.

In modern scholarship, one sacred space has attracted particular attention. The temple of Ceres had a special place in the memory of the plebeian order and of plebeian magistracies. Surviving literary sources do indeed link plebeian aediles to the temple of Ceres from at least the mid-fifth century. Livy's account of the so-called 'second secession' suggests that the aediles had been based at the temple of Ceres from at least the mid-fifth century. Livy relates that the consuls of 449, amidst their concessions to the *plebs*, ordered 'that *senatus consulta*, which were previously suppressed and falsified by the whim of the consuls, should be deposited in the temple of Ceres into the control of the aediles' (*ut senatus consulta in aedem Cereris ad aediles plebis deferrentur, quae antea arbitrio consulum supprimebantur utiabanturque*).⁷ The temple itself, which according to tradition was vowed

⁶ Fest. 12L seems to preserve the same tradition: 'subsequently, this name was also applied to the magistrate(s)' (*postea hoc nomen et ad magistratus translatum est*).

⁷ Liv. 3.55.13. Pellam 2014b: 83 reads this not as 'a concession to the plebs specifically, but instead that the consuls instituted the precaution to prevent consular abuses'. But Livy's prefatory remarks about the *patres*' disgust at 'anything that was done to protect the freedom of the *plebs*' (*quidquid ...*

by order of the Sibylline Books in 499 or 496 by the dictator A. Postumius, was constructed outside the *pomerium* on the boundary of the urban and the rural areas of fifth-century Rome, somewhere near the Aventine (§ 1.8 no. 3).⁸ Although its precise location is uncertain, ancient authors universally locate it in the vicinity of the Circus Maximus.⁹ It does not seem to have been on the Aventine itself, despite some modern arguments to the contrary.¹⁰ Still, literary evidence attributes to this southern zone of the city (the *uallis Murcia* and below the north-eastern slopes of the Aventine) an important ideological role in the development of plebeian consciousness.

There is no other evidence telling us exactly what aediles did in this temple in the fifth century. It has been suggested, based on Varro's passing remark about an *asylum Cereris* in which the *plebs* could receive bread, that aediles might have protected and fed plebeians at the temple of Ceres.¹¹ Magistrates are not mentioned; nor is it certain that the *asylum Cereris* is the temple. While it may be tempting to extrapolate that the temple was the site of aedilician grain distributions, their *cura annonae*, there is no good supporting evidence to corroborate this hypothesis.¹² Livy's statement does not offer many clues about aedilician activities in the temple. The preposition *ad* in Livy's construction (*ad aediles plebis deferrentur*) presumably means that the SC were deposited in the temple 'into the control'

libertati plebis caueretur) certainly imply that it was the *plebs* who were considered the beneficiary of this concession (so Cornell 1995: 264).

⁸ Vowing of temple: Dion. Hal. 6.17.2-4, 6.94.3; Tac. *Ann.* 2.49. Agrarian origins and associations of the *uallis Murcia*: Bayet 1951: 354; Le Bonniec 1958: 185-93; Favro 1999: 207-14.

⁹ Vitruvius 3.3.5; Dion. Hal. 6.94.5; Plin. *NH* 35.154; Tac. *Ann.* 2.49; Cass. Dio 50.10.3. Numerous modern authors have attempted to locate the temple (sources listed in *LTUR* 1.261 (Coarelli)), but Pellam 2014b: 86-8 and Mignone 2016: 205-11 are now essential.

¹⁰ So Mignone 2016: 209-11.

¹¹ Varro *apud* Non. 63L.

¹² Any attempts to tie this bald statement to aediles' later fixing of market prices (Van Berchem 1935: 93-5; Gjerstad 1973: 283; Sirks 1991: 11-12) are therefore speculative (De Cazanove 1990: 379 n. 13; Spaeth 1996: 84-5; Pellam 2014b: 81-2; Daguet-Gagey 2015: 458-9).

or ‘possession of’ the plebeian aediles.¹³ His expression implies a transferral of guardianship of the texts from the *arbitrium consulum* to the *cautio aedilium plebis*.¹⁴ This passage has generated the hypothesis that aediles played a role in the archives of the early republic, which in itself would not be surprising, given that aediles are said to have had their own *aerarium* which held treaties from the third century.¹⁵

Other evidence appears to transmit a similar historical tradition, even if it fails to mention the temple of Ceres. In a later summary of Cassius Dio’s histories, we learn that aediles ‘were to be the tribunes’ assistants in matters pertaining to writing’ (ὕπηρέτας σφίσιν [sc. τοῖς δημάρχοις] ἔσομένους πρὸς γράμματα) and that ‘they watched over everything that was written in both the presence of the *plebs* and of the people and senate, keeping hold of them so that nothing that happened escaped their attention’ (πάντα γὰρ τὰ τε παρὰ τῷ πλήθει καὶ τὰ παρὰ τῷ δήμῳ καὶ τῇ βουλῇ γραφόμενα λαμβάνοντες, ὥστε μηδὲν σφᾶς τῶν πραττομένων λανθάνειν, ἐφύλασσον).¹⁶ Zonaras does not specify where this took place. Nor does Pomponius, who is clearly following a similar tradition: ‘furthermore, so that there should be men in charge of the temples in which the *plebs* deposited all their decisions, they [sc. the people] selected two men from the *plebs* who were called aediles’ (*itemque ut essent qui aedibus praessent, in quibus omnia scita sua plebs deferebat, duos ex plebe constituerunt, qui etiam aediles appellati sunt*).¹⁷ He mentions the storage of *plebiscita*, and not *senatus consulta*, which (if Pomponius understood his source correctly)

¹³ OLD s.v. ‘ad’ 26. Livian parallel from the same book: Liv. 3.33.1 mentions the transferral of *imperium* ‘from the consuls to [the figurative possession of] the decemvirs’ (*ab consulibus ad decemuiros*).

¹⁴ Livy’s account of the second secession concerns how the freedom of the *plebs* was safeguarded (*libertati plebis caueretur*), whence *cautio*.

¹⁵ Polyb. 3.26.1. See *infra* § 1.3.

¹⁶ Zon. 7.15.

¹⁷ Pomp. *Dig.* 1.2.2.21.

might point to a broader involvement in the protection of documents than Livy implies. Zonaras' expression (πάντα τὰ γραφόμενα) may be appropriately broad. If the two traditions are reconcilable, the office was created for the purpose of the protection of documents, an important aetiological point that does not appear in Livy: the office was created so that someone would exercise control over the temples in which popular decisions were stored. In collaboration with the tribunes of the *plebs*, they looked after plebeian interests by securing access to information that had previously been guarded (suppressed and falsified!) by the patricians.

An early association with the housing of information in plural *aedes*, or in one *aedes* in particular, is consistent in the historical tradition. But some aspects of the tradition require caution. At first blush, the story that fifth-century Rome required the storage and protection of physical written documents may appear anachronistic. There are doubts about the extent to which fifth-century Rome had a written culture prominent enough to require extensive archiving.¹⁸ The same thread of modern scholarship considers it unlikely that a patrician senate would have granted such a concession to the *plebs* in this period. We know that the curule aedile Cn. Flavius would, a century-and-a-half later in 304, be instrumental in stripping the pontifical order of its monopoly of the judicial system, taking possession of the *fasti* that they had previously been keeping *in penetralibus*.¹⁹ There is certainly a literary tradition linking certain aediles with the dissemination of information *in uulgo*. But is Flavius' aedileship of 304 an example of normative institutional continuity?

¹⁸ Scepticism: Alföldi 1965: 94; Elster 1976: 58-60; Drummond 1989: 225-6. Other modern scholars are more optimistic about the references to a written legal culture in fifth-century Rome: Ogilvie 1965: 503; Cornell 1995: 263-4; Spaeth 1996: 85-6; De Cazanove 1990: 394-5; Forsythe 2005: 72-3. Becker 2017: 50-1 summarizes the issue carefully without picking a side.

¹⁹ Liv. 9.46.5.

Or did imperial authors like Livy and Dio transmit a tradition that imposes its anachronistic understanding of the aedileship onto later periods?²⁰

There was, then, an ideological tradition that tied aediles to the guardianship of the written word. Its ideological foundation and possible anachronisms, however, render firm conclusions impossible. So, in lieu of firm conclusions, I present a (perhaps excessively sanguine) hypothesis. An optimistic reading of the evidence might go as follows. Aediles may have been involved not only in the protection but also the dissemination of information. One tradition, about which Livy seems to be sceptical, even gave aediles the right to display the Twelve Tables *in publico* (also in 449) as part of their *ministerium* at the behest of the tribunes, a move that would later be touted as a triumph for plebeian interests.²¹ The physical division between senators and plebeian officials may fit within a broader narrative. Fifth-century aediles and tribunes were forbidden from entering the senate house, but (the latter, at least) sat on their *subsellia* in the entrance, scrutinizing senatorial decisions and expressing their objections from a symbolic distance, watching on in the open doorway.²² Tribunes and aediles had, from this date, access to *senatus consulta*

²⁰ Cf. Harris 1989: 152.

²¹ Liv. 3.57.10. Livy reveals the discrepancy in his sources, with some attributing this action to the consuls (cf. Diod. Sic. 12.26.1; Pomp. Dig. 1.2.2.4), a tradition that Livy evidently favoured. Other texts were said to be posted in temples (Dion. Hal. 10.32.4; cf. Cornell 1995: 103-5). Harris 1989: 151-3 (with n. 21) has reservations about the story that the Tables were posted. That such a measure ensured something of a democratization of legal knowledge, as suggested by Pomponius (*ut possint leges apertius percipi*), has been challenged by Eder 2005: esp. 252-6.

²² Val. Max. 2.7.2; Zon. 7.15. Both refer to tribunes alone, but Zonaras makes it clear that aediles should be placed in this context: the very creation of the aedileship, he thinks, stemmed from this custom of tribunician scrutiny and interference. It is unclear when plebeian aediles were formally admitted 'into' the senate. Liv. 23.23.6 implies that emergency adlection of plebeian officials into the senate of 216 was unconventional (Cornell 2000: 81-2, 87 n. 77). But the fourth-century *Lex Ovinia* (Fest. 290L) allowed for some flexibility: a censor could exercise his judgement to adlect former tribunes or aediles of the *plebs* if he deemed them *optimi* (Tatum 2010: 190-8). In general: Willems 1878: 230-1; Daguet-Gagey 2015: 59-60.

and could make copies and deposit them in their archives.²³ They were not part of the senate, but rather functioned as intermediaries between the handpicked members of the pre-Ovinian senate and their electorate, the *plebs*. The literary tradition holds that the *plebs*, through the medium of aediles, was granted this right as a ‘compromise’, a συγχώρημα παρὰ τῆς βουλῆς as Dionysius puts it.

However, this hypothesis has some problems. The transparent ideological impulse in the literary tradition to locate aediles in the midst of this ‘compromise’ between senate and tribunes should make us cautious.²⁴ There may also be an element of reverse etymology. Believing that aediles were etymologically linked with temples, knowing that temples tended to house *senatus consulta*, and remembering that third-century aediles had their own treasury where they stored treaties,²⁵ these writers may have worked backwards to contrive a connection. What we may have in the stories of the fifth century is a fusion of elements known about aediles by contemporary writers retrojected onto a period where republican institutions ‘began’. This is not to say that the evidence is useless. The broad function (protection of matters concerning the *plebs* in public affairs) and location (a temple, probably that of Ceres) have some basis in the historical tradition. And these stories inform us about the ideological perspective of later writers. The ideological tradition held that, from their stage at the temple of Ceres, aediles acted as protectors of plebeian legal interests.

What about aediles’ religious association with temples? If they drew their name from temples, and were only subsequently adopted as plebeian champions as Dionysius

²³ Willems 1885: 220-1.

²⁴ Badian 1996: 191-2 dismisses the story in Val. Max. 2.7.2 as ‘a blatant antiquarian myth, of the worst sort’. I would be cautious, however, about accepting his argument from silence that something may be ‘annalistic fiction’ on the basis of Livy’s failure to mention it (p. 194).

²⁵ Polyb. 3.26.1.

implies, then it could be suggested that they began their existence as *sacerdotes*. So, using etymology as a starting point, modern scholarship has speculated widely about why and when the aedileship was created. Arthur Rosenberg argued that, since the aedileship must have been religious in origin, the magistracy was imported from Tusculum, where *aediles lustrales* were attested. *Aediles lustrales*, he argues, retained their original 'sacral' function at Tusculum, denoted by *lustralis*, while those at Rome gradually lost theirs. The former were based at Tusculum's temple of Castor and Pollux, while the aedileship at Rome found in parallel a home in the temple of Ceres.²⁶ The reasoning goes as follows: aediles at Rome oversaw *lectisternia*; there were *lectisternia* at the temple of Castor and Pollux at Tusculum;²⁷ there were *aediles lustrales* at Tusculum; therefore, *aediles lustrales* had a sacral function, denoted by the adjective, that divided the religious aspects of the office from the civic.²⁸ This theory has gained little traction. It is based on circumstantial evidence and, most tellingly, there is no proof of Tusculan aediles before the second century. One objection to Rosenberg's view may be to propose the reverse: that the aedileship came to Tusculum and other Latin cities after they were granted Roman citizenship.²⁹ This may be too extreme a reaction. Instead, there may have been a complex interplay between Latin magistracies in earlier periods, especially given how widespread the aedileship was in south-central Italy. It would be reductive to assume that this was a one-way process of imposition or importation, in either direction.³⁰ For Santo Mazzarino, meanwhile, the aedileship must

²⁶ Rosenberg 1913: 1-15. Cf. 1914: 253-71. Reassessment of Rosenberg's scholarship: Gorostidi Pi 2008: 854-7.

²⁷ Fest. 410L.

²⁸ Cf. Pasqualini 2000: 702 with n. 33 on the 'rapporti tra l'edile magistratuale e l'edile lustrale'.

²⁹ De Sanctis 1932: 436. According to tradition, this took place in 381: Liv. 6.26.8.

³⁰ See the excellent remarks on the link between Faliscan *efiles* and Roman *aediles* in Bakum 2009: 179: 'the institution was widespread and did not (everywhere) go back to the Roman institution'.

have been older than the fifth-century date given by most sources for their origin.³¹ Mazzarino speculates that aediles may have already existed before the fifth-century stories about the origins of tribunes and aediles of the *plebs*. Because *tribuni militum* already existed, he argues, and these may have been adapted into *tribuni plebis*, so aediles may have existed as archivists of (say) the temple of Diana on the Aventine. There is no evidence for aediles' presence in this temple, and the conclusion again relies on a string of coincidences.³²

A third strand of modern scholarship holds that, because of their name and their association with the temple of Ceres, aediles started out as priests of 'plebeian religion'. Dario Sabbatucci characterized the early aediles as *sacerdotes* of Ceres who only subsequently acquired magisterial powers. *Ludi* are central to his argument: according to his reconstruction, these were religious festivals at their core, and the so-called Aventine triad (Ceres-Liber-Libera) was central to Rome's early 'agraria religione plebea'.³³ Sabbatucci's arguments rely on a number of highly controversial points, chief among which is the assertion that the plebeians had their own religion in the fifth century.³⁴ There is no certain proof that the *plebs* exercised its own distinct religion, centred on the Aventine, in direct opposition to patrician religious power based on the Capitoline triad.³⁵ Jupiter and Ceres were both ideologically potent, symbolizing, for later writers at least, the

³¹ Mazzarino 1945: 127-52.

³² Mazzarino's speculation: Liv. 1.45.6-7 mentions an *antistes* carrying out a sacrifice to Diana; Servius Tullius is said to have written laws in bronze on the temple (Dion. Hal. 4.26.4-5), which might make it an archive like the temple of Ceres which might need aediles to look after them.

³³ Sabbatucci 1954: 262-93, quoted at p. 286. He restates his position in 1988: 142-8 (cf. esp. p. 147: 'Cerere viene celebrata con i ludi Ceriales e i suoi edili assicurano la loro esecuzione'; S.'s emphasis).

³⁴ Two of Sabbatucci's more speculative claims: that the *ludi plebei*, of great antiquity (less controversial), had their origins in the so-called 'Aventine triad' of Ceres-Liber-Libera (pp. 274, 292; cf. Piganiol 1923: 84-90; D'Arco 1998: 38-9); that there was a direct opposition between patrician and plebeian religion (p. 328).

³⁵ Pellam 2014b: esp. 93-4 against the notion of 'plebeian religion'. Cf. Beard, North, and Price 1998: 63-7.

confrontation between plebeians and patricians. But the two gods and their respective topographies were also important symbols of consensus and compromise. Both, far from being antagonists, were 'protagonisti di una medesima e nuova realtà politica'.³⁶ The theory of conflict between two competing religions has no basis in the literary evidence. Other priests and magistrates were associated with Ceres' worship. There appear to have been *flamines Ceriales* from at least the fifth century, who carried out the *sacrum Cereale* for both Ceres and Tellus.³⁷ Therefore, the prevailing view in modern scholarship remains that aediles straddled the boundaries between priest and magistrate.³⁸ Arnaldo Momigliano's position is emblematic: the temple of Ceres was simply 'l'archivio e il centro della vita plebea' with its aediles being little more than 'laici addetti al tempio'.³⁹ Any hypotheses must remain speculative, but in the absence of any evidence linking aediles with the temple of Ceres before Livy's (tellingly secular) remarks, Sabbatucci's position should be read with caution.

Temple or temples? Were early aediles linked exclusively with the temple of Ceres? Ceres certainly occupied a special place in the collective memory of Rome's plebeian offices. Those who defied tribunes' (and possibly aediles') *sacrosanctitas* would be sentenced to death and have their possessions sold at the temple of Ceres.⁴⁰ Livy's passage, moreover,

³⁶ Chirassi Colombo 1981: 409-10. They had in common their 'tutela della *libertas*'.

³⁷ Numerius Fabius Pictor (*FRHist* 1.165) *apud* Serv. *Georg.* 1.21 (*flamen sacrum Cereale faciens Telluri et Cereri*). Cf. Becker 2017: 59-61. On their probable antiquity, despite Varro's omission (*LL* 7.45), see Le Bonniec 1958: 342-3. Note, however, that the *sacrum Cereale*, an agrarian fertility rite of some description (Spaeth 1996: 35-7), was distinct from the *ludi Ceriales* (Wagenvoort 1980: 122-44).

³⁸ Piganiol 1919: 245 ('plutôt les sacristains que les prêtres du temple de Cérés'); De Sanctis 1932: 442 ('fabbricieri del tempio di Cerere'); Le Bonniec 1958: 348 ('caractère ... parasacerdotal'); Becker 2017: 59 ('so etwas wie Priester').

³⁹ Momigliano 1933: 221.

⁴⁰ Liv. 3.55.7-9. On whether aediles were originally sacrosanct: Becker 2017: 104-5. That Cato the Elder devoted a work to the defence of plebeian aediles' *sacrosanctitas* (*Fest.* 422L) suggests that already by the second century this idea was in dispute. Cf. Pellam 2015: 329-32.

appears to presuppose that his readers will have some degree of familiarity with the custom of housing records in the temple: the fact that he calls the housing of *senatus consulta* in the temple of Ceres an *institutum*, an ‘established custom’ perhaps, might suggest that Livy is supplying an aetiology for a well-known practice.⁴¹ Four hundred years later, the new aedileship created by Caesar in 44 would carry the name *aedilitas Cerialis*, an onomastic choice that derived, tautologically, from the recognized relationship between plebeian aediles and Ceres.⁴² Though the office itself may have been created due to ‘administrative necessity’, the onomastics reveal Caesar’s desire to retain a sense of archaism, of dressing up innovations as long-lost republican traditions while comprehensively reshaping Rome’s political landscape.⁴³ And, as we shall see below, embellishing the temple of Ceres with the proceeds of *multae* was a favourite way for plebeian aediles to recycle the funds.⁴⁴ More speculatively, Ceres’ association with marriage has led some to suggest that aediles played a role in wedding ceremonies from within the temple of Ceres.⁴⁵ And aediles may also be attested conducting the *lectisternium*, a sacred banquet, for at least one of Tellus and Ceres on 13 December, the *dies natalis* of the former. This possibility is based on a very fragmentary section of the early imperial *fasti Praenestini*. If Mommsen’s restorations are to

⁴¹ Becker 2017: 49 is, however, sceptical about the longevity of this *institutum*. Cic. *Phil.* 5.12 mentions Antonius’ falsification of SC ‘deposited in the *aerarium*’ (*ad aerarium deferebantur*). Willems 1885: 220-1, accepting Dio’s tradition, conceives of the protection of SC as a right in conjunction with the traditional practice of the storing of SC by quaestors.

⁴² Cass. Dio 43.51.3. Date of creation of Ceres’ aedileship: Ryan 2000: 245-6 (in 44 to commence in 43).

⁴³ *Contra Pellam* 2014b: 79 n. 14. *Aedilitas Cerialis*’ ‘archaizing ring’: Spaeth 1996: 86. On Caesar’s tendency to make new institutions seem old: Welch 1990: 59 with Cass. Dio 43.48.1.

⁴⁴ See *infra* § 1.4.

⁴⁵ Ceres and marriage: Fest. 204L; Plut. *Rom.* 22.5 (with Le Bonniec 1958: 77-88; Torelli 1984: 94; Dumézil 1987: 381). Aediles and marriage: Plut. *Quaest. Rom.* 2: ‘newlyweds kindle the torch (*cereus*) obtained from the aediles’ (παρὰ δὲ τῶν ἀγορανόμων ἄπτουσι τὸ πῦρ οἱ γαμοῦντες), a custom that seems to have ‘religio-symbolic and ritual value’ (Woodard 2006: 229). Mastrocinque 2014: 134 speculates that these were lit ‘in the aediles’ seat’. Cf. *Lex Coloniae Genetivae* § 62 = RS 1.25 (pp. 401-2) which gives aediles the right to *funalia* [and?] *cereos*. Powell 1988: 192 tentatively suggests that these are two discrete nouns.

be believed, this fragment intimates not only aediles' role in letting contracts for the ceremony (*manceps praestat [lectos?]*), but also their association with Ceres.⁴⁶ This interpretation is speculative, based on Arnobius' placement of the *lectisternium Cereris* on Tellus' *dies natalis*.⁴⁷ Only the letters [...]*ri* survive on the stone preceding *lectisternium*, and, as Attilio Degrassi notes, although there may be space for both *Telluri* and *Cereri* in the lacuna on the *fasti Praenestini*, other *fasti* mention only a *lectisternium Telluri*.⁴⁸

Nevertheless, aediles' role in *lectisternia* in general may be corroborated by Festus. He wrote that 'there is proof that the Romans of old used a draught of myrrh, because aediles still today place this before the *puluinaria* as offerings of thanksgiving to the gods' (*murrata potione usos antiquos indicio est, quod etiam nunc aediles per supplicationes dis addunt ad puluinaria*).⁴⁹ *Puluinaria* were couches on which representations of the gods were placed during *lectisternia*. It is not clear when Festus' *nunc* refers to: it is presumably distinct from the second part of Festus' *indicium*, in which, 'according to book one of Varro's *Antiquities*' (*ut ait Varro in Antiquitatum lib. I*), 'the Twelve Tables legislate against applying [myrrh] to a dead person' (*XII. tabulis cauetur ne mortuo indatur*).⁵⁰ The *nunc* presumably refers to the time that Verrius, on whose work Festus' was based, was writing (that is, the first centuries BC/AD). Their possible responsibility for some aspects of the *lectisternium* may exhibit a

⁴⁶ Mommsen, *CIL* 12.11 (p. 237): [*Telluri et Cere*]ri in *Carinis aedi[tui ...] et lectisternium e lec[tis ... faciunt, quos] manceps praestat*; Degrassi, *Inscr. Ital.* 13.2.17 (pp. 136-7): [... *Telluri, lectisternium Cere*]ri in *Carinis aedi[les ...]*. The fragmentary *aedi...* is usually taken as *aediles* and not *aeditui* (despite Mommsen in *CIL* 12.11 (p. 237)) or *aedis* (Vaccai 1902: 243; Le Bonniec 1958: 52-3; Spaeth 1996: 87-8; Estienne 2011: § 10; Marcattili 2020: 108-9).

⁴⁷ Arnob. *Adv. Nat.* 7.32.8-9.

⁴⁸ Degrassi, *Inscr. Ital.* 13.2 (pp. 537-8).

⁴⁹ Fest. 150L, 152L.

⁵⁰ Cf. Cic. *Leg.* 2.60 on the latter restriction on burial expenses in the Twelve Tables.

later but logical expansion of their peripheral sphere of religious activity, in which they provided the physical equipment for the correct conduct of a religious ceremony.⁵¹

We must allow for the possibility that the temple of Ceres was not the only centre of activity for early plebeian aediles. Varro, Dionysius, and Pomponius pluralize *aedes*.⁵² No ancient writer, not even Livy, claims that plebeian aediles were associated solely with Ceres and her temple. Consequently, Henri Le Bonniec conceived of early aediles not exclusively as Ceres' magistrate-priests but as religious officials of the wider plebeian community ('à l'origine des prêtres de la communauté plébéienne', as he puts it) who would subsequently become intimately, but not exclusively, linked to the cult of Ceres.⁵³ Although Le Bonniec's designation of aediles as 'priests' is, as we have seen, contentious, he is right to make a link between aediles and sacred spaces in general. The breadth of aediles' early religious capacity is suggested by Dionysius' wording. He writes that aediles gained their name because they were considered 'protectors of religious spaces' (ἱερῶν τόπων ἐπιμεληταί).⁵⁴ He continues by claiming that plebeian aediles 'assumed responsibility and care for the sacrifices carried out during this festival [sc. the *feriae Latinae*] and for the games' (τὴν δὲ προστασίαν καὶ τὴν ἐπιμέλειαν τῶν ἐν αὐταῖς [sc. ἑορταῖς] γινομένων θυσιῶν τε καὶ ἀγώνων ... παρέλαβον). Festus wrote that aediles did apparently, at some point in their history at least, play some role in sacrifices by picking out the victim that would be sacrificed at the *ludi*.⁵⁵ But exactly what comprised this *προστασία* and *ἐπιμέλεια* is

⁵¹ First *lectisternium* in 399: Liv. 5.13.4-8; Dion. Hal. 12.9.1-3. Cf. Nouilhan 1989: 35-6; van den Berg 2008: 242-8.

⁵² Cf. Pellam 2014b: 82, with Cic. *Verr.* 2.5.36; Varro, *LL* 5.81; Dion. Hal. 6.90.3; Pomp. *Dig.* 1.2.2.21.

⁵³ Le Bonniec 1958: 352-7 (quoted at p. 357).

⁵⁴ Dion. Hal. 6.95.4.

⁵⁵ Fest. 202L: 'they call this the "choice victim", others "the best victim", which an aedile chooses from three victims that were set aside, that he wishes to be sacrificed' (*optatam hostiam, alii optimam*,

uncertain. The terms used by Dionysius are ambiguous enough to leave doubt about the precise nature of aediles' capacity in public religion.⁵⁶

What Dionysius' brief passage suggests is the significant breadth in aediles' early activities. The festival mentioned by Dionysius seems to be an early iteration of the *ludi Romani* (not the *feriae Latinae*).⁵⁷ That these were dedicated to Jupiter suggests the breadth of their role in 'overseeing' and 'protecting' early Roman religion. A later story reported by Livy seems to support this hypothesis of breadth even further: in c. 429 aediles were given the *negotium* 'to see to it that Roman gods alone should be worshipped in no other way but the customary manner' (*ut animaduverterent ne qui nisi Romani di neu quo alio more quam patrio colerentur*).⁵⁸ The frightening outbreak of 'superstitious activity' (*religio*) across the city was considered a task appropriate for the aediles. With Rome faced with a religious crisis caused by a devastating plague, it was left to the aediles to ensure that *pax deum* would be maintained, in the face of unsavoury *peregrina atque insolita piacula*. Aediles seem therefore

appellant eam, quam aedilis tribus constitutis hostiis optat, quam immolari uelit). A problematic passage in Tert. *Idol.* 10.3 has aediles (and priestesses) making sacrifices (*flaminicae et aediles sacrificant*) either 'upon election' (*creati*) or 'to Ceres' (*Cereri*). The former has MS support (Waszink and van Winden 1987: 38-9). As the editors observe (p. 194), it is unclear whether the aediles and priestesses had special religious significance in third-century AD Carthage. In any case, Tertullian seems to have an interest in minimizing the capacities of local petty officials.

⁵⁶ The tense, too, is ambiguous: it is unclear whether the aorist παρέλαβον refers to this occasion alone, or to a general shift in practice.

⁵⁷ Though Dionysius is referring to the *feriae Latinae* (ταῖς καλουμέναις Λατίναϊς ἑορταῖς) with the expression ἐν αὐταῖς, the institutions that he describes match neatly with those of the *ludi plebeii/Romani* (Schwegler 1856: 232; Mommsen 1859: 79-87; *Röm. Staatsr.* 1³.391-2 n. 7; Sabbatucci 1954: 269 n. 1; Gabba 1991: 134-6; Bernstein 1998: 64; *FRHist* 3.31). The rites of the *feriae Latinae* (Scullard 1981: 111-15; Smith 2012: 272-3) were quite different from the ceremony that Dionysius describes. Quinn-Schofield 1967a: 101 (cf. pp. 98-9 n. 5) provides a more charitable reading of Dionysius' allusions to the *feriae Latinae* (cf. 7.71.2), arguing that the *ludi Romani* were based on the *feriae Latinae*. But the similarities between the two are few: the *feriae Latinae* were held miles away on the *mons Albanus* (Marco Simón 2011: 116-17) with very different traditions (Gargola 2017: 45-6). Latham 2016: 21-5 offers a more realistic reading of Dionysius and Fabius Pictor. On Dionysius' sources, and his unreliable transmission of them: Gabba 1991: 85-90; Wiater 2014: 41-2.

⁵⁸ Liv. 4.30.11. Gjerstad 1973: 281 reads this as evidence of their 'overseeing of the cult', presumably Ceres'; but this reading seems to narrow Livy's text unnecessarily, which locates the crisis *in omnibus uicis sacellisque*. Ogilvie 1965: 583 considers this notice 'authentic'.

to have been charged (presumably by the senate) with a broad supervisory role in public religion. This does not necessarily preclude the possibility that early aediles were based in the temple of Ceres, but it does point to the breadth of religious responsibilities that later writers would ascribe to early aediles.

The nature of the evidence can force us to assume some sort of deceptive diachronic continuity. It is certainly curious that much of the evidence for aedilician activity in temples or 'sacred spaces' happens to be linked with the magistracy's origins. Later authors preferred to think that aediles had their origins in Rome's *aedes*, but they seldom cite specific examples of aedilician activity *within* a temple. A fictional aedile from Varro's *De re rustica* illustrates the problem. Varro sets the conversation conducted in book one in the temple of Tellus. The temple, he informs us, fell under an unnamed aedile's *procuratio* (*cuius procuratio huius templi est*), a term that Dionysius may well have been translating.⁵⁹ The nature of the aedile's *procuratio* is unclear. Cicero could claim that he had *curatio* over the same temple in the mid-50s.⁶⁰ One thing is certain: Varro's aedile was assuredly not based at this temple. The *aedituus*, a certain L. Fundilius, was 'summoned by the aedile' (*accersitus ab aedile*) from the temple to an unknown location.⁶¹ Association with or *procuratio* of a temple did not necessarily make this temple an aedile's base of operations. Varro's aedile presumably just had to guarantee the upkeep of the physical fabric of the temple. Aediles,

⁵⁹ Varro, *RR* 1.2.9.

⁶⁰ Cic. *Har.* 31; *QFr.* 3.1.14. Cf. Courtney 1960: 98-9. It is unclear why Cicero, a *priuatus*, would exercise this control over the temple. His argument may exploit Clodius' aedilician status: the immoral aedile was defiling temples, while a private citizen was compelled to take over his *curatio*, while Clodius' family had attempted to claim part of the cult in their 'cura gentilizia' (Marcattili 2020: 110-11).

⁶¹ Named at *RR* 1.2.11. Identification of this individual: Nelsestuen 2015: 109-15. Dramatic date: Nicolet 1970a: 116 n. 1; Linderski 1985. Cf. Padilla Peralta 2017: 484 on Cicero's 'wraith-like presence' in Varro's text. If the *aedituus* recalls Drusus, then the aedile might recall Cicero.

by the first century at least, had *aeditui* working for them in temples.⁶² They had ‘oversight’ (*procuratio*) of the temples themselves, apparently from afar, since the *aedituus* found time to be murdered in the street on his way back from his meeting with the aedile.⁶³ Varro does imply, however, that the *aedituus* knew where to find the aedile. He presents a tantalizing question: would Fundilius have gone to the aedile’s house, to a *tribunal* in the forum, or to a different temple?

So aediles did things in temples. They also did things *with* temples, as will be discussed at greater length below (*‘Ornatus’*), acting as decorators of religious buildings.⁶⁴ The centrality of the temple of Ceres, if not its singularity, left a lasting impression on later conceptions of the aedileship. We can draw conclusions only where the evidence permits. Livy baldly states that *senatus consulta* were deposited at the temple of Ceres ‘into the control of’ (?) the aediles. Zonaras elaborates: aediles were created for the explicit purpose of looking after the written word of the senate. It is entirely possible that Zonaras’ or Dio’s source had the temple of Ceres in mind. What seems to unite early stories of the aedileship is their *cura* for the material aspects, the things, of religion. Aediles appeared to use religious spaces as a way of projecting the idea that they were protecting the interests of the early plebeian community. ‘Sacred spaces’ were a crucial part of the aediles’ perceived identity and origin; they were at the heart of their early interactions with the *plebs*. Even if these stories are indeed embellished by later writers, they can still tell us something about how first-century aediles were viewed. That these writers were so determined to locate aediles in temples, where they acted as protectors of plebeian interests, suggests the

⁶² See *infra* § 3.2.

⁶³ Varro, *RR* 1.69.2. The interlocutors presume that the *aedituus* had already visited the aedile (1.2.11: *uenit aeditumus*; cf. 1.26).

⁶⁴ Becker 2017: 258-9.

persistence of an ideological tradition. But we need not go so far as to conclude that aediles had a singular headquarters in a singular temple. This chapter has therefore begun to raise questions about the diversity of spaces from which aediles could interact with the people, which will be an ongoing theme throughout the section.

1.2 *Circus*

A probable extension of aediles' relationship with sacred spaces was their care for Rome's *ludi*. The link between aediles and *ludi* was proximal as well as notional. The temple of Ceres, writes Tacitus, was 'in close proximity to the Circus Maximus' (*iuxta circum maximum*).¹ This chapter asks when aedilician *ludi* were first held, and where. The answer to the former question again relies on the extent to which we hold our literary sources to be reproducing contemporary conditions. Dionysius, writing in the first century, certainly thought that plebeian aediles were called upon to hold games on at least one occasion in the fifth century. And Cicero took advantage of a tradition that asserted the great antiquity of the *ludi plebeii* in the *Verrines*. This chapter argues that the most likely scenario is one where plebeian aediles took charge of organizing *ludi in circo* from at least the fifth century. What form these festivals took is open to dispute: no source tells us when the *Cerialia* became official *ludi publici*. We are on firmer footing with the topography. The circus games that concluded aedilician *ludi* were all held in the Circus Maximus. Some have disputed this interpretation. The only evidence linking aediles with the Circus Flaminius, namely a single passage in Valerius Maximus, can be explained away as the author's mistaken interpolation. This reading frees us from having to chain the founding of the *ludi plebeii* to the construction of the Circus Flaminius in c. 220, a reading that has resulted in the erroneous claim that the *ludi plebeii* date from the same time. Plebeian aediles, in fact, had little to do with the Circus Flaminius. The Circus Maximus was a key performance space at the *ludi*.

¹ Tac. *Ann.* 2.49.

Dionysius wrote that fifth-century aediles exercised προστασία καὶ ἐπιμέλεια ἀγώνων from their putative origin.² This has led some scholars to consider *cura ludorum* to be an essential part of the religious duties of fifth-century aediles, tied up with their association with *aedes sacrae*.³ There is no evidence, however, to assist us in specifying the point of origin of the two sets of games that plebeian aediles are known to have arranged from at least the third century: the *ludi plebeii* and the *ludi Ceriales*. Livy regularly mentions these games from the late third century onwards, but supplies no aetiology for them in his surviving books. The debate, then, centres on the significance of Livy's silence. Is his silence sufficient basis on which to argue that the earliest attestations in Livy constitute the first official organization of the *ludi*?

Some scattered evidence implies, very indirectly, aediles' involvement in the *Cerialia* in the fifth century. The *Cerialia* themselves, the *feriae* of 19 April of which the *ludi Ceriales* were an extension, seem to have been very ancient. Ceres' rites seem to be indicative of a 'pre-urban festival': Festus mentions a rite, a so-called *sparsio nucum*, during which nuts were scattered among the people in the Circus Maximus.⁴ Festus' notice of this rite is fragmentary, but the location (*in circo*) of the *sparsio* survives. This location suggests a notional (as well as proximal) link between temple and Circus as the two key locations of the *Cerialia*. In this context, Tacitus' phrase *iuxta circum maximum* gains added significance:

² Dion. Hal. 6.95.4.

³ Piganiol 1923: 85-6; Taylor 1939: 195-6; De Cazanove 1990: 387.

⁴ Quotation: Gjerstad 1973: 283. Fest. 186L (<*missilia* [sc. *nuces*] *Ceria>libus in circo mitti*). Lindsay diplomatically retains the lacuna; the reconstruction is adapted from Fulvius Ursinus' sixteenth-century edition (p. 26), which is speculative. Still, the reconstruction of [...]libus as *Cerialibus* seems reasonable given that the *Cerialia* are mentioned amidst another lacuna one line earlier in what appears to be the same lemma (*nuces*).

the nuts were scattered in front of the temple of Ceres in a large open area long associated with her worship.

To reach the hypothesis that aediles were the distributors, we need to take a tour around some imperial poets and their scholiasts. There is evidence of a similar *sparsio* at the later *ludi Florales*, which became annual at Rome only in 173.⁵ These games, according to Persius' scholiast, constituted another agrarian festival for which aediles would take responsibility, at which 'chickpeas, among other gifts, used to be thrown out to the people' (*populo cicer ... inter caetera munera iactabatur*), a people identified in jest by Persius himself as 'the brawling crowd' (*rixanti populo*).⁶ Persius' scholiast does not supply a subject, commenting, again in the imperfect, that *munera* were distributed 'when they used to celebrate games for the earth' (*quando terrae ludos colebant*). The setting is a mock-idealized past, the good old days of the republic when aediles held games and ambitious men canvassed for office.⁷ Horace seems to support this notion that aediles were directly involved in the *sparsio*: by being an aedile or praetor, he jests, 'you'd blow your money on chickpeas, beans, and lupins, just so you can strut about the circus in full view or get set up in bronze' (*in cicere atque faba bona tu perdasque lupinis, / latus ut in circo spatiere aut aeneus ut stes*).⁸ His scholiast, Pomponius Porphyrio, elaborates, clarifying the role of the aedile in the *Floralia*: 'in such a way, the aediles of old would distribute things to the people at the *Floralia*' (*antiqui aediles huius modi res populo Floralibus spargebant*).⁹

⁵ Ov. *Fast.* 5.327-30.

⁶ Pers. 5.177, with scholiast (in Jahn 1843: 338).

⁷ Persius (5.178-9) writes with spurious nostalgia: his speaker, *Ambitio* personified (Harvey 1981: 175-6), encourages *liberalitas* when campaigning for political office 'so that the older generation, basking in the sun, can reminisce about our *Floralia*' (*nostra ut Floralia possint / aprici meminisse senes*).

⁸ Hor. *Sat.* 2.3.182-3.

⁹ Porphyrio (in Holder 1894: 302) on Hor. *Sat.* 2.3.182-4.

Three factors unite the *Floralia* with the *Cerialia*. The most obvious is their connection to fertility and growth, with both held in spring.¹⁰ The second is topographical proximity. Tacitus remarked that the temple of Flora, founded in c. 241, was *eodem in loco* as the temple of Ceres. The third is their aedilician *cura*: aediles' care for the former presumably stemmed from their existing association with the latter. We might offer the reasonable conjecture, then, that the *sparsio in circo* at the *Cerialia* was distributed *ab aedilibus plebis* in republican times, just as they were at the *Floralia*, in which they provided the people annually (and biannually, after the *ludi Florales* were annualized in 173) with fruits of the harvest, a sufficiently enticing part of the calendar for the mob to brawl in the circus to collect these *munera* symbolic of the success of the harvest while the aedile stood before them, 'in full view' (*latus*) as Horace puts it.¹¹

We must allow for some conjecture on the antiquity of the rites of the *Cerialia*, as well as the beginning of aediles' involvement in them. These agrarian rites may predate the introduction of chariot races, and perhaps even the official introduction of the cult of Ceres, Liber, and Libera in 493.¹² Dionysius' account of the founding of the temple of Ceres implies that it attached itself to a pre-existing Italian cult.¹³ Likewise, the custom of tying burning torches to foxes in the circus on 19 April has similarly pre-urban resonances. Ovid is our only source for this rite, which, he claims, was created to punish foxes for their destruction

¹⁰ Harmon 1978: 1463-4. Ovid's contrast between the attire at the *Cerialia* and *Floralia* (*Fast.* 5.355-9) rests on the conceptual link between *mensis* and *flores*.

¹¹ Theories on symbolic function of *sparsiones*: Nibley 1945: 522-3 (an essential feature of Rome's gift economy, originating in the regal period; other arguments to be read with caution); Le Bonniec 1958: 114-15 (weddings); Torelli 1984: 87; Simon 2008: 769-70 (agrarian fertility rite); Prosdocimi 1991: 1305-6 n. 7 (cultural mythology shared with *Lemuria*).

¹² Gjerstad 1973: 235, 283. Cf. Le Bonniec 1958: 115-23; Torelli 1984: 85-95; Spaeth 1996: 36-7; Bernstein 1998: 168-9.

¹³ Dion. Hal. 6.17.3-4. Cf. Santangelo 2020: 14.

of crops.¹⁴ If we elaborate on Ovid's logic, which may be a product of his own mythography, these rites also seem to have been designed to encourage crop growth as well as to prevent damage to crops. Although he offers no aetiology for this rite, Ovid implies that the custom originated in a mythical past, continuing to the present day: 'a memory remains ... still today' (*monumenta manent ... nunc quoque*).¹⁵ The greater leap of faith that we would need to make is that the aediles' habit of distributing *munera* at the *Floralia* drew on an existing and longstanding custom at the *Cerialia*. Though there is no room for certainty, I would suggest that, by virtue of the closeness of these two deities and their cults, both spatially and notionally, this gap is not insurmountable. The *sparsiones* for Flora derived from existing *sparsiones* to Ceres. It was the aediles who distributed *munera* to the crowd in these early fertility rites.

If aediles' involvement in the fifth-century *Cerialia* is plausible, the question of the antiquity of the *ludi Cerialia*, *qua* an annual state-run festival, sits on less stable ground. Frank Bernstein observes that the fragments of Festus do not mention the *ludi Cerialia* but instead the *Cerialia*, and therefore stresses that the two must be kept separate ('zu trennen').¹⁶ The ancient rites of the *Cerialia*, *feriae* devoted to Ceres held *in circo* on 19 April, existed long before the *ludi Cerialia*, which concluded with *ludi circensis*, were created. We know that chariot races took place on the *feriae* by Ovid's time.¹⁷ And chariot-racing was an ancient practice at Rome, dating back to at least the sixth century.¹⁸ But the first attestation of the *ludi Cerialia* comes from 202, during which the dictator, C. Servilius Geminus,

¹⁴ Ov. *Fast.* 4.711-12. Setting in circus is implied at 4.679-82.

¹⁵ Ov. *Fast.* 4.709.

¹⁶ Bernstein 1998: 169.

¹⁷ Ov. *Fast.* 4.679-80.

¹⁸ Liv. 1.35.9; Dion. Hal. 7.73.1-3.

apparently took over the games owing to the abdication of the plebeian aediles, indicating that plebeian aediles already had care for these games for an unspecified length of time.¹⁹

Bernstein has made the most extensive case against aediles' care for *ludi* as early as the fifth century.²⁰ He sees absence of evidence as evidence for absence: the *ludi Ceriales* and *ludi plebeii* must have been annualized and assigned to plebeian aediles in the late third century, when attestations in the literary record start to appear; else, they would have been mentioned somewhere in Livy's earlier books.²¹ The only games in operation were essentially patrician, state-sponsored affairs devoted to Jupiter. The earliest specific reference to aedilician *ludi* in Livy falls in 367/6, and only during his books on the Hannibalic War does he recount the *ludi* of the year with annalistic regularity.²² His first explicit attestation of the *ludi plebeii* falls in 216, the *Ceriales* in 202.²³ Finding hints in Livy's later books to suggest that 'der Ceres-Kult zur Zeit des Hannibal-Krieges ausgebaut wurde', Bernstein argues that the *ludi Ceriales* became an annual public festival only during

¹⁹ Liv. 30.39.8. Livy's notice is highly suspicious. The plebeian aediles of 202 were compelled to abdicate midway through the year owing to electoral irregularity. Livy mistakenly holds that the *Cerialia* were organized by the dictator and his *magister equitum* (in April) after the plebeian aediles had already held the *ludi plebeii* (in November), which is chronologically impossible (Taylor *apud MRR* 1.318-19 n. 1; Bernstein 1998: 152 n. 181).

²⁰ Bernstein (1998: 163-71 *et passim*, followed tentatively by Becker 2017: 195-201) proposed that all games save the *ludi Romani* were introduced during and after the Hannibalic War. The origin of the *ludi Ceriales*, although Livy fails to supply a point of origin, can thus be placed in the late third century along with the *ludi plebeii* and the *ludi Apollinares*. Orlin 2010: 143-6, following Bernstein's chronology, detects an 'explosion in the celebration of annual *ludi*' (p. 145) in the decades around the Hannibalic War. Wiseman, however, has attempted to refute Bernstein's claims that the *ludi Ceriales* and *plebeii* were established in the late third century (2008: 167-74) on account of explicit testimony for the earlier founding of both (*Ceriales*: Val. Max. 1.7.4; Ps.-Asc. 217St; *plebeii*: Dion. Hal. 6.10.1, 6.17.2). Daguet-Gagey 2015: 254-8 meanwhile proposes that, since aediles were making dedications to the temple of Ceres as early as the 290s (Liv. 10.23.13), and because 'Tite-Live paraît bien lier offrandes à Cérés et jeux' (p. 258), the *ludi Ceriales* may be dated much earlier. Cf. Le Bonniec 1958: 353; Wiseman 1995a: 133-6; 1998: 35-9, 57.

²¹ Bernstein 1998: 83; 163-71: 'zu ihrem Kult ... gehörten für lange Zeit keine Spiele' (quoted at p. 163).

²² Liv. 6.42.11-12.

²³ *Plebeii*: Liv. 23.30.16; *Ceriales*: 30.39.8.

this period of significant expansion in Rome's *ludi* on the eve of the Hannibalic War.²⁴ They must fit into, and perhaps begin, the pattern of expansion formed by the gradual creation and annualization of the *ludi Apollinares* (208), *Megalenses* (194), and *Florales* (173).

We might also readily accuse Dionysius of anachronism. He follows up his assertion about aediles' role within the games with a statement that appears further to entrench the anachronism: the aediles 'were decorated by the senate with the toga praetexta, an ivory (= curule) chair, and other such distinguishing marks that the kings used to have' (κοσμηθέντες ὑπὸ τῆς βουλῆς πορφύρα καὶ θρόνῳ ἐλεφαντίνῳ καὶ τοῖς ἄλλοις ἐπισήμοις οἷς εἶχον οἱ βασιλεῖς).²⁵ Some have considered it incredible that a plebeian official should be awarded these insignia at such an early date, not least because it would eliminate any distinctiveness that the 'curule' aedileship enjoyed from its origin from 367/6. Plebeian aediles may have acquired these insignia later, possibly after Sulla.²⁶ The crux of the issue is whether Dionysius' entire sentence is anachronistic. If Dionysius' participial phrase represents 'eine Reprojektion von Verhältnissen der sullanischen Zeit', does his main clause fall into the same trap?²⁷ Is Dionysius just mapping his own understanding of the office onto Rome of four-hundred years ago?

Bernstein argues in the affirmative to the latter question. In his view, aediles became associated with religious festivals only after the creation of the curule aedileship in 367/6 –

²⁴ Hayne 1991: 130-8 proceeds in a similar vein, looking for 'political events' that might have compelled the senate to invent the games. She likewise assumes that the *Cerialia* was introduced near its 'first recorded celebration', despite her admission of earlier 'ritual celebrations' (p. 130).

²⁵ Dion. Hal. 6.95.4. The wording is suspiciously similar to Cicero's boasts (Cic. *Verr.* 2.5.37) of his *fructus* as plebeian aedile (*togam praetextam, sellam curulem*).

²⁶ Richard 1977: 428-33; Bernstein 1998: 64, 79. This may be an afterthought, with Dionysius making a casual connection in his narrative to his earlier remarks on the Etruscan origins of magisterial insignia (Dion. Hal. 3.61-2).

²⁷ Bernstein 1998: 79.

and even then *cura ludorum* was the exclusive preserve of curule aediles.²⁸ Bernstein attempts to join the dots between two disparate pieces of evidence: pseudo-Cyprian claimed (from an unknown source) that ‘when hunger had the city in its clutches, *ludi scaenici* were acquired as a consolation for the people, and were subsequently (?) dedicated to Ceres and Liber and to the rest of the idols and the dead’ (*cum urbem fames occupasset, ad aduocationem populi adquisiti sunt ludi scenici et Cereri et Libero dicati postmodum reliquisque idolis et mortuis*).²⁹ There were severe food shortages at Rome early in the Hannibalic War; therefore, so the argument goes, the *ludi Cerialia* were introduced during these troubling years.³⁰

But this passage tells us nothing about the establishment of the *ludi* themselves.³¹ All it says is that plays were introduced to Rome during a famine, which is easily reconciled with Livy’s story that *ludi scaenici* were introduced at a time of *pestilentia* in 364 (presumably to either the *ludi Romani* or *plebeii*).³² In fact, if pseudo-Cyprian can be relied upon, this sentence seems to suggest that Ceres’ *ludi* already existed when plays were introduced to Rome in an age when *circi modo spectaculum fuerat*.³³ All of which we believe to be true of the *Cerialia*. Pseudo-Cyprian clearly has two events in mind: the acquisition of plays

²⁸ Bernstein 1998: 165-6; 2007: 252-3. Cf. 1998: 117: ‘Die plebejischen Aedilen ... übten weder vor noch nach dem Ständeausgleich eine *cura ludorum* aus’. Cf. Daguet-Gagey 2015: 270-1.

²⁹ Ps.-Cyp. 4.4. Cf. Boulanger 1933: 93-5.

³⁰ Famines: Liv. *Per.* 20; App. *Hann.* 17.75.

³¹ Some of my objections below elaborate on those already presented by Wiseman 2008: 171-4.

³² Liv. 7.1.1-3; Val. Max. 2.4.3-4. A certain M. Popilius and his unknown colleague (‘C. [...]lius’) are said to have been the first to organize *ludi scaenici*: *...unc ludi, scenicos ...s primum fecisse C. ...lium, M. Popilium M. <filius curules [?] a>ediles, memoriae <prodiderunt [?]> historici* (Fest. 436L). Liv. 7.2.3 dates this event to 364, which may derive from the same Varronian tradition as Verrius (Oakley 1998: 40-51). Festus does not seem to specify which aedileship Laenas held, and interpolation of the adjective *curules* would require a curious but not impossible (Liv. 32.27.8) syntactical quirk. Further, Liv. 7.1.6 wrote that curule aediles should alternate between plebeian and patrician from 366 (a patrician year), making a curule aedileship uncertain. One solution to this puzzle would be to make Popilius and his colleague plebeian aediles.

³³ Liv. 7.2.3.

(*adquisiti sunt*) and the attachment of these games to Ceres' existing games 'at a later time' (*postmodum*), if we read the adverb as modifying the participle *dicati*.³⁴ Bernstein would later distance himself from his earlier interpretation of pseudo-Cyprian; but he retains the argument that the *ludi Cerialia* were only much later integrated as an annual official part of the Roman calendar.³⁵ And there was indeed an expansion and regularization of Rome's festive calendar in the third and second centuries, with reliable aetiologies for the *ludi Apollinares* and the *ludi Megalenses*.³⁶ Without the dubious evidence of pseudo-Cyprian, however, the case that the *ludi Cerialia* were established in 220 or 219 has little to recommend it.

Nor does a tantalizing coin give us any clue about the *ludi's* origins. A moneyer from the first century named C. Memmius claimed that an ancestor of his was the first to 'do' the *Cerialia*, proudly boasting that *MEMMIUS AED CERALIA PREIMVS FECIT*.³⁷ With no literary parallels for this individual, however, we cannot know when this mysterious plebeian aedile held office, if indeed he was historical. The Memmii were not an old noble family, but they claimed to be.³⁸ The imagery on the coin reveals little, too, about whether its issuer meant *Cerialia* in the sense of *ludi* or other rites (such as *sparsiones*). Ceres is seated on a chair (an aedilician *subsellium*, perhaps) bearing her symbolic *cereus* and corn ears. The

³⁴ Cf. Wallis 1869: 225 ('subsequently').

³⁵ Bernstein 1998: 168-9 (see esp. p. 169: 'wurde der cultus Cereris wohl 220 oder 219 um den spezifischen Ritus der Spiele erweitert'). At 2007: 253, he cites pseudo-Cyprian as evidence that the *Cerialia* 'had been celebrated since the archaic period' (and rightly, in my view).

³⁶ Introduction of *Apollinares*: Liv. 25.12.11-15 (212); annualization: Liv. 27.23.5-8 (208). Introduction of *Megalenses*: Liv. 29.14.13-14 (204); annualization: Liv. 34.54.3, 36.36.4 (194 or 191). Cf. Orlin 2010: 143-6.

³⁷ RRC 427.

³⁸ The earliest Memmius attested is C. Memmius, praetor in 172 (Liv. 42.9.8). The Memmii seem to have made attempts in the first century to fabricate their lineage, as suggested by the far-fetched etymological link made by Vergil between Mnestheus and Memmius (5.117: *mox Italus Mnestheus, genus a quo nomine Memmi*). See *infra* § 2.4 on aediles and fanciful aetiologies.

issuer of the coin clearly wanted to advertise his capacity to *spargere* fruits of spring, bolstered by an antique 'first'. The coin is instructive in one other respect. There was clearly a story current in the late republic that the *Cerialia*, or some innovation attached to it, was 'instituted' 'at first' by some aedile from ages ago.³⁹ Though the literary evidence does not reflect it, it was understood that an aedile did something in one year that was different from how aediles normally acted the previous year. Exactly what changed is left to modern conjecture.

The strongest argument in favour of the later introduction of the *ludi Cerialia* is one from silence. We are left with a fragile *terminus ante quem*: the *ludi Cerialia* were adopted as an official annual state festival before 202, possibly long before. We are on more comfortable ground with the *Cerialia* of which the *ludi Cerialia* were an extension. If we accept that the rites of the *Cerialia* were as old as the cult itself, and that aediles routinely carried out *sparsiones in circo*, we might connect these two events to place aediles in the circus in the fifth century engaging in the public celebration of Ceres. At some time before 202, aediles' presence in the Circus Maximus evolved, just as the *Cerialia* evolved into *ludi Cerialia*.

Arguments in favour of dating the introduction of the *ludi plebeii* to the late third century are likewise reliant on silence. Interpretations of the founding of the *ludi plebeii* depend on our reading of Livy's story of the creation of the curule aedileship, which was allegedly precipitated by a dispute over the holding of *ludi*. The curule aedileship was

³⁹ Le Bonniec 1958: 320-3 thinks that Memmius is referring to the introduction of *ludi scaenici* to existing *ludi Cerialia*.

created in 367/6 according to Livy.⁴⁰ It was in this year, Livy tells us, that the curule aediles were given responsibility for the *ludi maximi*, later conventionally known as the *ludi Romani*. The senate, desirous of celebrating the newfound *concordia ordinis*, decreed ‘that the “Great Games” should be held and one day should be added to the three’ (*ut ludi maximi fierent et dies unus ad triduum adiceretur*). The plebeian aediles refused to shoulder this ‘burden’ (*recusantibus id munus aedilibus plebis* – or perhaps ‘refused to accept this privilege’); to the rescue came *iuuenes patricii*, who took up the *munus*, as a result of which the senate decreed that ‘the dictator should put it to the people that two men from the patrician order should become aediles’ (*duumuiros aediles ex patribus dictator populum rogaret*).⁴¹ This story is untrustworthy. Livy concludes his sixth book with this notice, lumping in all sorts of reforms which modern scholars label the Licinio-Sextian reforms.⁴²

This story may well contain fictional elements designed to supply an aetiology for the curule aedileship and to lay blame upon the plebeians for jeopardizing the new *concordia ordinis* of 367/6. Livy is emotive: ‘thanks were expressed by the entire community’ (*ab uniuersis gratiae actae essent*) to the young patricians who would do this ‘willingly for the sake of honouring the eternal gods’ (*honoris deum immortalium causa libenter*), implicitly blaming the plebeian aediles for jeopardizing *pax deum* because of their ‘unwillingness’. And there is an alternative tradition which places the expansion of the aedileship in the

⁴⁰ Liv. 6.42.12-14. Becker 2017: 123-36 provides the fullest recent discussion, concluding that ‘verwaltungstechnische Notwendigkeit’ was a major factor in its creation *contra* Livy’s doctrine of patrician jealousy. Bauman 1974: 261 argued that the curule aedileship was created as a ‘counterweight’ to plebeian offices, on which see *infra* § 1.3.

⁴¹ Liv. 6.42.14. Plut. *Cam.* 42.5 holds that the *feriae Latinae* were expanded. The new aediles, only later identified as curule (7.1.1), lost their exclusive patrician-ness almost immediately (7.1.6), further weakening Livy’s interpretation of the creation of the curule aedileship as a symptom of the struggle of the orders.

⁴² General overview of ‘unreal’ features in Livy’s account of the reforms: Oakley 1997: 646-9.

mid-fifth century. Zonaras places aediles' expansion in the mid-fifth century at the same time that the *concilium plebis* was formed in 471. He writes that the tribunes 'increased the [number of] aediles and tribunes' (καὶ τοὺς ἀγορανόμους δὲ καὶ τοὺς δημάρχους ἐπηύξησαν) from their original two 'so that the people could have more people to act as their champions' (ἵνα πλείστους τοὺς αὐτῶν προΐσταμένους ἔχωσι).⁴³ Livy's account is usually preferred over Zonaras' for simple diachronic reasons. Zonaras, after all, wrote over a millennium later. But Dio seems to have had access to sources different from Livy's, and there is no reason to believe that Zonaras has preserved his source unfaithfully, or Dio his.⁴⁴ And the fact that Piso dated the augmentation of the tribunate to 471, like Zonaras, suggests that Zonaras is reciting a well-known tradition.⁴⁵

Livy's account may be more compatible with Zonaras' than initially meets the eye. Livy's does not explicitly state that 367/6 was the year in which the aedileship was expanded: the dictator, as presiding magistrate, offered for election (*rogaret*) two men (*duumuiros*) from the patrician order as aediles. His ambiguous wording leaves open the possibility that there were already four aediles by this date. The conventional date for the creation of the curule aedileship (367/6) is, therefore, far from secure. In any case, there is no reason to suspect that Livy's story is mistaken in assigning plebeian aediles with prior responsibility of organizing the *ludi maximi/Romani* before 367/6, or that *cura ludorum*

⁴³ Zon. 7.17. In favour of Zonaras' early date for expansion: Mazzarino 1945: 151. Aediles previously two: Dion. Hal. 6.90.2; Zon. 7.15; Pomp. *Dig.* 1.2.2.21.

⁴⁴ Becker 2017: 135 n. 417 dismisses Dio's tradition because of its recentness; nor does Zonaras specify the number that the aedileship increased by (pp. 112-14). But see Urso 2005: 98-9 in defence of Dio's alternative tradition: Dio had access to republican sources different from Livy's (Urso 2019: 57-8) and provided a more cautious interpretation ('quella che soddisfa di più!') of the same source employed by Dionysius (2005: 90-2).

⁴⁵ Augmentation of tribunate in 471: Piso (*FRHist* 2.316-17, F25) = Liv. 2.58.1-2; Diod. Sic. 11.68.8. In favour of earlier augmentation: Liv. 2.33.2. Cf. Cornell 1995: 259; Simons 2009: 80-1.

previous to this year was 'eine Kompetenz des Oberamtes' alone.⁴⁶ Livy's pro-patrician story relies on the assumption that their organization of such games was already customary: the plebeian aediles are said to have rejected this *munus* as a result of the expansion of the festival. The real reason for the 'creation' of the curule aedileship is irrecoverable. Livy's story could just as easily have been a contrived tale about the creation of the curule aedileship based on a (factual) dispute about the holding of *ludi*, in an attempt to provide an aetiology for these *ludi*.

The argument in favour of downdating the foundation of the *ludi plebeii* to c. 220 rests on a single passage in Valerius Maximus. During what Valerius calls the *ludi plebeii* of 491, an unnamed *pater familias* is said to have led his slave *per circum Flaminius* before the *pompa circensis* had been led in.⁴⁷ The reference to the Circus Flaminius, which was 'built' in c. 220 by the censor C. Flaminius, is anachronistic.⁴⁸ So, since Mommsen, Valerius' anachronism has been accepted as proof that the *ludi plebeii* were introduced around the time of the founding the Circus Flaminius, which would provide the venue for all future celebrations.⁴⁹ Older sources tell the same story without specifying the circus: Cicero wrote that *seruus per circum ... ductus est*, while Livy wrote that the *pater familiae ... medio egerat circo*.⁵⁰ For these writers more familiar with republican practices, *circus* is usually shorthand for Circus Maximus.⁵¹ And there is good reason to doubt that the Circus Flaminius

⁴⁶ Becker 2017: 190.

⁴⁷ Val. Max. 1.7.4.

⁴⁸ Varro, 5.154; Liv. *Per.* 20; Fest. 79L.

⁴⁹ Mommsen, *Röm. Staatsr.* 2³.1.519-20. Bernstein 1998: 158-63 attempts to find positive evidence to support Mommsen's hypothesis; Becker 2017: 120-3 follows Bernstein with caveats, yet similarly considers aediles' 'Spielgebungs-kompetenz' 'für diesen frühen Zeitraum als unwahrscheinlich' (p. 123; cf. pp. 63-5 and 195-6). Cf. von Ungern-Sternberg 1986: 364.

⁵⁰ Cic. *Div.* 1.55 (relating a story from Fabius Pictor = *FRHist* 2.84-5, F14); Liv. 2.36.1. Both supply the date (491) but disagree on the name of the festival (Livy: *ludi magni*; Cicero: *ludi uotiuu maximi*) But see Bernstein 1998: 85-96 with doubts about the fifth-century date of this story.

⁵¹ *OLD* s.v. 'circus' 3.

regularly hosted *ludi circenses* in the republic.⁵² The only games that we know were located in the Circus Flaminius were the *ludi taurei*, which were held outside the *pomerium* owing to their association with death and the underworld. They were exceptional: they were not annual and were held ‘so that the gods of the underworld do not get summoned within Rome’s walls’ (<ne> *intra muros euocentur d<i inferi>*).⁵³ Valerius simply seems to have misidentified the circus, probably from his reading of Livy, among other errors in his dramatic reimagining of the old story for his Tiberian readership. There is no persuasive evidence to place the *ludi plebeii* in the Circus Flaminius from the year of its construction, nor is it clear whether it was even ‘built’ for the purpose of hosting *ludi circenses*.

More explicit evidence lies elsewhere. In the *Verrines*, Cicero gloated over his new responsibility, as plebeian aedile in 69, to organize the *ludi antiquissimi qui primi Romani appellati sunt*, evidence of the orator’s manipulation of a tradition that rendered the *ludi plebeii* of greater antiquity than the *ludi Romani*.⁵⁴ He does not tell his audience directly that plebeian aediles had charge of the games at their inception, but he does suggest that the *ludi plebeii* were called the *ludi Romani* before they split into two distinct festivals. Cicero’s scholiast was also certainly under the impression that the *ludi plebeii* dated to the fifth century. In his gloss of the *Verrines*, pseudo-Asconius identified these *ludi antiquissimi* as the ‘*ludi plebeii*, which they celebrated in honour of the liberty of the *plebs* after the kings

⁵² Cf. Wiseman 1974: 4b; 1976: 44-5 on the function of the Circus Flaminius. Even the date of the Circus’s founding (Liv. *Per.* 20; Fest. 79L) is not without problems (Wiseman 1974b: 5).

⁵³ Fest. 478L; Varro, *LL* 5.153-4. Varro provides a more detailed explanation for the etymology of the Circus Maximus with references to *ludi* and their *spectacula* and the *pompa circensis*. Seemingly, the *ludi taurei* are positioned as the exception against this norm (so Wiseman 1976: 44; Humphrey 1986: 543-4). On *ludi taurei* in general: Forsythe 2012: 58-9 (‘the *Ludi Taurei* were performed here in order to keep barrenness outside of Rome’s sacred boundary’).

⁵⁴ Cic. *Verr.* 2.5.36. Taylor 1939: 195-7 remains the *locus classicus* of this position, of which I am yet to see a convincing refutation.

were driven out, or in honour of the reconciliation of the *plebs* after the secession to the Aventine' (*plebeii ludi, quos exactis regibus pro libertate plebis fecerunt, an pro reconciliatione plebis post secessionem in Auentinum*).⁵⁵ It is also possible that the *ludi plebeii* and *Romani* were synonymous until these *ludi*, both dedicated *Ioui, Iunoni, Mineruaeque*, split into two distinct *ludi* in c. 367/6. And even if we refuse to accept this tradition transmitted by Cicero, there is no good reason for dating the foundation of *ludi plebeii* as late as 220. We know that plebeian aediles organized *ludi* of some description in 293, which suggests that curule aediles did not have sole responsibility for annual *ludi* between 366 and 220.⁵⁶ One further piece of circumstantial evidence may point to the existence of the *ludi plebeii* in 246. Claudia, sister of the infamous general P. Claudius, was prosecuted by the plebeian aediles of 246 'because she spoke too arrogantly' (*quod locuta esset petulantius*).⁵⁷ That she happened to be leaving the *ludi* (*a ludis quos spectauerat exiens*) when she said these words may not be a coincidence. The plebeian aediles may have taken it upon themselves to initiate this prosecution because her *carpentum* was leaving their games.

This reading has implications for our attempt to locate early aedilician activity. The Circus Flaminius was not yet 'founded', even if the *prata Flaminia* had existed for some time and had acted a site for tribal gatherings and, irregularly, the *ludi taurei*. Valerius aside,

⁵⁵ Ps.-Asc. 217St.

⁵⁶ Curule aediles' involvement in the *ludi Romani* from their inception is generally assumed based on Liv. 6.42.12-14 (cf. 10.47.3-4). Bernstein 1998: 73 argues that the office was created for the purpose of holding *ludi*. Plebeian aediles arranged *ludi* (*plebeii* or *Ceriales* or both) in 293 (Liv. 10.23.13). *Plebeii* seems a reasonable guess because of its lateness in the year. Because these *ludi* were funded by fine money (*ex multatitia ... pecunia ... ludi facti pateraeque aureae ad Cereris positae*) and Livy fails to mention other plebeian games between 366 and 216, it might be tempting to see this occurrence as a one-off (Becker 2017: 195-6 n. 272). But this conclusion relies on the assumption that plebeian aediles were reliant on fine money to organize irregular *ludi*. It would not be unreasonable to suggest that aediles regularly subsidized the outlay of other *ludi* with fine money (e.g. Liv. 27.6.19), a practice entrenched by first-century statutes (Piacentin 2018: 105-6).

⁵⁷ Gell. 10.6.2.

there is no evidence placing the *ludi plebeii*, and by extension early aedilician activity, in the Circus Flaminius or the *prata Flaminia*. Indeed, the notion that the area around the Circus Flaminius comprised something of a plebeian quarter should not go unchallenged.⁵⁸ The one argument is routinely and circularly deployed to reinforce the other: the Circus Flaminius has plebeian associations partly because plebeian aediles held games there, and plebeian aediles held their games in the Circus Flaminius because this venue had plebeian associations. There is justified uncertainty about when the *ludi plebeii* were made annual, but there seems to be more certainty that aediles did not use the Circus Flaminius as their religious space. The plebeian aediles were intimately associated, instead, with the Circus Maximus and the temples that fringed it.

Dionysius' attribution of *προστασία καὶ ἐπιμέλεια ἀγώνων* to aediles long before the end of the third century therefore seems to have some historical basis. We should not dismiss all Dionysius' remarks as anachronistic. The curule aediles, upon the creation of their office, were given responsibility for the *ludi Romani* probably because plebeian aediles were already linked with games and the Circus Maximus. There is evidence suggesting that plebeian aediles were active *in circo* before the creation of the curule aedileship. While it is unclear when the *ludi plebeii* and *ludi Ceriales* 'began', one might diplomatically suggest that, even if they did not officially exercise *cura ludorum* in the early fifth century, plebeian aediles acted in some religious capacity *in circo* that made them a fitting choice to take over the games before 367/6.

⁵⁸ On the plebeian-ness of the Circus Flaminius: Quinn-Schofield 1967b: 682; von Ungern-Sternberg 1986: 372; Dumézil 1987: 563-4; Thommen 1995: 367; Coarelli 1997: 372; Morstein-Marx 2004: 59; Davies 2017: 70. Richard 1978: 123-4 proposes a later date (449) for the establishment of the *ludi plebeii* but maintains as its venue the *prata Flaminia*, 'auquel le souvenir des luttes plébéiennes restait attaché depuis qu'en 449', when the first *concilium plebis* was convoked (Liv. 3.54.15).

As with aediles' link with the plebeian archive at the temple of Ceres, the extent to which we can believe aediles were involved with *ludi publici* in the fifth century again depends somewhat on our conception of the wider Roman 'state' in this period. The literary evidence paints a picture of aediles becoming part of the government of the republic, occupying an ambivalent space between unofficial plebeian champions and official protectors of the city, using spaces created by the patricians (the temple of Ceres and Circus Maximus) for plebeian rites.⁵⁹ Depending on our broader perspective of fifth-century Rome, this process may be variously described as compromise, appropriation, or imitation. In any case, aediles are imagined by our sources as acting as an intermediary between patrician and plebeian, senate and people. The Circus Maximus can through this (admittedly rose-tinted) lens be seen as a site of this interaction, a space where these apparent contradictions were negotiated. How aediles came to be associated with both temples and games may tentatively be explained in terms of their topography. Because the temple of Ceres and the Circus Maximus were *iuncti*, and Ceres' rites spilled out onto the circus, we might assume that aediles gained association with *ludi* in this manner. And the proximity of the temple of Ceres to the Circus Maximus may have been an important factor in the development of aediles' *cura ludorum*.⁶⁰

The topographical link between temple and festival is confirmed by the *ludi Megalenses*, which were introduced to Rome in the first decade of the second century and organized by curule aediles. Since Rome lacked a permanent theatre until the middle of the

⁵⁹ Regal 'founding' (*locus designatus*) of Circus Maximus: Liv. 1.35.8, 1.56.2.

⁶⁰ Similar hypotheses in Sabbatucci 1954: 263 who conceives of 'l'onore e l'onere della organizzazione di alcuni *ludi*' as 'un retaggio di un'edilità originaria', even if his sacerdotal conception of this 'original aedileship' is, as we have seen, not supported by the evidence.

first century, *ludi scaenici* were not held in fixed locations.⁶¹ Festivals were inextricably associated with the temples of the deities celebrated, with the Romans regularly striving to host the *ludi* as geographically close as possible to their temple.⁶² The *ludi Megalenses* were held *in ipso Matris Magnae conspectu*, on the very steps of her temple.⁶³ The gods themselves were said to enjoy the games; not only did they witness these games, but they took a physical part in the procession from their temple to the circus.⁶⁴ Aedilician *munera* were therefore held in deliberately chosen spaces conditioned by the location of the deities themselves.⁶⁵ But the Circus Maximus remained at the heart of aedilician *munera*. Most *ludi* culminated in the circus with *ludi circenses*. Many of the early *ludi scaenici*, too, may have had their temporary stages erected in the Circus. We know from (a summary of) Polybius' account of *ludi uotiui* that *ludi scaenici* could be held there.⁶⁶ The forum, too, could play host to non-aedilician gladiatorial *ludi funebres*, and so probably provided a venue for theatrical performances too, being another open space usable for temporary theatres.⁶⁷ The Circus was an important ludic space, but not the only one available.

In the second and first centuries, a consistent picture emerges of aediles using the Circus as a performative space for their *ludi*. Any changes appear to be extrinsic to the

⁶¹ Manuwald 2011: 55-68.

⁶² Hanson 1959: 10-17, esp. 16-17. See e.g. Liv. 40.51.3 on proximity of *ludi scaenici* to the temple of Apollo during the *ludi Apollinares*.

⁶³ Cic. *Har.* 24. Cf. Goldberg 1998: 3 *et passim*. Practice of using temple steps as seating: Gell. 10.1.7.

⁶⁴ Ov. *Fast.* 5.297-8.

⁶⁵ Franko 2014: 412-13.

⁶⁶ Ath. 14.615 = Polyb. 30.22.1: 'he constructed a vast stage in the circus' (σκηνην κατασκευάσας μεγίστην ἐν τῷ κίρκῳ). Hanson 1959: 12 is sceptical, but there is no reason to doubt some degree of flexibility between circus and forum (Jory 1986: 151 n. 14; Beacham 1991: 63 with 225 n. 23). As Goldberg 1998: 10 has shown, the *ludi scaenici* at the *ludi Apollinares* were originally held in the Circus Maximus (Liv. 25.12.14; Macrobian. *Sat.* 1.17.29). Cf. Coleman 2000: 219-21 on temporary theatres.

⁶⁷ Liv. 23.30.15. Cf. Welch 2007: 19 on the Forum Romanum as 'the usual location for gladiatorial combat throughout the remainder of the republican period'. The Forum Boarium was also used, at least in earlier periods: Val. Max. 2.4.7.

magistracy. Aediles increasingly used private funds to supplement their significant outlay. A number of factors contributed to this change. The first is an increase in wealth among aristocratic families, allowing men in their thirties to splash an enormous amount of cash on visual reminders of their magistracy. Ancient writers certainly thought so, even if they dressed up such conclusions in moralistic terms. Valerius Maximus, for instance, links the 'sumptuousness' (*lautitia*) of first-century *ludi* with an increase in wealth (*crescentibus opibus*); his first example comes at the turn of the first century.⁶⁸

This chapter has set the scene. We will explore how aediles reinforced their link to these spaces (circus, temples, forum) in a following chapter ('*Ornatus*'). The *pompa circensis* supplied an opportunity to connect these aedilician theatres of interaction. Before we get to this stage, however, we must look at a crucial element in the development of aedilician *ornatus*. We will first see how this link was forged from the *rostra* in the Forum Romanum, by conducting trials and raising money to fund lavish entertainments.

⁶⁸ Val. Max. 2.4.6. Cf. moralizing rhetoric of decadence and *insania* in Liv. 7.2.13.

1.3 Rostra

By the fourth century, a normative process emerges in the way aediles interacted with the people. They regularly carried out prosecutions from the *rostra* at the heart of the forum, and funded embellishments to the city with the proceeds. This chapter will introduce the process which allowed aediles to present themselves *apud populum* in this manner. It begins with an overview of the scholarly debate over when and why this connection with the *rostra* began. Although again we cannot provide firm answers on questions relating to the earlier republic, it seems that their connection to tribunes provided them with some capacity to *agere cum plebe* or *cum populo*.¹ After this, it gives a brief overview of the aedilician process. What unites aedilician trials is not a single judicial responsibility, but an aedilician norm to protect the 'city', broadly defined. This process appears to be characterized by *arbitratus*, the individual capacity to judge which cases would be worth pursuing in the time-consuming *iudicia publica*.² Although these trials represented a lucrative end, namely the potential to access *multae* to fund their *ornatus*, they can be seen as ends in themselves: a means of gaining attention from the *rostra*, Rome's *oculatissimus locus*. But there are hints in Plautus, too, that aediles acquired a broader role in the administration of justice, meaning that they might be found at a *tribunal* in the forum presiding over civil cases. These acts are

¹ Gell. 13.16.3 defines this as the right to ask the people/*plebs* a question that would be decided *suffragiis suis*.

² Modern scholarship has conventionally differentiated between *iudicia populi* of the earlier republic and *iudicia publica*, treating the latter as synonymous with *quaestiones*. But *iudicium publicum* appears to have been the technical term for assembly trials 'in their heyday' (Lintott 1972: 246-49; 2009: 15-17). That the only two references to popular trials in Ateius Capito's early imperial work on *iudicia publica* (not *populi*) date to the third and second century is instructive (*contra* e.g. Bauman 1980: 129 n. 138, who laments the exclusive survival of Capito's 'pre-*iudicia publica* anecdotes').

united by an aedilician presence in the forum, a space from which they would regularly make themselves visible on Rome's market days.

First, a caveat is required about the location of aedilician trials. Despite this chapter's title, it is possible that aedilician *contiones* were arranged and trials were held in locations other than the forum, their speeches delivered from spaces other than the *rostra*. The sources often refer obliquely to the 'forum' as the location for these interactions, implying that the aediles spoke from the *rostra*.³ Trials could be held and assemblies convoked at other locations, such as the *area Capitolina* or the Circus Flaminius, although all examples of judicial assemblies are tribunician.⁴ So this chapter follows the ancient evidence in generalizing the location of aedilician trials (*forum* or *comitium*), assuming that most of these interactions took place in this central area. Plautus, as we shall see, tends to stage *lites* in such spaces, with the forum becoming a kind of *locus litium*.⁵

When did aediles start to assume a role in Rome's public trials? Aediles, both plebeian and curule, extracted money from public prosecutions from at least the fourth century with what seems to be increasing regularity. They may have been involved in the fifth century, too, perhaps by virtue of their association with tribunes.⁶ Zonaras would have us believe that they were 'from their origin' (τὸ ... ἀρχαῖον) elected 'for the purpose of bringing people to trial' (ἐπὶ τῷ δικάζειν) in addition to their archival responsibilities in

³ See e.g. Plin. *NH* 18.42 (*in forum*); Val. Max. 6.1.7 (*in rostra*).

⁴ The Circus Flaminius was 'a favorite place for tribunician *contiones*'; use of *area Capitolina* appears to be exceptional (perhaps an attempt physically as well as ideologically to distance themselves from the senate/*curia*): Taylor 1966: 45-7. One example of *comitia* convoked by a praetor *in Capitolio*: Liv. 34.53.2. On *area Capitolina*: *LTUR* 1.114-17 (Reusser); Russell 2016: 105-10.

⁵ See e.g. Plaut. *Men.* 583.

⁶ As prosecutors: Liv. 3.31.5-6; Dion. Hal. 10.48.3-4. As tribunes' assistants in 'policing' matters: Dion. Hal. 7.26.2-3, 7.27.2, 7.35.3-4, 7.45.1; Plut. *Cor.* 17.2, 18.2-5.

the temple of Ceres.⁷ And aediles are attested playing a role in early public prosecutions.⁸ Zonaras is conveying a tradition, albeit at third hand, that placed the punitive capacities of aediles at the heart of their early activities. Livy transmits the legal culture of the fifth century in anachronistic form. An aedile of 454 (L. Alienus) imposed an enormous fine of 15,000 asses on C. Veturius (cos. 455), possibly for profiting from the spoils of war, which drew the ire of his soldiers.⁹ The nature of the crime seems to be lost to annalistic conjecture, but it does not match with patterns of later aedilician prosecutions. Nor can the sum of the fine reflect the monetary situation of fifth-century Rome.¹⁰ Likewise, the names of the individuals, both tribunes and aediles, sound suspiciously like first-century politicians. The names C. Calvus Cicero (tr. pl. 454) and L. Alienus recall individuals involved in the prosecution of C. Verres.¹¹ And doubts have been expressed about whether a mere aedile or tribune would, in the middle of the fifth century, have the gumption (or indeed legal capacity) to prosecute a patrician consular.¹²

A clue for when aediles began carrying out prosecutions in the forum may lie in their obscure connection to tribunes. As discussed above, one tradition relates that the aedileship was created for the purpose of assisting the tribunes, with Dionysius identifying them from their inception as ὑπηρέται τῶν δημάρχων.¹³ The tradition is admittedly

⁷ Zon. 7.15.

⁸ Liv. 3.31.5-6; Dion. Hal. 10.48.2-3, 10.49.5-6. Arguments in favour of fifth-century judicial responsibilities: Dignös 1962: 1-13; Lupinetti 1969: 309-15; Bauman 1974: 248 ('an authentic substratum'); Ridley 1980: 347-51 (focusing on tribunician trials); Garofalo 1989: 30-43; Jones 1972: 37; Urso 2005: 94-7. Agnostic: Daguët-Gagey 2015: 171-2; Becker 2017: 96-106. Badian 1996: 193-4 appears to accept Livy's version of events as the kernel of truth abused by C. Gracchus (Plut. C. Gracch. 3.5).

⁹ The precise nature of the crime is vague in both sources. Bauman 1974: 248 reads it as 'maladministration during their consulship'.

¹⁰ Liv. 3.31.5-6, despite Peruzzi 1985: 189-92 (in favour of fifth-century currency).

¹¹ T. (?) Alienus as a *subscriptor* of Q. Caecilius: Cic. *Div. Caec.* 48-9.

¹² Botsford 1909: 291; Ogilvie 1965: 448.

¹³ Dion. Hal. 6.90.1-3, 6.95.4; 10.34.3. Cf. *supra* § 1.1.

confused: at one stage, Dionysius differentiates between the tribunes' 'assistants and the aediles' (ὕπηρέταις τε καὶ ἀγορανόμοις ἐπιτάττοντες), and elsewhere describes them at once as 'assistants of tribunes and colleagues and judges' (ὕπηρέτας τῶν δημάρχων καὶ συνάρχοντας καὶ δικαστὰς). Dionysius, as often, seems to be attempting to make sense of various competing source traditions. Livy's account is altogether more straightforward: he makes no mention of the tradition of aediles as tribunes' subordinates.¹⁴ It is worth noting, too, that in the one aedilician prosecution that Livy does mention from the fifth century, that carried out by L. Alienus, there is no sign of a supervising tribune in the trial. The aedile appears to act independently; he is no ὕπηρέτης. Livy thus implies that aediles, from the mid-fifth century, were not (or no longer) subordinate to tribunes, but shared with tribunes the capacity to carry out prosecutions 'in via del tutto arbitraria'.¹⁵ Early aediles may have shared with the tribunate a capacity as representatives of the *plebs*, which might quite easily lead later writers to position aediles as assistants to tribunes who played a starring role in the conflict of the orders.¹⁶ There is no need to see tribunes and aediles of the fifth century as an intrinsic part of a legal 'system'; they took charge of trials 'outside the usual legal process', inasmuch as this existed in the fifth century, taking advantage of 'universal odium' from the *plebs* against individuals in the patrician order.¹⁷ Though firm conclusions on the matter are impossible given the state of the evidence, it is reasonable to

¹⁴ Liv. 2.33.1-3. Lupinetti 1969: 292 reads this discrepancy as proof of 'la preesistenza degli edili alla successione plebea [*sic*]'. More prosaically, it seems simply to be the result of varying historical traditions.

¹⁵ Santalucia 1994: 69. Cf. Lupinetti 1969: 294. Zonaras perhaps hints at this separation: aediles 'were to be their assistants in matters pertaining to writing' (ὕπηρέτας σφίσιν ἐσομένους πρὸς γράμματα), but he implies that they had autonomy in judicial matters. Dion. Hal. 6.90.2 interprets his source differently again, stating that aediles 'were to judge cases that they [the tribunes] entrusted to them' (δίκας ἅς ἂν ἐπιτρέψωσιν ἐκεῖνοι [sc. οἱ δῆμαρχοι] κρινούσοντας).

¹⁶ Becker 2017: 103 (on aediles and tribunes as mutual 'Vertrauensmänner der *plebs*'; cf. Santalucia 1994: 68-9).

¹⁷ Ridley 1980: 350.

suggest that aediles were already involved in both the judicial and religious spheres of Roman life in the fifth century.

If they did not have *ius agendi cum populo* in the fifth century, it certainly seems that they acquired it by the time curule aediles were created.¹⁸ Richard Bauman suggested that aediles (both curule and plebeian) acquired this capacity in the context of the reforms and resulting disputes of c. 367/6. If we admit that Livy's reasons for the creation of the curule aedileship are implausible,¹⁹ then we might explain that its creation has something to do with the judicial environment of the fourth century. Livy's account of the tribunes' exception to the creation of an aedileship reserved for patricians is, Bauman argues, evidence that the curule aedileship was intended as an office set up as 'a counterweight to the criminal competence of the tribunes', to which the tribunes objected.²⁰ This argument depends on a speculative rereading of Livy's account of the creation of the curule aedileship. What is fairly clear is that aediles enjoyed the capacity to *agere cum plebe* from their introduction, albeit in a limited capacity.²¹ Aediles could not hold elections or introduce legislation, meaning that their legal capacity was explicitly different from and limited compared to that of tribunes. But they could convoke the *comitia tributa* and *concilium plebis* to prosecute private individuals for a broad swathe of crimes. As with curule aediles' acquisition of games, namely the *ludi Romani*, we might assume that this responsibility stemmed from an existing association between *iudicia* and aediles, not from

¹⁸ In the fifth century, it was probably restricted to *agere cum plebe* (von Fritz 1950: 26).

¹⁹ See *supra* § 1.2.

²⁰ Bauman 1974: 261.

²¹ Bauman 1974: 262-3. Aediles could not preside over electoral assemblies, despite some tenuous readings of Piso (Gell. 7.9.3 = *FRHist* 2.322-3, F29), summarized by Oakley 2005a: 601 n. 1.

a novel restructuring of the office. The reforms of 367/6 built on a pre-existing understanding of what aediles were for.

The next attestation of an aedilician prosecution in a *iudicium publicum* may fall in 357. C. Licinius Stolo, who had formerly been tribune for a decade, was allegedly fined the immense sum of 10,000 asses *quod mille iugerum agri cum filio possideret*, apparently transgressing the very law he had introduced.²² The magistracy of the prosecutor, M. Popilius Laenas, goes unmentioned by Livy, but the charge reflects later aedilician practice whereby an aedile would use a tribunician law to prosecute wealthy men for excessive land-holding.²³ If Laenas was not an aedile, then many would later follow his example by prosecuting based on Stolo's law. It therefore seems fair to assume that analogous cases took place in this period; Stolo's prosecution, after all, is mentioned with such frequency simply because of its irony. It is unclear what Laenas did with the money, but there is reason to believe that wealthy landowners were being targeted by ambitious or antagonistic aediles in the mid-fourth century.

If the circumstances are unbelievable and the prosecutor's magistracy obscure, the nature of the prosecution itself is entirely plausible. There was a restriction on land ownership from c. 367/6, and there is little reason to doubt that Stolo was the promulgator or that others, if not he, would be prosecuted for transgressing his law. And this was an environment in which wealth and land ownership were growing rapidly. Rome's economy changed dramatically in the late fourth century.²⁴ This was a time when bronze currency

²² Liv. 7.16.9. Cf. Val. Max. 8.6.3; Dion. Hal. 14.12; Col. 1.3.11; Plin. *NH* 18.17; Plut. *Cam.* 39.5; *DVI* 20.3-4. Law: Gell. 6.3.37, 40 (= Cato the Elder with Tiro's comments); Varro, *RR* 1.2.9; Liv. 6.35.5.

²³ Oakley 1998: 183-4; Becker 2017: 169.

²⁴ Cornell 1995: 380-90; Lomas 2017: 218-21; Bernard 2018a: 118-58.

was slowly entering Rome's market and transforming the local economy.²⁵ And the building projects of Ap. Claudius Caecus' censorship seem to have precipitated a significant shift in magisterial behaviour from 312.²⁶ From the late fourth century, then, we start to encounter men elected to the aedileship who appear to us as 'pioneers' of a new manipulation of this political office, using these fines to leave their mark on the physical fabric of the city.²⁷ Even if aediles' legal capabilities remained constant, at least after the creation of the curule aedileship, the norms associated with the office were susceptible to extrinsic change. We should, however, be cautious about assuming a sudden change in magisterial practice when there is so little good evidence for the decades before. Laenas' prosecution of Stolo, aedilician or otherwise, at least seems to imply that fines for economic transgressions were not uncommon in the fourth century. Livy mentions in passing a couple of other aedilician prosecutions: the unnamed aediles of 344 carried out *iudicia tristia* against *faeneratores*; C. Valerius unsuccessfully tried a certain M. Flavius for *stuprum* in 329.²⁸

At first blush, aedilician prosecutions have little in common with each other.²⁹

Overall, what unites their *iudicia* is a capacity to *agere cum plebe/populo* for offences punished

²⁵ See esp. Bernard 2018a: 145-7, who, following Zehnacker 1980: 358-60, detects 'an early experiment by the Roman state to solve increasingly problematic liquidity as the economic activities in which Republican elites engaged had begun to change'. On Rome's earliest coinage: Crawford 1985: 17-24; Zehnacker 1990: 315-17; Bernard 2018b: 6-8.

²⁶ Impact on road building: Laurence 1999: 13-21. Cf. Bernard 2018a: 153-7 on the sudden emergence of censorial contracts, which the author suggests may explain why 'more regularly-elected officials such as aediles become involved in state-contracts over time' (p. 157).

²⁷ Davies 2017: 44; Muccigrosso 2008: 192 (commissioning temples with fines was 'a practice started by Cn. Flavius' in 304); Bauman 1974: 258 characterizes aediles in general as 'pioneers' in their manipulation of *iudicia publica*.

²⁸ 344: 7.28.9. 329: Liv. 8.22.3-4; Val. Max. 8.1 *absol.* 7.

²⁹ Lists and attempted typologies of aedilician trials: Mommsen, *Röm. Staatsr.* 2³.1.492-4. Dignös 1962: 32-60; Lintott 1968: 96-8; Garofalo 1989: 73-139; Kunkel and Wittmann 1995: 490-503; Oakley 2005b: 261; Daguet-Gagey 2015: 159-92; Piacentin 2018: 106-15.

by fines. They seldom prosecute on capital crimes.³⁰ Aedilician trials are attested against the following groups:

- *Faeneratores*, for lending money at extortionate rates;
- Those guilty of sexual or moral offences;
- Those guilty of transgressing agrarian laws, such as possessing too much land or grazing too many animals;
- Those who manipulated market prices;
- Those guilty of a diverse but seldom attested range of other crimes, such as *uis*.

These crimes may not have seemed as disparate to contemporaries as they do to us. Nor does there seem to be any significant difference between curule and plebeian prosecutions, with both avowedly concerned with the protection of the *plebs* or *populus*. Andrew Lintott identifies the breadth of aedilician *mores* in terms of ‘the general welfare of the inhabitants of the city’; Cicero in the *Verrines* could claim that he would ‘be entrusted with protecting the whole city’ (*totam urbem tuendam esse commissam*).³¹ But protecting the *plebs* and the city

³⁰ Bauman 1974: 254-8 cites the exile of *aliquot matronae* in 213 (Liv. 25.2.9) as a capital charge, though this may be exceptional (Daguet-Gagey 2015: 177-9). Val. Max. 8.1 *absol.* 7 may be mistaken by implying that C. Valerius’ prosecution of M. Flavius was for a capital offence. That he brashly proclaimed that ‘he did not care if he departed/died an innocent or a guilty man, provided that he departed/died’ (*nihil sua interesse nocensne an innoxius periret, dummodo periret*), might simply be a metaphor for ‘« disparaître » ... de la vie publique’ (Daguet-Gagey 2015: 174; cf. Garofalo 1989: 100). And since Valerius Maximus is supplying an example of ‘a fault of one’s accusers’ (*accusatorum suorum culpa*), the implication may well be that C. Valerius is overstepping the normative boundaries of aedilician prosecution.

³¹ Lintott 1968: 99, citing Cic. *Verr.* 2.5.36. Cf. Lintott 1999: 132-3: ‘the aedile was not simply concerned with the fabric of the city of Rome. *Tota urbs* for Cicero involved the *populus Romanus* in many of its civil activities’ (p. 133).

is a vague notion, a concept that allows the holder of a magistracy to interpret their role in society as they see fit.

These roles were normative, not prescribed. Developments in the aedileship are extrinsic. That is to say, the laws were made by tribunes (such as Stolo's *lex Licinia*), and it was up to individual aediles to determine how (or whether) they would impose the law. Aediles prosecuted on what they considered critical issues at the time, or on what would enhance their *existimatio*. Viewed in this light, Laenas' prosecution of Stolo might be seen as instrumental in establishing a norm. Even if the hypothesis that Laenas was an aedile is mistaken, aediles seemed to follow his example. Possessing *ius agendi cum populo/plebe*, subsequent aediles latched onto laws promulgated by tribunes and chose their moment in which to thrust themselves into the limelight, to appear on the *rostra* and display their oratorical prowess (or otherwise).³²

How exceptional were these instances? Very exceptional, according to Saskia Roselaar: 'most magistrates had little inclination to fine their fellow nobles, since magistrates and perpetrators belonged to the same class'.³³ Roselaar is certainly right to stress that prosecutions were left up to the discretion of magistrates; the 'state', as it were, had little power, beset by 'inadequate administration'.³⁴ And aediles who managed to secure such prosecutions against fellow nobles are characterized as 'champions' (*uindices*) who required 'courage' (*animus*), outlining their exceptionality: before L. and M. Publicius Malleolus fined *pecuarii* for grazing too many cattle on public land in 241, Ovid writes,

³² Aedilician oratory and spectacle: *infra* § 2.1. Laenas' exceptional oratorical ability: Cic. *Brut.* 56 (as cos. 359: Sumner 1973: 29).

³³ Roselaar 2010: 113. Cf. Gargola 1995: 144-5; Capone 1999: 239. See Rathbone 2003: 146 *contra* ('this is clearly not a full record').

³⁴ Roselaar 2010: 118.

‘courage was absent from the men who came before’ (*animus defuit ante uiris*).³⁵ But this is not to say that men would have resisted imposing the law because of some notion of class solidarity.³⁶ The notional and physical platform of the aedileship could, and would, be used by any aedile who desired to use the *rostra* as a place to promote their public image as the people’s champion. When the aediles of the year possessed this *animus*, or this willingness to antagonize some of their wealthy peers, they could carry out sweeping prosecutions: in 298, ‘hardly anyone escaped conviction’ (*nec quisquam ferme est purgatus*) for the possession of too much land.³⁷

Trials thus became key theatres of aedilician communication. The personal discretion with which aedilician trials were pursued gives some insight into how aediles made use of this space. They chose to be there; this was a space they could occupy, all in the name of protecting the city. These *iudicia publica* were consistently, at least insofar as the evidence attests, carried out in the heart of Rome’s public life in the space between the forum and the *Curia Hostilia*: from the *rostra* (§ 1.8 nos. 17, 18).³⁸ Trials by popular vote were ubiquitous in the early republic, though tribunician trials are much better attested than aedilician.³⁹ Public trials can be recreated as follows. *Contiones* were delivered, at least in

³⁵ Ov. *Fast.* 5.288.

³⁶ To cite a contemporary example, the popular rhetoric by Britain’s Housing Secretary, Michael Gove, against ‘those who profited and continue to profit from the sale of unsafe buildings and construction products’ in the wake of the Grenfell tragedy, boldly proclaiming that ‘we are coming for you’ (quoted by the BBC on 8 January 2022: <https://www.bbc.co.uk/news/uk-59923121>), comes despite his own party’s acceptance of donations from firms compromised by such unsafe practices (reported in *The Times* on 13 February 2021: <https://www.thetimes.co.uk/article/builders-grenfell-cladding-give-tories-2-5m-5c9gwvhrb>). A politician may feel compelled to be seen to be orchestrating a popular political drive to hold certain groups accountable even if his wealthy peers have financial interests in the industry in question.

³⁷ Liv. 10.13.14.

³⁸ Taylor 1966: 21-8. Caution should be exercised, however, with early examples (e.g. Liv. 2.35.2, 5; 2.54.8), which may reflect later writers’ assumptions about judicial space in early Rome.

³⁹ Tribunician convocations of the *concilium plebis* mentioned by Livy listed in Ridley 1980: 347-9.

the late republic, on three separate days before the trial could take place from the *rostra* in the *comitium*.⁴⁰ At these hearings, or *anquisitiones*, the accused could speak in their defence and witnesses could be called. The *anquisitio* also gave the aedile a platform, a *locus*, to speak from the *rostra* to convince the people of the accused's vices. He would deliver a *contio* on each of these occasions to test the robustness of the case before the people and, more antagonistically, ritually to humiliate his opponent(s), even if the case was unsuccessful. Such were Clodius' motives in prosecuting Milo at the beginning of the former's curule aedileship in 56. Dio tells us that Clodius was not confident of a conviction, since Pompey and Cicero were called as witnesses in Milo's defence, and so pursued the case 'as a pretext to prolong his struggle against Milo and to discredit Milo's supporters' (ἵνα ἐπὶ τῇ προφάσει ταύτῃ τῶ τε Μίλωνι προσπολεμοίη καὶ ἐκείνους ὑβρίζοι).⁴¹ One of his tactics, recorded by Cicero at the second *anquisitio* of the trial, was the infamous question-and-answer session with his *operae* designed to humiliate Pompey.⁴² We need not consider every aedilician *iudicium* to have taken place under such fraught circumstances. But Clodius demonstrates the capacity of the aedile to use the platform to appear before the people and make a political case, over an extended period of time. The appearance on the *rostra* could be an end as well as a means.

While other speeches were taking place, the magistrate(s) responsible for bringing the charge would sit behind the *rostra*. The only evidence for this position comes from tribunician prosecutions, but it is fair to assume that aediles would have proceeded in a

⁴⁰ The first-century procedure, framed by Cicero as *a maioribus constituta*, is articulated in *Dom.* 45. But earlier evidence (esp. *lex Osca tabulae Bantinae*, ll. 13-18 = RS 1.13 (p. 277)) seems to suggest that Cicero's formulation was not 'la sola forma di processo davanti il popolo' (Lintott 2009: 17-19). Cf. Bispham 2007: 149.

⁴¹ Cass. Dio 39.18.2-19.1.

⁴² Cic. *QFr.* 2.3.2. Cf. Lintott 1974: 63-4.

similar manner, seated on their *subsellia* or curule chairs.⁴³ The *comitia tributa* were generally convoked in the *comitium* for voting on the judgment, although our sources tend to blur boundaries, generalizing the site of these activities as the ‘forum’. The typicality of this setting can be intuited from a handful of references in Plautus and Terence.⁴⁴ The ‘forum’ is the off-stage setting for these playwrights, the place spoken about but never seen. The ‘forum’ is a space where financial and judicial business is carried out.⁴⁵ On the *rostra*, aediles took centre stage. The *comitium* was the heart of political communication between Rome’s classes, the *rostra* the *oculatissimus locus*, the *contio* the *maxima scaena* (§ 1.8 no. 18).⁴⁶ The *iudicium publicum* was a platform from which aediles would publicly take up causes that (they perceived)⁴⁷ were of grave importance for the Roman people and the city – and they would strive to convince the Roman people of the trial’s significance.

The aedile would seemingly rely on informers to bring potential prosecutions to their attention. Ovid suggests as much in recounting the aedileship of the Publicii in 241: the *licentia* of the wealthy was literally ‘brought before the plebeian aediles’ (*plebis ad aediles perducta licentia talis*).⁴⁸ Another prosecution fifty years later seems to corroborate Ovid’s passive participle. In c. 191, a freedman named C. Furius Chresimus was brought to trial before the *comitia tributa* after the curule aedile learned of the *invidia* of the unpopular

⁴³ Tribunes seated together *in rostris* while the *reus* delivered his *contio*: Liv. 38.51.6.

⁴⁴ Forum as site of aedilician enquiries: Plaut. *Men.* 597, 600; *Curc.* 470 mentions the *comitium* as a place where one would meet a *periurus homo*. *Comitium* as site for tribal assemblies: Taylor 1966: 21-3, 130 n. 28; Kondratieff 2003: 128-45. Varro, *RR* 1.2.9 is unusual in taking the care to distinguish between the *comitium* and the forum, whereas Plautus tends to conflate the two spaces.

⁴⁵ Financial: e.g. Plaut. *As.* 251; Ter. *And.* 744-6.

⁴⁶ Plin. *NH* 34.24; Cic. *De or.* 2.338. Cf. Morstein-Marx 2004: 49-55; Kondratieff 2009: 355.

⁴⁷ This was in the eye of the beholder. For instance, the *lex Osca tabulae Bantinae* (Il. 5-6 = RS 1.13 (p. 277)) requires magistrates wishing to prohibit an assembly to swear, *sine dolo malo*, that they were acting *egm[as touti]cas amnud (rei [publicae] causa)*.

⁴⁸ Ov. *Fast.* 5.287. Parallel for such juridical terminology: Cic. *Verr.* 2.1.11 (*si istum uiuum ad aliud iudicium perducere poterimus*).

freedman's neighbours, who had according to Pliny accused him *de uerificiis*.⁴⁹ Discovery of these informal accusations and rumours represented a golden opportunity for the aedile. 'As a result' (*quamobrem*) of the accusations against Chresimus, the aedile appeared in *contiones* before the people, moralizing on Furius' vices and explaining exactly why the prosecution was important for the republic. Chresimus had a chance to respond, and succeeded in convincing the tribes of his innocence.⁵⁰ Appian provides a glimpse of this process against people illegally occupying land in his description of the actions of the *triumviri* following the land reforms of Ti. Gracchus: because people occupying *ager publicus* failed to acknowledge ownership on an official record, the *triumviri* 'proclaimed that informers should provide evidence of this' (κατηγόρους ἐκήρυττον ἐνδεικνύναι).⁵¹ There is no proof that aediles had previously made such wide-reaching *edicta*: the circumstances of 132 are exceptional. But the *triumviri* were trying to address a wider issue that aediles had prosecuted periodically and unevenly.

What these cases suggest is that *anquisitiones* likely had a self-affirming quality: aediles as state prosecutors were incentivized to make the case for prosecution with the lucrative *multae* on offer, having been furnished with three or more *anquisitiones* in which to make their case.⁵² Still, this was equally the opportunity for the people to express their opinion *en masse* during the spectacle of the public trial.⁵³ The defendant could appeal to the tribunes for *auxilium*, speak on their own behalf, or hope that the tribes voted in their

⁴⁹ Plin. *NH* 18.41-3.

⁵⁰ Similarly, the indiscretions of aediles' *apparitores* in 202 were brought to the public's attention *per indicem*: Liv. 30.39.7.

⁵¹ App. *B Civ.* 1.18.73.

⁵² Hiebel 2009: 229-31.

⁵³ Hiebel 2009: 231-8 (with 2019: § 31) argues that the *anquisitio* gave an opportunity for the people 'de transmettre au magistrat une opinion décisive sur la procédure' (p. 238). Cf. Morstein-Marx 2013; Courrier 2014: 449 (on the *contio* as 'un processus interactif').

favour.⁵⁴ The one surviving example of tribunes' *intercessio* against an attempted prosecution by an aedile suggests that deliberation would be necessary and good reason needed for a *prouocatio* to be accepted, with some consensus across the tribunician college conventional to prevent the aedile from calling the *comitia* to vote.⁵⁵ Successful prosecutions were far from certain. The plebeian aediles of 196 were said to have 'brought numerous graziers to trial before the people; three of them were condemned' (*multos pecuarios ad populi iudicium adduxerunt: tres ex his condemnati sunt*).⁵⁶ In 189, meanwhile, the plebeian aediles worked independently in their prosecutions, with one A. Caecilius failing to secure a single conviction.⁵⁷ His colleague managed only the one.

There is a hint, too, that compromise could be sought over the severity of the fine before the case went to trial. In Plautus' *Menaechmi*, the first Menaechmus reports to have resorted to 'confusing and obfuscating proposals' (*condiciones ... tortas, confragosas*) to try to get his client, who had been brought 'before the aediles' (*apud aedilis*), off the hook on the charge of lending money above the legal rate of interest (*faenus*). Menaechmus claimed that he spoke before the aediles for just the right amount of time 'so that a *sponsio* should be reached' (*ut sponsio fieret*).⁵⁸ The *sponsio* was a kind of wager whereby a litigant would gamble a sum of money on their innocence before a trial began.⁵⁹ Plautus' aedile is not, or

⁵⁴ Tribes voting for acquittal: Val. Max. 8.1 *absol.* 7. Defence process in *iudicia publica*: Liv. 26.3.1-14 (in the three *anquisitiones*, the *reus* could speak on his own behalf and *testes* could be called in; cf. Plaut. *Men.* 595; Liv. 38.51.7-11, 43.16.14; Cic. *QFr.* 2.3.1). Speaking on one's own behalf: Plin. *NH* 18.43; Val. Max. 6.1.7 (*reus*' silence was unexpected and incriminating).

⁵⁵ Gell. 4.14.5-6. Far from being an 'elemento integrante del processo', the appeal to the tribunes was 'una protesta contro il processo stesso' (Lintott 2009: 20). Cf. Jones 1972: 13 on the apparent rarity of *intercessiones*, surely an evidential problem. Failed appeal to tribunes: Val. Max. 6.1.7; Plut. *Marc.* 2.4 (who mistakenly locates the trial in the senate).

⁵⁶ Liv. 33.42.10.

⁵⁷ Liv. 38.35.6.

⁵⁸ Plaut. *Men.* 590-3.

⁵⁹ Gaius, *Inst.* 4.93; Ulp. *Dig.* 22.3.19.4. On *sponsiones*: Crook 1976: 132-8; Lintott 1976b: 210-14; 1981: 171.

not yet, conducting a *iudicium publicum*. Some scholars have suggested that this passage provides proof that aediles frequently offloaded their juridical responsibilities to a judge appointed by a praetor, since *sponsiones* (in much later evidence) are attested only in civil suits, cases that aediles had nothing to do with. This compromise would save the aediles a lot of time in the protracted process precipitated by *iudicia publica*, allowing them to concentrate their efforts on occasions when the crimes ‘sont de notoriété publique’.⁶⁰ The process hinted at in *Menaechmi* may be reconstructed as follows. The characters appeared before aediles, seated in the forum, to settle a personal dispute. Fully aware of his client’s guilt, Menaechmus proceeded to defend him anyway, resorting to legal obfuscations; he spoke with the intention of achieving a *sponsio* to avoid a full trial. This would presumably leave it up to the aedile(s) to act as *iudex* in the *praeiudicium*. As it happens, in this fictitious instance, Menaechmus’ client may have refused the *sponsio*: ‘I’ve never seen anyone with such manifest guilt’ (*nec magis manifestum ego hominem umquam ullum teneri uidi*) with three witnesses testifying to his guilt (*omnibus male factis testes tres aderant acerrumi*). Menaechmus’ exasperation, and the failure of his client to agree on a judicial wager for his innocence, may suggest that the trial would now proceed to a *iudicium publicum*.⁶¹

Plautus reveals something about the aediles’ topography of punishment. He implies that third-century aediles had some kind of tribunal in the ‘forum’, much like praetors.⁶² The *Tabula Heracleensis* reinforces this notion, stating that an aedile must publish details of

⁶⁰ Cuq 1919: 256. Cf. Conrad 1929: 62-3; Bauman 1983: 41-3; Gratwick 1993: 193-6; Daguet-Gagey 2015: 187-8. Brennan 2000: 370-1 notes that tribunes increasingly brought cases before the praetor instead of before the people in the later republic after the diminution of *iudicia publica*; aediles may have done likewise a century earlier.

⁶¹ So Gratwick 1993: 196: ‘the wretched client ... opts for a formal trial on the aediles’ terms’.

⁶² An aedile at Novara had his own tribunal from which he would *ius diceret* (Suet. *Rhet.* 6). Asc. 33C points to the existence of multiple *tribunalia* in the forum. Cf. González 1986: 200-2; Daguet-Gagey 2015: 162-4. Praetorian tribunal: Kondratieff 2009: 329-34.

his letting of a contract ‘around the forum before his tribunal’ (*apud forum ante tribunale suum*); the singular perhaps implies that each aedile had his own distinct platform.⁶³ It may well be the case that aediles were expected to adjudicate on private disputes from this *tribunal*, leaving high-profile cases to the *iudicia publica*. The whole drama would apparently play out in full public view in the forum, a spectacle for the crowd to witness. Even these *praeiudicia* were publicly held disputes. Menaechmus curses his client: ‘may all the gods destroy this man, just as he ruined this day for me today, and ruined me too, whoever I ever clapped my eyes on today in the forum’ (*di illum omnes perdant, ita mihi / hunc hodie corrumpit diem, / meque adeo, qui hodie forum / umquam oculis inspexi meis*).⁶⁴ Menaechmus’ humiliation was compounded by the publicness of the spectacle in the forum, a defeat witnessed by the *oculi* of anyone present. Bernardo Santalucia is perhaps right to insist that aediles had this process in place ‘di evitare le lungaggini del processo comiziale’.⁶⁵ But both *praeiudicia* and *iudicia publica* were means of establishing the aediles’ presence *in oculis* in the forum, a chance to rail against such *faeneratores* as Menaechmus’ client.⁶⁶ As we have seen, long comitial processes were, sometimes, exactly what aediles wanted.

Aediles had their own treasury in which to store the proceeds of their fines. This *aerarium* is mentioned in passing by Polybius. He stumbled across treaties between the Carthaginians and Romans which ‘are preserved in bronze still today next to the temple of Jupiter on the Capitoline in the treasury of the aediles’ (τηρουμένων τῶν συνθηκῶν ἔτι

⁶³ *Tabula Heracleensis* l. 34 = RS 1.24 (p. 364). The individuality of aedilician action in the statute is introduced by the clause in which they draw lots determining *quae pars urbis* over which each should exercise *uiarum reficiendarum tuendarum procuratio* (ll. 27-8).

⁶⁴ Plaut. *Men.* 595-7a.

⁶⁵ Santalucia 1994: 75. *Contra* Garofalo 1989: 165-7, who maintains that *iudicia publica* were the sole procedure available to aediles.

⁶⁶ Gargola 1995: 130-6 rightly highlights the political as well as practical factors compelling aediles to aim for quality over quantity in their prosecutions.

νῦν ἐν χαλκώμασι παρὰ τὸν Δία τὸν Καπετώλιον ἐν τῷ τῶν ἀγορανόμων ταμείῳ).⁶⁷ Some have attempted to amend Polybius' text to read 'quaestors' (ταμιῶν),⁶⁸ but there is no good reason for presuming that he would have got such an obvious distinction wrong, not least because he saw the inscribed texts with his own eyes.⁶⁹ One reason for the emendation was some uncertainty about whether aediles would hold such 'treaties' (συνθήκαι); nor do we have other references to this aedilician edifice, but plenty to a quaestorian *aerarium*. Robert Palmer has offered an ingenious solution. The treaties, predominantly dealing with trade-related matters involving (presumably aediles') *praecones* and *scribae*, would logically be entrusted to aediles because, for non-Romans in particular, they would be the obvious market-related officials with whom to transact such business.⁷⁰ Aediles would have to store their *multae* somewhere, and the treasury 'next to the temple of Jupiter' emerges as a strong contender.⁷¹ This *aerarium* reinforced aediles' intimate association with the forum. Their *multae* would be stored just a short walk from the very place at which these funds had been raised.

The coming chapters will pick up on two threads introduced by the aediles' treasury: aediles' use of fine money and their link with Rome's market. In this chapter, we have glimpsed the process by which aediles accumulated *multae*. They appeared before people in the form of state prosecutors against a diverse range of crimes. The *rostra* therefore constituted a key space from which aediles interacted with the people. This

⁶⁷ Polyb. 3.26.1. Cf. Mommsen, *Röm. Staatsr.* 2³.1.500 n. 1; Millar 1984a: 33-5.

⁶⁸ Paton's 1922 LCL translation changed 'aediles' to 'quaestors'; the 2010 revised version changed it back. Conversely, Walbank 1957: 353-4 objected not to Polybius' reference to the aediles, but his reference to the *aerarium*. Cf. Culham 1989: 108 n. 38; Serrati 2006: 122.

⁶⁹ Polyb. 3.21.10.

⁷⁰ Palmer 1997: 20. Reference to *praecones* and *scribae*: Polyb. 3.22.8-9.

⁷¹ Cf. Daguet-Gagey 2015: 150 n. 143.

capacity may well have begun from at least the fifth century, though the evidence before the reforms of 367/6 is admittedly problematic. A theme continues to emerge in how aediles interact with Roman institutions. Despite the tradition making them originally subordinate officials to tribunes, aediles work independently and with discretion. They could choose to enforce laws made by tribunes, and submitted to the people to convict individuals whom they perceived were guilty of these crimes. Aedilician trials were opportunities to appear in public and seize the limelight. This is not, however, to deny the instrumental impact of these trials in raising funds to fill the *aerarium*. In the following chapter, we look at the next stage of this process: how aediles used the money they accrued from fines to embellish the city.

Before we do this, a final point must be made on the vexed question of diachronic continuity. The opportunity for aediles to present themselves in such a setting diminishes from the middle of the second century. Aedilician prosecution seems to dry up. Mommsen put this 'Verschwinden' directly down to the establishment of *quaestiones perpetuae*, an institution that 'pulled the rug out' from under the 'Volkgerichten'.⁷² The *populus* was now *a iudicio dimissus*.⁷³ Aediles possessed a theoretical continuity in their capacity before the people throughout the republic, but it was the legal framework of the republic that changed.⁷⁴ The boundaries become more blurred from the mid-second century. In many ways, the picture becomes more straightforward: *quaestiones perpetuae* precipitated a shift in aedilician norms. References to aedilician prosecutions are few (and disputed).

⁷² Mommsen, *Röm. Staatsr.* 2³.1.496-7.

⁷³ Cic. *Planc.* 21.

⁷⁴ Tac. *Ann.* 13.28 implies that aediles could continue to impose fines from AD 56 (and afterwards, although their *potestas* was *cohibita*), following repeated tinkering of aedilician *coercitio* (Suet. *Tib.* 34.1; *Claud.* 38.2).

Spectacles were often funded by private wealth, with buildings increasingly becoming private enterprises, albeit ones that could be presented as *munera* to the community.⁷⁵ This change was, again, extrinsic to the aedileship. It again points to the aedileship as something of a plastic magistracy, with men holding the magistracy adapting it to accommodate structural changes to Rome's legal system. As we shall see below (2.1), however, opportunities to appear *apud populum* on the *rostra* certainly did not disappear. Indeed, a plebeian aedile from the time of Augustus probably called Sex. Pacuvius Taurus (or something similar) restored a statue of Sibylla *iuxta rostra*, and he took pains to link this *restitutio*, perhaps epigraphically, with his aedileship.⁷⁶ A sycophantic supporter of Augustus, he as tribune may have passed the *plebiscitum* to rename the month Sextilis after Augustus a few years earlier.⁷⁷ He evidently recognized the ideological value of restoring a statue within sight of Rome's *oculatissimus locus*, reinforcing the connection between his (past) oratory as tribune and aedile and his (ongoing) gift to the community with the restoration of a prominent statue. We will explore this link below.

⁷⁵ Kontokosta 2013: 9, 21; Daguet-Gagey 2014: 30.

⁷⁶ Plin. *NH* 34.22 baldly states that *Sextus Pacuius Taurus aed. pl. restituit* the statue.

⁷⁷ There are apparently two Pacuvii who held the tribunate in the early Principate: one who was in 27 notorious for his *ὑπερβολή* towards Augustus (Cass. Dio 53.20.2-4 (Πακούουιος)), and another who acted on this devotion by promulgating the *plebiscitum* for the name change in 8 (Cass. Dio 55.6.6-7; Macrob. *Sat.* 1.12.35 (*Sextus Pacubius*)). One of these sycophantic tribunes called Pacuvius, for us it does not matter which, subsequently became aedile and repaired the statue (Heiligenstaedt 1910: 10, 37-8; Bosworth 1982: 165-6; Rich 1990: 153).

1.4 *Ornatus*

This chapter explores the distributive logic behind aedilician contributions to the city, bringing together the theatres of interaction encountered in the previous three chapters. These contributions were regularly described as *ornatus*, ‘adornments’.¹ Aediles tended not to build things from scratch (though they sometimes did), but repaired, improved, and embellished existing elements of the city. This chapter attempts to tease out topographical patterns in the way aediles deployed their *multae*. They tended to *ornare* spaces in the city that were intimately associated with their political office, many of which we have already encountered: the temple of Ceres (by plebeian aediles), the Circus Maximus, the temple of Jupiter Optimus Maximus (especially, but not exclusively, by curule aediles), and the space around the *rostra* from which they successfully raised their funds. These *ornatus* were arrayed consciously to leave a visible and lasting reminder of their service to the community. This is not to say that these spaces were the only ones that aediles embellished: the literary evidence, predominantly Livian, can seem deceptively limited. But there were patterns in the way aediles distributed the visible manifestations of their improvements to urban life. These constructions would come to symbolize the aedile’s *munus* to the community, being central to the ‘pattern of attempts to assert control over the space’.²

A trend emerges, in the literary record at least: aediles, both curule and plebeian, carried out their most monumental acts of benefaction in select areas of the city that bear strong relation to the purported origins of the respective magistracies. The schism between

¹ Lucil. 146M; Cic. *Verr.* 2.1.141, 2.4.6, 2.4.126; *Nat.* 1.22; *Or.* 134; *Cael.* 53; *Vitr.* 2.8.9; *Suet. Iul.* 10.1. Cf. Oakley 2005a: 522.

² Russell 2016: 45.

curule and plebeian, dated by Livy to the middle of the fourth century, appears to have precipitated a geographic division of sorts. Curule aediles would become more closely associated with the temple of Jupiter Optimus Maximus on the Capitoline (§ 1.8 no. 7), while plebeian aediles would perpetuate their intimate association with the temple of Ceres. But there is also significant overlap between their physical spheres of influence. Both exercised a care for religious festivals *in circo* and were equally capable of carrying out, and memorializing, prosecutions *apud populum* in the *comitium* at the foot of the Capitoline. Their manipulation of Rome's public space broadly conflates their two main areas of influence in the early republic: the religious and the judicial. Their amelioration of the moral and financial wellbeing of the city, by prosecuting alleged criminals, manifests itself in the embellishment (*ornatus*) of the city, especially of religious buildings. Much of this *ornatus* was placed along the route of the *pompa circensis*, which aediles played a role in organizing, and which began at the temple of Jupiter and concluded in the Circus Maximus near the temple of Ceres.

The first detailed account of this recycling of *multae* comes with the curule aedileship of Cn. Flavius in 304. Some have labelled Flavius a 'pioneer' of this strategy, but the evidence for the mid-fourth century is patchy.³ Pioneer or otherwise, he seems to have been a key figure in perpetuating the trend of memorializing the *munus* of the trial with a supplementary *munus*. Flavius, working in close association with the censor Ap. Claudius, is said to have published (the) *fasti* and the so-called *ius civile* in a prominent place in the forum (*circa forum in albo proposuit*).⁴ Having fined *faeneratores*, usurers who lent money

³ Muccigrosso 2008: 192; Davies 2017: 44.

⁴ Sources for Flavius' aedileship: Liv. 9.46.6; Plin. *NH* 33.19; Val. Max. 2.5.2 (where topography is stressed: *uulgauit ac fastos paene toto foro exposuit*). Given the haste with which the *uotum* was

above the legal interest rate, he vowed and dedicated an *aedicula* to Concordia. The placement of the shrine was poignant: he constructed it on the *Graecostasis* above the *comitium* overlooking the forum, but just below the *rostra* from which he had inveighed against the *faeneratores* (§ 1.8 no. 1).⁵ All his activities here took place within a limited space. Livy's statement that he was elected by the 'forum faction' (*forensis factio*) may be pejorative and anachronistic, but it equally locates his activities: his gesture was a physical affirmation in the most public of places, the forum, of his gift to Rome both in legal and religious matters, within sight of where he had spoken repeatedly from the *rostra*. Now, thanks to him, 'it was known on what days one could bring an action in the courts' (*quando lege agi posset sciretur*).⁶ The legal, religious, and economic all intersect in the physical space that Flavius created in the forum. Through these gestures, his legacy would be perpetuated.

The symbolism and placement of the shrine to Concordia could be interpreted in several ways. It was *prima facie* an attempt at securing consensus after a period of disagreement between members of the aristocracy.⁷ Pliny writes that Flavius' vow was conditional upon the reconciliation between the upper classes and the people (*uouit aedem ... si [Flauius] populo reconciliasset ordines*).⁸ But, in the contentious political environment of

constructed (which was apparently started and completed in the same year), Pliny's *aedicula* seems more accurate than Livy's *aedis* (Oakley 2005a: 615 n. 2; D'Arco 1998: 91-2). Rüpke 1995: 248-9 argues that Flavius was simply doing Appius' bidding in the latter's push for 'Zentralisierung und Hierarchisierung' in publishing the *fasti*: 'Persönliche Profilierungswünsche des Flavius darf man dabei von vornherein ausschließen' (cf. 2011: 45, 52, 58). Cf. Humm 2005: 480: 'La réforme du calendrier est ... inséparable de la réforme des tribus d'Appius Claudius'. Plin. *NH* 33.17 corroborates this view: *cuius hortatu exceperat eos dies ... promulgaratque*. But Flavius was not simply Appius' stooge: other sources give the impression that he exercised autonomy in his general conduct (Gell. 7.9.5-6), his construction of a shrine to Concordia (Plin. *NH* 33.19), and his display of the *fasti* (Liv. 9.46.5-7; Macrob. *Sat.* 1.15.9), along with his populist techniques.

⁵ Location: Varro, *LL* 5.155 (the *Graecostasis* was a *locus substructus* placed to the right of the *rostra*), with *LTUR* 3.373 (Coarelli).

⁶ Liv. 9.46.5-6.

⁷ Humm 2005: 587-8.

⁸ Plin. *NH* 33.19.

the late fourth century, it would have appeared as an affront to the *nobiles* who so determinedly had attempted to scupper his magistracy: the establishment of a monument to Concordia in times of discord could be bitterly ironic.⁹ Antagonistic, even: Flavius' commission was avowedly designed to promote and safeguard *concordia*, and it would be the *nobiles'* fault, not his, were the temple to be rejected and harmony jeopardized.¹⁰ It could also be even more revolutionary than it first appears: Emmanuele Curti has argued that the association between *comitium* and *concordia* reflected a democratic phenomenon in Greek *poleis* in peninsular Italy. Flavius was 'copying' both 'an architectural model' and 'a political model'.¹¹ This was a revolutionary period for Rome, which was 'constructing a new identity'; Flavius played a central role.¹²

Whatever the symbolism of Concordia herself, the location of the shrine was striking and deliberate. To erect the shrine *supra comitium, in area Volcani*, within stone's throw of where he had spoken before the *comitia tributa* repeatedly against *faeneratores* was a stark illustration of his service to the community, defined pejoratively as the *forensis factio* by Livy, but seemingly a key constituent of Flavius' support-base (§ 1.8 no. 18).¹³ His personal championing of their interests would be evoked by the inscription, which allegedly read as follows: 'this temple was constructed 204 years after the dedication of the Capitoline' (*factam eam aedem ccciiii annis post Capitolinam dedicatam*).¹⁴ Not only was Flavius'

⁹ Presiding magistrate's attempt to deny his election: Gell. 9.7.3-4. Political manipulation of Concordia and space around her temple: Dobler 1999: 48-51. Cf. Plut. *C. Gracch.* 17.6 with Akar 2012: 138-48 on Opimius' temple to Concord in 121.

¹⁰ Ziolkowski 1992: 243; D'Arco 1998: 90; Clark 2007: 55-6.

¹¹ Curti 2000: 81.

¹² Curti 2000: 91. Cf. Humm 2005: 584-8 on possible Greekness of *concordia* (= ὁμόνοια).

¹³ Symbolism of location: David 1995: 374-5. Cf. Fest. 370L and Dion. Hal. 2.50.2 (with Coarelli 1983: 144-5; *LTUR* 1.320-1 (Ferroni)) on the location. Cf. Carandini 2017: tab. 19 with a hypothetical layout of the *comitium*. Future aediles would exploit this association between their office and the *comitium* (Liv. 27.36.8; Vitruv. 2.8.9; Plin. *NH* 35.173).

¹⁴ Plin. *NH* 33.19.

allusion to the looming temple of Jupiter a boast of his contribution to Rome's religious topography (§ 1.8 no. 7); it would equally bring to mind the conflict between the consuls of 509 over the right to dedicate it. The popular story went that M. Horatius piously proceeded with the dedication despite the *frustra temptata* of his opponents, who, *propter inuidiam*, attempted to impede his dedication on false pretexts (*fictis religionibus*).¹⁵ Flavius was taking advantage of the well-known stories about the *inuidia* surrounding the dedication of the Capitolium by accusing his own opponents of the same vice through his own dedication, which was vowed despite the *summa inuidia nobilium*.

The space had further resonances. To place this shrine next to the *columna Maenia*, where debtors' names or possessions were said (in the first century, at least) to be written up by their lenders, could be seen as an ongoing condemnation of usury (§ 1.8 no. 19).¹⁶ The *ueteres tabernae* where moneylenders transacted their business were nearby.¹⁷ His was an ostentatious gesture against certain groups of wealthy individuals; *equites* cast aside their rings in protest at his election. The prominent publication of the *fasti* in the forum was equally antagonistic towards the *pontifices* who had previously monopolized the legal sphere: Flavius was imposing himself onto a physical space monopolized by the *pontifices*, who had exclusively published the *fasti in albo* before Flavius' innovations and had guarded

¹⁵ Envy is central to most traditions: Liv. 2.8.6-8 (*aegris quam dignum*); Cic. *Dom.* 139 (*propter inuidiam*); Plut. *Popl.* 14.2-5 (attests contrasting traditions). Others are more descriptive: Liv. 7.3.8; Dion. Hal. 5.35.3.

¹⁶ Political significance of this gesture: Coarelli 1985: 88-91, 101-4; Davies 2017: 48. Coarelli (followed by Conese 2012: 37-41) argues that the practice of inscribing debtors' names here (Cic. *Div. Caec.* 50; *Clu.* 39; *Sest.* 18 (with Schol. Bob. 218S)) was current in the late fourth century. Cascione 1996: 451-2 argues that possessions, not just names, were listed. Cic. *Sest.* 124 gives an evocative sense of the column's proximity to the *rostra* and its visibility for the crowd in attendance (cf. Kaster 2006: 356). Fourth-century legislation against *faenus*: Zehnacker 1980: 359-60; Poma 1989: 67-91 (legislation largely ineffective, see esp. p. 72); Aubert 2014: 172-3.

¹⁷ Plaut. *Curc.* 480. Cf. Holleran 2012: 106.

the *fasti* closely *in penetralibus*.¹⁸ The display had positive connotations for his supporters, too, a stark physical reminder of his *munus* to those hitherto judicially impotent; even later writers suspicious of Flavius' *humilitas* could not criticize his impact on the judicial system,¹⁹ part of a raft of legislation at the time that shifted influence from the *pontifices* to the praetors.²⁰ By dint of the skills that he had developed as a scribe, Flavius had ostentatiously ensured that judicial power was no longer (seen to be) held by a small religious elite.²¹ More generally, Flavius' dedication comprises the first significant cluster of evidence for what would become a trend of aediles' manipulation of the physical space of the area below the Capitoline. A pattern emerges whereby aediles draw a physical and proximal link between their spheres of influence and the duty performed.

How pioneering, then, was Flavius' manipulation of public space? The tone of Livy's account suggests that he transgressed the norms of aedilician behaviour. The *pontifex maximus*, Cn. Cornelius Barbatus, was forced by the people (*coactusque consensu populi*) to approve Flavius' dedication by uttering the words that would confirm the dedication (*uerba praeire*), 'even though he denied, by citing ancestral custom, that anyone who was neither a consul or conquering general could dedicate a temple' (*cum more maiorum negaret nisi consulem aut imperatorem posse templum dedicare*).²² Flavius, if we assume that Barbatus'

¹⁸ Liv. 9.46.5-6. Flavius seems to be making a conscious imitation of the pontifical custom, originating in the regal period (Liv. 1.32.2), of posting *res omnes singulorum annorum ... in album* (Cic. *De or.* 2.52 = *FRHist* 2.10-11, T2). Cf. Bucher 1987: 21-4; Katz 1999: 97-8; Meyer 2004: 25; Rodriguez-Mayorgas 2011: 238-41.

¹⁹ Rawson 1976: 712 ('the strict disciplinarian and antique moralist Piso' demonstrates no 'bias and malignancy against Cn. Flavius').

²⁰ Discussions of Flavius' contemporary supporters and impact of his publication: Michels 1967: 117-18; Forsythe 1994: 345-6; Humm 2000: 112 ('la pubblicazione ... mostrava la volontà di liberare la comunità civica dall'arbitrio dei pontefici'); 2005: 441-80; Oakley 2005a: 613.

²¹ Loreto 1991: 199 argues that Flavius procured the *fasti* because he was a scribe and the aedileship did not give him access to this sort of information. In any case, he used his aedilician platform to distribute his *munus*. Cf. Purcell 2001: 635-40 on Flavius' scribal status.

²² Liv. 9.46.6.

objections held water, appears to have been testing the limits of his magistracy. He rushed through the vow of a small *aedicula* within the space of his year, accumulating the *gratia* that came with such a gesture while pragmatically mindful of the unlikelihood of his election to a higher magistracy in the *comitia centuriata* from which platform he could more conventionally dedicate the temple. As a rule, aediles would wait until a future magistracy to dedicate their temples.²³ The reason for this may well be logistical: aediles would likely find it difficult to amass enough money from fines during their term to fund the full construction of a temple; so they generally chose ostentatious embellishments to religious buildings instead of constructing temples from scratch.²⁴

Flavius' *aedicula*, then, appears as a small-scale but prominent public gesture on the fringes of minor magistrates' capacities. A law was hastily enacted to discourage others of Flavius' social standing from following his disturbing precedent.²⁵ But even this law contained concessions: a temple could not henceforth be dedicated 'without the consent of either the senate or a majority of the tribunes' (*iniussu senatus aut tribunorum plebei partis maioris*).²⁶ This law, though failing to rule out the possibility of aedilician dedications, may have had some impact, with few aediles undertaking constructions from scratch with money raised from fines. But Flavius was probably following an existing aedilician trend of deploying *multae* to fund a religious embellishment. Pliny believed that *multae* were used

²³ Cf. Ziolkowski 1992: 203-8 on the dual process of the 'locating' a temple, comprising both the solemn selection of a site and the letting of contracts.

²⁴ Estienne and De Cazanove 2009: 29-31 put the variation in scale in aedilician projects down to the aediles' success in accruing *multae*. Cf. Davies 2017: 45 (funding a temple from fines alone was 'an arduous task').

²⁵ Cf. D'Arco 1998: 89-90 with n. 13 on 'il carattere dell'eccezionalità' of his aedileship. Ziolkowski 1992: 228-31 has argued against the historicity of this law. But see the cogent responses in Oakley 2005a: 622-3: Livy's *aut* signifies a compromise.

²⁶ Liv. 9.46.7.

only 'because money was not released from the public purse for this purpose' (*cum ad id pecunia publice non decerneretur*).²⁷ And it may indeed be true that an aedile in the fourth century might expect his *munera* to be subsidized by the public kitty. But other examples from this period point to the regularity of relying on *multae*. One of which probably preceded Flavius' aedileship: the curule aedile of c. 306, L. Postumius Megellus, had undertaken (*faciendam curauerat*) a temple to Victoria on the Palatine from his aedilician *multaticia*, which he dedicated in his consulship of 294.²⁸ And, more speculatively, the aediles of 329 may have been responsible for the *carceres* in the Circus Maximus, though Livy does not specify the identity of the benefactors.²⁹ There is reason to believe that aediles deployed the proceeds of fines to embellish the city before Flavius' aedileship.

Therefore, Flavius appears to have been a key figure in perpetuating a topographical trend with techniques that were not unprecedented, albeit in a notably aggressive and transformative fashion. Other curule aediles would deploy similar methods in reinforcing their association with the Capitolium. The curule aediles of 296, Cn. and Q. Ogulnius, decorated the temple of Jupiter with bronze *limina*, silver bowls placed within the *cella*, and a representation of Jupiter in a *quadriga* to be placed prominently on the roof of the temple.³⁰ The imagery of their aedileship is here conflated into a single visible scene: they would organize the procession that would bear Jupiter himself (in the form of an

²⁷ Plin. *NH* 33.19.

²⁸ Liv. 10.33.9. Location: Liv. 29.14.13 (*quae est in Palatio*) (cf. Castagnoli 1964: 185-6). Debate over date: Seidel 1908: 13; Wiseman 1995b: 4 (with observations on the enormous scale of the temple, which might explain the delay); Davies 2012: 154, 159 n. 40; 2017: 59. Such long delays between *uotum*, *locatio*, and *dedicatio* were not unprecedented (Liv. 10.1.9). Ziolkowski 1992: 174 considers Livy mistaken to categorize this as an aedilician project. But see *contra* Cecamore 2002: 122-3, 146; Davies 2017: 44-5.

²⁹ Hypothesis: Davies 2017: 71. Evidence: Liv. 8.20.2.

³⁰ Liv. 10.23.11-13.

exuuia) from the temple they had embellished to the circus where the people would be entertained by *quadrigae*.³¹ Just as they would placate Jupiter in the circus by arranging the *ludi Romani*, so they would reinforce this association by adorning his temple. But this was not all: their commission of a statue of Romulus and Remus in the *comitium* fits this pattern.³² The parallels between themselves and Rome's *conditores urbis*, seemingly embodiments of fraternal cooperation in early versions of the story, would not have been lost on the observer.³³ All of this was, like Flavius' benefactions, funded by fining *aliquot faeneratores*. Again, the proximity of these gifts to where these people had been convicted would underline the link between one public gesture, the championing of debtors, with another, their role in Rome's public religion.

Curule aediles' propensity to cluster their *munera* around the Capitol appears to be corroborated by evidence from the Hannibalic War. This evidence bears striking similarities to aedilician notices in Livy's ninth and tenth books, intimating continuity in the missing eighty years from books eleven to twenty. Echoing the Ogulnii, the curule aediles of 204, C. Livius and M. Servilius Geminus, placed a *quadriga* on the roof of the temple of Jupiter.³⁴ In 193, gold-plated shields were deposited by M. and L. Aemilius Paullus on the *fastigium* of the same temple with money raised from *multos pecuarios*.³⁵ And there are suggestions that curule aediles focused on this general area of the city, not just on the temple of Jupiter. For example, the aediles of 200 gave five bronze statues to the

³¹ *Quadrigae* in the circus: Liv. 45.1.6-7.

³² The *figus Ruminalis* (Liv. 10.23.12) under which they placed the statue group seems to have been at the foot of the Capitoline, not the Palatine (Plin. *NH* 15.77). Discussion of the statue group's location: Dulière 1979: 53-62; Kluczek 2018: 112-13. Significance of location: Kuttner 2004: 313-16.

³³ Wiseman 1995a: 72-6.

³⁴ Liv. 29.38.8.

³⁵ Liv. 35.10.11-12.

aerarium; Livy is unspecific, and may have in mind the same treasury of the aediles mentioned by Polybius, which would further crystallize the link.³⁶ In any case, these statues were also on the Capitol.³⁷ The *aerarium* may have been deliberately chosen as a part of the city strongly associated with aediles' record-keeping.

Attested benefactions by plebeian aediles, meanwhile, are clustered around the temple of Ceres in the *uallis Murcia*. In 296, the year of the Ogulnii's curule aedileship, the plebeian aediles used the fines from *pecuariis damnatis* to subsidize *ludi* (*Ceriales* and/or *plebeii*, it is not clear which) and to place gold-plated bowls *ad Cereris aedem*.³⁸ Many others would follow suit during the Hannibalic War by adorning the temple of Ceres with objects made from precious metals with the proceeds of fines.³⁹ The temple of Ceres was manifestly a favoured location from which plebeian aediles could display their service to the republic.

But similar benefactions imply that their decisions were conditioned as much by the physical space of the *uallis Murcia* as Ceres herself. Ti. Sempronius Gracchus commissioned a temple to Jupiter Libertas on the Aventine in 246. Gracchus would in this way reinforce the connection between past prosecution and present benefaction: the accused, Claudia, was said to have been prosecuted for uttering 'such evil and such non-citizenly remarks' (*uerba tam improbi ac tam inciuiilia*) while 'departing from the games that she had been watching' (*a ludis quos spectauerat exiens*) in the Circus Maximus; with the proceeds of the

³⁶ Polyb. 3.26.1.

³⁷ Liv. 31.50.2-3. Conventional location of *aerarium* (in the *cella* of the temple of Saturn): Corbier 1974: 631-2; Richardson, Jr. 1980: 55-6; *LTUR* 4.234-6 (Coarelli). Location of temple of Saturn on or near the Capitol: Varro, *LL* 5.42; Fest. 430-2L; Serv. *ad Aen.* 2.116, 8.319; Hyg. *Fab.* 261. Richardson, Jr. describes it as 'the gatehouse to the Capitoline complex' (p. 53).

³⁸ Liv. 10.23.13.

³⁹ Liv. 27.6.19 (210), 27.36.9 (208), 33.25.2-3 (197), 38.35.6 (189).

fine, Gracchus commissioned the temple.⁴⁰ The temple, perched somewhere on the slopes of the Aventine (§ 1.8 no. 6), would literally overlook the scene of the crime, standing as a visual reminder both of Claudia's crimes and of the plebeian aediles' protection of plebeian *libertas*, while also providing an agonistic gesture towards the temple of Jupiter on the Capitoline.⁴¹ The Aventine and the *uallis Murcia* were the traditional spaces on which plebeian aediles could emphasize their service to the *plebs*.

L. and M. Publicius Malleolus would follow this trend five years later. They vowed a temple to Flora in c. 241 'in the same area' (*eodemque in loco*) as the temple of Ceres (§ 1.8 no. 5).⁴² Why the temple to Flora should be located in such close proximity to Ceres' temple is plain to see. The temple, so the *fasti Praenestini* read, 'was dedicated due to the sterility of the crops' (*dedicata est propter sterilitatem frugum*).⁴³ This was a time of severe food shortages immediately following the first Punic War, and it would be quite easy to blame *pecuarii* for the troubles afflicting the republic when they were, according to aedilician rhetoric, hoarding public land for private benefit. The temple of Flora would stand as a monument to their struggle with the graziers in the *uallis Murcia*, a zone of the city associated with seasonal renewal and the growth of crops.⁴⁴ Even if the celebration of the *Floralia* was instructed by the Sibylline books 'so that all growing things may flourish bountifully' (*ut omnia bene deflorescerent*), the aediles took advantage of their magisterial

⁴⁰ Gell. 10.6.2-3; (crime); Liv. 24.16.19 (temple). Cf. Liv. *Per.* 19 (*a ludis reuertens*). Discussion of location: *LTUR* 3.144 (Andreussi).

⁴¹ Symbolism: von Ungern-Sternberg 1986: 371-2; Gros 1990: 137; Clark 2007: 58-9.

⁴² Tac. *Ann.* 2.49. Cf. Staples 1998: 91.

⁴³ Degrassi, *Inscr. Ital.* 13.2.17 (pp. 136-7). It is not known when this temple was dedicated. Palmer 2006: 68-9, citing the discrepancy in dates between our sources (241 and 238), speculatively suggests that the temple was dedicated during a praetorship of one of the brothers in 238.

⁴⁴ Favro 1999: 205-19; Marcattili 2008: 193-211. Ziolkowski 1992: 33 provides a plausible reconstruction of the aediles' response to contemporary crises.

powers to highlight their service to Flora and to a malnourished people.⁴⁵ The circular rationale behind aedilician munificence is once more laid bare: they prosecuted people who possessed excessive amounts of public land during food shortages, used that money to fund a project that would support crop fertility, and positioned the physical manifestation of their *publica cura* right next to the temple of a deity who likewise ensured spring growth, which itself overlooked the circus where their *ludi* would be held.⁴⁶ The Publicii, like their predecessors, conflate the nature of the trial (against excessive landholding) with the type of vow (to Flora) in a location of the city where traditions of seasonal renewal were most evocative (in the *uallis Murcia*).

This is not to say that there was a strictly enforced geographic separation between curule and plebeian aediles. Epigraphic evidence demonstrates that an aedile could contribute to the same project, first as curule and then as plebeian aedile.⁴⁷ It reminds us, too, that there are gaping holes in our knowledge of aedilician building projects: the consistent picture that Livy develops may partly be a product of what the annalistic tradition bothered to record.⁴⁸ Nor does the literary record build an entirely consistent picture. Q. Fabius Maximus Gurges had in 295 let contracts for a temple to Venus Obsequens *quae prope Circum est*, south of the Capitol and close to the temple of Ceres; as a patrician, he must have been curule aedile (§ 1.8 no. 9).⁴⁹ And plebeian aediles could adorn

⁴⁵ Vell. Pat. 1.14.8; Plin. *NH* 18.286. Hints of famine in subsequent years: Eutr. 3.1; Diod. Sic. 25.14.

⁴⁶ Note that the *Floralia* of 241/238 seem to have been a one-off, not being annualized until 173 (Ov. *Fast.* 5.295). Ovid explicitly tells us that the *uictores* (sc. the Publicii) were the ones who *ludos instituere nouos* (5.292), undermining Palmer's suggestion that they held the *ludi* to coincide with the temple's dedication (2006: 68-9).

⁴⁷ *CIL* 6.1330 = *ILLRP* 1287. Multiple aedileships are attested in the fourth and third centuries (Ap. Claudius Caecus: *CIL* 11.1827; M. Terentius Varro: Liv. 22.26.3).

⁴⁸ The absence of aedilician *uota* and *dedicationes* may 'be nothing more than a reflection of a military bias of our sources' (Ziolkowski 1992: 199).

⁴⁹ Liv. 10.31.9. Though Livy does not explicate Gurges' magistracy, his formula (*ex multatio ... faciendam curauit*) is consistent with his other aedilician notices.

the Capitol itself. The plebeian aediles of 202 are said to have bucked the trend, placing three statues *in Capitolio ex multaticio argento*.⁵⁰ Given the importance of the forum to plebeian as well as curule aediles, this latter notice should hardly be the cause of surprise. Nor should the construction of a temple to Faunus on the Tiber island, which was begun in 196 (§ 1.8 no. 4).⁵¹ Faunus, like Ceres and Flora, ‘could oversee the regulation of pastureland’, not least because it was wealthy *pecuarii* who ultimately funded the project.⁵²

Plebeian and curule aediles are topographically united by their respective care for the two sets of games held for the Capitoline triad. At the conclusion of the final day of festivities, aediles would arrange the *epulum Iouis* at the *ludi Romani* or *plebei*.⁵³ The aediles’ exact function in this feast is unclear. In the one reasonably coherent notice we have of how the *epulum* worked, the named figures are two senior members of the senate who happened to be dining *apud eandam mensam*; aediles do not feature.⁵⁴ But Livy’s metronomic notices of the *epulum*, which always attach the feast to the plebeian aediles’ *ludi plebei*, suggest aedilician involvement.⁵⁵ The senate would dine on the Capitoline in an exclusive feast.⁵⁶ It is not clear what role the people played in this ceremony: in other public feasts, the *uolgius*

⁵⁰ Liv. 30.39.8.

⁵¹ Liv. 33.42.10. Cf. Nunziata 2008: 57-60.

⁵² Davies 2017: 83.

⁵³ Each of Livy’s references to the *epulum* place it at the *ludi plebei* on 13 November, but imperial calendars (*Inscr. It.* 13.2.27) place the celebration on the ides of September for *ludi Romani* as well as on the *dies natalis* of Jupiter’s temple (cf. Plut. *Popl.* 14.3). Despite Mommsen (*Röm. Forsch.* 2.45 n. 4), it seems reasonable to assume that the doubling of the *epulum* coincided with the doubling of the *ludi* (Fowler 1899: 215-18; Latte 1960: 377-8). But there is no need to assume, as Champeaux does (2003: 182-3), that Livy’s first attestation of the *epulum* in 213 represents a ‘première’ or an ‘innovation’.

⁵⁴ Gell. 12.8.3. The men in question, P. Cornelius Scipio and Ti. Sempronius Gracchus, never shared a magistracy, so the language here is far from technical.

⁵⁵ Livy is formulaic (25.2.10, 27.36.9, 30.39.8, 31.4.7, 32.7.13, 33.42.11), repeating minor variations of the same phrase (*et Iouis epulum fuit ludorum causa*), which perhaps mirrors the descriptive data of his (archival?) source.

⁵⁶ *Senatus in Capitolio*: *Inscr. It.* 13.2.27; Liv. 38.57.5; Gell. 12.8.2-3; Cass. Dio 39.30.4; Suet. *Aug.* 35.2.

dined together alfresco in the forum, but no source mentions their involvement in the *epulum Iouis*.⁵⁷ In any case, once a year both curule and plebeian aediles would play a (regrettably obscure) role in dividing the *senatus* and *uolgus*, with the former dining in the presence of the Capitoline triad, literally overlooking the rest of the people.⁵⁸ The focal point, again, would be the Capitol.

There are a few outliers. Some aedilician projects, for example, appear to be characteristic of dedications made by a consul after victory in the field. L. Postumius Megellus' temple dedicated to Victoria was located on the south-west slopes of the Palatine, halfway between the Capitol and the Circus (§ 1.8 no. 10).⁵⁹ Livy tells us that it was an aedilician project, built from fines gathered from an unknown source. Though he would dedicate the temple as consul in 294, Megellus is said to have funded the early stages of its construction as curule aedile, years before the success over the Samnites with which his temple would become associated. However, suspicions have been raised about whether this temple to Victoria was an aedilician project before any victory on the battlefield. Adam Ziolkowski has therefore suggested that Megellus held the consulship (securely dated to 305) before his aedileship, vowing the temple as consul and later subsidizing his project with aedilician fines (in 303 or 301).⁶⁰

⁵⁷ *Volgus* dining *in foro* during votive funeral games: Liv. 39.46.3-5; *in propatulo* during first *ludi Apollinares*: Liv. 25.12.15. Champeaux 2003: 184 extends this practice to the *epulum Iouis* ('Le menu peuple est regroupé plus loin et plus bas, sur le Forum'). *Epulum* defined by exclusivity: D'Arms 1984: 334-8; Donahue 2003: 429-30; Richlin 2017: 247. Wider food distribution after public sacrifices: Scheid 1985: 201-5; Kajava 1998: esp. 114-25.

⁵⁸ Presence of Jupiter, Juno, and Minerva: Val. Max. 2.1.2; Plin. *NH* 33.111.

⁵⁹ Liv. 10.33.9. Location: *LTUR* 5.149-50 (Pensabene).

⁶⁰ Ziolkowski 1992: 174. Cf. Davies 2017: 48 ('his choice belongs in the broad context of Rome's success against the Samnites').

Still, there is some reason to believe Livy's story that the construction was funded from aedilician fines. Megellus' choice, despite the plausibility of Ziolkowski's reconstruction given the flexibility of the fourth-century *cursus honorum*, could equally have been influenced by the existing topography of the Palatine, with which Victoria already seems have been linked.⁶¹ The vow would be optimistic, presumptuous even, but far from impossible for an ambitious patrician aedile eyeing a future consulship. Penelope Davies comes up with a clever solution: Victoria may be understood as a 'goddess of two aspects' addressing 'victory abroad' and 'victory at home'.⁶² There could be a disconnect between initial impulse and accumulated meaning in building programmes that took many years to complete. A temple could *become* a visual reminder for what the general achieved both in battle, but the intended symbolism of the temple and its location may have been quite different a decade earlier. Gurgus' temple to Venus Obsequens, for instance, probably started as an aedilician project in 295 with money raised from *matronae*. However, following Gurgus' victory over the Samnites and triumph in 291, it would be easy for later writers to interpret this as a manubial dedication.⁶³

Megellus' temple occupied a midway point on the route of the *pompa circensis*, the procession that preceded the chariot races of aedilician games. Archaeological evidence hints at a vast construction for its time, astride the Palatine overlooking the Forum Boarium

⁶¹ Dion. Hal. 1.32.5. Cf. Wiseman 1981: 35-7. Victoria would scarcely be an inappropriate choice for a young patrician aedile at a time when the Samnites offered a significant threat to Roman influence in southern Italy in 307/6 (Liv. 9.43.1-5). It was, then, perhaps 'a statement of confidence in the armies of Rome' (Clark 2007: 56).

⁶² Davies 2012: 156. She also suggests that its proximity to the Circus Maximus was significant, standing 'in topographical dialogue with the Aventine'. The evidence for deployment of iconography associated with a domestic Victoria is, admittedly, confined to the second and first centuries (Fears 1981: 786).

⁶³ Liv. 10.31.9. Alternative tradition supplied by Serv. *Aen.* 1.720: *Fabius Maximus post peractum bellum Samniticum ... consecrauit*. Ziolkowski 1992: 167-9 attempts to reconcile these stories. Triumph: Liv. *Per.* 11; Val. Max. 5.7.1.

and Velabrum below.⁶⁴ The *tensae* of aedilician *ludi* for the next decade would be led beneath the shadow of Megellus' construction site.

I suggest, then, that the conventional religious topography of the plebeian and curule aedileship is united by the *pompa circensis*. In the form described by Fabius Pictor and preserved by Dionysius, this procession, beginning at the temple of Jupiter on the Capitoline, descended the *clivus Capitolinus* into the forum; then, proceeding through the forum, it turned south-west along the Vicus Tuscus through the Velabrum, skirted the Forum Boarium, and finally passed by the temple of Ceres into the Circus Maximus, through which it did a semi-circuit before arriving at the starting gates for the initial race.⁶⁵ This procession preceded the races of the *ludi Romani*.⁶⁶ Though there are no explicit attestations of the *pompa circensis* preceding the *ludi plebeii*, it seems reasonable to connect this ritual to both of Jupiter's games, especially if we entertain the hypothesis that the *ludi plebeii* were the older of the two.⁶⁷ According to Livy, amidst his description of L. Papirius Cursor's triumph of c. 309, the dictator's spectacular array of armour bedecking the forum was the origin (*initium*) 'of the forum being embellished by the aediles when the *tensae* would be led through there' (*fori ornandi aedilibus cum tensae ducerentur*) during the *pompa*

⁶⁴ Wiseman 1995b: 4; Davies 2017: 59.

⁶⁵ See Latham 2016: 72-90 for a detailed exploration of the route described briefly in Dion. Hal. 7.72.1. Cf. Piganiol 1923: 15-31.

⁶⁶ Dion. Hal. 5.57.5.

⁶⁷ Arguments in favour of *pompa circensis* at *ludi plebeii*: Latte 1960: 248-9; Latham 2016: 3. The *Cerialia* may not have involved a *pompa* (Le Bonniec 1958: 318-19): it would make minimal sense to lead a procession from the deity's temple on the Circus's doorstep to the Circus. Although *pompae* are attested for other *ludi* (*Apollinares*: 30.38.11-12; *Megalenses*: Ov. *Fast.* 4.391), we cannot be certain that they followed an identical route. There was evidently a custom at the *ludi Megalenses* where the aedile would crown the statue of Magna Mater (Varro, *Men.* 150B) in her temple (§ 1.8 no. 8) in a kind of *pompa theatralis* from the *scaena* to the *signum deae* (Goldberg 1998: 11; Roller 1999: 308; Latham 2016: 165).

circensis of aediles' *ludi*.⁶⁸ Though Livy's aside may supply something of an aetiological myth, it demonstrates the awareness of increased aedilician *ornatus* associated with the *pompa* from the late fourth century, an increase that coincided with Rome's rising wealth and the enhanced spectacle of military triumphs. More generally, it shows the selectivity of their placement of *ornatus*. Livy's is a mere snapshot of a wider trend: this convention was not limited to the forum, nor did aediles decorate the route of the *pompa* as ephemerally as his account suggests. Their embellishment and construction of temples may instead be a broader manifestation of the phenomenon described by Livy of aediles consciously displaying their benefactions within clear sight of the route of the *pompa*. The Capitol and the temple of Ceres, 'apt bookends to the processions', are the centrepieces of aedilician *ornatus*.⁶⁹

Although aediles doubtless played an important role in the organization of the *pompa*, they did not feature prominently in the procession itself. Theirs was a bit-part role: the *praesides ludorum* would always be magistrates with *imperium*, which explains why dictators and consuls feature more heavily in our sources.⁷⁰ Their physical position is consequently uncertain: Fabius Pictor apparently mentioned only οἱ τὴν μεγίστην ἔχοντες ἔξουσίαν at the head of the *pompa*.⁷¹ But aediles were charged in some way with the *pompa*'s

⁶⁸ Liv. 9.40.16 is unspecific about his sources (*dicitur*) and may have described the same triumph twice (Oakley 2005a: 506), perhaps referring here to Cursor's triumph of 293.

⁶⁹ Latham 2016: 86. He also identifies Ceres' temple as a 'seat of plebian [sic] authority' (following Spaeth 1996: 81-102).

⁷⁰ Liv. 8.40.3 (*imperii ministerium*); Naevius *apud* Varro, *LL* 5.153 (dictator in *pompa circensis*); Ennius *apud* Cic. *Div.* 1.107-8 (consul giving the signal for races to start); Plin. *NH* 34.20 (urban praetor in *pompa circensis*). Cf. Salomonson 1956: 58-61; Bernstein 1998: 58-63; Beck 2005b: 84, 89; Pina Polo 2011: 44-5. Latham 2016: 36-9 maintains that aediles played a prominent role in the *pompa circensis*, even in the early republic (pp. 41-2). Though his guess is not unreasonable, the evidence he supplies (Liv. 2.19.1; Dion. Hal. 5.57.5) does not show that 'aediles were at its center' in 500 after the *praeses* fell from his chariot.

⁷¹ Dion. Hal. 7.72.1.

organization: a retrospective reason for M. Terentius Varro's defeat at Cannae in 216 was said to be his decision to place a boy actor in the *tensa* holding the *exuuia* of Jupiter *cum ludos circenses aedilis faceret* a few years earlier.⁷² The phrase *facere ludos* reveals little about his specific role; instead aediles seem to operate behind the scenes to ensure the smooth running of the spectacle and religious observance.⁷³ There is no republican evidence to locate the *editor* in *pompae*, but it would not stretch credulity to place them in a prominent position.⁷⁴ Their role was therefore somewhat intermediary: though they lacked the status or the greater auspices to lead the *pompa*, they contrived ways to ensure their prominence. In fact, their very subordination likely forced them to find other ways to secure a presence. The *instauratio* was another such way in which the aediles could reinforce their visibility, not just forcing the repetition of their games but also advertising their attentiveness to religious scruple.⁷⁵

So aediles took to lining the route of the *pompa circensis*, especially the beginning and end, with visual reminders of their service to the community. *Pompae* were fleeting; tangible reminders of their year in office would maintain their presence, projecting their past actions into the future. This presence was enhanced by their adornment of the city in carefully chosen areas. From at least the end of the fourth century, aediles concretized their

⁷² Val. 1.1.16. This event is presumed to have taken place during the *ludi Romani* (Bernstein 1998: 44-5), but since the *ludi plebeii* were almost identical to the *Romani* and Varro is known to have held both aedileships (Liv. 22.26.3), there is nothing in Valerius' text to distinguish between the two sets of games dedicated to Jupiter.

⁷³ Cf. Plaut. *Poen.* 1011-12, where Milphio claims that Hanno *mures Africanos praedicat / in pompam ludis dare se uelle aedilibus*: the *pompa* falls quite literally 'in the aedile [adj.] games' (*ludis ... aedilibus*).

⁷⁴ Gailliot 2011 § 9 has suggested, on the basis of a Severan inscription detailing the celebration of *ludi saeculares* (AE 1932, 70), that the *editor* (possessing 'la même position institutionnelle que l'édile' of the republic) would find himself in the middle of the *pompa* behind the *iuuenes*. Cf. Daguet-Gagey 2015: 282-3. On the description of the procession in Severus' *ludi saeculares*, see Rantala 2017: 53-4, 154-5.

⁷⁵ Political interpretation of *instaurationes*: Taylor 1937: 291-6. Religious interpretation: Scheid 1981: 123-4; Cohee 1994: 451-68.

physical presence by constructing and embellishing temples in carefully chosen spaces. Elected under a broad remit of caring for the city, they raised funds by prosecuting prominent and wealthy targets in the *comitium*. They spent the proceeds of these prosecutions on physical manifestations of their *munus*. Inscriptions accompanying these *munera* would perpetuate the memory of the trial process as well as the outcome. For example, two unidentified curule aediles of the second century proudly boasted that the mosaic in the floor of the temple of Apollo Medicus was funded by fines (*[ai]diles curules moltaticod dedere esdem probauerunt*); reference to *moltaticod* reminded temple-goers of the past *munus*; the floor itself was a *munus* that projected into the future (§ 1.8 no. 2).⁷⁶ Rarely could aediles muster the funds to construct a religious building from scratch like Flavius, Megellus, and Gurges. Later laws would even make it the aedile's duty to adorn the temple as he saw fit: a law from the *uicus* of Furfo dating to 58 made it the local aedile's responsibility to use fine money, with a significant degree of autonomy (*quanti uolet*), 'so that the temple should be better and more beautiful' (*quo id templum melius honestius[que] seit*).⁷⁷

Objections might be raised that the historical record is too incomplete to identify such conventions. And one should read all apparent trends in our literary evidence with the caveat in mind that there is hardly any archaeological evidence from this period.⁷⁸ The temple of Apollo Medicus mentioned above, for instance, was found near the Circus Flaminius to the west of the Capitoline. It does not neatly fit with the topographical trends

⁷⁶ CIL 1.2675c = *ILLRP* 45. Cf. Viscogliosi 1996: 22; Coarelli 1997: 387-8; Davies 2017: 88; De Nuccio and Gallochio 2017: 452 (with image at p. 458); Piacentin 2018: 118-19.

⁷⁷ CIL 9.3513 = *ILLRP* 508. Cf. Marengo 1999: 75-6; Laffi 2001: 533-7; Pérez Zurita 2012: 299-300.

⁷⁸ Cf. Crawford and Coarelli 1977: 2-3 on problems inherent in relying on Livy for archaeological evidence.

that we have tried to identify. The cited benefactions comprised the most memorable activities, those of sufficient interest for Livy to record them. His attention is naturally drawn to those aedileships that he deemed *insignis*.⁷⁹ He would not have recorded everything. Nevertheless, manubial dedications by triumphing generals make for a compelling parallel. Physical manubial dedications would by the second century find themselves predominantly, though far from exclusively, in the north of the city in close proximity to where the *uia triumphalis* is generally thought to have begun, the Campus Martius.⁸⁰ Being seen was important to all members of the Roman aristocracy; being seen in the appropriate context was preferable. Future triumphs would be infused with the memory of other triumphant generals whose dedications lined the route. Aedilician *ornatus* would echo this desire to be seen, albeit on a smaller scale, along Rome's arterial routes on which Rome's religious life was centred.

In sum, it became normal in the fourth century for aediles to conflate their various roles through alterations and improvements to the fabric of the city. These *ornatus* could communicate a diverse range of messages, reminding the person in the street of what the aedile did for them, and why they now owed the former aedile a debt of *gratia*. The literary evidence seems to point to a trend as to where these *ornatus* were displayed: they were displayed in places especially meaningful to the aedileship. These spaces are linked by the *pompa circensis*. Aediles made sure to make their gifts to the community visible from this route. The following chapter explores further how aediles advertised themselves along Rome's main arterial routes.

⁷⁹ Liv. 35.10.11.

⁸⁰ Pietilä-Castrén 1987: 154-6; Bastien 2007: 344-52. But see Beard 2007: 101-5 with warnings about reconstructing a definitive, fixed route.

1.5 *Viae*

Aediles paved and constructed roads. By doing so, they associated themselves with Rome's primary arterial routes, a trend we have just encountered with their tendency to line their benefactions along the route of the *pompa circensis*. This chapter briefly analyses the scattered epigraphic and literary evidence for aedilician roading projects. What unites aediles' use of public space is a desire to be seen. There seems to be a concerted attempt by aediles to present themselves as champions of *utilitas*, who made journeys through Rome's streets and through the main thoroughfares leading into Rome less arduous.¹ By paving these roads, and making passers-by aware of who was responsible for easing their journey with inscriptions and milestones, the aedile was leaving a lasting reminder of his year in office. He communicated to the *populus* through his improvement of physical space. Though the origins of this trend are obscure, paving the roads in and around Rome would become a normative part of an aedile's sphere of influence by the third century. As the *Tabula Heracleensis* suggests, aediles were, by the first century, expected to ensure viability and keep space clear.

Aediles are attested paving and repairing roads from the third century. They could use part of the money won from prosecutions to improve Rome's key arterial routes. An early piece of evidence for this trend appears on the *uia Ostiensis*.² An otherwise unknown

¹ See *infra* § 2.1, 2.3 on the rhetoric of *utilitas*.

² Quilici 1990: 41-4; Zevi 1996: 69-74; Serra 2007: 7-15.

plebeian aedile called C. Cincius, with at least one colleague whose name is lost, contributed in some way to this pattern, probably paving a section of an existing road.³

XI[...]	
C(aius) ·	C/Q[...]
Cinci(ios)	PQ[...]
aidile(s)	· probau[er]o(nt)
pleib(is)	

This rare piece of archaeological evidence may initially seem to be an outlier from the literary picture, being located far afield from the other attestations that we will see below. But it is placed in a prominent location on one of Rome's busiest roads. Cicero, when weighing up the benefits of various *horti* lining the *uia Ostiensis*, would later eye up a property of Cotta's which, despite its small size, had to its advantage a significant degree of visibility: the nearby road ensured that this was a *celeberrimus locus*.⁴ This is a common phrase denoting places marked by the 'intensity of social activity'.⁵ The precise date of Cincius' *probatio* is unknown. We do know, however, that this process of paving Latium's arterial routes began in the late fourth century during Ap. Claudius' censorship of 310, a period in which Rome's main roads started to undergo a slow but radical transformation from rough unpaved paths to cobbled streets.⁶ It is perhaps significant that aediles should

³ *CIL* 6.1277 = *ILLRP* 449. The verb's plurality makes collegiality likely. Degrassi (in *ILLRP*) suggests that the fragmentary letters may be *praenomina* (Q. and P. C[...]), but this would require three individuals. Degrassi therefore suggests that Cincius had no verb, and that the two individuals on the reverse were the ones who *probauerunt*. Recent surveys also tentatively suggest the presence of two 'magistrates' on the reverse (Zevi 1996: 74; Díaz Ariño 2015: 85-6), but follow Degrassi in rejecting the possibility that they are censors. The absence of a trace of an interpunct between the *P* and the *Q* could suggest that this is either a *nomen* or *cognomen*, or a different word entirely, meaning that only two individuals are named.

⁴ Cic. *Att.* 12.23.3. Cf. 12.27.1. Cicero's house on the Palatine had likewise been visible from 'Rome's most frequented places' (*urbis enim celeberrimae ... partes*): Cic. *Dom.* 146.

⁵ Newsome 2011: 22-3. Cf. Trifilò 2008: 115-17; Laurence 2015: 180-1.

⁶ Laurence 2015: 182-4.

begin to take an interest in advertising themselves along this route during a period in which the movement of people and goods would increase, as Ostia became an important commercial hub in Rome's growing overseas interests.⁷ Our nebulous Cincius is doubtless part of a wider trend.

Aediles continue the trend, attested from the late fourth century, of lining their benefactions along the most visible spaces in and around Rome. One's service to the community must be visible from the side of the road; though a mere milestone, such a benefaction would remind the traveller, at every mile, of the gratitude they owed to the aedile who had made their journey less uncomfortable.⁸ The project would be especially impressive in an age when paved streets were the exception, not the norm.⁹ The literary evidence, too, points to a growing aedilician interest in roads in this period. Sections of the most frequented *locus* of all, the *uia Appia*, were periodically paved by aediles from the early third century soon after Claudius' censorship.¹⁰ The Ogulnii, in 296, 'laid out a footpath comprising square slabs from the Porta Capena to the temple of Mars' (*semitamque saxo quadrato a Capena porta ad Martis strauerunt*).¹¹ This road formed the first section of the *uia Appia* extending outwards from the city (§ 1.8 no. 13), from the gate at the south-western end of the Circus Maximus to the temple of Mars *extra portam Capenam* just under a mile outside the walls.

Davies has explored political reasons for this construction. She stresses the 'topographical antagonism' at play in the Ogulnii's road: they provided a 'literal paving

⁷ Meiggs 1973: 20-7.

⁸ Plutarch's description of C. Gracchus' milestones (*C Gracch.* 7.2) demonstrates how important this visual reminder of a magistrate's *utilitas* could be.

⁹ Poehler 2017: 233-4.

¹⁰ Strab. 5.3.6 describes the *uia Appia* as the road 'most travelled' (πλεϊστόν δ' ὄδευομένη).

¹¹ Liv. 10.23.13.

over' of Ap. Claudius' road, which might be interpreted as an attempt to eclipse the censor's *munus*, not least because he had proven a bitter opponent during their tribunate four years earlier.¹² It could also serve as implicit support for Claudius' rival, Fabius Maximus Rullianus, who had instituted the *transuectio equitum* along this route.¹³ Davies's politically charged explanation is tempting, but it goes beyond what the evidence tells us; the reality may be as prosaic as Livy depicts it. Livy refers only to a *semita*, a footpath running alongside the *uia* that would divide vehicle traffic from foot traffic, which possibly suggests that this was part of a regular trend of aedilician paving regardless of who initiated the project.¹⁴ Building was certainly one way of competing in the early republic. But we need not force such an agonistic interpretation onto every construction attested in Livy. Instead, the construction of a *semita* may simply be a benefaction to favour foot traffic to win favour with the urban *plebs*.

However we interpret the personal politics of the early republic, the Ogulnii are here conflating the religious and economic aspects of their office through their physical improvements to the city. Paving the route to the temple of Mars could be perceived to be 'prophylactic' during a time of imminent war against the Samnites and their allies.¹⁵ On 1 June every year, the temple's *dies natalis*, memories would inevitably be evoked of the Ogulnii's contribution to the community.¹⁶ Ending their project at the temple of Mars (*ad Martis*) was probably no arbitrary decision. They could, through this gesture, present themselves as doing their bit to protect the republic from the foreign threat. What little an

¹² Davies 2017: 72. Claudius' opposition to the Ogulnii: Liv. 10.7.1.

¹³ Dion. Hal. 6.13.4; Liv. 9.46.15; *DVI* 32.2. Cf. Ziolkowski 1992: 298; Muccigrosso 2008: 199.

¹⁴ Cf. Saliou 1999: 198-200 and Newsome 2011: 28 on difference between *uia* ('road') and *semita* ('sidewalk').

¹⁵ Davies 2017: 72.

¹⁶ *Dies natalis* and location: Ov. *Fast.* 6.191-2.

aedile could do *domi* in wartime was exaggerated to its full effect. It would support commerce, too. The Porta Capena was a main point of arrival to the city, a space with frequent traffic and numerous shops bounding it.¹⁷ The road would project both outwards (towards the countryside and eventually to Capua) and inwards (towards this market hub now increasingly at the heart of the economic activity of central Italy), allowing easy access to Rome's commercial district via the *uallis Murcia*.¹⁸ The *uia Appia* furnished Rome with economic connections with southern Latium and Campania.¹⁹ It cemented hegemony in southern Italy, too, facilitating access from Rome to a theatre of war with the Samnites in the late third century.²⁰ These roads, 'radiating from the city to areas of frequent operations', concretized the aediles' presence and memory.²¹ Aediles could thus advertise themselves as playing a role in Rome's economic and military success.

Aediles' contributions to the *uia Appia* appear to radiate outwards from this point. The next stage was taken up by the unnamed curule aediles of 293, who paved the section from the temple of Mars to Bovillae in *silex*. Livy writes that 'in that year, after several *pecuarii* were condemned by the curule aediles who produced those games [the *ludi Romani*], the road from the temple of Mars to Bovillae was paved with *silex*' (*eodem anno ab aedilibus curulibus qui eos ludos fecerunt damnatis aliquot pecuariis, uia a Martis silice ad Bouillas perstrata est*).²² Doubts may be raised about whether the curule aediles of the year funded this entire stretch of road. This portion covered a distance of roughly twelve miles, a vast distance for any one-year project, which is at odds with the limited scope that even

¹⁷ Newsome 2011: 27; Holleran 2012: 88-9.

¹⁸ Original direction of *uia Appia*: Front. *Aq.* 1.5.

¹⁹ Economic explanations: Staveley 1959; MacBain 1980; Laurence 1999: 15-18.

²⁰ Laurence 1999: 13-21; Humm 2005: 135-7; Davies 2017: 67-8; Gargola 2017: 51-4.

²¹ Gargola 2017: 58.

²² Liv. 10.47.3-4.

successful aediles like the Ogulnii attempted. Second, Livy does not identify the aediles of the year. It may initially come as some surprise that their names should go unrecorded for such a monumental feat of engineering. These men would have memorialized their deed with a milestone on each of the twelve miles. But there is a possible parallel for a large-scale project that fails to draw the attention of ancient authors. A plebeian aedile named P. Menates appears (possibly in the second century) to have paved a section of the *uia Tiburtina* that stretched at least ten miles, and no trace of him remains in the literary record.²³ Such a feat was clearly not impossible.²⁴ Nevertheless, it remains possible that Livy is vaguely describing the final stage, the outcome of more widespread aedilician contributions to the *uia Appia* between 296 and 293 or beyond.

The impression given by the evidence is that aedilician projects radiate outwards from Rome throughout the third century. In c. 255, the names of two curule aediles, P. Claudius and C. Furius, appear on a milestone which was probably found fifty-three miles south of Rome.²⁵ Though these two men were doubtless wealthy patricians, perhaps even the men who would serve as consuls during the First Punic War (in 249 and 251 respectively), there is every chance that they too funded their paving with funds raised from prosecutions. This project marked a difficult and important stage in the *uia Appia*, allowing the road to connect southern Latium with Campania through the notoriously unpleasant Pomptine marshes.²⁶ If the suggested date is accurate, as seems likely, a picture

²³ *CIL* 11.6616 = *ILLRP* 463 (thirty miles from Rome); *AE* 1999, 626 (p. 195) (twenty-one miles from Rome). On *uia Tiburtina*: Malmberg 2009: 61-78. Menates' Etruscan name (Syme 1955: 71) should not deter us from identifying him as a Roman *aid[ilis] pl[ebis]*.

²⁴ Cf. *CIL* 6.3824 = *ILLRP* 465 for varying costs of road construction.

²⁵ *CIL* 10.6838 = *ILLRP* 448. Cf. Buonopane 2011: 41 for discussion of proximity to Rome. In general on section of via Appia through the marshes: Wiseman 1970: 145; Cancellieri 1990: 61-3.

²⁶ Hor. *Sat.* 1.5.5-6; Juv. 3.305-8.

emerges of aediles slowly extending their remit outwards from the city to other key economic centres in central and southern Italy. Of course, secure evidence is hard to come by: such instances rely on the accident of survival. But the widespread nature of milestones suggests that paving roads was a regular practice carried out by aediles before the first century. Given how widespread the surviving milestones are (ranging from the *uia Appia*, *uia Tiburtina*, and *uia Ostiensis*), there is every reason to believe that the surviving material evidence represents the tip of the iceberg.

Particularly memorable aedileships were praised for their *utilitas*, as Ovid's encomium of the plebeian aedileship of the Publicii in 241 suggests.²⁷ With part of the *multae* inflicted on the *pecuarii*, they let out contracts for the paving or construction of a *cliuus*, a path that ascended a steep slope (*parte locant cliuum*). This road had until this point been little more than a goat-track, a difficult, steep path that wound its way up the Aventine (*qui tunc erat ardua rupes*). Thanks to the aediles' contribution, the road became serviceable (*utile nunc iter est*); the *iter* goes from being *arduum* to *utile*.²⁸ So the *cliuus Publicius* was named in their honour. The purpose of this construction was, then, to facilitate the flow of traffic in the southern part of the city, as a lacunose passage in Festus suggests: 'the *cliuus* is named "Publicius", which the two brothers L. and M. Publicius Malleolus paved as curule [sic] aediles from the funds they seized from graziers they prosecuted, so that <the road could be reached> by vehicle traffic heading towards the Aventine' (*Publicius cliuus appellatur, quem duo fratres L. M. Publici Malleoli aediles curules pecuaris condemnatis ex pecunia, quam*

²⁷ Ov. *Fast.* 5.293-4. Cf. Varro, *LL* 5.158.

²⁸ The *cliuus Capitolinus* is described in similar terms at Ov. *Fast.* 1.263-4.

ceperant, munierunt, ut in Auentinum uehicali<s> <ueha uenire> possit).²⁹ In reconstructing the etymology of the *cliuus*, Varro spuriously claims that it got its name because the Publicii ‘constructed it for the public good’ (*eum publice aedificarunt*).³⁰ Varro’s etymology, shaky as it is here, perhaps provides a rough indication of the sort of rhetorical games that the Publicii might play.³¹ We, the Publicii, did this for you *publice*.³² In a city with growing levels of ‘friction of distance’, where mobility was hampered by piecemeal urban growth, such a gesture was profound.³³ The *cliuus* would serve to link the residential areas at the top of the hill with the market hub at the foot of the Aventine around the Porta Trigemina.

The centrality for aediles of viability *through* physical space is reinforced by the *Tabula Heracleensis*. The existing sections of the text are largely concerned with the repair of and care for streets (*procuratio uiarum*) and not the buildings that fringed them. Aediles’ primary *cura* is the paving and repair of roads (*uias publicas ... reficiundas sternendas curet*).³⁴ Furthermore, their care for buildings extends insofar as they affect passage through the streets. Their primary duty is to prevent anything from obstructing the road and causing the people inconvenience. In one section, aediles are all to ‘care for that road which falls under their discretionary jurisdiction, so that water (?) does not pool up in this place, which would result in the people using this road with difficulty’ (*ei omnes eam uiam arbitrato eius tueantur, neue eo / loco a<q>(ua) consistat, quo minus conmode populus ea uia utatur*).³⁵

²⁹ Fest. 276L. I follow Haltaus’ (1846: 606) reading of the text here, but this reconstruction must remain highly speculative. Lindsay offers no interpretation of the garbled MS (*hel uenire*). Alternative: ‘it could even be reached’ (*uel ueniri*). Varro, *Rust.* 1.2.14 supplies *ueha* as an alternative form of *uia*.

³⁰ Varro, *LL* 5.158.

³¹ Varro, *LL* 5.158. Hinds 2006 cites this passage as an example of Varro’s ‘implicit etymologizing’.

³² Cf. Padilla Peralta 2018: 283. Wiseman 1979: 92-3 is more sceptical: he sees this suspiciously ‘popular’ name as reason to doubt the veracity of Ovid’s aetiology.

³³ Laurence 2015: 182.

³⁴ *Tabula Heracleensis* l. 26 = RS 1.24 (p. 364).

³⁵ *Tabula Heracleensis* ll. 22-3 = RS 1.24 (p. 363).

Convenient (*utile*) and easy (*conmode*) passage through the city is the primary concern. This expectation to ensure that streets were clean and unobstructed continued into the first century AD: Caligula's humiliating punishment of Vespasian, then aedile, for having failed to keep the streets clean was familiar enough that it would later be interpreted as an omen for Vespasian's Principate.³⁶

There therefore developed a normative expectation that an aedile would exert himself to ensure smooth passage through Rome's main arterial routes. The aedile would make no secret of his contribution. The roadside, and the road itself, was a space from which he could communicate to the road users, to act as a lasting reminder of his positive effect on their daily life. Two electoral *programmata* at Pompeii suggest that road users engaged in this dialogue.³⁷ Two groups, the *saccarii* and the *fabri*, recommend the election of two aediles, embellishing their slogans with depictions of their trade: a mule and two men transporting a large amphora. We will discuss aediles' relationships with such groups in a later chapter.³⁸ In the meantime, we can observe that there was a general expectation placed on aediles to ensure smooth passage between locations. This utilitarian view of the aedileship is explored further in the following chapter.

³⁶ Suet. *Vesp.* 5.3; Cass. Dio 59.12.3.

³⁷ *CIL* 4.497; 4.540.

³⁸ See *infra* § 3.3.

1.6 *Fora*

Aediles were associated with Rome's markets and commercial spaces. The evidence for aediles as 'market supervisors' in the republic, however, is not detailed. This dearth stands in stark contrast with post-Augustan evidence, in which curule aediles appear as the chief arbiters of market affairs by prescribing weights and measures and delivering edicts prescribing the quality of goods.¹ Still, republican evidence, mostly Plautine, provides hints about aediles' association with Rome's 'market spaces'. My terminology here is vague, and deliberately so, as it reflects the way Plautus himself describes Rome's markets (*fora*). This chapter argues that aediles were notionally linked with the physical space of *fora*, and commercial spaces in general, from at least the time of Plautus. Although their precise capacities are difficult to intuit, the Greek translation of their name, ἀγορανόμος, points to a close conceptual link with commercial activities at the heart of public life. This connection is reinforced by aediles' building work following the Hannibalic War, in which there appears to be a concerted effort to cluster their benefactions in the area surrounding the Forum Boarium.

Dionysius links aediles with Rome's markets from their origin (along with, as we have seen, basically everything else).² In the same breath as linking the first aediles with 'sacred spaces', he writes that aediles were created to ensure 'prosperity in the *agora* (forum/market)' (τῆς κατὰ τὴν ἀγορὰν εὐετηρίας).³ Their provision of εὐετηρία presumably refers to the *cura annonae* that Cicero prescribes as one of the core roles of the

¹ Evidence tabulated in Daguët-Gagey 2015: 621-716.

² See *supra* § 1.1-3.

³ Dion. Hal. 6.91.3.

aedileship in *De Legibus* in the first century.⁴ But this does not seem to be the case in fifth-century Rome. It has been suggested that this link derived ultimately from the temple of Ceres, with aediles taking advantage of her quality as guarantor of bounty to ensure that Rome's (plebeian) markets were well-stocked.⁵ The argument is essentially topographical. One of Rome's oldest markets, the Forum Boarium, was at the north-western end of the *uallis Murcia* and the Circus Maximus, near the temple of Ceres. Because Ceres was linked with crop fertility and 'abundance', and aediles would later subsidize food for the people, and aediles were linked with the 'forum', Rome's aediles became market supervisors by extension of their association with her temple. This hypothesis is unsupported by evidence. There is no clear evidence for aedilician involvement in Rome's food supply before the late third century.⁶ As Olivier de Cazanove puts it, 'l'ἀγορανομία des édiles et leur rattachement au temple de Cérès sont deux conséquences distinctes d'une cause unique : l'appartenance de ces magistrats à l'organisation politique plébéienne'.⁷ However, the intimate link with the physical space of the 'agora' did indeed come to form a critical part of the conception of the aedileship. The forum/agora was at the heart of early aediles' topography.

First, it is necessary to ask what acting as a 'market supervisor' entailed.⁸ Evidence from the Principate has aediles involved in such affairs. The petty local official is often a comic figure of inflated self-importance in imperial satires, going around arbitrarily smashing undersized measures and militantly endeavouring to keep market prices

⁴ Cic. *Leg.* 3.7.

⁵ Van Berchem 1935: 93-5; Sirks 1991: 11-12.

⁶ Daguet-Gagey 2015: 458-9. Her dating of aediles' initial *cura annonae* 'à partir du début du III^e s.' on the basis of Liv. 10.11.9 (cf. Rickman 1980: 34) is problematic owing to the story's fictional nature (see *infra* § 2.4).

⁷ De Cazanove 1990: 379 n. 13.

⁸ See e.g. Lintott 1968: 95 ('supervision of markets'); Bauman 1996: 10 (dealing with 'market-related offences'); Mousourakis 2007: 14 ('market officials').

balanced.⁹ Imperial satirists emphasize the presentness of these aediles in the provincial forum, with their pettiness viewed with apprehension by shopkeepers.¹⁰ Persius complains that aediles should be more concerned with repressing illicit gambling than with troubling themselves with pedantry over portion sizes.¹¹ Aediles could evidently reject goods if they deemed that they were not up to scratch, or if the goods did not conform to the stipulated weights and measures.¹² Moreover, there is abundant imperial evidence for aedilician oversight of sales of slaves, animals, and goods.¹³

Republican evidence is less abundant. Plautus' aediles were associated with the forum both in its economic ('market') and political and judicial ('public meeting place') forms. As we have seen, Plautus presents the 'forum' as something of a *locus litium*, a space where aedilician trials were regularly held.¹⁴ 'Forum' also stands for the central economic hub of activity. Bankers (*argentarii*) transacted their business here.¹⁵ Plautus' metatheatrical tour of the forum in *Curculio* provides the clearest illustration of this conflation. The Choragus can literally point out the landmarks from the stage, those that make up the broadly defined area of the 'forum'.¹⁶ Included are religious landmarks (notorious for the lowlifes who haunt those places), spaces where political and legal disputes were thrashed

⁹ The aedile at Hypata in *Ap. Met.* 1.25 claims to be restraining *edulium caritas*. The aediles in *Juv.* 10.99-102 and *Pers.* 1.129-30 smash 'unfair measures'. Similarly, *Petron. Sat.* 44.13 has a corrupt aedile (*qui sibi mauult assem quam uitam nostram*), conspiring with bakers (*qui cum pistoribus colludunt*; 44.3) to drive up food prices (*si perseuaret haec annona, casulas meas uendam*; 44.15), demonstrating the control of aediles over prices at the market (cf. *infra* § 3.1 on Petronius).

¹⁰ *Sen. Beat.* 7.3 notes that there were various *loca* in the city, namely places of pleasure (*uoluptas*), which 'fear the aedile' (*aedilem metuentia*).

¹¹ *Pers.* 1.129-33.

¹² Aediles' concern for weights and measures in the early Principate: Pérez Zurita 2011a: 123-43; Daguet-Gagey 2015: 541-50.

¹³ Daguet-Gagey 2015: 551-619.

¹⁴ *Plaut. Men.* 583. See *supra* § 1.3.

¹⁵ *Plaut. As.* 125-6; *Cas.* 23-6; Varro *apud* Nonius 532M.

¹⁶ *Plaut. Curc.* 466-85. On this 'tour': Moore 1998: 131-9; Pearson 2018: 563.

out in the public eye (such as the *comitium*, where one will inevitably run into *homines periuri*), and economic spaces (such as the *macellum*, *basilica*, and *tabernae*).¹⁷ All of this shows the breadth with which one in Plautus' day could use the term 'forum'. It is the space where transactions are carried out, acquaintances can be met, and immoral people are taken to task (or not). But Plautus describes only the landmarks that are in sight of the stage: there are other *fora* (the Forum Boarium in particular) where business is transacted.¹⁸ 'Forum' was simply shorthand for the centre of public life.¹⁹

That aediles are thought of as 'forum men' by this time is confirmed by the regularity with which *aedilis* is translated with the Greek ἀγορανόμος.²⁰ Plautus, for instance, renders the ἀγορανόμος of the Aetolians as *aedilis* in *Captiui*, blending Greek and Roman institutions. In the play, Hegio, responding to Ergomanus' comical demands for order in the forum, interprets his bluster as *edictiones aediliciae*, remarking that 'it'd be quite the surprise if the Aetolians don't make him their *agoranomus*' (*mirumque adeo est ni hunc fecere sibi Aetoli agoranomum*).²¹ This passage appears to be mimicking the formula of aedilician edicts, which must have been a regular means of one-way communication between curule aediles and market-goers.²² While the structure of the edict is doubtless based on the viewers' common understanding of what an aedilician edict was like, its contents are designed to be hyperbolic. And there are Greek elements. Hegio, in his

¹⁷ On the *basilica* (*Fuluia*?): Richardson, Jr. 1979: 211 (a space 'for business, banking and investment'); *LTUR* 1.173-5 (Bauer).

¹⁸ Varro, *LL* 5.146-8.

¹⁹ The forum as a metaphor for *industria* in Plautus: Segal 1987: 43-53.

²⁰ Becker 2017: 73-4.

²¹ Plaut. *Capt.* 823-4.

²² Watson 1991: 339 provides a legal interpretation of this passage. Plautus' wording seems to reflect edictal formulae (Watson 1970: 106; 1971: 73-83; Rotelli 1972: 109-12). Edicts as means of market communication exclusive to curule aediles: Daguet-Gagey 2015: 131-7.

previous response to Ergomanus, humorously informs the audience that Ergomanus had been giving *basilicas edictiones atque imperiosas*, phrasing that may reflect the Greek political situation of Plautus' source-text and not mid-republican Roman politics. In these 'kingly edicts', Ergomanus claimed that he would physically assault any farmer who let his sow appear in public. These 'edicts' respond humorously to Ergomanus' earlier declaration (*edictio*): 'I am announcing this in advance so that no-one else gets brought down on account of his guilt' (*prius edico ne quis propter culpam capiatur suam*).²³ Such edicts were evidently familiar to the audience, and aediles with *ius edicendi* would restrict activities in some way in the space of the 'forum', as did the pronouncement of the ἀγορανόμοι of Plautus' source. The audience was aware of the blend of Greek and Plautine elements in the play, accepting the Greek institutions (βασιλεῖς, ἀγορανόμοι) alongside the Roman.²⁴

More importantly for our purpose, Hegio seems to locate aediles' sphere of influence as a reaction to Ergomanus' description of the topography of Rome. The metaphorical (and ironical) *basileus* carries out his edicts against 'millers' (*pistores*) broadly 'in public': 'if I see a sow belonging to any of these blokes in public...' (*eorum si quouisquam scrofam in publico conspexero...*). From the *basileus*' sphere of influence, the *basilica* (another pun), the fishmongers' odour 'drives all the haunters of the *basilica* into the forum' (*subbasilicanos omnis abigit in forum*), the aedile's sphere of influence. It is this 'annoyance' (*molestia*) that he proposes to punish. He likewise proposes to punish a butcher should his wether be seen *in uia publica*. These remarks, pertaining to the 'forum' and the 'street', Hegio parallels with *edictiones aediliciae*. These in turn are logically related to the duties of the *agoranomus* that was likely mentioned in Plautus' Greek source text. There is a structural

²³ Plaut. *Capt.* 803.

²⁴ Fraenkel 1922: 130-41 = 2007: 88-95.

pairing between Ergomanus' *edictio* and Hegio's response. 'If I should see anyone doing *x* in *y*, I'll do *z*':

E. If I see a sow belonging to any of these blokes **in public**,
I'll beat the scales off those owners with my fists

H. He's got kingly and domineering edicts...

...

E. If I see this wether **in a public thoroughfare**,
I'll make both the wether and the owner pathetic creatures again.

H. My oh my, he's really got aedilician edicts...

E. *eorum si quousquam scrofam in publico conspexero,
ex ipsis dominis meis pugnis exculcabo furfures.*

H. *Basilicas edictiones atque imperiosas habet...*

...

E. *eum ego si in uia petronem publica conspexero,
et petronem et dominum reddam mortales miserrumos.*

H. *Eugepae, edictiones aedilicias hic quidem habet...*²⁵

This structural pairing, highlighted by the similarity in grammatical structure as well as the repetition of the verbal structure (*si ... conspexero* in future more vivid), suggests that the distinction made by Hegio is topographical. The main distinction here of an aedilician edict is its pertinence to the *uia publica*. The passage seems to return us to the aediles' *uiarum procuratio*, as it is called in *Tabula Heracleensis*, that we encountered in the previous chapter.²⁶ Aediles of Plautus' day delivered edicts ensuring that public thoroughfares were kept clear: they exerted restrictive influence over others' use of physical space.

²⁵ Plaut. *Capt.* 809-11, 821-3.

²⁶ *Tabula Heracleensis* ll. 54-5 = RS 1.24 (p. 365).

Plautus' linguistic parallel between the Greek and Roman office, between aedile and ἀγορανόμος, provides clues about aedilician topography. It illustrates the Romans' conception of aediles as being both 'forum men' and 'road men'. This parallel tells us little, however, about the specific quotidian duties of aediles. Although the etymology makes it clear that third and second century writers recognized the similarities between the Greek and Roman institutions, the application of the Greek term cannot, as Maximilian Becker has shown, necessarily tell us anything about the 'ursprüngliche Funktion' of the aedileship.²⁷ The range of duties employed by ἀγορανόμοι across the Greek-speaking world is too diverse to make for a tidy parallel with aediles.²⁸ But the decision to translate one toponym with another is telling. Plato frames ἀγορανόμος as a toponym: it refers to public officials who apply νόμος in the ἀγορά. He defines their duties broadly as 'all matters concerning the *agora*' (τὰ περὶ ἀγοράν ... ἕκαστα).²⁹ Their care for religious buildings extended to those that fringed on the *agora* (τῶν [ιερῶν] κατ' ἀγοράν) with the broad remit of doling out punishment to those who deserve it (κολάζειν τὸν δεόμενον κολάσεως), especially to those guilty of 'violence' (ὑβρις). He follows this brief delineation of ideal duties with a technical prescription of how ἀγορανόμοι should adjudicate matters pertaining to 'market wares' (ᾠνια). These prescriptions are particular to Plato's local fictional context with its concern for limiting the rights of ξένοι.

The ἀγορανόμοι are men who oversee the physical space of the *agora*; their duty is defined topographically. He makes this distinction clear later in the text. It is the responsibility of ἀγορανόμοι to drive beggars from the *agora* (ἐκ ... ἀγορᾶς), but it rests

²⁷ Becker 2017: 76.

²⁸ Stanley 1976: 196-8; 1979: 13-18.

²⁹ Plat. *Leg.* 849A. Cf. Ar. *Ach.* 719-24, in which their sphere of influence is limited by the 'boundaries of my *agora*' (ὄροι μὲν ἀγορᾶς ... τῆς ἐμῆς).

with the ἀστυνόμοι to drive him from the city (ἐκ ... τοῦ ἄστεος), and with the ἀγορονόμοι to drive him from Attica (ἐκ τῆς ἄλλης χώρας εἰς τὴν ὑπερορίαν).³⁰ This toponymic tautology is attested in epigraphy too. A second-century BC ἀγορανόμος on Lesbos is remembered for providing food at a discounted rate to the *polis*, and more generally for ‘looking after citizens’ affairs pertaining to the *agora* in an upstanding, just, and expedient manner’ (ἐπιμελήθεις τῶν κατὰ τὰν ἀγορᾶν ὄρ[θ]ως καὶ δικαίως καὶ συμφερόντως τοῖς πολίταισι).³¹ Just as ἀγορανόμοι were concerned with matters in the *agora*, aediles assumed a full and ambiguous range of roles pertaining to the ‘forum’.

The extent of the aedile’s restrictive duties in the republican forum must be pieced together by occasional mentions in Plautus. A passage from *Rudens* is suggestive of an aedile’s capacity to reject certain ‘goods’ (*merces*). The sex-worker named Ampelisca recounts her and Palaestra’s ordeal following their shipwreck to the slave Trachalio. In response, he jests that Neptune is a ‘pedantic aedile’, difficult to satisfy (*quamuis fastidiosus / aedilis est*), who ‘casts aside’ such ‘poor quality goods’ as Ampelisca and Palaestra (*si quae improbae sunt merces, iactat omnis*).³² In this dehumanizing metaphor, the women are the *merces* of the pimp, Labrax, which in the Roman conception of slavery is not wholly far from reality.³³ Neptune is ‘rejecting’ the *leno*’s stock (*merx*) that he deems somehow not up to scratch. The *improbae merces* that meet the aediles’ disapproval play on the common Plautine metaphor in which people of low repute are insultingly called *malae merces*.³⁴ That

³⁰ Plat. *Leg.* 936C.

³¹ IG 12 Suppl. 125 ll. 5-7. Cf. IG 12.3.170. Most activity ‘si concentrasse nello spazio dell’*agora*’ (Fantasia 2012b: 39).

³² Plaut. *Rud.* 372-3.

³³ Ampelisca describes herself as a possession to be shipped to Sicily (ll. 356-7). Cf. Richlin 2017: 105-26 on slave women as possessions on Plautus’ stage.

³⁴ Plaut. *Cas.* 752; *Cist.* 727; *Truc.* 409. Cf. Stevens 1913: 561-2; Fraenkel 1922: 40 = 2007: 30; Rotelli 1972: 115; Lefèvre 2006: 74-5.

it is an insult directed at the women is made clear by Ampelisca's sharp response (*uae capiti atque aetati tuae!*). Meanwhile, the choice of verb (*iacio*) is used to echo Ampelisca's reference to the trauma of being tossed about on the open sea (*nos uentisque fluctibusque / iactatae*).³⁵ Plautus' language hints at the capacities of contemporary aediles pertaining to *merces*.³⁶ We must charitably assume that the injection of a double-entendre here ensures that the language aptly describes both realities: it is humorous because Neptune ejects people from their ships and because aediles 'throw away' imperfect goods. Plautus' *fastidiosus aedilis* reminds us of Juvenal's and Persius' reference to petty municipal aediles and their 'smashing' of goods that failed to meet their standards (*uasa minora or heminae iniquiae*).³⁷ There is clearly some degree of continuity across the two-and-a-half centuries that separated Plautus from these satirists. Aediles were involved in the regulation of *merx*, a general term that can refer to anything sold at the market, often human beings, given the slave's perspective from which Plautus' plays are written.³⁸ The metaphorical *iactatio* seems to refer generally to a punishment by an aedile for some sort of transgression involving the sale of merchandise, in which case the *mercator* would be fined, his wares rejected.

This passage seems to show that aediles exercised some sort of surveillance over *merx*.³⁹ What sort of bad merchandise would be 'cast away'?⁴⁰ Aediles prosecuted people for a range of economic crimes pertaining to the 'market'. As we have seen, they could be

³⁵ Plaut. *Rud.* 369-70.

³⁶ Fraenkel 1922: 40 ('wahrscheinlich ein technischer Ausdruck') (= 2007: 30), following Sonnenschein 1901: 92.

³⁷ Juv. 10.99-102; Pers. 1.129-30.

³⁸ Plaut. *Poen.* 341-2 (*meretrices* described as *uendibilis merx; proba merx*); *As.* 200 (*merx* as bread and wine).

³⁹ Cf. Slater 2000: 353 on Neptune as 'a conscientious and hard-working official of the divine *civitas* ruled over by Jupiter'.

⁴⁰ Theories: Lefèvre 2006: 74 ('zu Unrecht beförderte Waren'); Becker 2017: 202 n. 306 ('verdorbene Speisen oder generell Lebensmittel').

innovative in creating these criminal categories, making modern definition difficult.⁴¹ Aedilician prosecutions are united by a broad (and ultimately discretionary) conception of what would be best for the city. He might act to ensure that grain traders did not artificially inflate market prices.⁴² And he might ensure that measures were consistent. A third-century (?) law, a *lex Silia*, specifying the exactitude of weights and measures at Rome's market highlights how little we know about early legislation. It states that anyone who transgresses this *plebiscitum* should be liable to a fine by a magistrate (*eum quis uolet magistratus multare ... liceto*).⁴³ The money could also be dedicated for religious purposes (*in sacrum*). Aediles may have been the magistrates in mind to enforce this law, since the process resembles what we know about aedilician prosecutions elsewhere.⁴⁴

Aediles attempted to leave their mark on Rome's commercial spaces. With the money they raised from fines, aediles could elect to repair shops and build *porticus*. The Forum Romanum was one of these commercial spaces. Aediles reconstructed the *tabernae argentariae* on the north side of the forum in 191.⁴⁵ But the picture is broader, with a significant amount of building and improvement clustered around the Forum Boarium. From the early second century, there was a glut of building activity, much of it aedilician, in the area between the Aventine, the Tiber, and the *uallis Murcia*, focused in particular

⁴¹ Becker (2017: 203) has rightly observed that the spectrum of aedilician prosecutions must be broader than the evidence permits us to conclude.

⁴² Liv. 38.35.5. Cf. Briscoe 2007: 121. The first attested legislation against such behaviour comes much later: Ulp. *Dig.* 48.12; *Lex Flavia* § 75 l. 2 = González 1986: 172. Cf. Garnsey 1988: 76-8 for parallels in the Greek world.

⁴³ Fest. 288L = RS 2.46 (pp. 737-9).

⁴⁴ Proposing a lacuna at the start of the law (unmarked in Lindsay's text), Cloud (1985: 408) and Crawford (RS 2.46 (p. 738) suggest that aediles were stipulated (*aediles ... curanto*). However, given the generality with which *quis magistratus* is employed in the statute, it is possible that no single magistracy was specified as chief prosecutor.

⁴⁵ Fest. 258L. Fires: Liv. 26.27.2; 27.11.16. Northern location side of forum: Liv. 3.48.5; 40.51.5. Cf. Coarelli 1985: 147-8; *LTUR* 5.14-15 (Papi).

around the Porta Trigemina.⁴⁶ A catastrophic fire had severely damaged this part of the city twenty years earlier.⁴⁷ L. and M. Aemilius together constructed a *porticus* in this quarter in 193 with fines raised from *pecuarii*, and also included an *emporium* on the banks of the Tiber.⁴⁸ They restored this hub of economic activity with the construction of two new *porticus*, one outside the Porta Trigemina ‘with an *emporium* added alongside the Tiber’ (*emporio ad Tiberim adiecto*), the other ‘extending from the Porta Fontinalis to the altar of Mars’ (*ab porta Fontinali ad Martis aram*) (§ 1.8 nos. 11, 12, 15, 16). The following year, seemingly in dialogue with the constructions of the Aemilii, the curule aediles constructed *porticus* for those involved in the timber trade, literally ‘among the timber merchants/carpenters’ (*inter lignarios*).⁴⁹ Aediles evidently took specific *uici* and trades into consideration. The construction of *porticus* in this area echoes the intentionality behind roads discussed in the previous chapter: viability.⁵⁰ Being colonnaded walkways, *porticus* allowed covered passage between various key areas of the city.⁵¹ The latter *porticus* provided cover for those walking between two of Rome’s most vibrant political spaces: the *comitium* and the Campus Martius. Speculatively, we might acknowledge the political symbolism of this gesture: the Aemilii were covering the route from the gate nearest the scene of their election to the aedileship, the Porta Fontinalis, to the Campus Martius, the space where the *comitia centuriata* would after just one year elect them together to the praetorship.

⁴⁶ On this explosion of activity: Davies 2017: 131-2. Location: Bernard 2018a: 131-2; *LTUR* 3.332-3 (Coarelli).

⁴⁷ Liv. 30.26.5.

⁴⁸ Liv. 35.10.11-12. Cf. Senseney 2002: 139-52.

⁴⁹ Liv. 35.41.9-10.

⁵⁰ See *infra* § 1.5.

⁵¹ Davies 2017: 131-2. Cf. Steinby 2012: 50-1 on utilitarian nature of these *porticus*.

It has been suggested that *porticus* were spaces from which aediles might distribute grain. Daguet-Gagey has highlighted the importance of *porticus* as ‘centres de stockage, de transactions commerciales ou financières et de distributions’.⁵² From this topographical association, she concludes that aediles must have presided over ‘distributions frumentaires’ which took place from the *porticus* themselves. These ‘tâches’ ultimately formed part of their ‘mission’. This explanation would neatly tie aediles’ concern for the topography of the wider area of the Forum Boarium and their *cura annonae*. Aediles are, after all, attested distributing or subsidizing grain.⁵³ And it may well be the case that aediles, on occasion, used this quarter of the city, and the *porticus* that they built, to distribute cheap grain. The *Tabula Heracleensis* makes explicit the aediles’ connection with *porticus*. The statute concerns the aediles’ capacity to ensure that public spaces are kept clear in ‘those public places or public porticoes which according to the laws are their responsibility’ (*quae loca publica porticusue <p>ublicae ... legibus procuratio est*).⁵⁴ Daguet-Gagey’s hypothesis is attractive because aediles distributed grain and oil to local neighbourhood organizations (*uici*), and *porticus* are plausible spaces from which *discriptiones* could take place.⁵⁵

Questions should be raised, however, over whether these *discriptiones* formed part of aediles’ regular ‘tâches’ in the marketplace. The *Tabula Heracleensis* only locates aediles’ *procuratio*; it tells us nothing about aediles’ administration of market affairs in the first century, let alone immediately following the Hannibalic War. Aediles’ occasional responsibility for food seems to derive more from private capacity than their role as state

⁵² Daguet-Gagey 2015: 474. Cf. De Ruggiero 1925: 58; Steinby 2012: 50-2 (at the behest of the senate).

⁵³ Liv. 25.2.8; 30.26.5-6; 33.42.8.

⁵⁴ *Tabula Heracleensis* ll. 68-70 = RS 1.24 (p. 365).

⁵⁵ Liv. 25.2.7 (*in uicos singulos dati*); 30.26.6 (*uicatum populo discripserunt*).

actors. They did not, as far as can be determined in these instances, receive public funds. It is clear from Livy's accounts is that these distributions were displays of generosity by aediles who already possessed enormous wealth and *gratia* from client-kingdoms, thanks to their own services or those of their ancestors. Family connections were critical.⁵⁶ An inscription from Larisa offers insight into the aedile's source of authority outside Rome. A certain Q. Caecilius Metellus, probably the eventual consul of 123 later surnamed Balearicus, approached the council at the Thessalian city, 'asking' (παροκαλῶν) them to send grain to Rome which was facing a 'shortage at the current time' (κατὰ τὸν παρόντα καιρὸν ἐν ἀφορῳίαι).⁵⁷ Foregrounded in the text are Metellus' family connections. Upon approaching the Larisan council (ἐπελθὼν ἐπὶ τὸ σ]υνέδριον), Metellus from the beginning 'reminded them of the past services provided by his ancestors' (ἀνενεώσατο τὰς γεγενημένας εὐεργεσίας ὑπ[ὸ τ]ῶν προγόνων), an evocation repeated four lines later.⁵⁸ This negotiation is recorded in the local idiom, reflecting local diplomatic discourse that may not narrowly reflect the political situation at Rome. But one notable point can be gleaned from the wording of the inscription. We get a fair reflection of how Metellus framed his argument in the speech he gave before the Larisan *sunedrion*: the evocation of his ancestors' service to the people of Larisa carried just as much, or perhaps greater, weight than his being a representative of the Roman state. It was their service to him personally and to his family that ensured that the negotiation was successful.⁵⁹

⁵⁶ Herz 1988: 40-1.

⁵⁷ SEG 34.558. Full text printed in Garnsey, Gallant, and Rathbone 1984: 36.

⁵⁸ His grandfather's (cos. 206) involvement in Thessalian politics in 185-4: Polyb. 22.11.3.

⁵⁹ Cf. Deniaux 1994: 248 (with 2016: 185) on these 'formes de l'attachement personnel' which stimulated these negotiations. Flaminius, for example, evidently benefited from his father's close relationship with Hieron II (Liv. 22.37.1-3).

C. Flaminius' distribution of grain in 196 makes for a compelling parallel. The Sicilians, Livy writes, transported grain to Rome as a mark of honour for Flaminius and his father.⁶⁰ In neither case do we get the suggestion that the aediles were acting under orders from the senate; they were acting on behalf of the senate and people of Rome, but seemingly not under their instructions. It is entirely possible, far from being 'sent to Thessaly in search of grain', that Metellus went on his own volition.⁶¹ These were fleeting discounts resulting from aediles flooding the market. They were not long-term, systemic solutions to food prices at Rome. Not every member of the elected Roman aristocracy could benefit from their reciprocal relationship with a grain-rich part of the Mediterranean.⁶² But it did happen. On three other recorded occasions in the late third century, aediles distributed grain at a discounted rate, even if Livy is unspecific about how or whether the aediles played a part in procuring the grain.⁶³ But supply of grain was hardly 'institutionalized' before the late second century: Paul Erdkamp has stressed that such arrangements by aediles were '*ad hoc*'.⁶⁴ The boundary between aedilician 'special initiative' and 'responsibility' is therefore blurred in market affairs.⁶⁵ Some well-connected individuals would interpret the position of 'market supervisor' or 'forum man' in different ways.

What is clear, however, is that aediles deliberately clustered many of their benefactions in commercial areas of the city. By the beginning of the second century, their activities echo those of censors by setting out on utilitarian projects from the proceeds of

⁶⁰ Liv. 33.42.8.

⁶¹ Garnsey, Gallant, and Rathbone 1984: 37. Cf. pp. 38-9 ('it is hard to believe that the aediles did not receive official instructions to go in search of grain'); Virlouvet 1985: 91-3, 107-11.

⁶² Compare, for example, Cicero's uniquely close bond with the Sicilians: Plut. *Cic.* 8.2.

⁶³ Liv. 30.26.5-6 (203); 31.4.6 (201); 31.50.1 (200).

⁶⁴ Erdkamp 2000: 68. Cf. Herz 1988: 40-3; Sirks 2002: 135; Lo Cascio 2017: 120.

⁶⁵ Patterson 2018: 280 ('Special initiatives'), 290 ('responsibility for maintaining an adequate food supply'). Cf. Geraci 2018: 219 ('in an occasional, rather than an institutional sense').

their prosecutions. Frontinus, for example, observed in his source material for the second century that aediles had 'the right to supply or sell water' (*ius dandae uendendaeue aquae*) during non-censorial years, which may reflect a broader trend of aediles doing censorial things in non-censorial years; and 'when there were no censors, this was under the discretion of the aediles' (*cum ei non erant, aedilium eam potestatem fuisse*).⁶⁶ Aediles, by constructing roads and repairing buildings, were engaging in a dialogue not just with the people but with other magistrates. For instance, an aedile named P. Barronius Barba, known only by his inscription, boasted of having repaired the steps in the area around the Tiber docks.⁶⁷ The date is unknown, but we do know that the censors of 174 constructed a stairway leading from Tiber to the *emporium*, which was clearly designed to enhance viability between the two spaces.⁶⁸ Barronius, playing the censor, was reminding traders of their debt to him who had made the route between *emporium* and fluvial port more serviceable.⁶⁹

This rationale brings us back to the previous chapter on roads. Aedilician projects tend to be concentrated at the confluence of Rome's main arterial routes. The area around the Porta Trigemina was the starting point of the both the *uia Ostiensis* and the *cliuus Publicius*, roads that we know had seen aedilician improvements in the third century.⁷⁰ The *uia Appia* extended from this point too, passing through the *uallis Murcia* in a south-easterly direction. The area immediately outside the Porta Trigemina was Rome's industrial hub, a

⁶⁶ Front. *Aq.* 2.95. Aedilician care for aqueducts, like the grain supply, was *ad hoc* (de Kleijn 2001: 58-9).

⁶⁷ *CIL* 6.31602 = *ILLRP* 437 = *ILS* 5562. Date: Le Gall 2005: 111 (late second century); *Term. Diocl.* 213 (first century).

⁶⁸ Liv. 41.27.8-9.

⁶⁹ Cf. Kunkel and Wittmann 1995: 490 on the 'Überschneidung' between censors and aediles.

⁷⁰ *Cliuus*: Liv. 27.37.15; Front. *Aq.* 2.5.

fluvial port where raw materials were shipped to and stored.⁷¹ Shops lined the main thoroughfare.⁷² Imported grain arrived in this area of the city.⁷³ Here casual workers could find employment from *saccarii* who carried goods for a daily fee.⁷⁴ By making improvements to the fabric of the city in these areas, aediles were consciously appealing to a core constituency among the urban population. We will explore this relationship further in two later chapters. Aediles would attempt to appeal to certain sectors of society with whom their magistracy brought them into close contact.⁷⁵ Through the messages conveyed by such transformation of urban space, aediles could leave a lasting imprint on the fabric of the city and develop social bonds with various members of the community who owed them a debt of *gratia*. But this relationship was complicated by the restrictive elements of the aedileship hinted at here with reference to aedilician edicts.⁷⁶ In the forum, aediles made friends and enemies.

An aedile who successfully appealed to these groups, however, would communicate the idea that he was a champion of *utilitas*, through his paving of roads and improvement of the built environment around Rome's *fora*. The following section ('Script') will examine how Roman aristocrats cultivated this political persona, of how they viewed the aedileship as an opportunity to portray themselves as champions of the crowd. The full extent of an aedile's role in the Roman forum is irrecoverable. This section has suggested that much of it was left up to the aedile's personal discretion. There was, by Plautus' day, a norm that located the aedile in the forum, pressuring him to prevent market abuses and

⁷¹ Étienne 1987: 236-8; Rice 2018: 202-4.

⁷² Ter. *Ad.* 583 with Gilula 1991: 246-7.

⁷³ Plin. *NH* 34.21

⁷⁴ Plaut. *Capt.* 90.

⁷⁵ See *infra* § 3.3.

⁷⁶ See *infra* § 3.4.

to improve the physical space in and around Rome's *fora*. How an aedile went about this was determined by his discretion, his *arbitratus*.

1.7 Conclusion: *Arbitratus*

This section has treated space as a medium of communication in itself. Aediles could exercise a significant degree of independence over how they utilized this space to communicate with their senatorial peers and the Roman people. I have provided a picture of aedilician topography at Rome that the evidence allows us to paint. The accident of survival, however, acts as a reminder of the difficulty of defining an aedile's precise topography: epigraphic evidence hints at just how diverse the topographical picture may be. The generality of aedilician attachment to *cura* for the material aspects of the *urbs* is suggested by two tantalizing inscriptions. They highlight the difficulties in tracing any coherent topographical patterns by magistrates whose role was determined by norms and not fixed rules, and by their individual or collective 'discretion' (*arbitratus*).

The first inscription mentions an anonymous curule aedile who let the contracts for an unknown something for the Roman citizens of the *municipium* of Velitrae (*aid(ilis) cur(ulis) Velitern(i)s locauit*) and later secured election to the plebeian aedileship so that he could officially approve it (*eisdem aid(ilis) pl(ebis) prob(auit)*).¹ This inscription, probably dating from the third century, first reminds us to be cautious when extrapolating trends about typical aedilician constructions based on literary evidence. But despite this inscription's apparent otherness (the curious progression from curule to plebeian aedile; its benefit for a limited group of Roman citizens), it may be closer to aedilician norms than it first appears. Silvio Panciera has argued that the inscription must have come from an urban setting at Rome itself, not Velitrae.² Its modern location (in the wall of a farmstead in Appio-

¹ *CIL* 6.1330 = *ILLRP* 1287.

² Panciera 1960: 3-8.

Pignatelli to the south-east of the modern capital) tells us nothing about its provenance. Likewise, 'plebeian' and 'curule' aedileships are rare outside Rome, and not attested at Velitrae. *Veliterns*, then, may well be a contraction of a plural dative noun (*Velitern(i)s* = 'for the people of Velitrae') and not the nominative adjective (*Veliternus*), since he is unlikely to have been a 'Veliternan curule aedile' who then became a plebeian aedile at Rome.³ (If the monument was erected at Velitrae, the adjective would seem altogether redundant.) The curious evocation of the people of a *municipium*, Panciera hypothesizes, may suggest that this construction was an early *statio municipiorum*.⁴ These *stationes*, which seemed to function as commercial or administrative centres for municipal elites transacting business with the Roman senate, were found according to some later evidence near the Volcanal and *tabernae* in the area of the forum.⁵ A reasonable hypothesis, then, is that the aedile made a gesture towards the people of Velitrae (who were Roman citizens) by making it easier for them to conduct their business at Rome.⁶ This inscription may therefore fit the broad pattern that this section has sought to identify. The *statio* may well have been found, if not in the forum, in a prominent location on the *uia Appia* between Rome and Velitrae. The specifics must be left to conjecture. We do not know for certain that this inscription came from a *statio*, and there are significant doubts about what *stationes* were actually used for: embassies for foreign towns (of which Velitrae was not one), cult sites, temples, or, more

³ Linguistic parallels: Liv. 27.10.13 (*locare* + dat.); Suet. *Ner.* 37.1.

⁴ Panciera 1960: 7-8.

⁵ Plin. *NH* 16.236; Suet. *Ner.* 37.1. Cf. Moretti 1958: 114-16; Richardson, Jr. 1992: 368; *LTUR* 4.350-2 (Lega). The exact location of *stationes* from the republican era is obscure, and they were possibly found 'alle porte della città, sulla via Appia, lungo la quale si svolgevano i commerci di Velletri con Roma' (Panciera 1960: 8 n. 1). But see Terpstra 2013: 130-7 with scepticism on whether *stationes* were all clustered in the forum.

⁶ Roman citizen status of Veliterni: Liv. 8.14.5-7 with Oakley 1998: 562-3. This may have been a reciprocal gesture towards the aedile's local Scaptian tribe at Velitrae, not dissimilar to Augustus' generosity towards the same tribe owing to his tribal affiliations (Suet. *Aug.* 40.2). Cf. Q. Cic. *Comm. Pet.* 18 on the importance of winning over *tribules sui*.

likely, 'economic institutions'.⁷ This aedile did something 'for the people of Velitrae' and memorialized it. It was possibly linked to their commercial interests in the city of Rome.

An inscription from the *pagus Montanus*, located just outside the Esquiline Gate to the east of the city, further complicates the picture (§ 1.8 no. 14). The preserved text is a *senatus consultum* that concerns an unidentified group, quite possibly *libitinarii*, or grave-diggers, who were ordered by the senate to 'care for and watch over these [areas] at the discretion of the plebeian aediles, whoever they might be' (*eisque [sc. locis recionibusue] curarent tu[erenturque ar]bitratu aedilium pleibeium [quei]comque essent*).⁸ Three key points can be taken from this inscription. First, we encounter the generality of aediles' oversight of physical space, of *loca publica*.⁹ Regulation of *loca* as diffuse as cemeteries and public land would fit into the broad definition of an aedile's *arbitratus*.¹⁰ With the help of intermediaries, plebeian aediles were to ensure that no *stercus* was dumped in the area around the *pagus*. The inscription gives important hints about how aedilician norms were established and developed. One could easily imagine various SC of this kind giving aediles, both plebeian and curule, oversight of various *loca publica*. The aedileship was something of a blank canvas onto which topographical matters could be painted, albeit 'at their discretion' (*arbitratu eius*).

⁷ Terpstra 2013: 130-47 (quoted at p. 147).

⁸ CIL 6.3823. Cf. Bodel 1994: 49; Kyle 1998: 166-7.

⁹ Parallel examples in Daguet-Gagey 2015: 401-2. See esp. CIL 6.31759 = ILS 5921 in which the curule aedile T. Septimius Severus grants someone 'parcels of land from this marker to the Tiber' (*areas a cippo ab (!) Tiberim*).

¹⁰ Bodel 1994: 49 argues that plebeian aediles feature because of their relationship with the *redemptores* (possibly *libinarii*) who were charged with the disposal of the bodies. Aedilician care for physical spaces (*loca*) also seems to be a factor.

Second, we should pay attention to the non-binding language that the senate directs at the aediles: oversight is left up to the aediles' 'discretion' (*arbitratus*).¹¹ The senate only serves to concretize the position of aediles as middlemen directing others' work in the city. We might assume, too, that aediles were the ones who would exact the fine against anyone who would use the place as a dumping ground (*[in ea] loca iecerit*) in the same way that aediles imposed fines on wealthy people encroaching on public land.¹² This inscription reminds us not to expect the aedileship to be some top-down creation, designed to fill an administrative need. It could only ever be the sum of its parts that it accrued over the centuries, based on contemporary notions of *cura urbis*. The *Tabula Heracleensis* leaves us with the same impression. Its language is far from binding or circumscriptive for the aediles (especially when we contrast it with the Greek world: ἀστυνόμοι are threatened with fines at Pergamon should they fail to perform their duty adequately).¹³ The aedile is expected to keep the streets clear 'at his discretion' (*arbitratu eius*), a phrase that recurs six times in the text. The aedile has flexibility as to how he exercises his *tutela* and *cura*. Their *arbitratus* obviously makes it difficult to define exactly what an aedile did. And this is precisely the point. Aediles' areas of influence were ill-defined and not easily definable in terms of duties. They were much easier to define in terms of topography: *procuratio locorum publicorum* or *cura urbis*.¹⁴

¹¹ Plaut. *Trin.* 990 demonstrates the extent to which this term was in common parlance. Cf. Daguet-Gagey 2015: 138-9 with a brief discussion of the recurrence of aedilician *arbitratus*.

¹² The specifications of the fine presumably appear in a lacuna before a reference to the 'seizing of property' (*[man]us iniectio*), the proceeds of which would also presumably end up in the aediles' treasury.

¹³ OGI 483 = SEG 13.521, ll. 67-8.

¹⁴ *Tabula Heracleensis* ll. 68-70 = RS 1.24 (p. 365); Cic. *Leg.* 3.7.

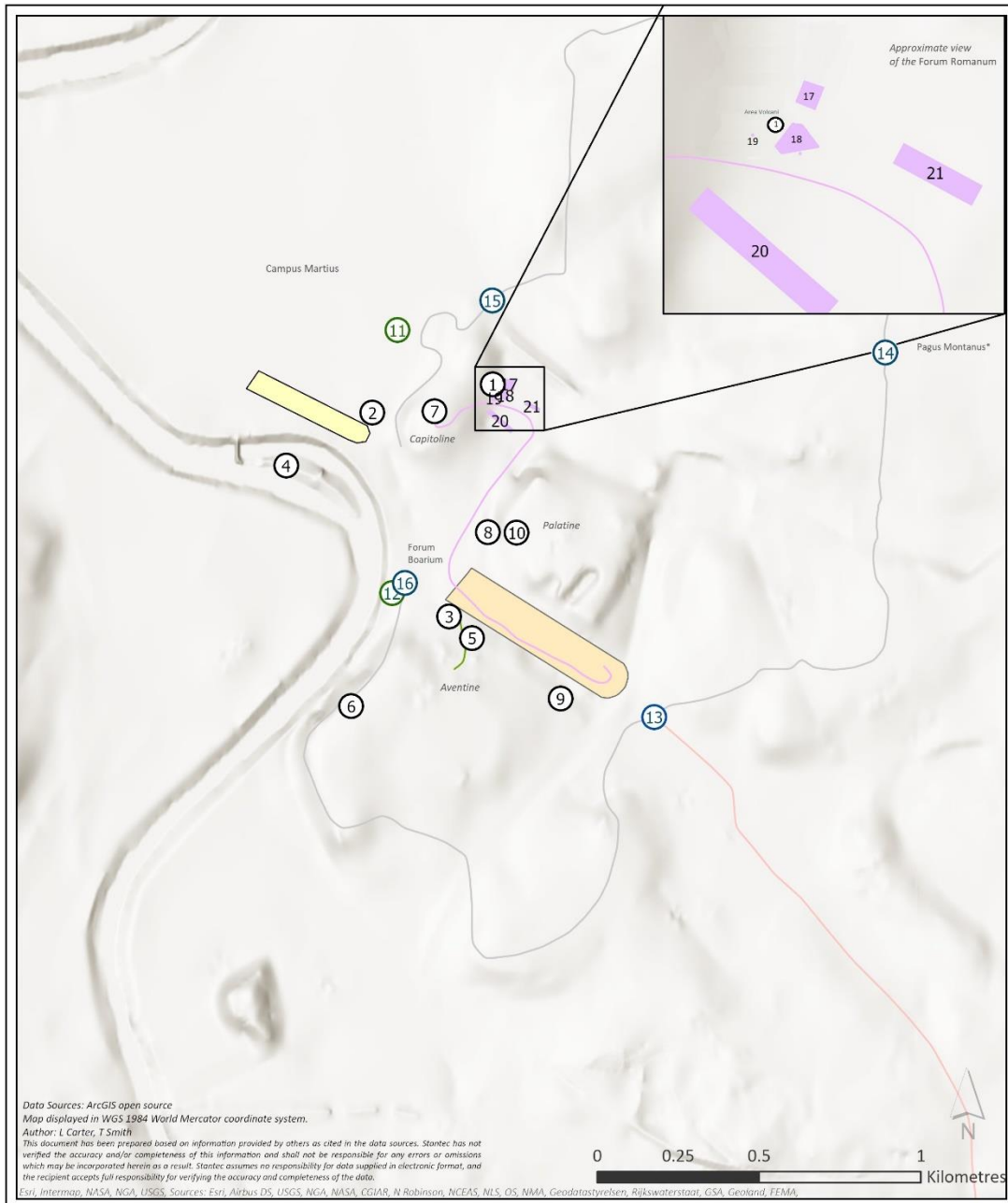
This section has therefore challenged the notion that aediles were circumscribed by a defined set of rules. There was pressure on an aedile to conform to the social and topographical norms associated with his office, but these standards were subject to change. The aedileship of Cn. Flavius, a recurring character in this section, is illustrative. Reacting to his radical actions, a law from 304 forbade the dedication of a temple ‘without the authorization of the senate or a majority of the tribunes’ (*iniussu senatus aut tribunorum plebei partis maioris*).¹⁵ Some consensus was needed for an aedile to dedicate a temple (six out of ten tribunes if the senate was unwilling), but the law is explicit that an aedile could indeed act *iniussu senatus*. There were, of course, some fixed aspects. *Cura ludorum* was a non-negotiable and time-consuming aspect of the aediles’ remit, but even then an aedile could exercise some creativity.¹⁶ By and large, aedilician conduct with regard to topography, and the language our sources use to describe it, reveal that aediles could present themselves as acting on their own volition. Aediles were not, unlike *minores magistratus*, ‘obliged to do whatever the senate decrees’ (*quodcumque senatus creuerit, agunto*).¹⁷ The following section explores this language further, examining the norms placed on aristocrats who were elected to the aedileship. Having set the scene, we will now investigate aedilician ideologies.

¹⁵ Liv. 9.46.7. Cic. *Dom.* 127, which has different terms (*iniussu plebis*), seems to refer to a later law (Rotondi 1912: 234-5).

¹⁶ Cf. Cic. *De or.* 1.57 for a hint of how time-consuming it was to *ludos facere*. If there were no aediles, a dictator may have to be nominated (Liv. 30.39.8). The break in tradition represented by the holding of gladiatorial contests instead of circus games at the *Cerialia* of 42 was deemed by Dio to be a precursor of disasters at Rome (47.40.5-7), although he does not record contemporary reactions to this innovation. The other example of misfortune was the holding of *feriae Latinae* by the *praefectus urbi feriarum Latinarum causa* (on which see Welch 1990: 53-5, 57-60; Pina Polo 2011: 30-5; Smith 2012: esp. 273), against which Dio was predisposed (46.33.4), so it is difficult to assess the contemporary concerns about the absence of consuls to hold the ceremony.

¹⁷ Cic. *Leg.* 3.6. As Dyck remarks (2004: 438-9), this phrase structurally distinguishes minor magistrates from aediles.

1.8 Map displaying aedilician spaces in republican Rome



Aedilician spaces in republican Rome

Temple and shrines

- ① Shrine of Concordia*
- ② Temple of Apollo Medicus
- ③ Temple of Ceres, Liber, and Libera*
- ④ Temple of Faunus
- ⑤ Temple of Flora*
- ⑥ Temple of Jupiter Libertas*
- ⑦ Temple of Jupiter Optimus Maximus
- ⑧ Temple of Magna Mater
- ⑨ Temple of Venus Obsequens*
- ⑩ Temple of Victoria

Porticoes

- ⑪ Porticus extra portam Fontinalem*
- ⑫ Porticus extra portam Trigeminam*

Portae

- ⑬ Porta Capena
- ⑭ Porta Esquilina
- ⑮ Porta Fontinalis
- ⑯ Porta Trigemina

Other

- Columna Maenia (19)
- Curia Hostilia (17)

- Rostra and Comitium (18)

- Tabernae nouae (21)*
- Tabernae ueteres (20)

Viae

- Clius Publicius*
- Pompa Circensis
- Via Appia
- Circus Maximus
- Circus Flaminius

* Location disputed. Map follows Davies 2017.

2. SCRIPT

2.0 Introduction

This section examines language: the rhetoric used by aediles; and the rhetoric used by the Roman aristocracy to describe aediles. It investigates whether there is something consistent and distinctive about the way the aedileship was conceptualized by the aristocracy. Were there norms and ideals embedded in the aedileship that encouraged its holders to assume a certain public persona in their interactions with the people? This section builds on the hypothesis, made by the editors of the 2018 collection titled *Institutions and Ideology in Republican Rome*, according to which 'Roman politics operated in the ways that it did because of its institutional framework in combination with the beliefs and aspirations that framed the political debate'.¹ Central to their contention is the office of the tribunate, with which were associated 'a distinctive and identifiable kind of politics which promoted the interests of plebeians'. The tribunate as an institution carried with it an enormous amount of ideological baggage, accumulated over the centuries, resulting in an anticipated and normative mode of conduct with the people and their peers. This section shifts this focus to the aedileship, asking what was 'distinctive and identifiable' about its ideologies, and whether there were certain distinguishable 'beliefs and aspirations' associated with it, at least in the snapshot of aristocratic discourse preserved, largely, in Cicero's works.

Ayelet Haimson Lushkov has likewise adopted a literary approach to Roman magistracies. She discusses the ways in which Roman 'magistracy' can be represented in

¹ Steel, Gray, and van der Blom 2018: 3-4.

Roman historical writing, moving away from the constitutional and prosopographical focus that generally pervades the study of Rome's political offices. Her novel approach analyses 'the literary techniques through which politics is depicted', arguing that their 'formal and rhetorical mannerisms give important structure to the representation of magistracy in historiographical terms'.² She argues that first-century conceptions of 'magistracy' have a profound impact on Romans' understanding of their past. But one tantalizing gap in her excellent study is her treatment of the Roman notion of 'magistracy' in the singular. Though three of her key Livian examples discuss aedilician elections, she limits her conclusions to describing these 'elections as a locus and mechanism for generating images of magistracy' (singular).³ The three aedilician election narratives involving Q. Fabius Maximus Rullianus, Scipio Africanus, and Q. Fulvius Flaccus are taken as axiomatic of elections in general. But I suggest that each magistracy, even *in petitione*, was frequently expressed in its own distinct terms, and should thus be considered independently. In both historiography and oratory, elections for the aedileship serve a particular literary purpose embedded in the norms associated with the office. This section seeks to identify these norms as they are constructed in the literary record.

This section is divided into three chapters. The first discusses aedilician rhetoric, attempting to identify the arguments that aediles tended to make. Inasmuch as it can be reconstructed from the limited evidence, aediles' contional rhetoric, much of which would have been deployed during the *anquisitiones* of trials, tended to resort to recurring moralistic images of inequity caused by the greed of usurers and graziers. Aediles, as state prosecutors, were compelled to make the case to the people that prosecuting these

² Haimson Lushkov 2015: 9.

³ Haimson Lushkov 2015: 128-69 (quoted at p. 131).

individuals was necessary for their personal wellbeing and for the good of the republic. The *iudicium publicum* offered the aediles an opportunity to present themselves as *uindices uolgi*, champions of the crowd. Election to the aedileship therefore offered its holders an opportunity to assume a public, distinctively aedilician, persona for a year by communicating to the people directly with *contiones*.

The second chapter discusses the language with which Cicero describes the aedileship in his oratory. His elaborations, I argue, evoke distinctive signs associated with the magistracy that were meaningful and persuasive for his audience. What emerges from the speeches where the aedileship features most prominently (*In Verrem*, *Pro Plancio*, *De Haruspicum Responso*, and *De Domo Sua*) is an idealized impression: aediles have moral and religious duties to perform, and they are indebted to the Roman people whose *beneficium* they are obliged to reciprocate. Roman oratory does not necessarily represent the reality behind Rome's political institutions, nor does the perspective of Cicero represent the prevailing elite opinion of one political office. His focus is in constructing a persuasive argument, usually in order to convince the jury to convict or acquit his client.

Persuasiveness is critical. Though the respective contexts of each of Cicero's speeches vary, every time he makes the rhetorical decision to expatiate on a given political office he must present it in a manner that is both comprehensible and cogent to his audience, both jury and the inevitable *corona* of people in attendance, with the latter's vocal opinion having an influence on the decisions of the former.⁴ When describing any political office, then, the orator must adapt his argument to ensure both its persuasiveness for the

⁴ See esp. Cic. *Brut.* 290 (on the *corona multiplex*) and *De or.* 2.338 (on the influence of the *multitudo*) with Millar 1998: 217-18; May 2002: 55-9; Rosillo-López 2017c: 106-19. Visibility and publicness of trials: Bablitz 2007: 13-50, 120-40; 2018: 533-6.

intended audience and its appropriateness to the context. Reading through Cicero's hyperbole, we can see that the ideas and language that he associates with the aedileship reveal distinctive aristocratic virtues. This is not to say that the language Cicero uses is unique to the aedileship: his expressions can often enough apply to any idealized political office. But much of his rhetoric builds a consistent and distinctive image, evocative of the most memorable aspects of the office: the games, the display, and the abstract notion of the duties that they were normatively expected to undertake on behalf of the republic.

Third, I discuss the depiction of the aedileship in Cicero's writing, especially in *De Officiis*. This text is frequently used as sociological evidence for Rome's gift-giving culture, and *prima facie* seems to complement the picture that he develops in his oratory. But *De Officiis* must be read with several caveats. Cicero's conception of ideal *liberalitas* that features so prominently in the treatise cannot be said to represent widespread social attitudes. Unlike in his forensic oratory, Cicero was not compelled to make persuasive arguments for the crowd. Whereas his oratory often describes ideal aedilician behaviour, his philosophy prescribes it. *De Officiis*, then, reacts against the distortions of *liberalitas* in the 40s of which he so disapproved. The aedileship forms a key part of his treatise: it is an office whose evolution exemplifies the decline in republican values as he sees it. A stepping-stone it may be in some of his written works, as in his brief treatment in *De Legibus*, but in *De Officiis*, a product of the political perturbations of the mid-40s, it becomes a symbol of (the loss of) an aristocratic ideal. However, reading through his moralizing, I argue that Cicero is reflecting one aristocratic view of the *utilitas* of the aedileship, not necessarily as a means of winning higher office as suggested in *De Legibus*, but as a way of developing and maintaining one's public image, one's *existimatio*, before the people.

This section has two main objectives. First, it provides an avenue for looking at elite attitudes to, and understandings of, a Roman political institution. Magistracy was not always described in generic terms. The exigencies of the aedileship made it susceptible to certain rhetorical configurations. This chapter also forms the groundwork towards answering wider questions about the role of the aedile in society, which will be explored further in the final section. What follows, then, is a literary exploration of the aedileship as a starting point for an investigation into its social history. The intention here is to develop a picture of aristocratic ideals (that is, what some aristocrats say about how they think aediles should act and interact) before developing this thesis further in the final section ('Audience and Cast') by discussing aedilician interactions with the Roman people in greater detail.

2.1 Talking like an aedile

Aediles made speeches.¹ Their *contiones* are attested far less frequently than those of tribunes, but they nevertheless formed an integral part of the construction of aedilician personae. *Iudicia publica* overseen by aediles are attested throughout the republic, especially in the third and second centuries.² They prosecuted people for a range of crimes, especially pertaining to usury and excessive occupation of *ager publicus*. This chapter analyses the language used by authors, mostly writing long after the fact, to describe these prosecutions. I suggest that this language may reflect the rhetoric that aediles employed *in contione*. At the very least, the aedileship could offer its holders a platform from which to project ideas and with which to craft their political persona by constructing a moralistic narrative.

As recent studies have shown, Roman public oratory had moralism at its heart. A *contio* was, as Robert Morstein-Marx has shown, ‘a competition for public trust in an image of moral worth’.³ The speaker in the *contio* could project a kind of ‘contional ideology’, one in which *certamina* played out between individuals, ‘essentially revolving around the question [of] who was the true and who was the false Friend of the People’.⁴ Vital to engendering this trust was the cultivation of an impression of consensus.⁵ The speech is constructed to unite. As Joy Connolly has argued, through moralistic rhetoric, a speech ‘magnifies [...] the moral authority of each listening citizen’, creating ‘a shared intimacy of moral agreement that grants the people a sense of participation and empowerment’.⁶

¹ Cf. Fest. 38L and Gell. 13.16.1-3 (with Pina Polo 1995: 204-6) on *potestas contionandi*.

² See *supra* § 1.3.

³ Morstein-Marx 2004: 275-6.

⁴ Morstein-Marx 2004: 242.

⁵ Flaig 2003: 184-201; 2017: 517-34; Tan 2008: 179-80, 187.

⁶ Connolly 2007: 56-65 (quoted at p. 60)

'Moral agreement' thus serves to 'bind the community together', compensating for the transparent inequality between speaker and audience.⁷ Crucial to maintaining this impression, especially in *contiones* preceding public votes in tribes, is presenting the people as being equally capable of passing moral judgment: 'we' all think in a certain way against a morally bankrupt 'them'. More generally, a *contio* offered a Roman statesman the chance to write a narrative around his year of office and his developing political career. An aedile might find an opportunity 'to carve out for himself his own contional personality', as Amy Russell has argued in the case of late-republican tribunes.⁸ This chapter locates aedilician oratory within this established moral framework. Aediles, too, could take advantage of their political office to create a distinctive contional personality.

The paucity of the evidence presents some hurdles. Text preserved or paraphrased by later writers may not accurately reflect contemporary rhetoric. The problem is particularly acute in interpreting Livian evidence. In 211, for example, a tribune called C. Sempronius Blaesus prosecuted the praetorian Cn. Fulvius Flaccus following a calamitous defeat by Hannibal. Livy quotes the invective that Blaesus delivered against Fulvius during the first *anquisitio*, which might be taken as evidence of the rhetoric that prosecutors delivered *in contionibus* in the late third century. Fulvius' *temeritas* and the moral *uitia* that he passed on to his soldiers were cited as sufficient reason for conviction. The moralizing rhetoric is such that the nature of Fulvius' original crime is unclear in Livy.⁹ We may gain insight here into the rhetorical strategies, and invective, that tribunes might employ to

⁷ Connolly 2007: 64.

⁸ Russell 2013: 101-16.

⁹ Scullard 1951: 64 n. 1 rejects Livy's implication that military defeat was the reason, suggesting *perduellio* was the original charge; Livy holds that the charge was changed to *perduellio* at the third *anquisitio* (26.3.5-9).

convince the people to prosecute an unsuccessful general. Their rhetoric hints at the regularity of moralistic language deployed against the *reus* by the *accusator*.

Livy, however, was not quoting historical speeches verbatim. Tribunician speeches of the earlier republic in Livy tend to reflect post-Gracchan discourse.¹⁰ The talking points of Livy's *popularis* tribunes tend to reinforce a linear notion of 'répétition moderne de problèmes anciens'. Speeches in general are useful for understanding an author's attitude towards a historical issue, but are consequently pale reflections of contemporary discourse.¹¹ Blaesus was alleged to have cited Fulvius' immoral youth before the people to support his argument, claiming that, should Fulvius be reprieved, 'he would spend his retirement years in seedy inns and whorehouses, where he spent his youth' (*eum in ganea lustrisque ubi iuventam egerit senectutem acturum*).¹² This *locus* resembles those attested in first-century invective: Cicero would similarly slander Antony's youth in the second *Philippic*.¹³ But accusations of sexual misconduct have precedent in second-century invective.¹⁴ At the very least, then, Livy was attempting to reconstruct talking points that would be not just poignant to his contemporary readers, but believable in their historical context.¹⁵ The problem is just as acute in Livy's paraphrase of aedilician prosecutions.

¹⁰ Martin 2007: 189-90. Speeches in general in Livy: Forsythe 1999: 74-86. Their use by Livy as a tool for historical interpretation: Chaplin 2000: 50-72. Characterization of tribunes: Vasaly 2015: 113-16.

¹¹ Pellam 2014a: 288-9 with n. 34.

¹² Liv. 26.2.15.

¹³ Cf. Cic. *Phil.* 2.69: 'in Antony's home there are brothels instead of bedrooms, seedy inns instead of dining rooms' (*huius in sedibus pro cubiculis stabula, pro conclauibus popinae [tricliniis] sunt*). Cf. Craig 2004: 190-2 on conventional invective *loci* in the late republic, which bear some relation to Livian material.

¹⁴ Merrill 1975: 55-65. See in particular Cato's *acerba oratio* delivered as censor against L. Quinctius Flamininus, in which the latter's sexual depravity (*libido*) and cruelty (*crudelitas*) are foregrounded (Liv. 39.42.6-43.5). On pre-Ciceronian invective: Koster 1980: 97-112.

¹⁵ Cf. Smith's optimistic view (2010: 265-9) of fourth-century oratory in Livy: he 'inherited from his predecessors ... elements of key speeches, which were preserved ... because they carried an argument which was seen as important and worthy of record' (p. 279).

Indeed, aedilician speeches are almost never quoted. His moralistic language may just as easily reflect first-century preoccupations as contemporary rhetoric. What I would like to argue tentatively, however, is that there are themes associated with aedilician rhetoric, from Plautus to Livy, which might suggest some consistency. A full linguistic analysis is not possible. This chapter focuses less on the specifics of what aediles say than on how they present their ideas before the people.

There is a second and related problem. Aediles' contional personae are obscure due to our sources' (especially Livy's) clear preference for recording (or adapting) tribunes' speeches in *iudicia publica*.¹⁶ Capital trials make for greater drama; tribunes are susceptible to being cast as demagogues *par excellence*. We know that aediles must have made speeches at *contiones*, given the frequency of aedilician prosecutions attested in the literary record, but the precise details usually go unrecorded even in the stylized form in which Livy presents his speeches.¹⁷ An aedileship might offer a chance to develop one's reputation as an orator. Caesar Strabo was famous for speaking 'daily' (*cotidie*) before the people in *contiones* as curule aedile.¹⁸ But Cicero may well be remarking on him for his exceptionality.¹⁹ The imperfect historical record can, therefore, force us to resort to generalizations about aedilician rhetoric. Clodius' use of the *anquisitiones* during his curule aedileship before the trial against Milo to chastise Pompey illustrates the problem.²⁰ His

¹⁶ List of tribunician trials to 287 in Ridley 1980: 347-51.

¹⁷ Pina Polo 1989: 48 sees the lack of explicit evidence for aedilician *contiones* as evidence of their 'poder mucho más limitado', but he omits trials from before the first century where *contiones* are implicit. The only explicit examples of aedilician *contiones* are those delivered by C. Iulius Caesar Strabo Vopiscus in 90 (Cic. *Brut.* 305), Clodius in 56 (Cic. *Har.* 8, 9, 26, 37, 51, 55; *QFr.* 2.3.2-4; *Vat.* 40; [Metellus Nepos] *Fam.* 5.3.1; Cass. Dio 39.29.1-2), and Caelius Rufus in 50 (Front. *Aq.* 2.75-6; Cic. *Fam.* 8.6.4).

¹⁸ Cic. *Brut.* 305.

¹⁹ Santangelo (forthcoming).

²⁰ Clodius' *contiones* took place during his aedilician prosecution of Milo (Hiebel 2009: 238-43, *contra* Gruen 1974: 288-9; Garofalo 1989: 107).

rhetoric, to be sure, is tailored to the political conditions of 56. There is little ‘aedilician’ about what he says or how he operates (just as there was little distinctly ‘tribunician’ about Blaesus’ bluster), except that his election gave him a platform from which to speak before the people and ‘his guys’ (*suos*) and attack his political enemies.²¹ His approach to the aedileship seems to fall within constitutional norms, but his methods were unconventional and (to Cicero and Pompey) odious. But he does show that whipping up the crowd was possible during the *anquisitiones* before an aedilician *iudicium publicum*. As James Tan has shown, Clodius manipulated the *contio* by undermining the social boundaries between himself and his audience, with the effect of ‘brokering ... a unity with the audience’, who would oppose *contio* speeches delivered by other magistrates.²² With his ‘self-selecting’ (Cicero would say ‘hired’) audience, he could create a semblance of consensus.²³ But, far from being unique, Clodius ‘shows us what *could* be done, and what on occasion most definitely was done’.²⁴ We might realistically imagine the curule aediles of 189, in their successful attempt to prosecute grain traders for hoarding their supplies, posing the question to the people, as Clodius did during his aedileship of 56, *quis esset qui plebem fame necaret?*, anticipating the response *illi frumentarii!*²⁵ But imagine we must.

So let us attempt to tease out what trends can be identified in the language associated with aediles of the third and second centuries. The tone would be set by the

²¹ Cic. *QFr.* 2.3.2. Cass. Dio 39.19.2 writes that Milo’s prosecution was a pretext to humiliate Pompey, literally ‘to have Pompey prosecuted without a defence’ (αὐτὸν μὴδ’ ἀπολογούμενον ἀλίσκεσθαι) in the court of public opinion. By April, Clodius was seemingly attempting to win *reconciliatio* with Pompey in subsequent aedilician *contiones* (Cic. *Har.* 51).

²² Tan 2013: esp. 128-30 (quoted at p. 119).

²³ Morstein-Marx 2004: 130-6.

²⁴ Tan 2013: 120 (T.’s emphasis).

²⁵ Liv. 38.35.6. While Clodius blamed the food shortage at Rome in the mid-50s on Pompey, Cicero publicly blamed *avaritia uenditorum* and hoarders (*Dom.* 11).

publication and announcement of edicts *in contionem cum magistratum inieris*.²⁶ The curule aediles might, through such *contiones*, represent themselves as champions of restraint by restricting certain excessive activities, such as lavish spending at funerals.²⁷ Upon assuming office, they had a captive audience, being determined to punish those who were (thought to be) contributing to Rome's social, economic, and therefore moral ills.²⁸ The only contemporary glimpse we have of mid-republican rhetoric against such criminals comes from Plautus. In *Menaechmi*, the first Menaechmus complains about the custom compelling him to defend clients 'who have no care whatsoever for the laws or for what is right and just' (*qui nec leges neque aequom bonum usquam colunt*).²⁹ And so he must grudgingly defend his client, a *faenerator*, despite his bitter awareness of the latter's flagrant *rapacitas* and *fraudentia*.³⁰ He 'spoke before the aediles in defence of his [client's] many misdeeds' (*apud aedilis pro eius factis plurumisque pessumisque / dixi causam*). Unable to secure a *condicio* because of his client's manifest guilt (*nec magis manifestum ego hominem umquam teneri / uidi*), and because three witnesses proved his guilt 'in all manner of evil deeds' (*omnibus male factis*), Menaechmus lamented that he was defending a lost cause.

Plautus provides a glimpse not only of everyday goings-on in the mid-republican forum, but also a taste of aedilician rhetoric. In this rhetoric, there is a fine line between *faenus* and *pe(r)iurium*. In both the real and the political theatre, '[m]oney-men are the

²⁶ Cic. *Fin.* 2.74. Asc. 59C implies that the legal requirement to adhere to one's own praetorian edict was not always in place. Cf. in general Kunkel and Wittmann 1995: 177-86.

²⁷ Cic. *Phil.* 9.17; *Ov. Fast.* 6.663-4. The tension between permissiveness and restrictiveness inherent in the aedileship is explored below (§ 3.4).

²⁸ Hiebel 2009: 227-31. On the economic cha(lle)nges facing Rome in the fourth century, which may have formed the basis of aedilician subject matter, see Zehnacker 1980: 359-62; Coarelli 1985: 102-4; Oakley 1997: 659-61.

²⁹ Plaut. *Men.* 580. Cf. Moore 1998: 27-8: Menaechmus' complaints are to be read as ironic given his own indiscretions and his insincere reasons for contemning his client.

³⁰ Plaut. *Men.* 583-4.

enemy'.³¹ Their *fraudentia* is synonymous with their profession, a stereotype with which Plautus' audience would be expected to agree. Menaechmus seems to be echoing contemporary and conventional rhetoric against moneylenders in Rome of the third century. The Choragus of Plautus' *Curculio* suggests that men dismissed as *periuri homines* were a stereotypical sight in the *comitium* (whether voting, being elected, or being prosecuted, it is unclear): 'he who wishes to meet up with a fraudulent man: head over to the *comitium*' (*qui periurum conuenire uolt hominem ito in comitium*).³² The language is generic: *periurium* is a common insult in Plautus' plays.

In the same play, however, *Curculio* attacks *faeneratores* with language suggestive of contemporary public and judicial rhetoric against usurers.³³ *Faeneratores* like Lyco, he wails, 'tear people apart with their interest rates' (*uos faenori ... lacerant homines*).³⁴ The speech gains contemporary importance with *Curculio*'s next line: 'the people have enacted heaps of laws because of you lot, laws that you lot broke straight after they were made' (*rogationes plurimas propter uos populus sciuit / quas uos rogatas rumpitis*). The parallels drawn between usurers and thieves must have been current: Cato, himself a plebeian aedile in 199, would remark later in his career 'how much more worthless a citizen our ancestors considered usurers than thieves' (*quanto peiorem civem existimarint feneratorum quam furem*).³⁵ Language critical of usurers, here addressed bluntly in the second person (*propter uos*),

³¹ Richlin 2017: 192-3. Cf. Mrozek 2001: 61-2 on later hostile representations of *faeneratores*.

³² Plaut. *Curc.* 470. Similar complaints are made by C. Titius in his oration supporting the *lex Fannia* of c. 161, in which *iudices* of civil cases are dismissed as lazy drunks (Macrob. 3.16.15-16). Cf. Rosivach 2006: 8-11; Cavarzere 2018: 153-70.

³³ Plaut. *Curc.* 506-11. Cf. Gruen 1990: 147 ('The lines almost certainly have contemporary resonance'). Breadth of activities conducted by *faeneratores*: Verboven 2008.

³⁴ Plaut. *Curc.* 508.

³⁵ Cat. *Agr. praef.* 1-2. Cato's aedilician oratory is not directly attested. At some point in his career, he apparently made a speech arguing that plebeian aediles enjoyed *sacrosanctitas* comparable to that of tribunes (ORF fr. 219 = Fest. 422L). As Astin (1978: 19-20) points out, however, there is no secure evidence to place this oration in 199 specifically.

resonated with both the popular audience, many of whom would be debtors, and the members of the aristocracy who (publicly) shunned such grubby financial activities. Usurers were rhetorically treated with the same contempt as common criminals. *Curculio*'s recollection of contemporary *rogitationes* would also echo periodic attempts by aediles, the very aediles who had funded *Curculio*, to repress such activities.³⁶ Indeed, the traditional dating of the first staging of the play (193) depends precisely on this passage, since Livy mentions *multa iudicia* against *faeneratores* convoked by the curule aediles of the following year.³⁷ Earlier in the year, a *lex Sempronia* had been passed 'because the community was oppressed by debt' (*quod ciuitas faenore laborabat*).³⁸ The people had done their bit, passing the laws; but *faeneratores* always found some 'loophole' in the legislation (*aliquam ... rimam*),³⁹ a slight dig perhaps at the aediles' enforcement of the people's laws. Usurers had behaved as if they were above the law, 'as if scalding water were cold' (*quasi aquam feruentem frigidam esse*).⁴⁰ Playwrights like Plautus reinforced this rhetoric against *faeneratores*, perhaps reflecting public pressure on the aediles present in the audience to act on the people's *rogitationes*. The way Plautus frames the status quo, not all aediles were willing to take up lengthy prosecutions against *faeneratores*, despite their financial lucrateness. The curule aediles of the following year would seemingly take the bait, willing to punish *faeneratores* 'harshly' (*seuere*) for their transgressions and ostentatiously

³⁶ Cf. Gellar-Goad 2021: 16, 102, 135.

³⁷ Liv. 35.41.9-10. Cf. Paratore 1958: 5-10 (summary of earlier scholarship); Slater 1987: 264-9 (esp. p. 269: 'Plautus included these elements in his plays precisely because they would play to a broad segment of his audience').

³⁸ Liv. 35.7.2.

³⁹ Plaut. *Curc.* 510. Liv. 35.7.2 describes one way of evading the law (a *uia fraudis*), where the loans were transferred to *socii* who were not subject to the same rules. Cf. Kay 2014: 113-24 on the economic realities described in *Curculio* and Livy.

⁴⁰ Plaut. *Curc.* 511.

pursuing the cause of ‘debtors [who] had been overwhelmed by excessive lending rates’ (*libero faenore obruebantur debitores*).⁴¹ The frequency of Livy’s notices of aedilician trials in against *faeneratores* is telling. Contemporary playwrights recognized that the aediles, their patrons no less, were the primary instigators of lawsuits against *faeneratores*. By defending his client’s *facta plurumaque pessumaque apud aedilis*, Menaechmus implicitly reveals the kind of rhetoric that his client’s opponents might employ.

The patchy evidence offers some glimpses into the methods used by an aedile to convince the people to convict. He may resort to theatrics from the *rostra*. Witnesses could be called. One aedile summoned forth a victim as *testis* to appeal to the emotions of the audience: the sight of the tearful son of M. Claudius Marcellus, brought before the people in the trial, was apparently sufficient cause for the people to convict the accused of *stuprum* against the youth.⁴² A. Hostilius Mancinus, meanwhile, presented himself as the victim in his *contio*. In his appeals to the people to prosecute the sex-worker Manilia for her alleged assault against the aedile himself, ‘he displayed his injury from that stone’ that had struck him for all to see (*uulnusque ex eo lapide ostendebat*).⁴³ His attempts seemed to backfire: not only were the tribunes united in declaring the illegitimacy of the trial, but his technique later left him open to ridicule instead of pity.⁴⁴ In hindsight, his theatrics appear as a feeble

⁴¹ Liv. 35.7.2. Livy, whether from his own or his sources’ judgement, deems that some penalties were ‘harsh’ (7.28.9: *iudicia ... tristia*; 35.41.9: *iudicia ... multa seure sunt facta*). Cf. Poma 1989: 69 on the language used by Livy to describe *faeneratores*.

⁴² Plut. *Marc.* 2.4. Val. Max. 6.1.7 offers a slightly different story, writing that the boy’s *uerecundum silentium* won the day.

⁴³ Gell. 4.14.3. Cf. Polyb. 36.14.2: so the story goes, it was a wonder that he even survived (ὥστε θαυμαστόν εἶναι πῶς ἐσώθη)!

⁴⁴ Cato’s subsequent mockery of Mancinus’ disfigurement: Liv. *Per.* 50; Plut. *Cat. Mai.* 9.1; App. *Mith.* 6.20.

imitation of battle-hardened orators displaying their war-wounds *in contione*.⁴⁵ Similarly, excessive 'aggressiveness of speech' (*uiolentia dicti*) by an aedile against the accused was said once to have driven the people to acquit, having previously been disposed to convict.⁴⁶ There were evidently limits to the people's tolerance of the aediles' antagonistic contional personae.

Accusations of greed or excess were seemingly a common refrain in these trials, which is unsurprising given that aedilician prosecutions tend to gravitate towards excesses of various kinds, financial or sexual. Moralistic language against such vices as *immodica cupiditas* or *licentia* recurs in our imperial sources, a faint reflection of the sort of moral picture that aediles would paint *in contione* against greedy *pecuarii* and *faeneratores* who, according to their rhetoric, were hoarding wealth and land at the expense of an impoverished people.⁴⁷ Columella's vexation at C. Licinius Stolo's excessive ownership of land (*immodica possidendi libido*) may reflect this rhetoric against greed.⁴⁸ Stolo and his tribunician colleague, when creating the law to which Stolo fell victim, are said to have 'argued' (*adfirmabant*) 'that there would be no end to the patricians' tendency to hoard land

⁴⁵ See in particular the consular M. Servilius Galba's display of his wounds to convince the people to restore Aemilius his triumph (Liv. 45.39.17). Cf. Leigh 1995: 196-207 on the virtues associated with publicly displaying wounds.

⁴⁶ Val. Max. 8.1 *absol.* 7. The aedile's remark is dramatically (and unrealistically) placed by Valerius at the cusp of the *reus*' conviction after fourteen tribes had already voted. Presumably, his remarks during the *anquisitiones* had already advertised his *uiolentia*. Cf. Liv. 8.22.3-4.

⁴⁷ Liv. 10.13.14; Ov. *Fast.* 5.287.

⁴⁸ Col. 1.3.11. Since Livy (6.37.2) refers baldly to *ager*, it is debated whether this land was public and/or private. Rathbone 2003: 146-7 thinks that the prosecutions pertain exclusively to ownership of private land. Rich 2008: 543-60 and Roselaar 2010: 106 have persuasively argued that 'the limit concerned the possession of both private and public land' (Roselaar here quoted). On prosecutions of *pecuarii*, Roselaar sits on the fence: 'we cannot be sure that they were fined because they had grazed more animals than was allowed on *ager publicus*' (p. 111). Cf. Skydsgaard 1974: 19; Botteri 1977: 317; *contra* Tibiletti 1948: 228 (with 1949: *passim*), who hypothesizes *publicani* as the accused. Ovid (*Fast.* 5.284) was certainly under the impression that *pecuarii* were at fault for grazing their cattle on *ager publicus* (= *sua publica*).

or massacre the *plebs* with usury' (*nec agros occupandi modum nec fenore trucidandi plebem alium patribus unquam fore*).⁴⁹ In their rhetoric, illegal *occupatio* and *faenus* are treated as synecdoches, two key parts of a whole that was driving the plebeian order into poverty. This moralistic discourse reflects, if not precise aedilician language (Livy's speakers are tribunes after all), how Livy imagined that debates around *agri occupatio* and *faenus* unfolded. These excesses resulted in *trucidatio plebis*, rhetoric that echoes the accusations of the aedile Clodius that Pompey, then *curator annonae*, was responsible for *nex plebis*.⁵⁰ Stolo's opponents, chief among whom may have been an aedile, would accuse him of his 'unreasonable desire' (*immodica libido*) for more than his fair share of land.⁵¹ Stolo, so the literary tradition contends, was prosecuted for the very crime that he had forbidden as tribune, found guilty of possessing more land than the legal limit of 50 (?) *iugera* that he had implemented.⁵²

The language is sometimes moralizing to the extent that the specific nature of the prosecution was uncertain even to ancient authorities.⁵³ Gellius read in Ateius Capito's *De iudiciis publicis* that in 246 Claudia, the sister of the Claudius who lost his fleet at Drepana, was prosecuted 'on account of the woman's so wicked and non-citizenly remarks' (*ob haec mulieris uerba tam improba ac tam inciuilia*). Gellius supplies moralistic, not legalistic, phrasing that, though obscuring the specific nature of the charge itself, may hint at the aediles'

⁴⁹ Liv. 6.37.2.

⁵⁰ Cic. *QFr.* 2.3.2.

⁵¹ See *supra* § 1.4 on debate about Laenas' magistracy.

⁵² Other sources more plausibly supply 500 *iugera* as the limit: Rich 2020: 166.

⁵³ Connolly 2007: 64 argues that this was by design: framing disputes as a 'choice between virtue and vice' allows the audience to resort to 'traditional beliefs and opinions about morals, instead of weighing evidence'.

conditional rhetoric.⁵⁴ We do not know what specific crime Claudia was found guilty of. While Suetonius thought that Claudia was guilty of an early form of *maiestas*, Gellius' rendering of Ateius Capito's account is surprisingly unconcerned with legal particulars, mentioning only the essential outcome of the case: the plebeian aediles *multam dixerunt*.⁵⁵ Whatever the specific charge, the central argument that the aediles, C. Fundanius Fundulus and Ti. Sempronius Gracchus, made before the people was that her 'wicked words' (*uerba improba*), directed against the *copia populi* in attendance at their *ludi*, were sufficient cause for prosecution. The aediles positioned themselves as champions of the 'crowd of people milling about everywhere and moving here and there' (*turba undique confluentis fluctuantisque populi*), who had been so offended by Claudia's words.

The nature of aedilician prosecutions is conducive to moralistic language. Republican aediles are sometimes found prosecuting people for morally dubious activities, usually related to sexual impropriety. Accusations of *impudicitia*, *improbitas*, or *probrum* featured prominently in trials *de stupro*, in which the legal and moral categories would be blurred.⁵⁶ The people in attendance would have to be convinced of the defendant's moral flaws. Despite their association with public morality, there is no concrete evidence to suggest that aediles had a special focus on the prosecution of women.⁵⁷ Certain women

⁵⁴ Gell. 10.6.3. Gellius' introductory reason (*quod locuta esset petulantius*) is even less informative. Bauman 1974: 258 uses this prosecution, which was advanced on obscure grounds, as an example of the aediles' capacity 'to formulate new criminal categories'. Suet. *Tib.* 2.3 certainly believed that Claudia was indicted *nouo more*.

⁵⁵ Gell. 10.6.3. Suetonius' anachronistic charge of *maiestas* (*Tib.* 2.3) is not mentioned by Capito (*contra* Bauman 1980: 129 n. 138). Suolahti's argument (1977: 142-3) that no charge was actually laid on Claudia, with the aediles slapping her with an 'official fine' out of court, is unsupported by evidence and would be unprecedented. It would be peculiar for Ateius Capito to discuss such an aberration in a work titled *De iudiciis publicis*, in which context Suetonius explicitly places Claudia's punishment; nor is Livy's and Gellius' silence on the trial proof 'that their source had no knowledge of it' (p. 143). Cf. Cavaggioni 2004: 117-20, 129-33 for a cogent critique of Suolahti's position.

⁵⁶ *Pudicitia*: Val. Max. 6.1.7; cf. Plut. *Marc.* 2.3. *Probrum*: Liv. 25.2.9-10. *Improbitas*: Gell. 10.6.3.

⁵⁷ Santalucia 1994: 71-3, *contra* Garofalo 1989: 126.

were portrayed as behaving in a manner inimical to public order during years marked by *pestilentia* and *prodigia*, with war also posing a significant threat to Rome.⁵⁸ So the aediles, as Eva Cantarella puts it, ‘usavano attribuire le sciagure pubbliche al malcostume femminile’.⁵⁹ The destabilization of religious order would destabilize the community.⁶⁰ This may partly explain why aediles were instructed to attempt to repress the ‘superstition’ (*religio*) that afflicted the city in 213.⁶¹ Agrippa’s actions during his aedileship, nearly two centuries later, demonstrates the pervasiveness of this thought: he drove astrologers and quacks from the city.⁶² Similarly, Augustus considered aediles fitting magistrates to enforce his rules regarding dress code in the forum, whose purpose was said to be restoring the moral order of old.⁶³

The people and the security, both moral and physical, of the republic are thus central to aedilician rhetoric. Ovid characterized the Publicii as ‘champions of the crowd’ (*uindices uolgi*) for their role in prosecuting *pecuarii* for grazing their animals on *ager publicus*.⁶⁴ The slippage between ‘champion/protector’ (*uindex*) and public prosecution (*publice uindicatum est*) was susceptible to manipulation.⁶⁵ Moreover, according to the Twelve Tables, a *uindex* was a private individual who played a role in the criminal process, possibly ensuring that the defendant attend the trial.⁶⁶ Ovidian poetic licence is certainly at

⁵⁸ Liv. 10.33.8-9; Liv. 25.1.10.

⁵⁹ Cantarella 1996: 69.

⁶⁰ Scheid 1981: esp. 148-63.

⁶¹ Liv. 25.1.10. Cf. the instructions given to aediles in restricting the rites of the *Bacchanalia* (Liv. 39.14.9).

⁶² Cass. Dio 49.43.5.

⁶³ Suet. *Aug.* 40.5.

⁶⁴ Ov. *Fast.* 5.282-94.

⁶⁵ Gell. 10.6.1 uses the latter phrase to refer to the prosecution of Claudia in 246, not long before the aedileship of the Publicii. Cf. Val. Max. 2.5.2 on Flavius as a *uindex* for standing up to the arrogant *nobiles*.

⁶⁶ Gell. 16.10.5. Cf. Metzger 2016: 249 with n. 16.

play, but the language cannot be unrepresentative of the messages that prosecuting aediles would promote. Before the Publicii were elected, 'bravery had previously deserted men' (*animus defuit ante uiris*); recent aediles had been inactive in reining in the *licentia* of the 'wealthy' (*locupletes*); the Publicii could therefore characterize themselves as the people's champions. Through this lens, the great villains of early histories of Rome are wealthy people who graze their cattle on public land or who lend money at extortionate rates. Prosecutions for such crimes were framed as a reining in of *luxuria* and *licentia*.

More generally, aediles attempted to create an environment of consensus, one where they and the people are united in a cause against the other, namely selfish private individuals whose vices are framed as inimical to the welfare of the people.⁶⁷ Aedilician appeals to popular consensus are intimated by Cicero's opposition to Clodius' actions during his aedileship: the latter's supporters are dismissed as common criminals and slaves, while Cicero repeatedly claims that the *populus Romanus* is united against Clodius' outrages.⁶⁸ Cicero's argument was constructed to delegitimize Clodius' claims, bolstered no doubt by the latter's histrionics during Milo's trial, to have the bulk of the *populus* behind him.⁶⁹ Clodius evidently attempted to present himself as a protector of the republic when prosecuting Milo; the claim, rehashed by Vatinius in his so-called *falsum testimonium*, was that Milo had 'besieged the republic with gladiators and animal fighters' (*gladiatoribus et*

⁶⁷ Liv. 35.41.9 provides the apparently mundane detail that the prosecutions of 192 were carried out against *priuati*. Likewise, Caelius apparently railed against *homines priuati* who used public water supplies to irrigate their *horti* (Front. *Aq.* 2.75). The rhetoric, then, could centre on public-spirited aediles (cf. Ov. *Fast.* 5.290) acting on behalf of the people against wealthy individuals acting in private interests. Cf. in general on moralistic discourse against private luxury: Edwards 1993: 137-72.

⁶⁸ Clodius' supporters: Cic. *Sest.* 95; Cicero's appeals to the *populus*: Cic. *Har.* 20, 22 (with juxtaposition between *SPQR* and Clodius' *seruorum eludentium multitudo*).

⁶⁹ Cic. *QFr.* 2.3.2: the *operae Clodianae* managed repeatedly to interrupt Pompey's defence speech *non modo ut acclamatione sed ut conuicio et maledictis*. Cf. Tan's (2013: 123-4) reading of the *contiones* from Clodius' perspective: 'the event demonstrated his affinity with the audience'.

bestiariis obsedissem rem publicam).⁷⁰ Clodius had ‘thugs and a gang of villainous men and wastrels’ (*operas et facinerosorum hominum et perditorum manum*) in his service, according to Cicero; Clodius doubtless argued that they represented the true opinion of the crowd. His objective, as Lintott observes, ‘seems to have been to present himself as a champion of the people’.⁷¹ From Clodius’ perspective, the *potestas contionandi* granted to him by his aedileship presented him with a prominent opportunity to assail his political enemies.⁷² Pompey, Dio alleges, was the primary target of Clodius’ attempted prosecution of Milo. His *crebrae contiones* allowed him to heap *contumeliae* upon his opponents.⁷³

And even after he secured reconciliation with Pompey, Clodius continued to use aedilician *contiones* to mobilize his supporters. The consul Marcellinus, who was blocking the dynasts’ candidacy for the consulship of 55, became a new object of his antagonistic speeches. Clodius pointedly dressed as a *priuatus* (ἐν τῇ καθηκούσῃ στολῇ), visibly reducing the distinctions between himself and his crowd.⁷⁴ He proceeded towards the senate house before finishing his *contio*, outside which his supporters saved him from being assaulted by a group of *equites*. The events provoked his supporters to threaten to burn down the *curia*. Dio does not explain why Clodius decided to conclude his *contio* at that moment.⁷⁵ It is possible that the whole display was contrived to encourage his supporters

⁷⁰ Cic. *Vat.* 40.

⁷¹ Lintott 1999: 132. Cf. Cic. *QFr.* 2.3.1-2, *Sest.* 95, *Mil.* 40; Asc. 48C; Cass. Dio 39.18.1-2.

⁷² The possibilities offered by the aedileship allow us to add nuance to Dio’s assertion (39.7.4) that Clodius sought the aedileship ‘on the grounds that he would avoid prosecution for his violence should he be elected’ (ὡς καὶ τὴν δίκην τῆς βίας, ἂν ἀποδειχθῆ, διαφευξόμενος).

⁷³ Cic. *Fam.* 5.3.1.

⁷⁴ Cass. Dio 39.29.1-3. Cf. Tatum 1999: 222; Tan 2013: 129-30. P. Servilius Rullus (tr. pl. 63) is accused of employing a similar strategy, of dressing in rags (*uestitu obsoleiore*), perhaps to reduce the social distance between himself and the *plebs*.

⁷⁵ Dio precedes Clodius’ descent with an ambiguous genitive absolute: ‘because/although/while there were significant displays of annoyance against him by the senators...’ (πολλῆς οὖν καὶ ἐπὶ τούτῳ ἀγανακτήσεως ὑπὸ τῶν βουλευτῶν γενομένης).

to upscale their antagonism against Clodius' opponents, allowing him to illustrate his point that the consul and his supporters were the aggressors who were attacking, unprovoked, the people's champion.⁷⁶

A glimpse into how an aedile might frame his arguments is supplied by Frontinus' notice of an apparently famous speech by M. Caelius Rufus, curule aedile in 50, titled *De Aquis*. The key point of the speech was to rail against *fraus aquariorum*.⁷⁷ Caelius was evidently engaged in this self-styled *pugna* with *aquarii* and *tabernarii* throughout the early months of 50.⁷⁸ Frontinus foregrounds the moralistic elements of the speech, highlighting the *uitia* and *fraus* of Caelius' opponents:

On misdemeanours of this sort, nothing more need be said, nor can I say it better than did Caelius Rufus in a speech entitled *Concerning Waters*. Would that there were some way, other than by taking action at the cost of personal offences, to prove that all such things are now habitually practised with comparable impunity.

*ac de uitiiis eiusmodi nec plura nec melius dici possunt quam a Caelio Rufo dicta sunt in ea contione cui titulus est 'de aquis'. quae nunc nos omnia simili licentia usurpata utinam non per offensas probaremus.*⁷⁹

Robert Rodgers suggests that the second sentence may be Caelius' verbatim reflection on his own predecessors: the aedile may be lamenting that he, like his predecessors, had to incur *offensae* from his peers in delivering these *contiones*, men who were guilty of these vices and who had got away with these *uitia* for years thanks to the leniency of previous

⁷⁶ Morstein-Marx 2004: 269-70 cites Clodius' actions as evidence of orators (mostly tribunes) proving that they were acting 'in the People's interest'. He erroneously identifies Clodius as plebeian aedile, but the point stands that both plebeian and curule aediles could lay rhetorical claim to being 'under the plebs' special protection'.

⁷⁷ Front. *Aq.* 2.75-6.

⁷⁸ Cael. *Fam.* 8.6.4. Date of Caelius' *contiones*: Pina Polo 1989: 307 ('Enero o Febrero').

⁷⁹ Given the textual difficulties detailed below, I quote Rodgers's translation here (2005: 524) with minor adjustments.

aediles.⁸⁰ The way Frontinus glosses the speech ('nothing more or better can be said' on the matter (*nec plura nec melius dici possunt*)) may suggest that he is quoting, or at the very least paraphrasing, from the speech.⁸¹ This interpretation is not without its problems, as Rodgers himself recognizes.⁸² The *offensae* could possibly be committed by the *aquarii* themselves ('would that we were not experiencing this daily by infringement of the law'). Frontinus does not introduce text as a quotation, merely supplying an ambiguous *quae*, whose antecedent could be *uitia eiusmodi* of the previous sentence, or, if we believe Rodgers, a (now lost) noun that preceded Caelius' fragment. Modern punctuation makes all the difference.

Whether or not this is verbatim Caelius, we gain a sense of how he dressed up his arguments against the *aquarii* and *priuati* who were siphoning water from the public supply. Either Frontinus is quoting Caelius' observations on the contemporary situation in the 50s (*nunc*) with reference to the *similis licentia* in previous years, as Rodgers argues; or Frontinus is bemoaning his contemporary situation (*nunc*) where *priuati* exercise *similis licentia* to those of Caelius' day. The moral message remains the same. In either situation, 'we find fields illicitly irrigated, shops, garrets even, finally all establishments of unwholesome pleasure furnished with constantly flowing public water' (*inriguos agros, tabernas, cenacula etiam, corruptelas denique omnes perpetuis salientibus instructas inuenimus*).⁸³ The moral language is reinforced by the tricolon falling emphatically on *corruptelae*: last but

⁸⁰ Rodgers 2004: 242 observes that *offensa* is antonym of *gratia*, implying that Caelius was burning bridges in order to carry out the prosecution.

⁸¹ Rodgers 1982; 2004: 240-1.

⁸² Rodgers 2004: 241 ('Uncertainties must remain on the question'). Further gentle critiques in Baldwin 1994: 494-5. Summary of earlier scholarship: Peachin 2004: 38-9 n. 7.

⁸³ Rodgers reads this sentence as a continuation of Frontinus' quotation of Caelius. Del Chicca 1993: 101-5 reads this sentence alone as a fragment of Caelius' *contio*.

not least (*denique*) all Rome's dens of sexual impropriety (*omnes corruptelae*) are stealing the people's water. These disreputable sorts have access to 'constantly flowing water' (*perpetuae salientes*). Everyone else suffers: in Frontinus' day, the outcome was that 'official distribution' (*distributio*) to the urban populace was reduced; the culprits: 'private land-owners' (*possessores*). Frontinus uses Caelius' exemplary *contio* to provide a picture of the selfless aedile, doing his duty for the community not simply because it was a prescribed duty but because he decided to serve the people. In reminiscing about the water supply of the republic, Frontinus could praise aediles for having 'greater care for the common good (*utilitates*) than for private interest' (*potior cura ... communium utilitatum quam priuatarum uoluptatum*).⁸⁴ Caelius' strategy can also be inferred from Frontinus' paraphrase or quotation. Not only do the actions of the water thieves jeopardize the welfare of the people, but also their excesses and moral failings. Caelius may also be letting his audience know that he risks alienating his peers *per offensas*, but he is willing to forego their *gratia* to protect the crowd. He stages this dispute as a reluctant duty, one which will make enemies among influential and wealthy people in the city. The purpose of the *contio* is to cast Caelius as acting for the common good, burning bridges among people whose *gratia* he can dispense with. Lastly, we see a relationship with aedilician claims in the previous section of being champions of *utilitas*.⁸⁵ Caelius was remembered fondly by Frontinus as being one such champion.⁸⁶

⁸⁴ Front. *Aq.* 2.95. Perceived moral superiority of public *magnificentia* over private *luxuria*: Cic. *Mur.* 76; *Flacc.* 28 (with Russell 2016: 8-12).

⁸⁵ See *supra* § 1.5.

⁸⁶ One dubious story from a much later source may, very tentatively, be employed to support this point about aediles' citation of *utilitas* in their rhetoric. In *DVI* 66.2, M. Livius Drusus (tr. pl. 91) was said to have been confronted by his 'colleague' Remmius with 'certain remarks about the good of the republic' (*quaedam de utilitate rei publicae*), apparently commenting on the lavishness of Drusus'

Moralizing messages in rhetoric would be matched by similar messages conveyed by public building and the non-verbal means of communication explored in the previous section. One could of course dismiss some of the language analysed above as late-republican and early-imperial interpolation that is retrospectively moralistic. Columella, for instance, is not simply recording the opprobrium of fourth-century orators. But the messages conveyed by public architecture reinforce the tone set by the moralistic text transmitted to us. Aediles made deliberate attempts at linking the process (the prosecution of an individual or group) with the outcome (the location of the temple and the deity to whom it was vowed) through public architecture and embellishment. Venus Obsequens, for instance, was seemingly chosen by Megellus because of the identity of the group that he prosecuted (*matronae*). Venus was determined a fitting figure to deter other women from engaging in similar sexual offences.⁸⁷ Her image, in the form of Venus Verticordia ('changer of hearts'), could elsewhere be deployed 'so that the minds of virgins and married women would more easily be diverted from lust to modesty' (*quo facilius uirginum mulierumque mens a libidine ad pudicitiam conuerteretur*).⁸⁸ *Obsequens* ('respector of rules') would be an appropriate epithet with which to project the message.⁸⁹ The prosecution of Claudia in 246 would carry similar ideological baggage. Ti. Sempronius Gracchus used *multae*, allegedly

munera. Although the anonymous author implies that these remarks took place during their joint aedileship, there are doubts about whether Drusus held an aedileship (not mentioned on his much later *elogium*: *CIL* 6.1312 = *ILS* 49) before his tribunate (Sumner 1973: 110-11; Marshall 1987: 317-24). See now Pina Polo and Díaz Fernández 2019: 277-8 with a more optimistic reading of *DVI*.

⁸⁷ Cavaggioni 2004: 45-6 with nn. 121-2 detects 'un rapporto consequenziale tra episodi di immoralità e successive dediche a Venere' (quoted at p. 45; see pp. 40-52 on the nature of the crimes, described by Livy as *stuprum*). Cf. Gardner 1986: 122-3.

⁸⁸ Val. Max. 8.15.12.

⁸⁹ Cantarella 1996: 68 translates *Obsequens* as 'obbediente' or 'rispettosa delle regole'. Cf. Staples 1998: 113 on *Obsequens*' and *Verticordia*'s shared link to 'matronal chastity'. Staples's argument should be approached with caution: Livy does not say that 'the temple was built on the advice of the Sibylline books', nor is there clear proof that 'good matronly conduct and successful military activity were given equal value' in the cult, at least in its original form.

deriving entirely from Claudia's infamous trial, to fund a temple to Jupiter Libertas on the Aventine.⁹⁰ The epithet here could easily be taken as a gesture of 'plebeian consciousness', of popular reaction to the arrogance of certain members of the patrician order, and of plebeian *libertas*.⁹¹

This not to presuppose any innate consistency across all aedilician rhetoric. Indeed, the implication in Caelius' *contio* and Ovid's encomium of the Publicii is that their predecessors had been lax in pursuing these just causes, and that they, unlike last year's aediles, would prove themselves to be the people's true champions. Aedilician a(nta)gonism could be directed against predecessors, too. And not all aediles could make a realistic claim to be reining in the excesses of the wealthy. The enormous amounts of money that an aedile might spend on his *ludi* would hardly reinforce one's contional persona as a champion of restraint.⁹² Moreover, the phrases used by individual authors may reflect more accurately the preoccupations of the writer and not what the aediles said before the people. The specific wording of these statements can hardly be said to reflect precisely the contional rhetoric of third- and second-century magistrates. Columella and Ovid were not even claiming to be quoting speeches verbatim.

This chapter has, however, demonstrated the ways in which aediles could, or were subsequently imagined to, locate themselves within existing patterns of Roman contional

⁹⁰ Liv. 24.16.19. One presumes that this temple was constructed on a small scale comparable to Flavius' *aedicula* (LTUR 1.320-1 (Ferroni)), with Livy suggesting that he began and dedicated it in the same year (*ex multatitia pecunia faciendam curavit dedicavitque*).

⁹¹ von Ungern-Sternberg 1986: 371-2; Clark 2007: 58-9. On contional evocations (usually by tribunes) of *libertas* and its adaptability, see Morstein-Marx 2004: 217-30 (with further literature at p. 217 n. 59); Russell 2013: 104-5.

⁹² Ti. Sempronius Gracchus, *propter effusos sumptus factos in ludos* in 182, was apparently the reason for a *senatus consultum* in 179 restricting the spending on games (Liv. 40.44.11-12). Gracchus is said to have bled the provinces dry with his spending ([*ludi*] *graves non modo Italiae ac sociis Latini nominis, sed etiam prouinciis externis*), suggesting that he did not bother to prosecute people as a means of raising funds.

rhetoric. Aediles could use their platform to speak about what they perceived to be, or endeavoured to convince the people to be, the critical political, economic, and moral issues assailing the republic. This endeavour appears to be the product of a historical ideological view of the aedileship held by members of the aristocracy. There existed an aedilician ideal. As Lintott observes, the rhetoric discussed in this chapter drew on a long-standing tradition of aediles recalling their (perceived) 'original character' as defenders of the *plebs*.⁹³ The rhetoric of Cicero and Clodius in particular 'presupposes a strong tradition of aedilician prosecutions', which was evidently adaptable and subject to reinterpretation by an ambitious aedile.⁹⁴ Aedilician logic is therefore, perhaps consciously, circular and self-reinforcing: aediles prosecute people for certain crimes in order to present themselves as popular champions, while claiming to have the capacity to act as champions because the aedileship possesses this long-standing tradition.

One of the key examples to support Lintott's argument is the first *actio* of Cicero's *Verrines*, in which the Arpinate, as aedile-elect, uses his new position to support his argument, especially by presenting his *certamen* with Hortensius against Verres as 'something approaching the trial of the century' if he were forced to resort to a *iudicium publicum* during his aedileship the following year.⁹⁵ The threats which Cicero delivers against Verres likewise reinforce this traditional dualism inherent in the ideology of the aedileship between protecting the republic and prosecuting immoral people. The following chapter examines Cicero's references to the aedileship in his oratory. The way Cicero presents the aedileship reinforces the impression that we have discussed here. An aedile

⁹³ Lintott 1999: 132.

⁹⁴ Lintott 1999: 133.

⁹⁵ Tatum 2013: 138.

was expected by his aristocratic peers to behave in certain ways and embody certain qualities.

2.2 Talking about aediles

In late July of 70, Cicero was elected plebeian aedile at the top of the polls.¹ Just a few days later, as aedile-elect, he would deliver the speech that would make his career. C. Verres (pr. 74) stood accused of various charges of extortion. His supporters had unsuccessfully attempted to stymie Cicero's electoral campaign, fearful, according to Cicero's framing of the *certamen*, of the influence that he would wield as aedile. But the prerogatives of the aedileship, paling in comparison to those of an antagonistic urban praetor and consul, would not be open to Cicero for months yet. Other magistracies were stacked with men favourable to Verres. Acquittal was, apparently, likely. To combat this, it was part of Cicero's rhetorical strategy to exploit his new aedilician status as a key *locus* in the first *actio* of the *Verrines*.² We are left, uniquely, with extended first-hand evidence from the mouth of an aedile-elect. He threatens Verres: should the trial be delayed into 69, he will use his position to secure justice for the Sicilians and the Roman people. And this prosecution would eclipse any of the other 'duties', the *munera*, of his aedileship. So Cicero's election to the aedileship shapes his argument in the first *actio*. From this work and several subsequent speeches, it becomes clear that the aedileship has language and signs associated with it that are expedient in forensic oratory.

The perceived distinctiveness of aedilician language is suggested by a passage of *De Oratore*. Cicero has Crassus (aed. cur. c. 103) make the point that the orator is obliged to

¹ Timing of election: Taylor 1968: 190 n. 54. Top of the polls: Cic. *Pis.* 2 (*cunctis suffragiis*). Despite a recent attempt to the contrary (Daguet-Gagey 2013), most evidence points to a plebeian, not curule, aedileship (Taylor 1939).

² Cf. Cic. *De or.* 2.131 on *loci* as conventional lines of argument, for which familiarity with Rome's institutions (*in consuetudine ciuitatis, in exemplis, in institutis, in moribus ac uoluntatibus ciuium suorum*) is critical.

consider both the style and substance of his speech. He must ‘speak both ornately and in a manner appropriate to the context’ (*altera dici postulat ornate, altera apte*). He supports this claim with reference to the aedileship:

There is need for magnificence from us [orators], for seeking out, assembling, deploying, and amassing all kinds of arguments – as you, Caesar, must do next year, just as I worked hard to do during my aedileship, for I did not think that I would be able to satisfy the people with ordinary, commonplace arguments.

*apparatu nobis opus est et rebus exquisitis undique et collectis, arcessitis, comportatis, ut tibi, Caesar, faciendum est ad annum, ut ego in aedilitate laboravi, quod quotidianis et uernaculis rebus satisfacere me posse huic populo non putabam.*³

Quotidianae et uernaculae res are unbecoming of an orator as soon as he assumes the aedileship. The people expect *apparatus*, ‘magnificence’, and must be satisfied in their expectations. Cicero’s Crassus, then, is reflecting an aristocratic perception of how the people want them to behave when they reach office. He exhorts his colleague to conform to their expectations, an aedilician ideal, to develop the public persona *in contione* that we explored in the previous chapter. He betrays a conscious decision to adapt language to fit the magistracy.⁴ The aedileship gave the orator occasion to embellish his language, language that both satisfied and persuaded the *populus Romanus*.

This chapter examines the distinctiveness with which the aedileship could be configured in upper-class rhetoric. What emerges is an ideological view of the magistracy and its relationship with the people. The most detailed view of how aediles were described in public discourse in late-republican Rome appears in Cicero’s speeches. Through the

³ Cic. *De or.* 3.91. *Ad annum*: C. Iulius Caesar Strabo was curule aedile-elect in 91 (Cic. *Brut.* 305), the dramatic date of the dialogue. Cf. Mankin 2011: 180 on ‘word play’ with *apparatu* (\approx *ornatu*), which recalls the ‘trappings’ of aedilician *ludi*, especially Crassus’ own (Cic. *Verr.* 2.4.133).

⁴ Cf. Gell. 1.6.4 on normative ‘censorial’ rhetoric.

idealized lens that Cicero supplies in *In Verrem*, the aedileship was a service, a *munus*, gifted to the Roman people by the individual, who was reciprocating the *beneficium* given to him by popular election. *Pro Plancio*, meanwhile, demonstrates the qualities appropriate for an aedile. The speech blurs the lines between candidate and aedile. Deliberately, perhaps: aediles, in many ways, behave like candidates. Plancius was the more appropriate aedile because he was willing to stoop to the whims of the people, to demonstrate his *blanditia*.

Of course, Cicero has a vested interest in presenting the aedileship in such a light. Reliance on his evidence presents obvious problems. His position is frequently tinged with idealism and idiosyncrasy. It was in his rhetorical interests to glamorize the magistracy. Similarly, much of his rhetoric is conditioned by contemporary political disputes. In his configuration, his election was no mere coincidence, but an expression by the Roman people of their hatred for corrupt officials; they were electing their champion to drive out the *pauci*. But this exaggeration is important in itself, as it offers a glimpse of how the traditions and ideologies associated with aedileship could be used and abused. Cicero must therefore act as a synecdoche for late-republican oratory; problems of source bias notwithstanding, fragmentary evidence from contemporary orators suggests that he was not alone in his manipulation of political office to support his arguments.⁵

Cicero's future aedileship forms a fundamental part of his argument in the *Verrines*. His election proved timely, allowing him to use his future *munus* as a platform from which to attack Verres and the corruption of the courts. In the first *actio*, he describes his magistracy in the following terms:

⁵ See e.g. Asc. 20C for Scaurus' evocation of his own aedileship when defending himself in court. Cf. Corbeill 2018: 174, 184-5 for a very speculative reconstruction of Clodius' oratory while curule aedile.

Because the entire senate is weighed down by the depravity and insolence of just a handful of men and oppressed by the ill-repute of the courts, I declare myself to be the enemy, the accuser, to be hateful, bitter, and adversarial to this very type of man. I take up this [*munus*]; I demand that this [*munus*] be mine, which I shall perform in my magistracy, a *munus* which I shall perform from that *locus* from which the Roman people have expressed their desire that, together with them, I should, from 1 January, deal with matters concerning the republic and depraved men. This *munus* of my aedileship, I promise, will be its most splendid and stunning achievement.

*Quoniam totus ordo paucorum improbitate et audacia premitur et urgetur infamia iudiciorum, profiteor huic generi hominum me inimicum, accusatorem, odiosum, adsiduum, acerbum adversarium. hoc mihi sumo, hoc mihi deposco, quod agam in magistratu, quod agam ex eo loco ex quo me populus Romanus ex Kalendis Ianuariis secum agere de re publica ac de hominibus improbis uoluit; hoc munus aedilitatis meae populo Romano amplissimum pulcherrimumque polliceor.*⁶

The translation above leans heavily on Ann Vasaly's, whose excellent gloss of this passage deserves reciting. The phrase *hoc munus* is metrically stressed, its force emphasized by the repetition of the preceding pronoun *hoc*. The structure of the passage, as she observes, allows 'the emphasis of the sentence to remain with the noun–double superlatives (*hoc munus ... amplissimum pulcherrimumque*)'.⁷ Faced with the possibility that Verres may delay his trial into the following year, a year in which the defendant's supporters would acquire several influential posts, Cicero responds by representing the aedileship as a duty bestowed upon him to act on behalf of the republic.⁸

Cicero chose his noun carefully. That aediles could rhetorically be framed as men who were elected and expected to serve the people is demonstrated by the semantics of the word *munus*. *Munus* could mean 'duty', 'burden', 'gift', 'show', or even 'gladiatorial

⁶ Cic. *Verr.* 1.36.

⁷ Vasaly 2009: 123-5 (quoted at p. 124).

⁸ Attempted delay: Cic. *Verr.* 1.17-21, 1.31. Cf. Lintott 2008: 88-91 on the timing of the trial.

contest', all of whose meanings are practically and semantically linked.⁹ Cicero exploits this wide range of meaning throughout the *Verrines*.¹⁰ The essential elements of the term were 'social obligation and equal return': reciprocation was socially anticipated after the provision of a *munus*.¹¹ Election to office was itself a *munus* conferred by the community.¹² Ciceronian usage carries with it some political baggage, always with the sense of 'expected or obliged political activities of an elite class', and often 'an act of display'.¹³ *Munus* is by no means unique to the aedileship: acting on behalf of the *ciuitatis dignitas* was imagined as the idealized *munus* of all magistrates.¹⁴ Nevertheless, the inherent 'performative quality' ensures the logical connection to *aedilitas* in the context of the first oration *In Verrem*. *Munus* here neatly expresses the wide range of aedilician responsibilities.

Cicero manipulates the implied expectations surrounding an aedileship to embellish his argument. He could claim that his greatest *munus* to the people during his aedileship would be his activity in the courts, 'a burden perhaps' (*fortasse onus*), but a necessary course of action in defending the republic.¹⁵ He had introduced his struggle

⁹ See *TLL* s.v. 'Munus' on the original similarity between this term and both *officium* and *donum*, with esp. *Ulp. Dig.* 50.16.194. Its etymology is rooted in gift-exchange (cf. *OLD* s.vv. 'communis'; 'munia'; 'munus'). Cf. Hellegouarc'h 1972: 153; Ville 1981: 72-8; Zagagi 1982: 280-1; Dyck 1996: 109; Stroup 2010: 72 n. 25; Coffee 2017: 16 with n. 41.

¹⁰ Cf. *Cic. Verr.* 2.1.49; 2.3.157; 2.3.187; 2.4.62; 2.4.65; 2.4.66; 2.4.103; 2.5.56; 2.5.64; 2.5.184 (\approx *donum*); 2.2.65; 2.3.7; 2.3.15; 2.3.98; 2.3.161; 2.4.79; 2.4.81 (\approx *officium*). *Munus* in the sense of *officium* can assume negative connotations ('obligation' or 'burden' \approx *onus*): 2.3.199; 2.3.201; 2.4.23; 2.5.51-2.

¹¹ Stroup 2010: 66-72 (quoted at p. 72). Cf. Pereira-Menaut 2004: 196-9.

¹² *Cic. Planc.* 45.

¹³ Stroup 2010: 89.

¹⁴ *Cic. Off.* 1.124. Cf. *Cic. Div. Caec.* 61. *Munera* were also funerary gladiatorial games which required no political office but were sometimes held to coincide with one's aedileship (Suet. *Iul.* 10.2; *Cic. Sest.* 135; cf. Kaster 2006: 291; Thomas 2010: 188-91).

¹⁵ *Cic. Verr.* 1.35: the 'greater deed' (*maius quiddam*) that Cicero promises to carry out will demonstrate 'my positive disposition towards the republic' (*meam in rempublicam uoluntatem*). Cf. Vasaly 2009: 125.

against Verres as, much more than a prosecution of an immoral individual, a defence of the Roman people and the *fama* of the senate:

It is I who came forth as accuser in this *causa*, with the universal approval and expectation of the Roman people, by no means to increase any hostility towards the senate, but so that I may save it from universal scorn.

*huic ego causae, iudices, cum summa uoluntate et expectatione populi Romani actor accessi, non ut augerem inuidiam ordinis, sed ut infamiae communi succurrerem.*¹⁶

Cicero, conscious of Verres' attempts to delay the trial to the following year to improve his chances of acquittal, takes advantage of his future elected office, rhetorically exploiting his forthcoming magisterial responsibilities. If the trial should be delayed to 69, he as aedile will come up against the new consul, Hortensius, who would be speaking in Verres' defence along with many other illustrious individuals. The trial itself would then be something of a show. The first *actio* was framed as a *certamen* between himself and Hortensius, a public spectacle played out for the people's entertainment.¹⁷ Such language is not unheard of in other aediles' rhetoric. Two decades later, Caelius would in a private letter to Cicero frame his struggle with shopkeepers and water providers as a *pugna*, a fight that was (allegedly) the only public affair winning the people's attention.¹⁸ The image of people flooding into the city to witness the trial of C. Veturius in the fifth century, who was prosecuted by the aedile L. Alienus, is indicative of the sort of agonistic environment that

¹⁶ Cic. *Verr.* 1.2.

¹⁷ Cic. *Verr.* 1.2, 1.33-5 (*res omnis mihi tecum erit, Hortensi*). And retrospectively: Cic. *Brut.* 319. Other instances of *certamen* evoking contests in public spectacles: Cic. *De or.* 2.317; *Tusc.* 2.62. Cf. Millar 1998: 67-72; Vasaly 2009: 108-14; Tempest 2013: 55-6; Morrell 2017: 44-5. On trials in general as public spectacles: May 2002: 55-9.

¹⁸ Cic. *Fam.* 8.6.4.

trials of prominent aristocrats created.¹⁹ Indeed, trials of such murky years as the fifth century might tell us more about the social and political environment of the first century than that of the fifth.²⁰

Cicero's age and status put him at a disadvantage to the consul-designate. But, as James May observes, Cicero 'converts his disadvantageous position to his benefit', playing on the images and language of an aedileship to help his case.²¹ His aedilician status, which he frames with misleading coyness as *paulo amplius quam priuatus*, serves only to enhance the drama, to emphasize 'his own aedileship and the magnitude of his own actions'.²² Even the subsequent publication of the speech would be a kind of *monumentum* for the Roman people, a lasting reminder of the splendour of his aedileship.²³ A delay, then, would give Cicero the chance to prove not only that he was the superior orator; it gave him the chance to fulfil his obligation to the Roman people, and to provide them with the spectacle that aediles were obliged to give. He plays on the expectation of his aedileship by providing a foretaste of the *munera* that the Roman people would receive from him.

The semantic association between *munus* and *aedilitas* would not have been lost on Cicero's audience. *Munus*, shorthand to describe the lavish entertainments given by

¹⁹ Dion. Hal. 10.48.4.

²⁰ Bauman 1974: 248 links the trial of Veturius to that of Verres in 70: the protagonists of the fifth-century trials (C. Calvius Cicero and L. Alienus) have suspiciously 'Verrine names'.

²¹ May 1988: 45. He employs a similar strategy as praetor in 66 (*Leg. Man.* 2), evoking instead the *auctoritas* of his praetorship by likewise citing his *locus superior*, referring literally to the *rostra* from which he is addressing the people (Morstein-Marx 2004: 50-4, with the very literal reference at *Leg. Man.* 55), but conceivably a broader metaphor for the magistracy which gave him the right to address the people in the first place. *Leg. Man.* 3, for instance, hints at a 'praetorian' way of addressing the people from this *locus*, with Cicero affecting naïveté in praetorian *ratio dicendi*, being more accustomed to speaking in law courts.

²² May 1988: 45.

²³ On the monumentalizing purposes of published speeches, see Frazel 2004: 138-41; Vasaly 2002: 91-2; 2013: 141. Cf. Narducci 1997: 162, 169-71. Works dedicated to an individual could also be described as *munera* (Cic. *Or.* 35, 54; *Off.* 3.121).

aediles,²⁴ assumed a broad meaning that could refer to an aedile's duties as well as the games they would hold. Despite some impressions given by modern scholarship,²⁵ no sharp distinction was made between *ludi* (games in general) and *munera* (often, but not always, gladiatorial contests); the latter term was equally a synecdoche of the former. For instance, Livy relates that the office of curule aedile was established because the *plebs* refused to shoulder the *munus* of newly extended *ludi*.²⁶ This sense of the word continued in later usage. When the Antonine jurist Pomponius described the actions of Cn. Flavius, he remarks that 'this *munus* to the people was the source of so much *gratia* that he was made tribune of the *plebs*, senator, and curule aedile' (*adeo gratum fuit id munus populo, ut tribunus plebis fieret et senator et aedilis curulis*).²⁷ Pomponius seems to be mistaken in granting Flavius a tribunate and in placing the *munus* long before his election to the aedileship: other writers concur that he undertook his revolutionary programme while aedile.²⁸ But Pomponius' language reflects that of aedilician beneficence. Holding the aedileship gave Roman elites an opportunity to boast of their provision of *munera* to the people.²⁹

Also significant in the first *actio* is Cicero's repeated use of the verb *polliceor*. The promise (*pollicitatio*) of future *munera* was a feature of Roman euergetic practice, to the

²⁴ See e.g. Cic. *Fam.* 11.16.3; 11.17.1; *Off.* 2.59. Preservation in later Latin: *DVI* 66.1-2.

²⁵ See e.g. Wiedemann 1992: 2-3.

²⁶ Liv. 6.42.13.

²⁷ Pomp. *Dig.* 1.2.2.7.

²⁸ Liv. 9.46.3 (Flavius held the tribunate at some point before these events); Plin. *NH* 33.18 (simultaneously (!) tribune and aedile). Cf. Cic. *Att.* 6.1.8; Piso fr. 27P = Gell. *NA* 7.9; *supra* § 1.4. Doubts have been expressed about whether he held a tribunate at all (Humm 2005: 443; *contra* Loreto 1991: 201-2). Pomponius' account, bearing the language of aedilician beneficence as it does, may possibly be rationalized as an election promise 'announced in advance' of his election, the regularity of which practice is suggested by Cicero's own *pollicitatio* (Bauman 1983: 31).

²⁹ Bauman 1974: 245; 1983: 31.

extent that it became an regular feature of euergetism under the Principate.³⁰ To take one example from the late 40s or early 30s, a certain C. Falerius Niger is honoured at some length in an inscription from Brundisium for his past and present projects; the promise that his community has him make binds him into continuing his benefactions.³¹ The *pollicitatio* is by no means uniquely aedilician; nor were election promises in general unheard of.³² A promise of funerary *munera* was normal for the practical reason that these were not a fixed feature of the Roman calendar.³³ While aediles may have given notice of *munera* in advance, there is no proof that they were obliged to lay out their programme of beneficence before assuming office.³⁴

Cicero's phrasing nevertheless evokes an image of future benefactions with which republican aediles were so closely associated. He is thus unofficially hinting at something of a campaign promise, tapping into a tradition that, though obscure in the republic, would later proliferate in the empire. That it was common knowledge that the best architect in the city was anticipating a contract with Clodius, who was still canvassing for the aedileship,

³⁰ Ulp. *Dig.* 50.12. Imperial *pollicitationes* were 'pledges ... circulated unofficially, as campaign promises' (Garnsey 1971: 116), but were not legally binding (Ng 2015: 105-8). Further literature on imperial *pollicitatio*: Veyne 1958: 93-6; Johnston 1985: 105-6; Hayashi 1989: 383-8; Melchor Gil 1994: 203-4. Aedilician promises in North African imperial inscriptions: *ILAlg.* 2.3.7635, 7656; *CIL* 8.4219, 6942, 7990, 7991.

³¹ *CIL* 1.3173 = *ILLRP* 558. Silvestrini 2003: 196 notes the present tense: 'i tempi verbali sono al presente ed è ricordata la *pollicitatio* di opera ulteriori'. Cf. Bispham 2007: 309-14, 340.

³² See e.g. Q. Cic. *Comm. Pet.* 47, in which C. Aurelius Cotta (cos. 75), *in ambitione artifex*, kept promises only to those from whom he would receive the greatest benefit (*impertire iis apud quos optime poni arbitraretur*). Election promises at Pompeii: *CIL* 4.429, 4999, 3702, 7187. Such slogans, however, generally favour 'costumi morali' over 'capacità tecniche' (Chiavria 2002: 61).

³³ See e.g. Asc. 88C; Cic. *Fam.* 2.3.1; Cic. *Leg.* 2.62.

³⁴ In Plaut. *Pseud.* 546, the character Simo is talking 'as if he were an aedile' (Leigh 2004: 325) when he instructs Pseudolus to 'make the announcement for the games' (*indice ludos nunciam*). Cf. Fitzgerald 1995: 56-8; 2000: 44-5; Christenson 2020: 36, 219. Ville 1981: 352-7 provides a summary of the semantic range of *polliceor*, but there is minimal evidence to support his claim that such an announcement was obligatory (pp. 354-5).

gives some idea of the conventionality of advertising one's proposed *munera*.³⁵ So Cicero is here blending the language of aedilician promise with that of judicial competence to reinforce his argument that he could give no greater service to the Roman people than to indict Verres. The verb is repeated several times throughout this section of the oration: while Cicero's promised *munus* will be *amplissimum pulcherrimumque*, he warns against those who resort to dishonourable means by promising money or power to others.³⁶ It is a promise that he insists on repeating: his contest with Hortensius, he promises (*polliceor*), will be *populo Romano grata atque iucunda*.³⁷ And he concludes this part of his speech, comprising his magisterial promises, with a final summative promise: 'I promise that I will carry all these things out with *diligentia* and *seueritas*' (*haec omnia me diligenter seuerique acturum esse polliceor*).³⁸ The way Cicero describes his future *munera* seems to be characteristic of the language associated with an *aedilis designatus*, giving the people an impression of what they may expect from his year in office.

Cicero was promising something more ideological and partisan than simply a show for the crowd. His stated 'doctrine', as Richard Bauman has called it, was to act on behalf of the republic and against the wicked men occupying Rome's juries: 'the Roman people have expressed their desire that, together with them, I should deal with matters concerning the republic and depraved men' (*secum agere de re publica ac de hominibus improbis uoluit*).³⁹ We are reminded of the consensual rhetoric employed by aediles discussed in the previous chapter. There is nothing, in principle, wrong with the senate, whose reputation is being

³⁵ Cic. *QFr.* 2.2.2. Cf. Tatum 1999: 198.

³⁶ Cic. *Verr.* 1.36.

³⁷ Cic. *Verr.* 1.37.

³⁸ Cic. *Verr.* 1.40. Cf. Liv. 35.41.9, recalling aedilician trials (fondly?) for their *seueritas*.

³⁹ Cic. *Verr.* 1.36; Bauman 1974: 246.

besmirched by the immorality of a select few. Cicero must protect them from *infamia communis*. The people, having elected Cicero for the very purpose of pursuing the *pauci*, are united in their disgust. Their anger is directed against a small minority, against ‘the wickedness and nerve of just a handful of men’ (*paucorum improbitas et audacia*). By rehabilitating the institution of *iudicia publica*, in the face of the *cupiditas* and *dominatio regnumque iudiciorum*, Cicero claims to be standing as a champion of both the senatorial order and the crowd. He channels the *odium offensionemque populi Romani*, while claiming to have the majority of the senate, *totus ordo* no less, behind him.⁴⁰ The desired impression, then, is one of consensus. He warns (*moneo, praedico, ante denuntio*) the jurors, ‘them’ who are guilty of bribery and corruption, to distance themselves from Verres’ *scelus nefarium*, lest Cicero, by implication, be forced to pursue them along with Verres in an aedilician *iudicium publicum*. Cicero may well be overstating the judicial capacities of his future office. His rhetoric is, after all, so vague as not to offer any decisive insights into the powers of post-Sullan aediles.⁴¹ And it is not clear on what grounds Cicero would be able to prosecute

⁴⁰ Cic. *Verr.* 1.35.

⁴¹ Bauman 1974: 247-8 argues that Cicero is describing one of his rights as aedile. Others have attempted to explain this away as ‘bluster’ (Gruen 1974: 298 n. 139), empty ‘minaccie’ packaged as ‘un tipico argomento di oratoria giudiziaria’ (Garofalo 1989: 114; cf. 1997: 150-3), or a ‘capacité ... plus théorique que réelle’ (Daguet-Gagey 2015: 184), with little relation to legal reality. However, several phrases in the *Verrines* (e.g. *cum populo Romano agere*) do, as Bauman points out, seem to indicate Cicero’s threats of formal prosecution against Verres when the former should become aedile (e.g. 2.1.12-13). Cicero later writes that, as aedile, he may ‘dispatch and do away with’ (*confici et concidi*) Verres (2.5.151), a power given to him by the Roman people (2.5.173). Venturini 1991: 355-6 (followed by Fontanella 2004: 28 n. 44) rightly critiques attempts to ‘operare una rigida separazione formale delle competenze ... ascritte alle varie magistrature’. Indeed, Messalla (*apud* Gell. 13.16.1-3) does not discount the possibility of a minor magistrate calling the people to vote after a *contio*. The vague stipulations in the *lex Osca tabulae Bantinae* (ll. 11-12 = RS 1.13 (p. 277)) could likewise be taken to show that any magistrate (*pis ... meddis = quis ... magistratus*) could levy a fine provided that he had the capacity to summon an assembly. I thank Professor Andrew Lintott for drawing my attention to the importance of this passage.

Verres and his cronies in 69.⁴² But he does seem to be channelling the rhetorical conventions associated with the office. He is manipulating the normative expectations of the aedileship by describing his future magistracy as one in which its holders had a duty to punish *improbitas*.

This persuasive manipulation of his future position would be a recurrent *locus* throughout Cicero's second unuttered oration. Recalling the force of his earlier argument, he employs very similar language:

Since I pursue this cause from a higher place (thanks to the *beneficium* of the Roman people), I have no fear either that any violence will rescue Verres from the votes of the Roman people, nor that any *munus* of my aedileship may be greater or more pleasing to the Roman people.

*Hanc ego causam cum agam beneficio populi Romani de loco superiore, non uereor ne aut istum [sc. Verrem] uis ulla ex populi Romani suffragiis eripere aut a me ullum munus aedilitatis amplius aut gratius populo Romano esse possit.*⁴³

His election is displayed as a gift from the people, which he will reciprocate with a *munus*.

His repeated evocation of the *populus Romanus*, three times in one sentence, reveals his intended audience: the Roman people chose him for the aedileship to perform this *munus* for the Roman people, and their votes will condemn Verres if they are needed in a *iudicium publicum*.⁴⁴ He later enumerates his *munera*. As plebeian aedile, he would assume responsibility for the organization of festivals and games and care for the fabric of the city.⁴⁵

Here, too, Cicero frames this as part of an exchange: thanks to his future hard work as

⁴² Lintott 1968: 98 suggests *maiestas* as the hypothetical charge, based on the references to the *lex Porcia* and *lex Sempronia* at *Verr.* 2.5.163.

⁴³ *Cic. Verr.* 2.1.14.

⁴⁴ Cf. *Cic. Verr.* 2.1.12-13. Millar 1998: 14-15 provides a more radical reading of the power of the *populus Romanus* in this passage.

⁴⁵ *Cic. Verr.* 2.5.36.

aedile (*ob earum rerum laborem et sollicitudinem*) the people will grant him certain ‘rewards’ (*fructus*), such as the curule chair, the toga praetexta, and *ius imaginis*.⁴⁶ Such a gift-exchange metaphor may be applicable to any magistracy.⁴⁷ But Cicero attempts to paint his aedileship as a magistracy possessing a distinctive capacity to repay this gift.

The *diuinatio in Caecilium*, delivered soon before Cicero’s election, reveals how Cicero’s argument proceeded without the underpinning of a plebeian aedileship. His arguments, though similar, are decidedly more concerned with defending the Sicilians. It is duty of all *uiri clarissimi*, not just magistrates, to defend one’s friends and allies. He is almost apologetic about his forensic activity, compelled to defend his decision to develop his reputation as a prosecutor, ‘especially now that he is at that time of his life when he should be canvassing for the aedileship’ (*nunc praesertim, ea iam aetate, cum aedilitatem petat*) – the sole mention of the office in the speech.⁴⁸ His subsequent election to the aedileship brought about a change in argument. Citing his future office allows him to merge arguments about protecting the Sicilians with arguments about defending republic, a duty, according to his rhetoric, which his aedileship will make him better equipped to carry out.⁴⁹

It is no coincidence that Cicero evokes his aedileship when he is making the case that Verres’ actions endanger the republic. That the aedileship is an inward-looking office – that is, a magistracy idealistically concerned with the welfare of the people in the empire’s urban heart, with supplying the urban *plebs* with *munera* – is an argument with which

⁴⁶ Cic. *Verr.* 2.5.36-7.

⁴⁷ Cic. *Off.* 1.124 (*munus magistratus* in general) *Pis.* 23 (*munus consulatus*); *Div. Caec.* 61 (on praetors and quaestors).

⁴⁸ Cic. *Div. Caec.* 69-70.

⁴⁹ Cic. *Verr.* 2.2.117. Cf. Vasaly 2009: 115-16. The shift in focus from the Sicilians to the *res publica* in the first *actio* is palpable from the start, with the trial taking place *summo rei publicae tempore* (1.1). Cf. May 1988: 39 on Cicero’s ‘casting this trial in a role of broader significance’.

Cicero would gain further traction in *Pro Plancio*. In his defence of Cn. Plancius, Cicero takes great pains to establish that his client was the more appropriate candidate for the aedileship. In 54, Cicero defended Plancius, previously elected to the curule aedileship for 55, from accusations *de sodaliciis* made by the embittered defeated candidate, M. Iuventus Laterensis.⁵⁰ Plancius, characterized by Cicero as a ‘well-intentioned plodder’,⁵¹ gained his popularity with the people despite (or, in Cicero’s rhetoric, owing to) his seldom leaving the city (*numquam ex urbe afuit, nisi sorte, lege, necessitate*): instead, he achieved his *dignitas* through his *adsiduitas*, his *liberalitas*, and by *obseruans amicis*; thanks to his service within the city, *fuit in oculis*.⁵² These qualities, Cicero argues, are what made Plancius a prime candidate for the aedileship. He expects his listeners to believe that, based on his own exemplum, hard work and service within the city will generate *laus* by being in the public eye. His *liberalitas*, moreover, made him especially *gratiosus*:

For, as I will prove, Plancius was *gratiosus* among his tribe: he acted benevolently towards many ... If you cannot [prove that he was guilty of bribery], then do not rob our order of its *liberalitas*; do not consider *gratia* to be the same thing as a criminal act; do not penalize *obseruantia*.

*Nam, ut ego doceo, gratiosum esse in sua tribu Plancium, quod multis benigne fecerit ... quod si non potes, noli tollere ex ordine nostro liberalitatem, noli maleficcium putare esse gratiam, noli obseruantiam sancire poena.*⁵³

⁵⁰ The trial seemingly took place in 54 after the completion of his magistracy of 55 (Taylor 1964b: 12-28). The doubts of Sumner 1971: 249 n. 12 are refuted by Alexander 2002: 131-2. On the charge (*de sodaliciis*): Alexander 2009: 343-5.

⁵¹ Steel 2011: 44. Cf. Cic. *Planc.* 60-2 for a remarkable enumeration of the subject’s limitations.

⁵² Cic. *Planc.* 67.

⁵³ Cic. *Planc.* 47.

Plancius' *liberalitas* during his campaign is a virtue to be lauded, a quality that made him, at least for his fellow tribesmen, especially attractive for election to the aedileship.

Or, perhaps, any other office. A significant hurdle in interpreting Cicero's argument is the fact that he devotes himself exclusively to defending Plancius' actions *in petitione*. His completed aedileship goes unreported. And much of Cicero's language could generically enough be applied to any defence of excessive spending during one's canvass: *multis benigne fecit* is formulaic in an electoral context.⁵⁴ Much of this language could conceivably be deployed in defence of anyone for a dubiously prodigal election campaign. Moral quandaries notwithstanding, one man's *ambitus* is another's *liberalitas*.⁵⁵ This does not decisively distinguish campaigns for the aedileship from canvassing for other offices. After all, it is generally held that there was little difference in canvassing techniques between different offices; canvassing for political office is usually treated as homogeneous regardless of the office in question.⁵⁶ Delighting the crowds with games was scarcely unique to aediles; nor was bribery.⁵⁷

However, there are some suggestions that Cicero frames the aedileship as a distinctive magistracy *in petitione*. Certain qualities are, in his rhetoric, more appealing to the people than others. One's military deeds were more conventionally deployed as having *summa utilitas* in campaigning the consulship, as Cicero himself would say in the *Pro*

⁵⁴ Ciprotti 1975: 275-6 noted the similarity between Cicero's language and an election poster at Pompeii (CIL 4.7187); however, the similarity likely stems from commonality of election slogans and not because 'lo scrittore del programma si ispirò al testo di Cicerone' (p. 276). Cf. Cic. *Planc.* 52 for an inversion of this slogan.

⁵⁵ Cic. *de Or.* 2.105. Cf. Manning 1985: 78; Riggsby 1999: 21; Fascione 2009: 378-9. On *liberalitas* and canvassing, see Morstein-Marx 1998: 279-80. Cf. Cic. *Mur.* 72, 77 on the muddy opposition between *largitio* and *liberalitas*.

⁵⁶ Daguet-Gagey 2015: 82. But see p. 87 for hints of unique treatment of an aedilician campaign in *Pro Plancio*. On canvassing in general, see Tatum 2018: 20-49 (with 2019: 257-8) on 'commonplaces' in campaign rhetoric.

⁵⁷ Lintott 1990: 15.

Murena.⁵⁸ But, according to *Pro Plancio*, campaigning for the aedileship was another matter entirely: the men who sought it would have had limited experience leading armies and were not elected with consideration to military matters. Laterensis' proquaestorship at Cyrene, so Cicero alleges, placed him at a disadvantage against Plancius, who had secured a reputation for *liberalitas* at Rome.⁵⁹ Because 'so much happens at Rome that the things you do in the provinces are seldom apprehended' (*ita multa Romae geruntur ut uix ea quae fiunt in prouinciis audiantur*), Laterensis' generosity in the provinces had not furnished him with the right sort of *gratia*.⁶⁰ And Cicero contends that he himself had achieved *laus* in the years between his quaestorship and aedileship at Rome, *in foro*, making his private matters public, 'so that my most important public matters had to be conducted *domi*, and the city was protected from within' (*ut etiam summa res publica mihi domi fuerit gerenda, et urbs in urbe seruanda*).⁶¹ *Habitaui in oculis*, as any good prospective aedile should.⁶² What Cicero is describing here is not a generic notion of canvassing for office, but a specific attestation of ideal conduct between one's quaestorship and aedileship, a critical point of one's career. For all Cicero's hyperbole, he argues that Plancius' deeds are better remembered in the city, and that his reputation for *liberalitas* assisted in his campaign.

A critical component of Cicero's conciliatory argument aimed at Laterensis is that the Roman people treat aedilician elections differently. The caprice of the voter, lamented frequently by Cicero, is particularly acute in these circumstances. Laterensis lost the

⁵⁸ Cic. *Mur.* 24.

⁵⁹ Cic. *Planc.* 13. Cf. Grillo 2014: 218 on Cicero's 'falsifying' of attitudes towards Laterensis' extended absence.

⁶⁰ Cic. *Planc.* 63.

⁶¹ Cic. *Planc.* 66. Cf. Zocchi 2003: 211: 'The concepts of public and private are used in the speech to help create the impression that Plancius is a better choice for the aedileship'.

⁶² Cf. Sall. *Hist.* 2.44.4M: Cotta the consul, who had been an aedile (Cic. *Off.* 2.59), reminds the people that *in ore uostro priuatus et in magistratibus egi*.

election, Cicero asserts, because he had failed to subordinate himself satisfactorily to the people: 'you have to bear in mind that, in elections, especially elections for the aedileship, the people express affection (*studium*), not sound judgement (*iudicium*); votes are procured through an ingratiating manner, and are not carefully considered' (*debes putare, comitiis, praesertim aediliciis, studium esse populi, non iudicium; illa eblandita, non enucleata esse suffragia*).⁶³ Cicero is careful here to appear to console Laterensis in his defeat, while not belittling (not excessively, at least) the achievement of Plancius. The *studium populi* is nothing to be ashamed of; *blanditia* could be defended as unsavoury political necessity. And such affection and zeal were crucial in winning an aedileship. This is 'particularly' (*praesertim*) the case in aedilician elections, described here as 'the more capricious kind of elections' (*leuiores comitia*), in which 'success' (*honor*) is gained through 'carefulness' (*diligentia*) and 'influence' (*gratia*), all qualities possessed by Plancius.⁶⁴ But this could be taken further: elections for the aedileship can be expected to have been far more competitive than the others carried out in the tribal and plebeian assemblies. Just four positions were available (two for patricians), and the candidate would conventionally narrow his attempt to either curule or plebeian magistracy.⁶⁵ Cicero's notion that aedilician elections are the most competitive is entirely tenable.

⁶³ Cic. *Planc.* 10. *Studium* (here translated as 'affection', but equally 'passionate support') is seldom negative: it holds a middle ground between *amor* and *officium* (Hellegouarc'h 1972: 174-6; Alexander 2002: 142). Translation of the verbs *eblandior* and *enucleo* is difficult. The former derives from *blanditia* ('an ingratiating manner') while the latter conjures a rustic metaphor (Zocchi 2003: 31-2). *Blanditia*, though an undignified means of winning support, can nevertheless be considered a necessary evil (Q. Cic. *Comm. Pet.* 42; Cic. *De or.* 1.112) even if it strays from the ideal (Cic. *Rep.* 4.7.7; Tatum 2007: 122; 2018: 265-6). Cicero's scornful but grudging acceptance of the unavoidable judgement of the people: *Planc.* 9, 11; *Mur.* 36.

⁶⁴ Cic. *Planc.* 7.

⁶⁵ Marius' double *repulsa* (Plut. *Mar.* 5.1-2) for both magistracies was apparently unusual.

Plancius is thus presented not only as the more appropriate *candidatus* for the aedileship, better at winning such support among the lower orders; he is the better *aedilis*. Whether or not Laterensis was *dignior quam Plancius* is put to one side in Cicero's argument; it is not in Cicero's (or Plancius') interest to engage in the *contentio dignitatis*, an evaluation in which the *nouus homo* would doubtless come second best.⁶⁶ The arguments are instead extrinsic: Laterensis had failed in importuning the people appropriately. Far more than the people's 'impulse' (*impetus*) or 'whim' (*motus*), it was Plancius' ability to secure the *uoluntas populi* that won him the election.⁶⁷ One must 'be subservient to the people; but if we hope for political success, we must prostrate ourselves tirelessly' (*seruire populo: sin eos [sc. honores] expetamus, non defatigari supplicando*), a necessary humiliation that was too much for Laterensis.⁶⁸ This conduct is not unique to petitioning for the aedileship.⁶⁹ But the nature of the aedileship lends itself to this argument, allowing Cicero to draw heavily on the benefits of *liberalitas* and service within the city. A reputation for *liberalitas* was known to help other candidates in reaching the aedileship. Scipio's reputation for being 'generous, munificent, and agreeable' (εὐεργετικός καὶ μεγαλόδωρος καὶ προσφιλής) ensured 'the popularity of the people in his favour' (τὴν τοῦ πλήθους πρὸς αὐτὸν εὐνοίαν), as a result of which he was (at least, as Polybius tells it) elected aedile.⁷⁰ It is in Cicero's interest to describe Plancius' excesses as legitimate manifestations of *liberalitas*. But *Pro Plancio* fudges

⁶⁶ Cic. *Planc.* 10. On Cicero's evasion of any *contentio dignitatis*: Adamietz 1986: 116-17; May 1988: 117-18; Zocchi 2003: 22-5, 41-4.

⁶⁷ Cic. *Planc.* 15. Cf. 13 on *uoluntas populi*. Steel 2011: 44: 'his argument is ultimately not that the result was inexplicable but that the factors which affect the people's judgement are those which Plancius scored strongly in.'

⁶⁸ Cic. *Planc.* 11. On 'begging' the people for political office, see Tatum 2018: 19 with n. 80. Laterensis valued his *grauitas* and *magnitudo animi* over humiliating himself by supplicating the people for his aedileship (*Planc.* 50).

⁶⁹ Cic. *Mur.* 73. Cf. Yakobson 1999: 26-43; Tatum 2007: 113-14.

⁷⁰ Polyb. 10.5.6. Many details of this story are highly dubious (see e.g. Walbank 1967: 59-60; Foulon and Weil 1990: 51).

the behaviour expected of Plancius *ob honorem* with the *liberalitas* shown during his canvass, subtly muddying the waters between Plancius' campaign and his unstated largesse during his aedileship.

Why subtly? There is no sure explanation for Cicero's failure to explicate Plancius' conduct during his aedileship at any point in the speech. Magisterial deeds could conventionally be used as a rhetorical argument on behalf of the defendant. Plancius' *officia* during his military tribunate, quaestorship, and tribunate are enumerated at length by Cicero as illustrations of his client's *probitas*.⁷¹ In a speech delivered the same year, Cicero made sure to bring up Scaurus' elaborate aedileship apparently as evidence of the latter's generosity and devotion to the people.⁷² Even Scaurus spoke *pro se*, moving the judges not only with extraordinary theatrics, but also 'with the memory of his lavish aedileship and the favour of the people' (*aedilitatis effusae memoria ac fauore populari*).⁷³ Murena's *liberalitas* during his praetorship had similarly formed part of Cicero's argument in his defence.⁷⁴ But Cicero's omission need not be cause to resort to the view that Plancius had not yet assumed the aedileship by the time of the trial; the chronology of 54 stands firmly against this argument.⁷⁵ Arguments from silence are seldom fruitful: by the same logic, we may just as

⁷¹ Cic. *Planc.* 28-9.

⁷² Asc. 27C.

⁷³ Asc. 20C.

⁷⁴ Cic. *Mur.* 37, 41.

⁷⁵ *Pro Plancio* was delivered in August or September 54, after *Pro Vatinius* (Schol. Bob. 160S) which itself was probably delivered in August (Cic. *QFr.* 2.16(15).3), and before the *ludi Romani* of early September alluded to with Cicero's mention of the *tensae* (Cic. *Planc.* 83; cf. Latham 2016: 61-5 on *tensae* in general). It had already been completed (*absolui*) in written form by the end of September (Cic. *QFr.* 3.1.11). Plancius' colleague, A. Plautius, who was seemingly in office by the time of the *ludi Megalenses* in April (*RRC* 431), presumably did not conduct the games alone. Beyond chronology, there are several plausible arguments in favour of an aedileship in 55 (see esp. Taylor 1964a: 12-28, followed by Alexander 2002: 131-2; Zocchi 2003: v-vii; *contra* Sumner 1971: 249 n. 12).

easily expect Cicero to use Plancius' anticipated aedileship as a reason to acquit him.⁷⁶ Certain hypotheses can be made for the omission. Pompey's lavish games of 55, to which Cicero devotes attention and consternation,⁷⁷ would doubtless have been the most memorable public events of the previous year. As Michael Alexander points out, it may simply be that Plancius' and Plautius' games were just not that memorable, lacking the *aedilitatis effusae memoria* that some (and only some) *ludi* left.⁷⁸ It is equally possible that Plancius' *munera* had already been advanced by Hortensius the previous day.⁷⁹ Whatever the reason may be, Plancius' *munera* during his aedileship played no part in Cicero's argument. Instead, he evoked only opaquely Plancius' aedilician virtues.

Cicero only explicitly refers to past magistracies if it forms an essential part of his argument to persuade the jury to acquit his client. We should not expect complete consistency or continuity in argument between speeches. An illustration of how Cicero can invert an argument depending on the magistracy in question comes in his explanation of Ser. Sulpicius Rufus' (pr. 65) *repulsa* at the hands of Murena for the consulship of 62. *Adsiduitas* is ('sometimes', *interdum*, at least) a source of *fastidium* and *satietas* for the Roman people.⁸⁰ An aspiring consul should develop his virtues outside Rome, *in tutela ac praesidio bellicae uirtutis*.⁸¹ Sulpicius, unlike Murena,⁸² does not possess the qualities that the people

⁷⁶ In his speech *De aedilibus uitio creatis* (ORF fr. 217-18 = Gell. 13.18.1-3), Cato the Elder seemingly cited the need to maintain *bona frumenta* as a reason either to replace or maintain the aediles who were elected and held the office for much of the year despite ill omens (Liv. 30.39.8). It is uncertain which side Cato was on: Astin 1978: 18-19.

⁷⁷ See e.g. Cic. *Fam.* 7.1.1-6.

⁷⁸ Alexander 2002: 132. Cf. Zocchi 2003: 230-4 on Cicero's political arguments, which thrived on 'playing on stereotypes' (p. 230).

⁷⁹ Cic. *Planc.* 37. Despite some doubts (references in Alexander 2002: 297-8 n. 8), it is likely that Hortensius spoke, like Cicero, as an advocate of Plancius (Linderski 1961: 304-11).

⁸⁰ Cic. *Mur.* 21.

⁸¹ Cic. *Mur.* 22.

⁸² The republic needs a consul like Murena *de urbis praesidio et de custodia ciuitatis* (Cic. *Mur.* 79).

desire in a consul.⁸³ Cicero completely inverts this equation in the *Pro Plancio*, persuading the audience that Plancius' aedileship made it all the more necessary for him to be *in oculis*. These arguments are, of course, situational. But this superficial characterization of these magistracies makes them susceptible to such an argument.⁸⁴ The consulship conjures a semiotic association with *praesidium* and *salus* in *Pro Murena*. While *Pro Murena* 'shapes an idea of consularity' in excusing Murena's conduct *in petitione*, *Pro Plancio* adduces a notion of aedility.⁸⁵ The signs with which Cicero bombards the jury, images of *liberalitas* and *gratia*, are enmeshed with his notion of *aedilitas*.⁸⁶ *Pro Plancio*, more subtly than *Pro Murena*, describes the subject's virtues as being intrinsic to the magistracy in question.

Cicero does not always build a coherent picture of the office across (or even within) his speeches.⁸⁷ *Pro Plancio* frames the aedileship in contradictory terms. On the one hand, Plancius was more deserving of the aedileship because he possessed certain qualities that the capricious Roman people desired. On the other hand, it is an office that men who do not wish to indulge in *blanditia* would do well to avoid. It serves Cicero's rhetorical purpose to diminish the aedileship's importance. In assuming his conciliatory position towards his *amicus Laterensis*, Cicero reduces the aedileship to a position inferior to the tribunate, with ephemeral influence and of no utility in times of political perturbation. Ventriloquizing the

⁸³ This is the central contention in Cic. *Mur.* 23-30.

⁸⁴ Cf. Zocchi 2003: 210-12 (with p. 124 with comparisons of *Planc.* 13, 66-7 and *Mur.* 21). Riggsby 1999: 42-4 makes a similar observation, but does not go so far as to discuss the magistracies for which Murena and Plancius had competed.

⁸⁵ Haimson Lushkov 2015: 136-41 (quoted at p. 137). Cf. 2018: 230-3.

⁸⁶ On semiotics in Cicero's oratory, see Vasaly 1993: 11-13. On semiotics and Roman magistracies, see Haimson Lushkov 2015: 4-9: magistracies were 'shorthand for speaking about an entire ideological system' (quoted at p. 6).

⁸⁷ As a result of which modern scholarship has not looked upon Cicero's argument kindly. See e.g. Taylor 1964a: 25 ('the case is obviously weak'); May 1988: 122 ('Such a line of argument issuing from Cicero ... must have sounded as incredible to the Roman jury as it does to us today'); Lintott 2008: 220 (on 'specious' aspects of Cicero's argument).

Roman people through *sermocinatio*, he claims that ‘the games are all the same to me regardless of who the aediles happen to be; who the tribunes should be is of much greater importance’ (*aediles quicumque erunt, iidem mihi sunt ludi: tribuni plebis, permagni interest, qui sint*).⁸⁸ In a manner similar to the first *Verrine*, in which the aedileship was dismissed as *paulo amplius quam priuatus*,⁸⁹ this trivialization of the aedileship is a rhetorical technique to serve a wider purpose: Laterensis lost the election because the people wanted him to be tribune, a magistracy which would serve the republic better (just as Cicero had claimed his own aedileship would in the *Verrines*). The statement is a gesture towards consolation, but firmly shifts the blame for Laterensis’ defeat onto the man himself: he had failed to take the necessary, albeit demeaning, steps to serve the Roman people.⁹⁰ As often with Cicero’s speeches, it is difficult to separate fact from distortion. His assertion that men who had received *repulsae* for the aedileship later viewed their defeat as a benefit (*benigne a populo factum*) is sophistry, a reaction to Laterensis’ citation of his ancestors in his argument: ‘and you, Laterensis, ask how you would respond to your ancestors’ masks and to your most decorated and esteemed late father’ (*quaeris etiam, Laterensis, quid imaginibus tuis, quid ornatissimo atque optimo uiro, patri tuo, respondeas mortuo*).⁹¹ Laterensis’ concern is with the disgrace of his *repulsa* and his failure to win an aedileship; Cicero consoles him by denigrating the aedileship, contradicting the glamorizing picture he would paint of the

⁸⁸ Cic. *Planc.* 13. On *sermocinatio*: Grillo 2018: 214-16.

⁸⁹ Cic. *Verr.* 1.37. But recall *Verr.* 2.1.14, where Cicero’s election allowed him to assume a *locus superior*, a metaphorical and literal reference to magistracy (cf. Hölkeskamp 2011: 169). Cicero, ‘claiming, at that time at least, that he favoured the best men’ (τοὺς γοῦν βελτίους πρότερον προαιρείσθαι λέγων), had opted for the aedileship over the tribunate (Cass. Dio 36.43.5).

⁹⁰ Craig 1990: 78-9 (on consolation); Grillo 2014: 219-21 (Cicero’s balance of responsibility between people and Laterensis himself). Grillo observes that the *quaesitor*, C. Alfius Flavius, had himself experienced a recent *repulsa* (Cic. *Vat.* 38), so Cicero’s argument may have also appealed to him.

⁹¹ Cic. *Planc.* 51-2.

office elsewhere.⁹² Laterensis surely did not agree with this assessment: he can scarcely have seen defeat as an act of *benignitas* by the Roman people.⁹³

Some consistent features emerge in the abstract qualities that Cicero ascribes to the aedileship. That *aedilitas* is so closely associated with *munera* in the *Verrines* tells us something about Roman aristocrats' self-image, of how they conceived of their responsibility in Roman public life upon election. The aedileship was a magistracy that aristocrats were (often reluctantly) socially obliged to contend for. The aedileship's urbanity (in both senses of the word) plays into this depiction. Being the men constantly present in the city, the aediles who were elected were logically those that had developed a reputation for generosity and assiduity. Cicero could thus defend Plancius' conduct during his campaign for the aedileship by employing language consistent with expected behaviour during one's term. It is important to acknowledge the retrospectiveness of Cicero's defence of Murena's and Plancius' elections. In hindsight, their election campaigns could be seen to be distinctive, based on the magistracies for which they were competing. But Cicero's choice of language is telling, especially in *In Verrem* and *Pro Plancio*, betraying distinct and idealistic trends in the way Rome's magistracies could be expressed.

⁹² See e.g. *Off.* 2.59-60. Cf. van der Blom 2010: 46-8 on *nobiles'* self-imposed duty to match their ancestors' achievements.

⁹³ Due to word constraints, further discussion of the literary treatment of the aedileship in Cicero's and others' works has been omitted.

2.3 Thinking about aediles

The problems inherent in identifying a prevailing first-century view of the aedileship should by now be clear. Cicero dominates the surviving corpus so profoundly that any attempts at reconstructing late-republican attitudes become mere reflections of Cicero's views. As often in the study of the late republic, the issue emerges about the typicality of Ciceronian evidence.¹ His philosophy and experience compelled him to condemn ostentatious displays of prodigality.

This chapter, then, ponders two narrow questions. What, according to Cicero's philosophical treatises, was the purpose of the aedileship? And what was his theoretical view of this component of Rome's institutional framework? The portrait that Cicero sketches in *De Legibus* and *De Officiis* must be interpreted in the context in which these texts were written. *De Officiis* especially is a product of its time, a reactionary text in which the author longs for a return to the republic of old by attempting to reconcile good old-fashioned Roman aristocratic norms with Panaetius' Stoic philosophy. Moreover, his references to the office are conditioned by his own experience. But I argue that Cicero's philosophy reflects general aristocratic ideals associated with the aedileship. By using the office as a tool to illustrate an ideal form of *liberalitas*, Cicero reveals how the aedileship could form part of a Roman aristocrat's self-image, and how aristocratic perceptions applied pressure on their peers to conform to the ideal.

¹ See esp. Becker 2017: 252 with n. 71; Viriouvét 1997: 243.

The modern understanding of the teleological function of the aedileship is shaped by one loaded sentence in *De Legibus*.² Following a discussion of the *minores magistratus*, and before an exploration of the censorship, Cicero defines the aedileship as follows:

The aediles are to be the *curatores* of the city, of grain, and of the holy games, and this is to be their first step towards the rank of any higher offices.

*suntoque aediles curatores urbis, annonae ludorumque sollemnium, ollisque ad honoris amplioris gradum is primus ascensus esto.*³

Cicero claims to be discussing a republic *sapientissime moderatissimeque constituta*, to which he claimed to add barely any (*sane non multum*) innovations.⁴ Still, Cicero's imperatives should make us cautious about whether this tripartite division describes a narrowly constitutional fact of the 50s: these are what aediles *should* do, in Cicero's conception.⁵ Cicero's formula may not be entirely neutral. And, given what we know about the aediles' judicial capacities, it is certainly not exhaustive. The *cura annonae* could be read in the shadow of Pompey's procurement of this responsibility in the 50s, a measure that Cicero publicly supported, but was an irregular reaction to the social problems of the time.⁶ In an ideal republic, the aediles would be filling this role, without recourse to an exceptional individual who held an exceptional role. Cicero may also have in mind his own success in

² See *supra* § 'Introduction'.

³ Cic. *Leg.* 3.7. There is a clear separation between minor magistrates, who are under the senate's control (*quodcumque senatus creuerit, agunto*), and the aediles who are prescribed immediately afterwards; the placement of censors after aediles is 'surely an example of the associative composition found elsewhere in these laws' (Dyck 2004: 438-9).

⁴ Cic. *Leg.* 3.12.

⁵ Becker 2017: 251, 269. Cf. Dyck 2004: 427: 'He is providing the kinds of laws Sulla *ought* to have enacted to establish a durable and harmonious state' (D.'s emphasis). Cf. pp. 5-12 (with Rawson 1991: 123-9) on *Leg.*'s date (late 50s) and purpose (intimated in Cic. *QFr.* 3.5.1-2).

⁶ Cic. *Att.* 4.1.6-7. See in general Tatum 1999: 123-4, 182-7.

lowering food prices at Rome through his Sicilian connections during his aedileship.⁷ *Cura urbis* is vague enough that it could quite easily encompass the other two categories.⁸ Perhaps of greater interest is his teleological framing of the magistracy. He prescribes it as a *primus ascensus* in an aspiring politician's career, the first real magistracy on a step towards greater honours. This phrase does not describe a constitutional fact: aediles were not the most junior magistrates to reach senatorial status in Cicero's time, nor was it an obligatory step on the *cursus honorum*.⁹ But Cicero's personal experience must affect our reading: the way he sees it, any good magistrate should, like him, vie for the aedileship before moving on to higher office. It formed an honourable early stage in a good magistrate's career.¹⁰ It is no coincidence that Cicero's career took off when he was aedile-elect.

Cicero's elucidation of the aedileship, unlike his lengthy tracts on the tribunate, is not especially detailed or opinionated in *De Legibus*.¹¹ His view is teleological and utilitarian. The means itself was the purpose: providing a stepping-stone for the likes of Cicero was what the aedileship was primarily for. The ideal qualities of aediles are discussed in far more detail in the second book of *De Officiis*, where a less teleological view of the aedileship is transmitted; it is more concerned with a good aristocrat's social and moral responsibility. Historical aediles constitute apposite *exempla* for his musing on the

⁷ Plut. *Cic.* 8.2.

⁸ *Vrbs* refers to the physical fabric of the city, as distinct from the *ciues* who occupy it (e.g. *Cic. Mil.* 73).

⁹ Rawson 1973: 351 suggests that Cicero's teleological positioning of the aedileship was a way of recommending a reduction in the size of the senate, since he excludes *minores magistratus* from his ideal senate.

¹⁰ Mehl 1999: 260-1; Dyck 2004: 448-9 with n. 23.

¹¹ Tribunate: *Cic. Rep.* 2.57-9; *Leg.* 3.19-26. Cf. Perelli 1979: 285-99 on how, at least in Cicero's conception in *De Legibus*, the tribunate becomes 'uno strumento utile per assicurare il monopolio del potere ai *boni*, dando al popolo un'illusione di *libertas*' (quoted at p. 298).

best (*lautior ac splendidior*) way to exercise *liberalitas*, ‘which is desirable for the attainment of *gloria*’ (*quae ualeant ad gloriam adipiscendam*).¹² *Liberalitas*, correctly exercised, is represented as a quality entrenched within the aedileship. Magistracy is conceived of as a reciprocal gift, a *beneficium*, conferred by the people onto the elite.¹³ In the equation developed in *De Officiis*, the aedileship becomes the magistracy best equipped to negotiate this transaction. Cicero’s excursus on the aedileship midway through book two occupies an important place in his work, providing a concrete political and historical explanation for his abstract ideals of *gloria* and *liberalitas*. The aedileship furnishes an opportunity to reciprocate, to show one’s *gratia*, the foremost duty of a Roman aristocrat.¹⁴ The ideal form of *liberalitas* lies in *opera*, personal services, not in lavish gifts or excessive displays of largesse.¹⁵

Restraint was an essential feature of Cicero’s reading of *liberalitas*, influenced as it was by Stoicism. All Roman aristocrats sought *gloria*, but what separated them was the means, *iustus* or *iniustus*, by which they sought it. He holds that *uera gloria* cannot be attained by those guilty of excessive displays of generosity to the people (*prodigi*).¹⁶ Therefore, ‘nothing is *liberalis* if it is not likewise just’ (*nihil et enim liberale, quod non idem iustum*).¹⁷ One who is motivated solely by a desire for glory and ostentation is guilty of *uanitas*: such people are driven more by a spirit of ostentation than by heartfelt kindness;

¹² Cic. *Off.* 2.52.

¹³ Cic. *Agr.* 2.17; *Sest.* 134; *Planc.* 11. Cf. Deniaux 1987: 280-1; Riggsby 1999: 24-7; Morstein-Marx 2004: 258-66. Kaster 2006: 376 describes it as ‘a cliché for election to a magistracy’.

¹⁴ Cic. *Off.* 1.47: *nullum enim officium referenda gratia magis necessarium est.*

¹⁵ The semantic similarities between *opera* and *munus* in *De Officiis* should not go unnoticed. *Opera* is a key term (cf. 2.65), so Cicero reserves the use of *munus* to its explicit meaning of games in his section on *liberalitas* (2.55: *gladiatorum muneribus*; 2.56: *popularium munerum taliumque sumptuum*; 2.57: *aedilicio maximo munere*; *magnificentissima uero nostri Pompei munera*; 2.60: *sine ullo munere*; 2.63: *largitioni munerum*), though it is used in its sense of ‘duty’ elsewhere (e.g. 2.6; 2.70).

¹⁶ Cic. *Off.* 2.43.

¹⁷ Cic. *Off.* 1.43.

moreover, they are not really generous but are rather motivated by a desire to appear generous with hollow *ostentatio*.¹⁸ As a contrast, an image of the ideal selfless aedile is painted. The best way to spend money (*illae impensae meliores*) is to use one's money on structures that will serve the community as a whole (*quae ad usum rei publicae pertinent*).¹⁹ Not only is this behaviour morally upstanding, but it wins more *gratia* in the long run anyway (*haec in posterum gratiora*). His idealized view thus has pragmatism and *utilitas* at its heart, a view echoed by Pliny over a century later: 'it is necessary to prioritize public over private *utilitas*, and things that last over things that die with us' (*oportet priuatis utilitatibus publicas, mortalibus aeternas anteferre*).²⁰ Gifts like banquets, games, and shows will have but a fleeting impact on the people's memory. They are things 'whose memory will remain for just a short while or not at all' (*quarum memoriam aut breuem aut nullam omnino sint relicturi*).²¹ The aedileship thus becomes a tool with which to reconcile Roman normative practice, especially the effusive outlay of money on *ludi publici*, with Stoicism's emphasis on restraint.

Of course, the prescriptiveness of *De Officiis*, Cicero's last surviving philosophical treatise, makes it a perilous text from which to identify historical reality. Excessive ambition and Caesar's distortions of ideal *liberalitas* had brought the republic to its knees.²² It is a reactionary text, lamenting the decline of republican institutions while providing a template, based on Cicero's rendering of Stoic philosophy and personal experience, for the

¹⁸ Cic. *Off.* 1.44.

¹⁹ Cic. *Off.* 2.60.

²⁰ Plin. *Ep.* 7.18.5. Cf. the similar sentiments in Plut. *Prae. ger. reip.* 29.

²¹ Cic. *Off.* 2.55. But Cicero 'knew really that was not so' (Bell 1997: 21). Cic. *Fam.* 11.16.4 and *Att.* 4.16.6 certainly suggest otherwise. Commemoration of games in epigraphy: Chamberland 2012: 264-7; Kokkinia 2012: 99-105.

²² Long 1995: 215, 227.

restoration of traditional republican values.²³ As one scholar observes, ‘a huge chasm yawned between the ideal *liberalitas* of the philosophers and the actual practice of it in this period’.²⁴ And this is precisely the point of the text. Much of Cicero’s philosophizing fell in line with his own unique trajectory: he boasted of modest spending during his aedileship, advising others to follow suit.²⁵ His idea of *benignitas* consisted in personal service, effort, and honourable behaviour (*constet ex opera et industria honestior sit*); not all Romans sought this benchmark.²⁶ There was plenty of prodigal spending going on in the late republic.

Nevertheless, all ambitious Romans were seeking the same end: *gloria*. It was the means of getting there with which Cicero took issue. Aristocratic Romans valued their *existimatio* and *gloria* among the lower classes, who determined one’s position within the elite.²⁷ *Existimatio* and *amicitia* are chief among the three aspects of oratory to be sought (*rerum expetendarum tria genera sunt*).²⁸ The honour of holding the aedileship (*laus aedilitatis*) enhances one’s *existimatio*.²⁹ It was not simply a means of getting elected to further office; displaying one’s *liberalitas* before the people was a particularly desirable end in itself. Pliny would later consider the *gloria* and *memoria* from public construction to be the most desirable products of *liberalitas*.³⁰ Likewise, in *De Officiis* services to the people and republic,

²³ See Gabba 1979: 130-2 on Cicero’s hopeful message of ‘una rifondazione etica della classe dirigente e quindi dello stato.’

²⁴ Manning 1985: 77. Cf. Dixon 1993: 452-3.

²⁵ Cic. *Off.* 2.59: *sane exiguus sumptus aedilitatis fuit*.

²⁶ Cic. *Off.* 2.54.

²⁷ See e.g. Cic. *Phil.* 1.29.

²⁸ Cic. *Inv.* 2.157.

²⁹ Cic. *Planc.* 79: ‘it is having good favour that concerns you, Laterensis, or even, if you will, your reputation, the honour of an aedileship’ (*agitur studium tuum, uel etiam, si uis, existimatio, laus aedilitatis*). Like *Off.* 2.57 (*splendor aedilitatum*), the passage implies that Laterensis would obtain the *existimatio* through the praiseworthy conduct of an aedileship (cf. *Off.* 3.77; *De or.* 3.150 for similar renderings of *laus*) and not simply the fact of being elected (*contra* Yavetz 1974: 52). Cf. Sallust’s critique of those who seek magistracies as ends in themselves (*Iug.* 4.8), with whose moralizing Cicero doubtless would have agreed.

³⁰ Plin. *Ep.* 5.11.1-3 with Goffin 2002: 21; Horster 2014: 530.

no matter their means, are superior to prodigality.³¹ Moralistic bluster it may be, but the views of Cicero and Pliny offer some insight into the social expectations placed upon the upper classes by the Roman people as well as their peers. Being loved (*diligi*) by the people is fundamental.³² Paul Veyne had *De Officiis* in mind when concluding, in his critique of narrowly teleological perspectives of Roman politics, that aristocratic Romans ‘voulent être aimés’.³³ Cicero gives advice about gaining *amor multitudinis* as a means of attaining *gloria*, a notion that depends on three factors: the love, faith, and admiration of the people.³⁴ Spending excessively was simply the wrong path to a desirable outcome.³⁵

How does *De Officiis* fit with the strictly teleological view of the aedileship presented in *De Legibus*? Cicero once mentions the risk by which omitting an aedileship could inhibit one’s political career, citing a unique example: Mam. Aemilius Lepidus Livianus’ (cos. 77) refusal even to run for an aedileship (*praetermissio aedilitatis*) supposedly ‘caused’ (*attulit*) his *repulsa* for the consulship for 78.³⁶ Lavish displays of generosity were certainly expected of a man of his standing (*postulatur a populo*), and a wise man would comply. The messages are consonant with those in *Pro Plancio*: one really ought to submit oneself to the people ‘even if it is distasteful for honourable men’ (*bonis uiris si non desiderantibus*).³⁷ Although his advice that such entertainments should be carried out *modo pro facultatibus* was clearly not followed by all aediles, the profound necessity of fulfilling

³¹ Cic. *Off.* 2.65, 70.

³² Cic. *Off.* 2.23: ‘but of all these things, none at all is more suitable for preserving and holding influence than being loved, and none more incompatible than being feared’ (*omnium autem rerum nec aptius est quicquam ad opes tuendas ac tenendas quam diligi nec alienius quam timeri*). Cf. Cic. *Nat. D.* 1.121; *Sen. Ben.* 2.18.5; 2.21.1.

³³ Veyne 1976: 490. In general: pp. 436-45.

³⁴ Cic. *Off.* 2.32-3. Cf. Cicero’s much earlier, and more simplistic (Long 1995: 216), definition of *gloria* in *Inv.* 2.166.

³⁵ Cf. Sall. *Cat.* 11.2 for similar moralizing sentiments.

³⁶ Cic. *Off.* 2.58. Cf. Viriouvét 1997: 246-7.

³⁷ Cf. Cic. *Planc.* 12.

the people's expectations emerges as a reluctant duty. Cicero is not here talking about the necessity of a generous aedileship 'to pave one's way to the higher magistracies'.³⁸ Rather, this is a general (and not especially persuasive) example of how *suspicio auaritia* can have a negative effect on one's career. Cicero knew full well that Mamercus would be elected for the consulship a year later anyway, and that, if he had run for the aedileship in the late 80s, he would have had to appease Cinna's successors.³⁹ He later contradicts this with the statement that four men went on to win high office without lavish expenditure: L. Marcius Philippus (cos. 91) liked to brag (*gloriari solebat*) – only subsequently, one suspects – that he reached the consulship *sine ullo munere*; the others apparently proceeded in a similar fashion.⁴⁰ The key word is *suspicio*. Failing to fulfil popular *expectatio muneris* is enough to damage one's election chances: for example, Murena's opponents propagated the rumour that he would arrange *munera* while running for the praetorship in an attempt to damage his chances.⁴¹ It is critical that aediles be *seen* to be generous, but above all they 'must be restrained by moderation' (*mediocritate moderanda est*).⁴² Much of Cicero's argument, then, is founded in pragmatism: do not be seen to be stingy, but avoid overspending. Holding fast to the ideal middle ground will win you more *gratia* in the long run.

Obtaining *gratia* is an ideal outcome. A politically charged and competitive notion so ingrained in the Roman psyche, *gratia* ensured that an aedile had a moral obligation to

³⁸ Yakobson 1999: 37.

³⁹ Broughton 1991: 6. Cf. Sumner 1964: 44-5: Cicero makes the case 'rather superficially'. Mamercus would have been of aedilician age by 84 (cf. App. *B Civ.* 1.94.439 for his switch to Sulla in 82).

⁴⁰ Cic. *Off.* 2.59. Though Cicero is not explicit, all the men mentioned here (L. Marcius Philippus (cos. 91), C. Aurelius Cotta (cos. 75), C. Scribonius Curio (cos. 76)) were probably aediles when they exhibited their restraint (Ryan 1995b: 97-9).

⁴¹ Cic. *Mur.* 37. Cf. Fantham 2013: 137.

⁴² Cic. *Off.* 2.60.

return the favour of his election to the people.⁴³ The aedile owed them his *munera* for the *honor* conferred upon them; their *munera* are thus ‘présentés comme des gestes de gratitude pour l’honos obtenu’.⁴⁴ That an aedileship presented a middle-aged aristocrat with an opportunity to procure (and then repay) the *gratia* of the people is attested by other writers. Caesar cheated Bibulus out of the *gratia* that both should have received from the *ludi* that they organized together: Caesar ‘alone also hoarded the *gratia* from what he and Bibulus had spent together’ (*ut communium quoque inpensarum solus gratiam caperet*).⁴⁵ Lavish grain distributions following the Hannibalic War would secure *gratia* for the aediles.⁴⁶ Magnificent games would be remembered and might provide lasting *gratia* with the people.⁴⁷ Many did this to excess; some may have followed the Ciceronian ideal of *liberalitas*.⁴⁸ The *gratia* earned was currency that could be deployed in later electoral campaigns, not only winning the much-desired affection of the people, but influence over fellow aristocrats in the contest for the *gratia* of the people.⁴⁹

De Officiis, then, supplies a moral code by which aediles should conduct themselves. The aedileship emerges as a normative means of achieving *gloria*. An aspiring politician should bow to the expectations of the people, however reluctantly: it had long become customary (*inueterasse iam bonis temporibus*) for ‘lavishness to be demanded from the best men in their aedileships’ (*splendor aedilitatum ab optimis uiris postuletur*).⁵⁰ A wise man would

⁴³ Cic. *Inv.* 2.66, 2.161. Cf. esp. Jacotot 2013: 376-82. Cf. Verboven 2002: 37-9; Moussy 1966: 375-6; and Feuvrier-Prévotat 1985: 275-7 on the transactional nature of *gratia* in *De Officiis*.

⁴⁴ Jacotot 2013: 382.

⁴⁵ Suet. *Iul.* 10.1.

⁴⁶ Liv. 31.4.5-6; 33.42.9.

⁴⁷ Cic. *Fam.* 11.16.3 on L. Aelius Lamia.

⁴⁸ Verboven 2002: 35: ‘*Liberalitas* was the virtue “par excellence” of a Roman aristocrat’. Whether the aristocrat followed Cicero’s definition of the term is another matter. Cf. more negative configurations, though rare, of *liberalitas*: Sall. *Cat.* 49.3; 52.11-12 with Manning 1985: 77.

⁴⁹ Tatum 2018: 178-80.

⁵⁰ Cic. *Off.* 2.57.

oblige; a good man would oblige with restraint. Cicero conceives of the aedileship as a burden that the Roman aristocracy simply has to live with. Currying favour with the people is unpleasant, but it is a *postulatum*.

The centrality of the people is further reinforced by a fragment of Sulla's memoirs, preserved by Plutarch. Having failed in his bid for a praetorship in the mid-90s, Sulla would later explain away this disgrace as a popular wish to have him elected to the aedileship instead. Blaming his defeat on the crowd, he claimed that the people, expecting great *uenationes* from him because of his connections in Africa, 'elected other men to the praetorship so as to force him to run for the aedileship' (ἐτέρους ἀποδείξαι στρατηγούς ὡς αὐτὸν ἀγορανομεῖν ἀναγκάσοντας).⁵¹ His failure was therefore a product of his past military success in Africa. Plutarch was not convinced by this apology.⁵² Nor should we be.⁵³ The aedileship is a rhetorical tool that is central to the aristocracy's understanding of popular desires. However unconvincing Sulla's story may be, he nevertheless felt that blaming the people was a reasonable excuse to present to his aristocratic readership of the 70s. Though perhaps sceptical of the reason behind his defeat, they would have at least accepted the notion that the fickle Roman people expected generosity of them.

Cicero's argument midway through book two is constructed to prescribe a mode of aedilician generosity. He concludes this section on 'largesse' (*largitio*) with the following sentence: 'therefore, a whole system entailing such expressions of largesse is morally

⁵¹ Plut. *Sull.* 5.1 = *FRHist.* 2.480-1, F10.

⁵² Plut. *Sull.* 5.1: 'but Sulla seems to have been ashamed by this state of affairs, since he did not confess the real reason for his failure' (ἔουκε δὲ τὴν ἀληθῆ τῆς ἀποτεύξεως αἰτίαν οὐχ ὁμολογῶν ὁ Σύλλας ἐλέγχεσθαι τοῖς πράγμασιν). Cf. Val. Max. 7.5.5.

⁵³ This example is occasionally deployed as proof of an instance where an aedileship could make or break one's career (Ville 1981: 89, 99; Yakobson 1992: 40-1; 1999: 35; Ryan 1995a: 399-400; Deniaux 2016: 183). But see *contra* Brennan 1992: 135-6; Tatum 2003-04: 206.

flawed; the system is sometimes necessary and, on such an occasion, it must be both adapted to our financial means and conditioned by moderation' (*tota igitur ratio talium largitionum genere uitiosa est, temporibus necessaria et tum ipsum et ad facultates accommodanda et mediocritate moderanda est*).⁵⁴ The asyndeton (obscured by my translation's semicolon) draws attention to the paradox and tension at play in Cicero's moralizing: the 'system' (*ratio*) is concurrently *uitiosa* and *necessaria*.⁵⁵ Displays of generosity to poor folk make aristocrats uncomfortable, but they can still retain a dissonant belief in its *necessitas*, its centrality to the traditional Roman system.

The institutionalized nature of the aedileship and of other displays of aristocratic *liberalitas* forces Cicero to make this apology, as does his own career. After all, all aediles are explicitly compared to his own benchmark: I displayed *mediocritas*, he boasts, and I still won every office *cunctis suffragiis*. But *De Officiis* is not just evidence of Ciceronian gloating or distinctive moral outlook. It also demonstrates an essential part of aristocratic self-identity to be expected to conform to the *postulata* of the people. He conceives of the aedileship as central to reciprocity across classes, which, according to Cicero, was fundamental in binding communities together.⁵⁶ This self-image complicates the baldly teleological view of the aedileship that Cicero presents in *De Legibus*. Even if some aristocrats might boil the office down to a simple *ascensus* on the road to the consulship, holding the office necessitated a specific type of conduct and interaction with the Roman people.

⁵⁴ Cic. *Off.* 2.60.

⁵⁵ Contrastive force of asyndeta: Adams 2021: 149-66

⁵⁶ On social bonds: Cic. *Off.* 1.50-1 (*societas*). On the importance of this reciprocity: Cic. *Off.* 1.22 (*dando accipiendo*). Cf. Verboven 2002: 35-48.

2.4 Conclusion: Idealized aediles

This chapter has introduced the qualities and ideals that some writers associate with the aedileship. Aediles would often present themselves *in contione* as champions of the crowd. As shown in Cicero's oratory, the aedileship had its own unique grammar and ideology that set it apart from other offices in the aristocratic imagination. Cicero paints the aedileship as way of reciprocating the *beneficium* of the Roman people. And he did his utmost to reconcile his philosophical view of *liberalitas*, conditioned by the ructions of the 40s, with political reality. We have identified several distinctive normative expectations placed upon aediles in their interactions with the Roman people.

Cicero is not alone in idealizing the aedileship. Whereas the tribunate had a complicated and loaded ideological association with the *plebs*, the aedileship occupied a more ambivalent space that was framed as simultaneously inoffensive to the aristocracy and beneficial to the people. Livy's recollection of stories of fourth and third century aediles, some of which are of dubious historicity, reflects these ambivalent views. The Ogulnii, for example, were tribunes in 300 and curule aediles in 296. Livy frames their tribunician proposal to admit plebeians into priesthoods as motivated by a desire to stir up class tensions.¹ The implication here is that the seditious tribunes were motivated by a desire to increase their own influence by fomenting discord between the *capita plebis* and the *patres*. Their tribunate was allegedly marked by sowing discord between the orders. And yet their *rogatio* was supported by Rome's greatest plebeian leaders; the *plebiscitum* passed. The seditious tribunes disappear quickly from Livy's narrative, overshadowed by P. Decius Mus's dignified speech in favour of the *rogatio*. When Livy reintroduces the

¹ Liv. 10.6.3-4.

Ogulnii later, he provides a staid, annalistic list of aedilician *munera* to conclude the year 296, over which he characteristically fails to pass judgement. Fining *faeneratores*, they spectacularly embellished the Capitol, made offerings to Jupiter, and paved a section of the *uia Appia*.² This is not to say that fourth- and third-century aedileships lacked the capacity for radical political gestures. Penelope Davies has argued that their commissions were symbolically ‘aggressive’ against the patrician order.³ But, consistent with the Ciceronian picture, historical narratives tend to tone down the radicalness of early aediles. The motivations for their actions are ignored: the beneficial outcomes to the *urbs* are stated in descriptive prose to round up the year.

The aedileship thus tends to be framed as the ideal urban magistracy. C. Licinius Macer’s eulogizing story of Q. Fabius Rullianus Maximus, preserved by Livy, reports that the man in question, elected to the consulship for 299 despite not being a candidate, requested that his consulship be deferred *in bellicosiore annum*.⁴ Fabius implored the people to choose him for an office which had *maior usus rei publicae*.⁵ His intimations were sufficient for the people instead to award him a curule aedileship. Much about this story is strange.⁶ Reluctant elections are something of a literary motif in Livy and his sources, deployed to praise the subject for their virtuous refusals.⁷ Livy notes that his other source, Piso, supplied two completely different curule aediles for the year. Rullianus’ conduct

² Liv. 10.23.11-12.

³ Davies 2012: 155.

⁴ Liv. 10.9.11. Macer the historian was seemingly the same individual as the *popularis* tribune of 73 (Oakley in *FRHist* 1.320-31) who spoke in favour of the restoration of the tribunate (Sall. *Hist.* 3.48M), *contra* Cornell 2018: 182-201.

⁵ A consul could remain at Rome to manage urban affairs, as Ap. Claudius Caecus’ consulship of 307 shows (Liv. 9.42.4), but his precedent is exceptional and possibly inauspicious.

⁶ Spurious elements of Macer’s story: Walt 1997: 283-4; Oakley 2005a: 352 n. 2.

⁷ Haimson Lushkov 2015: 167 with n. 69.

during his aedileship, in which he heroically sourced grain for the Roman people at a time when aediles seem not have been concerned with *cura annonae*, should also make us suspicious.⁸ It is a neat coincidence that Fabius should happen to request such a position in the same year that a devastating famine would hit Rome. Good consuls engage in warfare; good aediles do things to help the republic *domi*.⁹ Macer idealizes the aedileship as a magistracy that one should selflessly carry out for the good of the urban population.¹⁰ The aedileship is the office assumed to be of greatest *usus* to the republic, a convenient gap-year for Rome's greatest war hero given to him by first-century authors.¹¹

An aedile's *cura* was visual: trials before the people, embellishments to public monuments, games, theatre. The 'performative quality' – identified by Sarah Culpepper Stroup as an innate component of *munera* – of republican aediles has run as a *fil rouge* through this section.¹² Piso's anecdote on Flavius' aedileship reinforces the magistracy's performativity. Flavius ostentatiously placed his curule chair directly in his detractors' eyeline in the doorway 'so that they all would unwillingly regard him as he sat in his curule chair' (*utique hi omnes inuiti uiderent sese in sella curuli sedentem*).¹³ He is, as Haimson Lushkov observes, 'both dramaturge and star of this little scene'.¹⁴ As I demonstrate in the following section, the literary casting of Flavius in this role, as an actor on the public stage, reflects the performative reality of Rome's urban magistrates *par excellence*. The final section

⁸ Liv. 10.11.9. Cf. Forsythe 1994: 347-9; Oakley 2005b: 160. *Contra* Rickman 1980: 34.

⁹ Contrast Livy's 'literary and rather unhistorical characterization' (Oakley 2005a: 550) of Ap. Claudius (cos. 307) as an urbanite who, instead of engaging in the Samnite wars, preferred to remain at Rome 'to increase his influence with urban arts' (*ut urbanis artibus opes auget*), which was by implication unbecoming of the office to which he was elected (9.42.4).

¹⁰ Contrast the selfish motivations of the *priuatus* Sp. Maelius (Liv. 4.13.1-3; Cic. *Mil.* 72), who gave out free grain in his pursuit of *regnum*.

¹¹ See *supra* § 2.2 for Cicero's inversion of this formulation (*Planc.* 13).

¹² Stroup 2010: 89.

¹³ Gell. 7.9.6.

¹⁴ Haimson Lushkov 2015: 174

examines their performance before and among their fellow actors on the public stage: how they present themselves before the people and their aristocratic peers, and how these people respond.

3. AUDIENCE AND CAST

3.0 Introduction

The first section of this thesis examined where aediles interacted with the people. The second investigated how they did this: how they represented themselves before the people and their peers, and how the aristocracy conceived of the aedileship. Although aedilician norms tended to be conceptualized as responses to popular demand, the communication process discussed in the previous sections was mostly one way. This final section investigates how the people engaged in dialogue with aediles. It looks at the various groups with whom aediles came into contact in their day-to-day activities. Holding the aedileship necessitated the cultivation and development of a diverse array of connections among the population, especially the urban *plebs*.

We begin with the 'people' in general. The first chapter ('Mingling with the audience') discusses the evidence for interactions between aediles and the Roman people, focusing on evidence supplied by two authors in particular, Petronius and Plautus. Their evidence, I argue, underlines the perceived and idealized 'presentness' of aediles in the city. During a humorous conversation punctuating the *cena Trimalchionis*, Petronius has two guests, Ganymedes and Echion, discuss the present state of their *colonia*. This fictional conversation provides a tangible example to contextualize Martin Jehne's idea of 'Jovialität' in the Roman republic and early Principate. This relationship, whereby the boundaries between upper and lower classes are consciously broken down, only to reinforce existing hierarchies, also manifests itself in republican plays, especially those by Plautus. Aediles

organized and were present at plays, plays that were enjoyed by a broad swathe of Roman society together with the magistrates. The theatre was, then, one of the most prominent spaces where aediles would be expected to show their 'Jovialität', to communicate with the people, and to be communicated with.

Holders of the aedileship were expected to work closely with a wide range of groups across Roman society. Aediles thus found themselves at the head of a hierarchy of workers and social groups all of whom established relationships with the men who fleetingly held the office. This created networks of mutual dependence. Some of these relationships were professional. The following chapter ('Understudies') looks at what the evidence can tell us about the nature of the relationship between aediles and their *apparitores*, especially their *scribae*, *uiatores*, and *praecones*. Although evidence for communication between these groups and their employers is minimal, epigraphic evidence reveals a sense of collegiality among aedilician *apparitores*. This chapter provides a gentle critique of Claude Nicolet's characterization of the passive magistrate leaving all bureaucratic duties to the professional class in his employ.¹ While this characterization may be apt in many cases, the evidence suggests that aediles maintained an active interest in the identity and careers of some of their *apparitores*.

Some relationships were transactional and professional. Institutions presided over by aediles, thanks to their regularity, most notably in the case of the *ludi publici*, ensured that industries existed and thrived beneath and because of the aedileship. The third chapter ('Walk-on parts') explores these connections. Much of the aediles' efforts would be devoted to buying plays and ensuring that the festival was a hit with the audience. Some

¹ Nicolet 1976: 438.

metatheatrical passages in Plautus and Terence reveal some details about how this process took place. A large part of the aediles' role was also to issue contracts. *Redemptores* had to be hired for public benefactions, ranging from construction projects to sourcing and transporting grain to arranging spectacles at the *ludi publici*. Imperial electoral *programmata* at Pompeii point to the diversity of groups who had an interest in the office, reinforcing republican evidence from Rome about the *expectatio* attending the new aediles' term. What emerges, then, is a network of people on whom successive aediles were reliant, and whose livelihoods were in turn closely linked with the institutions presided over by aediles.

Other relationships were built on confrontation. In the first two sections, we saw how an aedile frequently walked a fine line between being magnanimous benefactor and punitive pedant. Punishments delivered against certain groups of society could be presented as a *munus* for the Roman people. The final chapter ('Antagonists') will explore this dialectic in further detail. *Faeneratores*, *pecuarii*, and traders thought to be distorting market prices, among other groups, were occasionally subjected to the aediles' discretionary justice. Moreover, as we see during Agrippa's aedileship and later changes to the office under Augustus, the aedileship was viewed as an office well positioned to maintain public order. Agrippa's extraordinary aedileship encapsulates the traditional view of the magistracy's exigencies, in both restrictive and permissive forms. This chapter helps us to understand why Augustus reshaped the aedileship in the way he did. His actions offer insight into what the Roman aristocracy saw as the fundamental social purpose of the aedileship: to create an impression of consensus between the aristocracy and the people.

To restate a point made throughout this thesis, this section does not set out to paint aediles as unique among Roman officials in this respect. I am not arguing that aediles were

the only magistrates who, for example, formed an important working relationship with *apparitores* (quaestors did this), worked with contractors (censors did this), negotiated with playwrights (praetors did this), or prosecuted people (tribunes did this). What I do argue is that aediles had the broadest swathe of activities in the Roman city, which brought them into contact with a unique aggregate of people. There is something distinctive about the way aediles tended to conduct themselves before and among the people, and in the relationships that they were compelled to forge with people at home and abroad.

3.1 Mingling with the audience

Our discussion of the social relations of Roman aediles uses etymology as an unconventional and *prima facie* mundane point of departure. In the first section, we saw that ancient authorities, faced with few viable alternatives, almost unanimously link *aedilis* with *aedes*.¹ Aediles get their name from buildings, temples in particular (*aedes sacrae*). Festus, based on the first-century grammarian Verrius Flaccus, followed suit. Following the familiar Varronian tradition, he wrote that '*aedilis* was at its origin the name given to a magistrate because he looked after not only sacred *aedes*, but private ones too. But afterwards this name was extended to the magistrate himself' (*aedilis initio dictus est magistratus, quia aedium non tantum sacrarum, sed etiam priuatarum curam gerebat. Postea hoc nomen et ad magistratus translatum est*).² So far, so conventional. However, Festus' next sentence should attract our interest too. 'On the other hand (*autem*)', he writes, 'he was called an *aedilis* because there was straightforward access to him for the *plebs*' (*dictus est autem aedilis, quod facilis ad eum plebi aditus esset*).³ The adversative *autem* gives a sense of competing traditions, although Festus appears to entertain both as equally plausible.

Five-hundred years later, the Byzantine lawyer Theophilus would preserve the same alternative tradition after considering the link between *aedes* and *aedilis*. The aedileship was in fact created, he claims, because 'someone was put forward for election by the plebeians because they needed someone to accept the approaches of those who were in need of assistance, who was called *adiles* owing to his approachability, from the verb

¹ See *supra* § 1.1.

² Fest. 12L. The sense of the second sentence is presumably that they were only formally called *aediles* at a later date, which finds some support in Dion. Hal. 6.90.3.

³ Linguistic parallel: Cic. *Leg. Man.* 41.

adire' (παρὰ τοῖς ἰδιώτοις προὔβληθη τις ὃν ἔδει δέχεσθαι τὰς προσελεύσεις τῶν δεομένων τινὸς βοηθείας, ὃς ἀπὸ προσελεύσεις *adiles* ὠνομάσθη ἀπὸ τοῦ *adire*).⁴ This assertion may be dismissed as false etymologizing, despite Theophilus' confidence that this tradition was τὸ πάντων ἀληθέστατον. There is, after all, no linguistic reason to believe that the verb *adeo* and the substantive *aidilis/aedilis* have anything to do with each other.⁵ But this very spuriousness makes this tradition all the more noteworthy. Since it must reflect first-century BC/AD understandings of the aedileship, it shows that 'approachability' (*facilis aditus* or προσέλευσις) was understood as a normative quality of contemporary aediles.⁶ According to this tradition, the name came from the aediles' approachability during the struggle of the orders. There must have been a long tradition linking aediles with the people as their champions in Rome's face-to-face society. In Verrius Flaccus' day, aediles were remembered for their accessibility (at least *ab origine*), a fact that could lead lexicographers to fabricate a contrived link between their *facilis aditus* and *aedilitas*.

Approachability itself was something of an aristocratic virtue. It evidently served to reinforce social dynamics between upper and lower classes: in conventional social interactions, it was normal for aristocratic figures to be approached by their social inferiors.⁷ Cicero prided himself on this *facilis aditus* during his governorship in Cilicia, just as Quintus had during his earlier governorship in Asia.⁸ Quintus himself apparently recommended

⁴ Theoph. *Inst.* 1.2.7 = Ferrini 1889: 15.

⁵ Becker 2017: 45.

⁶ Cf. Plut. *Quaest. Rom.* 81 on how a tribune, too, was expected to be 'accessible to all' (πᾶσιν ἐφικτός).

⁷ Deniaux 1993: 264-5; Tatum 2018: 34.

⁸ Cic. *Att.* 6.2.5; *QFr.* 1.1.25; Plut. *Cic.* 36.4. Cf. Heuer 1941: 48-50 on the link between *aditus* and *facilitas*, and the importance of 'Zugänglichkeit den Untergebenen gegenüber'.

that Marcus make a show of *aditus* at all hours while canvassing for the consulship, not simply in a physical sense (by leaving the doors of his house open), but in his very manner and facial expressions.⁹ Perceived unapproachability could, however, leave one open to criticism, at least by one's aristocratic peers: along with his myriad alleged indiscretions in 44, including the distribution of land to his followers through the *lex Antonia agraria*, L. Antonius had apparently been unapproachable (*nullus aditus erat priuato*), which was made all the worse by his being tribune that year.¹⁰ Clearly, then, this ideal was not unique to the aedileship. But the lexicographers certainly wanted to believe that there was an ideological quality embedded in the aedileship that compelled office holders to practise this idealized accessibility on behalf of Rome's lower classes.

This chapter investigates the perception and physical manifestation of this approachability and presentness in aediles. Evidence for social interactions between magistrates and people is not widespread. However, a story about aediles in Petronius' *Satyrice* provides a glimpse into the relationship between aediles and the people in the Roman world. I argue that this can be taken as emblematic of aediles' relationship with the people in both the republic and the empire, constituting a rare glimpse into the aedilician *aditus* that lexicographers like Verrius concocted. The relationship to which Petronius' characters allude is reminiscent of Martin Jehne's conception of Roman social relations through the lens of 'Jovialität', a label used by Jehne to describe the phenomenon whereby a member of the Roman elite symbolically reduced the social and physical distance between himself and members of lower classes, presenting himself as 'on the same level' as the

⁹ Q. Cic. *Comm. Pet.* 44.

¹⁰ Cic. *Phil.* 5.20. Cf. 5.7 with Manuwald 2007: 574-6 on the *lex agraria*.

people.¹¹ I suggest that the relationship that aediles developed between themselves and the people is a manifestation of this phenomenon in the Roman world. An examination of the treatment of aediles in Plautus' comedies supports this argument. Prologues that refer metatheatrically to the plays' sponsors write the aediles into their jokes, making light of their position. The aediles in the audience, anticipating this, would be expected to play along.

We begin, however, with a fictional aedile. Amidst the caricatured complaints of Trimalchio's dinner guests, Petronius has a character named Ganymedes express his displeasure at the exorbitant food prices in his unnamed *colonia*. He reminisces about a time when, 'with the help of a friend, you couldn't finish off the bread that you could buy for an *as*' (*asse panem quem emisses, non potuisses cum altero deuorare*).¹² He enjoyed these good times when he first moved from Asia to this Italian colony (*cum primum ex Asia ueni*), many years ago when he was a child (*me puero*), when metaphorical *leones* were magistrates in the *colonia*.¹³ One of these *leones* was an aedile called Safinius.¹⁴ Through the mouthpiece of Ganymedes, Petronius offers a rare, though caricatured, glimpse into demotic

¹¹ Jehne 2000; 2006; 2011.

¹² Petron. *Sat.* 44.11.

¹³ Petron. *Sat.* 44.4-7. If we assume that Trimalchio and Ganymedes came to Italy at the same time (Trimalchio was also a child: *tam magnus ex Asia ueni, quam hic candelabrus est* (75.10)), then a significant period of time had passed between his childhood and the *cena Trimalchionis* (76). On Trimalchio's youth: Bodel 1989: 72-4; Baldwin 1993: 143-6. The dramatic date of the *Satyrica*, let alone the date of composition, cannot be determined with any certainty. Smith 1975: 210 suggests a dramatic date of after AD 34. But see Prag and Repath 2009: 8-9 with caveats.

¹⁴ Safinius is never explicitly called an aedile, and possible textual corruption (summarized in Whittick 1952: 11-12; Bolelli 1959: 311-12) has led to various interpretations of what position this *leo* held. Though some are cautious (Pepe 1957: 103: 'di professione avvocato'; Hall 1998: 419: 'senator'), Petronius' juxtaposition relies on the contrast between the good former aedile, Safinius, and the bad ones who are currently in office. As Rankin (1968: 254-6) has convincingly shown, Safinius was not a private 'anti-magisterial' individual (he spoke *in curia*), but an aedile who ensured that corruption was held in check. Finally, the lion metaphor recalls, perhaps consciously, Horace's description of Agrippa as aedile as an *ingenuus leo* (*Sat.* 2.3.185-6).

preoccupations, into what people wanted and expected from their aediles, albeit in a colonial and imperial context.

Ganymedes is nostalgic, hinting at an aedilician ideal in contrast with its antithesis, namely the aediles currently holding office. Safinius, aedile when Ganymedes first arrived at the colony, was a paragon of aedilician virtue. During his aedileship, 'grain was as common as mud' (*annona pro luto erat*).¹⁵ The magistrate's *benignitas* and *amicitia* are fondly remembered. Safinius would comport himself as a friend to the ordinary person (*sed rectus, sed certus, amicus amico*), returning one's greeting in the street and calling everyone by name (*et quam benignus resalutare, nomina omnium reddere, tanquam unus de nobis*).¹⁶ Further virtues appear that are familiar to us from the previous two sections. He would act on the people's behalf in both the local senate (*in curia*) and in the courts (*in foro*), speaking clearly and articulately. 'His voice boomed like a trumpet' (*illius uox crescebat tanquam tuba*) as he 'dressed down each and every one of them' (*singulos tractabat*).¹⁷ Safinius was a metaphorical *leo* who dealt severe punishments to those profiteers with whom today's aediles collude.¹⁸ A great man like Safinius would not countenance the corrupt magistrates of the present day.

Ganymedes is reminiscing about a golden age during his childhood, fictitious perhaps even within Petronius' fictional narrative, when both the aediles and the people

¹⁵ Petron. *Sat.* 44.11.

¹⁶ Petron. *Sat.* 44.7, 11.

¹⁷ Text is contentious here. MS reads *singulos uel pilabat tractabat*. The addition of another verb with *uel* appears to be a later editor's gloss (Smith 1975: 110). In any case, *pilo* and *tracto* appear to be synonymous.

¹⁸ On speculators and hoarders: Bang 2006: 71-4; Temin 2013: 33 (arguing that suppressing hoarders 'facilitated the operation of the private market'). Cf. Verboven 2009: 136 for a brief gloss of this passage.

who elected them were forthright and stood up to corruption.¹⁹ The golden age of Safinius is juxtaposed against the background of the corrupt aediles currently in office who have made life difficult for ordinary people like Ganymedes. The bad aediles conspire with bakers (*qui cum pistoribus colludunt*), making the people go hungry: ‘as a result, the people of lesser importance are suffering’ (*itaque populus minutus laborat*).²⁰ Only the wealthy, the *maiores maxillae*, can afford to eat well now – and they gorge themselves. He asks: ‘why do we make do with an aedile not worth three Caunean figs, who prioritizes keeping an *as* for himself over our welfare?’ (*sed quare [nos] habemus aedilem <non> trium cauniarum, qui sibi mauult assem quam uitam nostram?*).²¹ Ganymedes claimed that the aedile had extorted an enormous sum of money by abusing his magistracy (*iam scio, unde acceperit denarios mille aureos*).²² And we know that the aedileship could indeed be exploited for financial gain. Over two centuries earlier, L. Licinius Lucullus (aed. cur. 202) was implicated in the embezzlement of funds from the treasury after his *scribae* and *uiatores* were discovered stealing public money.²³ Livy mentions this case in passing, noting that only Lucullus’ *apparitores* were prosecuted thanks to information provided ‘surreptitiously by an informer’ (*clam ... per indicem*).²⁴ Lucullus’ role is obscure: the case unfolded ‘not without disgrace to Lucullus’ (*non sine infamia Luculli*). It would be reasonable to assume that he

¹⁹ Ganymedes laments the loss of *leones*, who were both the leaders of the *colonia* (namely Safinius) and the electorate (*nunc populus est domi leones, foras uulpes*).

²⁰ Petron. *Sat.* 44.3. Aediles were evidently expected to do the reverse: to negotiate contracts with certain *pistores* to keep prices artificially low (Herz 1988: 40). Cf. Boyce 1991: 79-80; Erdkamp 2002: 98-9.

²¹ Petron. *Sat.* 44.13. Rendering *nos* as *non* and postponing it make the metaphor of the figs more easily comprehensible (Smith 1975: 111), if we assume that Caunean figs were a commodity (cf. Cic. *Div.* 2.84; Plin. *NH* 15.83).

²² Petron. *Sat.* 44.14.

²³ Potential for illicit financial gain as *scriba* or *uiator*: Hartmann 2020: 109.

²⁴ Liv. 30.39.7.

(was thought to have) played some role in this corrupt activity. He never advanced beyond the aedileship.

What follows in Petronius' narrative is a lengthy response to Ganymedes by another freedman called Echion. He optimistically reminds Ganymedes about the good things in life, namely the *munera* that will soon take place in the *colonia*. Life ain't that bad (*oro te ... melius loquere*), objects Echion, because three-day-long *munera* are scheduled to be held soon (*et ecce habituri sumus munus eccellente in triduo die festa*).²⁵ His riposte is 'clearly intended as a reply' to Ganymedes' speech; his worldview is completely different from Ganymedes' in his 'cloying obsequiousness' to the local elite.²⁶ A wealthy benefactor named Titus Mammea will fund the lavish spectacle. His position is not identified: a *duumvir*, aedile, a candidate for these offices, or a wealthy private individual could theoretically fund *munera*.²⁷ But Titus' position in colonial society is implied by the structure of the dialogue: Echion's rant responds directly to Ganymedes' excoriation of the city's officials, specifically aediles. Titus was clearly not the same aedile bemoaned by Ganymedes, since he inherited his money (*relictum est illi sestertium tricenties, decessit illius pater*) in contrast with the ill-gotten gains of the current aediles, a distinction that Echion is keen to stress.²⁸ Instead, Titus appears to have been a candidate for the aedileship of the following year. His *munera* were apparently competing with those already delivered by a certain Norbanus (*eripiat Norbano totum fauorem*), which Echion found extremely disappointing (*dedit gladiatores sestertiarios iam*

²⁵ Petron. *Sat.* 45.1-4.

²⁶ Boyce 1991: 81-2. Cf. Ciaffi 1955: 133-4 on the structural similarities between Ganymedes' and Echion's speeches, the latter's constituting a 'specchio deformante' of the former's speech.

²⁷ *Duumviri* and aediles presiding over public *munera* at Urso: *Lex Coloniae Genetivae* § 69-70 = RS 1.25 (pp. 402-3; but see note at p. 435: 'gladiators did not form part of public *ludi*').

²⁸ Petron. *Sat.* 45.6.

decrepitos).²⁹ Norbanus' frugal *munera* sealed his fate: 'it's only right, you know, that Titus will beat Norbanus hands down' (*scias oportet plenis uelis hunc uinciturum*) – probably in the forthcoming aedilician elections.

The games held while canvassing for office could provide the people with a taster of what to expect during their year of office. Although gladiatorial *munera* did not traditionally feature in aediles' *ludi* at Rome, we know that colonial aediles could have their own *familia gladiatoria*. A certain A. Suettius Certus advertised gladiatorial *munera* on the Eumachia building at Pompeii. The slogan reads that 'the gladiatorial troupe of the aedile, A. Suettius Certus, will fight at Pompeii on 31 May; there will be a wild beast slaughter and shelter from the sun' (*A(uli) Suetti Certi / aedilis familia gladiatoria pugnab(it) Pompeis / pr(idie) Kalendas Iunias uenatio et uela erunt*).³⁰ Another prospective aedile ran on the platform of being 'a good aedile and terrific games-giver' (*aedilem bonum et munerarium magnum*).³¹ Even if the characters described by Echion were not technically aediles (yet, at least), they are engaging in activities typical of a colonial, or in fact Roman, aedile. Read as a response to Ganymedes' anguish (*aediles male eueniat*), Echion's speech is weighing up men for future aedileships. It doesn't really matter if this year's aediles are bad, he claims (*quod hodie non est, cras erit*), because tomorrow's (sc. next year's) have real promise: just look at their games! In response to Ganymedes' nostalgia for *mos maiorum*, Echion looks to the future, distracted from life's problems by flashy games.³² To paraphrase an election slogan

²⁹ Petron. *Sat.* 45.10-11. Cf. Futrell 2006: 103; Dunkle 2008: 176.

³⁰ *CIL* 4.1189, with 4.1190-1, 7987. Cf. in general on *editores muneris*: Sabbatini Tumolesi 1980: 21; Jacobelli 2003: 42-5.

³¹ *CIL* 4.3338 = 4.4999.

³² Petron. *Sat.* 45.2.

commissioned by two Pompeiian women named Statia and Petronia, may our colony always have such men in charge.³³

What we have here is a parody, and a plausible one at that, of the dinner conversations of the so-called *populus minutus*. They share gossip (*eiusmodi fabulae uibrabant*) about what the elected upper classes can give them.³⁴ One expresses the view that the current magistrates are deliberately ramping up the food prices to enrich themselves; another, charmed by the promise of *munera*, is more optimistic about next year's aediles. It is in fiction, then, that we find the most explicit expression a view of the aedileship from the man or woman on the street. Observations have been made about the colloquial language employed by Ganymedes in this passage.³⁵ His language is typical of 'common speech'; Petronius is clearly attempting to echo a common view expressed by people at the time.³⁶

This reading of Petronius should come with two caveats. First, we should exercise caution when using the *Satyrica* as a historical source. Using Petronius' work as a social document is unavoidably beset by the same problems encountered in the literature discussed in the previous section. His is an elite voice which professes to know what freedmen get up to in their spare time, what they think of the political aristocracy. This is no objective reality; it is an imagined banquet held with caricatured freedmen in

³³ CIL 4.3294 (*tales ciues in colonia in perpetuo*). Cf. Savunen 1995: 201 ('the praise ... probably refers to the aediles' responsibility for organising games').

³⁴ Petron. *Sat.* 47.1

³⁵ Boyce 1991: 79-81.

³⁶ Pepe 1957: 106, acknowledging that Ganymedes is a caricature 'visto dall'alto', observes the author's attempt to attribute 'all'interlocutore Ganimede i colori e le sentenze dell'atteggiamento popolare'.

attendance.³⁷ Petronius is making assumptions about how elite *benignitas* manifests itself to the lower classes.³⁸ Indeed, elite expectations of an aedileship were somewhat different. The obituary of the deceased aedile-elect Iunius Avitus supplied by Pliny, Avitus' *formator morum* and *magister*, offers a glimpse into aedilician qualities from an elite perspective in the Principate.³⁹ His *industria* and *modestia* as quaestor ensured that he was *iucundus et gratus* to the consuls. His death brought *tot spes tot gaudia* surrounding his election to a premature end.⁴⁰ Comparing this letter to Petronius' dinner-party characters reveals the range of expectations attending an aedile from various classes. Pliny and Petronius similarly describe the *spes* surrounding a magistrate's assumption of the magistracy; the difference lies in what this *spes* consists of.⁴¹ Even if Petronius' text does not precisely represent dinner conversations between freed people, the dialogue can reveal a great deal about social relations. His characters voice a worldview that Petronius thought would sound plausible coming from men of this social class. Petronius well knew that colonial aediles would do well to address their electorate directly, face-to-face, to create a persona of being *unus de illis*. Social commentary with exaggerated characters is still social commentary.

A second caveat: a question looms over the extent to which Petronius' fictional aediles can be used as secure evidence of social relations between aediles and the people

³⁷ Cf. Prag and Repath 2009: 10 ('Petronius was writing for those in his own social class'); Andreau 2009: 114-15.

³⁸ Cf. Bodel 2019: 172 on the text as a caricature of the *populus minutus* as 'narrowly focused on short-term sensual gratification'. Still, he remarks, 'the details he provides seem plausible, insofar as we can check them'.

³⁹ Plin. *Ep.* 8.23. Pliny's 'quasi-paternal relationship' with Avitus: Bernstein 2008: 218-20.

⁴⁰ Although Pliny mourns the loss of Avitus to his family, Avitus' personal potential in politics is foregrounded (*modo designatus aedilis, recens maritus...*).

⁴¹ Cf. Sallust's 'ominous or even sinister' (Scanlon 1987: 61) deployment of trope of the *spes ciuitatis* surrounding Marius' second election to the consulship to conclude his *Bellum Iugurthinum* (*Iug.* 114.4).

across the *longue durée*. Are these fictional imperial and colonial aediles representative of the values of their real republican forebears at Rome? What similarities would an aedile in, say, imperial Pompeii bear to, say, Cn. Flavius, who held an office with the same name over three centuries earlier? And what was uniquely 'aedilician' about the *benignitas* displayed by Safinius, anyway?⁴² The question of historical continuity is vexed. The aedileship of Rome did indeed change dramatically in the 40s BC, when the aedileship of Ceres was introduced, and again when aediles were stripped of their responsibility for the *ludi publici* in 22 BC.⁴³ Municipal and colonial aedileships, on the other hand, seemed to retain much of their republican character. Elections were still held, and the semiotic link between *aedilis* and *munera* remained entrenched in the magistracy's identity and memory.⁴⁴ It was not their responsibility alone, but it formed a key part of the people's understanding of the purpose and ideology of the political office.

Moreover, Petronius' narrative of colonial aediles relies heavily on traditional understandings of the office, a sense that is only enhanced by Ganymedes' yearning for the long-gone days of Safinius. He might not be thinking of the republic, but he is harking back to the good old days. One can easily imagine a hungry member of the urban *plebs*, clued up on his oral history, reminiscing about the days of plenty provided by the likes of the aedile M. Seius, who had statues erected on the Capitoline and Palatine on account of his grain discounts in the 70s BC.⁴⁵ The promise of good and cheap grain was sufficient reason to

⁴² See e.g. Cic. *Agr.* 2.81 on the *benignitas* displayed by the Gracchi in their land bills.

⁴³ Cass. Dio 43.51.3; 54.2.3-4.

⁴⁴ On technical differences between republican aediles at Rome and local aediles in Spain: Andrés Santos 1998: 157-74. These differences, however, existed 'sobre todo en el ámbito de la *iurisdictio*' (p. 174), while the norms remained analogous. Competitiveness of aedilician elections at Pompeii: Tacoma 2020: 84-95. Aediles and *munera*: CIL 4.3338 = 4.4999; *supra* § 2.2.

⁴⁵ Cic. *Off.* 2.58; Plin. *NH* 15.2, 18.16 (he was even carried *populi umeris* to his funeral pyre).

vote for an aedilician candidate. Many inscriptions at Pompeii specified the professional groups who encouraged the people to elect their preferred candidates. For instance, 'the bakers, along with their neighbours, request and hope for Cn. Helvius Sabinus to be elected aedile' (*Cn(aeum) Heluium Sabinum aed(ilem) pistorum rog(ant) et cupiunt cum uicinis*).⁴⁶ To a cynical and impoverished member of the *populus minutus* in the world of Petronius' *Satyrica*, it might seem that an aedile was colluding with bakers by fixing grain prices in the *colonia*. The bakers of Pompeii could realistically hope that, by electing Helvius, the wheat price would remain low so their profit margins would remain stable. Pliny the Elder, Petronius' contemporary, reflects this view: in the good old days, by means of the traditional way of agriculture (*his moribus*), 'the inexpensiveness even of basic food supplies was astonishing' (*uerum etiam annonae uilitas incredibilis erat*).⁴⁷ The upper classes, too, could look back fondly on days of cheap food.

Moreover, the roles played by Safinius and the unnamed bad aediles are analogous to republican precedents. They were normatively encouraged to curtail grain hoarding and speculation from private individuals.⁴⁸ The current aediles in Ganymedes' *colonia* were wicked because they acted in a way inimical to this aedilician ideal. Safinius, meanwhile, threw his weight around with public oratory, speaking eloquently (or, at least, loudly: *tanquam tuba!*) in the senate and in the forum, standing up for what Ganymedes believed to be *rectus*. The aedileship of a tinpot Italian town measures itself against historical precedents: the aedile of Ganymedes' hometown would do well to follow the illustrious

⁴⁶ CIL 4.7273. That *pistores* could be the subjects of aedilician edicts is suggested by Plaut. *Capt.* 807-10, although Hegio identifies this particular remark as a *basilica edictio atque imperiosa*.

⁴⁷ Plin. *NH* 18.15. Earlier (18.7), he reflects nostalgically on the way of agriculture in the distant past as compared to the present excesses (especially of freedmen) under Nero.

⁴⁸ Cf. Daguet-Gagey 2015: 503-4 and Becker 2017: 271-2 for brief glosses of Petronius' story and its relevance to *cura annonae* in the early Principate.

precedents of great grain-givers like (say) M. Seius or (spuriously) Fabius Maximus.⁴⁹ They were playing a part in a political theatre highly dependent on precedent. So what is striking in Petronius' satire is the consistency of aedilician ideals. Of course, no aedile of any age had monopoly over these ideals; there was always overlap. *Duumviri* could hold games; candidates for any office were expected to greet people in the street. In the Scipionic epitaphs, illustrious ancestors are remembered for holding magistracies 'in your presence' (*apud uos*). The aedileship was one of these: the first step, in fact, in the glory days of the Scipiones, with *aidilis* twice falling third in the tripartite structure (*consol, censor, aidilis qui fuit apud uos*).⁵⁰ Aediles were well positioned to interact with the people in this way. Indeed, in the reverse chronology of the epitaphs, it was the first moment at which a Cornelius Scipio could boast of appearing *apud populum*.

Aediles, because of their constant presence, were expected by their electorate to display certain qualities. The social interaction between Safinius and men of Ganymedes' class is suggestive of how the people expected their aediles to interact with them. An aedile would entertain people in a daily *salutatio*. Part of Safinius' public image was his openness to the people of the *colonia*. This much is suggested by Ganymedes' memory of the former's then home 'near the old arch' (*tunc habitabat ad arcum ueterem*), an apparently trivial detail that reinforces his *amicitia* with the people (*amicus amico*) through a *salutatio*.⁵¹ The people knew where he lived, seemingly in a particularly prominent location during his political career, and where to ask him for favours. The implication is that the aedile's own private

⁴⁹ Cic. *Off.* 2.58; Plin. *NH* 15.2, 18.16. See *supra* § 2.4 on Fabius' (likely) fictional heroics in securing cheap grain.

⁵⁰ *ILLRP* 309-10 = *CIL* 6.1284, 1287. Interpretations of the phrase *apud uos*: Zevi 1970: 63-74; Van Sickle 1987: 44, 47; Millar 1989: 139; Radke 1991: 69-79; Hölkeskamp 1993: 30; Hodgson 2017: 34-7.

⁵¹ Petron. *Sat.* 44.6-7. On the *salutatio* in general: Speksnijder 2015: 87-99.

domus represented a key base of operations, something of a headquarters for certain administrative and social roles.⁵² It was, after all, normal for a magistrate to conduct his public affairs within his *domus*.⁵³ But it is Safinius' habit of greeting that is of particular interest. He remembered everyone's name and returned others' greetings (*resalutare*).⁵⁴ This is a typically Roman gesture of maintaining social hierarchies: Safinius avowedly maintains the social boundary between the people and himself when his subordinates greet him.⁵⁵ But he would present himself in public as if he were a humble private citizen like those he greeted: he would remember everyone's name 'as if he were one of us' (*tanquam unus de nobis*). *De nobis*: from our social class.⁵⁶ Ganymedes expected his aedile to play the part of the ordinary citizen, to break down the barriers between magistrate and private citizen, between aristocrat and man on the street. Safinius' attentiveness, as Jon Hall observes,

⁵² Evidence for aediles operating from their homes is infrequent but not unattested. Lentulus Spinther, as curule aedile in 63, evidently used his house on the Palatine to hold the conspirator Lentulus Sura in custody (Sall. *Cat.* 47.3, 55.1-2; Plut. *Cic.* 22.1; cf. Pagán 2012: 76). Cicero cited the *proprinquitas et celebritas loci* of Scaurus' house as evidence that the former aedile was not guilty of *desidia aut cupiditas* (Asc. 26C). Scaurus moved the marble columns from his temporary theatre into the *atrium* of his house (27C) soon after the *ludi* (presumably *Romani* in September) were completed (Plin. *NH* 36.5-6). His private *domus* was a space from which he could blur boundaries between public and private (Russell 2016: 9-10, 171; Nichols 2017: 17-18), creating a kind of museum commemorating his aedileship. Similarly, V. Satrius, a pre-Sullan aedile at Pompeii (Conway, *Ital. Dial.* 1.65 no. 54 = Vetter 1953: 53 no. 20 = *Imagines* 2, Pompeii 18 (pp. 645-6)) may have memorialized his aedileship with an Oscan inscription in the *tablinum* of his own home (Meyboom 1994: 168-70; Pesando 1996: 218-22), though, as the editors of *Imagines* point out, this hypothesis relies on the assumption that the monument's provenance and original location were the same, an assumption undermined somewhat by the deliberate cuts made on the right side of the stone, suggesting some later repurposing.

⁵³ Vitr. 6.5.2. Cf. Millar 1977: 18-19.

⁵⁴ Petron. *Sat.* 44.10. It is implied that he did this without recourse to *nomenclatores*, making him all the more exceptional and personable. Hadrian's alleged ability to remember people's names without assistance reflected well on him (*Hist. Aug. Had.* 20.9-10). On *nomenclatores* in general, used by candidates and magistrates alike (Purcell 1983: 147-8), see Vogt 1978: 327-38.

⁵⁵ In Roman greetings, it was conventional for the subordinate to address their social superior first to express deference: Hall 1998: esp. 417 on 'deference'.

⁵⁶ Suet. *Aug.* 56.1 cites Augustus' conduct during election campaigns, comporting himself *ut unus e populo*, as an example of his *ciuilitas* (cf. 51.1). Cf. Petron. *Sat.* 58.8 for a rude use of the phrase *de nobis*.

‘temporarily eliminates the social distance between superior and subordinate’.⁵⁷ Echion describes the aedile-elect Titus Mamma in similarly familiar terms. Echion refers to his buddy *Titus noster* by his *praenomen*, echoing Ganymedes’ insistence that good aediles present themselves as being on the same level as the *populus minutus*.⁵⁸

The interaction described by Ganymedes fits neatly into the phenomenon given the name ‘Jovialität’ by Martin Jehne. Whatever one makes of his neologism, the phenomenon that it describes is historically sound. He coined this term to describe the peculiarly Roman process whereby social distances were nominally decreased by an aristocrat. The member of the upper class, instead of exaggerating his ‘Dominanz’, ‘so gibt, als befände er sich auf der gleichen Stufe wie sein Gegenüber’.⁵⁹ The *Satyrica* here seems to reflect this wider phenomenon. Safinius represented himself as being *unus de illis*, ‘auf der gleichen Stufe wie’ the freedmen who wanted someone to look out for their humble interests. Jehne points out various situations when this phenomenon would manifest itself. During the *salutatio*, where aristocrats would be greeted by and attend to the needs of their clients, the attendees could expect ‘Leutseligkeit’ from their patron. Aristocrats would be expected to display such behaviour while canvassing for office. Jehne identifies tribunes as guardians of this quality, as they had the capacity to hold other magistrates in check, to hold them to the norm.⁶⁰

But ‘Jovialität’ was expected of aediles too. It is, I would suggest, no coincidence that P. Cornelius Scipio Nasica’s ill-judged joke at a *rusticus’* expense cost him election for

⁵⁷ Hall 1998: 419.

⁵⁸ Petron. *Sat.* 45.5.

⁵⁹ Jehne 2000: 214. Cf. 2011: 115-16 on how the phenomenon manifests itself in oratory. Summary in Mouritsen 2017: 97-8.

⁶⁰ His key example (p. 224) is the imagined speech of M. Sextius (Liv. 4.49.14-16), in which he criticizes the people for electing *aduersarii* instead of *populi Romani propugnatores*.

a curule aedileship in the late second century.⁶¹ We saw earlier how, in *Pro Plancio*, traits expected in the holding of an office could be promoted *in petitione*. Plancius won, so Cicero claimed, because he had a reputation for *benignitas*, which his voters would anticipate for his year in office.⁶² The same logic applied in Scipio's *repulsa*. The tribes denied him the curule aedileship because of his *contumeliosa urbanitas*, his disdainful wit/urbaneness. (Valerius Maximus plays with the double meaning of *urbanitas*, since it was the rural tribes that especially took offence.) In good old republican times, according to the ideal constructed by Valerius Maximus, the *ciuitas* was capable of 'reining in' (*reuocando*) arrogant men. *Insolentia* and *contumelia* were damaging to one's election chances for any office. I would suggest, however, that they were particularly damaging for one seeking the aedileship. One wonders, for example, if the upper-class centuries who dominated elections for magistracies *cum imperio* would have been as scandalized as the rural tribes whose voice was more prominent in aedilician elections.⁶³

Vnus de nobis. Who are *nos*? In Petronius' context, they are mostly freedmen. Trimalchio and his guests, all involved in commerce of some description, are likely to have had a lot to do with the aediles of the local town. The representations of aediles in the plays of Plautus and Terence can provide some clues about their audience. We are often reminded of the physical presence of aediles at *ludi scaenici* and of their centrality to proceedings. They are alluded to, made fun of, and metatheatrically described as those in charge of funding the play. Bossy characters are sometimes accused of 'playing the aedile'

⁶¹ Val. Max. 7.5.2. This example is cited by Jehne (2000: 216) as a manifestation of 'Jovialität' *in petitione*. The identity of this Scipio is elusive: he is probably either the future consul of 138 or 111 (Broughton 1991: 40-1).

⁶² Cic. *Planc.* 47 (*multis benigne fecerit*).

⁶³ Significance of dynamics of tribal assembly for Nasica's defeat: Yakobson 2019: 544-5. Uniqueness of aedilician elections: Cic. *Planc.* 10.

in a conscious reversal of social norms. When, in Plautus' *Stichus*, Pinacium orders Gelasimus to tidy up, the latter accused Pinacium of assuming 'an aedileship even without a popular vote' (*sine suffragio populi tamen aedilitatem*). Pinacium, who says 'I want cleanliness to be achieved' (*munditias uolo fieri*), is talking like an aedile does, repurposed for a domestic setting.⁶⁴ The aediles present at the production are dragged into the joke, which highlights the social ridiculousness of a slave assuming a magistracy while simultaneously ribbing the magistrates for their pedantic care for *munditia*.⁶⁵ In the prologue to *Poenulus*, it is implied that the aediles will dole out some sort of prize to the most successful troupe:

As for the *curatores* of the games, may the prize not be given to one of the artists unfairly, or don't let them get driven out of the theatre because of unfair canvassing techniques (*ambitio*), by which the worse troupes would get ranked over the better ones.

*quodque ad ludorum curatores attinet,
ne palma detur quoiquam artifici iniuria
neue ambitionis causa extrudantur foras,
quo deteriores anteponantur bonis.*⁶⁶

The speaker offers a conscious subversion of social norms, delivering instructions to the aediles in the audience while casting himself as magistrate on-stage. The aediles in the audience are in on the joke and would do well to laugh along.

We are met with a similar expression in *Amphitruo*'s prologue. The aediles here are part of the broad group of people in the theatre seated *singula in subsellia*. Mercurius humorously instructs *conquistores* to 'go to the spectators throughout the entire theatre'

⁶⁴ Plaut. *Stich.* 347.

⁶⁵ Cf. Fitzgerald 2000: 44-5 (with Plaut. *Pseud.* 546) on the unsettling effect of this 'reversal of status'.

⁶⁶ Plaut. *Poen.* 36-9.

(*eant per totam caueam spectatoribus*).⁶⁷ Following this expression, Mercurius goes on to mimic the terms of a *lex* with a string of future-more-vivid clauses (*si* + future perfect) detailing the various groups present whom the terms of the ‘law’ concern. If someone seeks the *palma* using *ambitio* comparable to that of an aspiring magistrate, or if the aediles present in the theatre grant the *palma* deceitfully (*siue adeo aediles perfidiose quoi duint*), then Jupiter would exact punishment ‘as if the *histrion* had canvassed unfairly for a magistracy for himself or for someone else’ (*quasi magistratum sibi alteriue ambiuerit*). This law is designed to ape periodic, and seemingly futile, attempts to rein in excessive spending in election campaigns at the beginning of the second century.⁶⁸ At a surface level, these jokes concerning the aediles who had underpinned the present entertainment, the *ludorum curatores* no less, are a useful reminder that the plays, and especially their prologues, were a form of communication between playwright, through the voice of the *histrion* or *actor*, and the aediles. And the aediles’ electorate was listening. As Amy Richlin has argued, Mercurius’ reference to the togate *fauitores* speaks directly to the ‘voters (male Roman citizens)’ in the audience, ‘erasing, for the moment, the others present’.⁶⁹

These passages also tell us something about the nature of the relationship between aediles and actors and audience. The speaker of the prologue felt empowered to make

⁶⁷ Plaut. *Amph.* 65. *Conquistores* do not seem to fill an official role in the theatre: here they are simply ‘clown policemen’ (Richlin 2017: 145 n. 13, 146).

⁶⁸ Gruen 1990: 148 with n. 126; Lintott 1990: 6; Richlin 2017: 146. McDonnell 1986: 564-76 argues that Mercurius’ references to a *lex* are anachronistic interpolations composed in the 150s. This interpretation is unnecessary, as it is based on the curious assumption (following Mattingly 1960: 238) that Plautus would lack the creativity to mimic legislative language in his invention of fictive legislation by a fictive character (see e.g. p. 565: ‘For such a parody to be topical, the *lex de ambitu* would have had to be enacted recently’).

⁶⁹ Richlin 2017: 145.

aediles the butt of a joke.⁷⁰ Mercurius proceeds, having invented Jupiter's *lex de ambitione*, to make light of electoral bribery, and obliquely to compare actors seeking the *palma* with aediles seeking office: 'how much less should this very law apply to an actor than for the best man' (*qui minus / eadem histrioni sit lex quae summo uiro?*). A *summus uir* could of course be anyone seeking a magistracy. But the context places aediles at the forefront of the audience's minds: aediles provide prizes to actors, based on the people's reaction, just as people provide prizes, namely *magistratus*, to *summi uiri*. What Plautus provides, then, is a conscious subversion of social norms, a subversion that aediles were expected to play along with. Actors can be as guilty of *ambitio* as the aediles; seeking the aediles' *palma* is compared to the pursuit of *aedilitas* by *summi uiri*. Although we do not know the precise date of *Amphitruo*'s production (anywhere between 190 and 185 seems likely), such critiques of excessive spending were certainly topical. In the elections for 193, there were apparently twelve *repulsae* for the curule aedileship, an isolated example that provides the smallest of glimpses into the attractiveness of the aedileship and the fierce competition that it generated.⁷¹ The aediles who commissioned *Amphitruo* may well have engaged in the sort of excessive spending that Jupiter forbade.

Despite the prologue's subversive elements, it also reveals procedural details about aediles' public role during *ludi scaenici*. They apparently gave out prizes, *palmae*, to the performances that received the best reception. There are several scattered references to

⁷⁰ Richlin 2005: 24 makes an analogy between aediles paying 'good money for subversive entertainment' and Nixon's inviting Elvis to the White House: 'What the aediles wanted was a happy crowd, including but certainly not limited to happy voters.' Cf. Richlin 2014: 179, *contra* McCarthy 2000: 17 n. 27; the latter denies the possibility that *palliatae* contained subversive elements on the basis that they were 'funded by the aediles'.

⁷¹ Date of *Amphitruo*: Christenson 2000: 1-4. Competition for 193: Plut. *Aem.* 3.1 (aedilician); Liv. 35.10.1 (consular). Competitiveness of aedilician elections: Millar 1984b: 12.

prizes given out for theatrical performances at Rome.⁷² The *palma* was competed for by individual actors or acting troupes. The aediles' decision was based on audience reaction, as implied by Mercurius' prologue: the satirical law professes to prevent people from going around the audience encouraging them to support particular actors and artists (*†quit ambissint palmam <his> histrionibus / seu quoiquam artificii*). That aediles' popularity was linked to the success of the play is likewise suggested by the prologue to Plautus' *Asinaria*: aediles (here called *conductores*, literally the 'hirers') are mentioned as one of the various groups for whom the speaker hopes that the play 'turns out well' (*uortat bene*).⁷³ The dynamics are obscure, but presumably several *palmae* were on offer throughout the spectacle and *histriones* and *artifices* could gain significant prestige by winning this prize. Actors were appealing to the aediles through the audience; aediles would do well to heed audience reactions.⁷⁴

What about the audience? Some classes were progressively guaranteed better seats over time. At the *ludi Romani*, at least, segregation was enforced from the early second century, with senators occupying the best seats.⁷⁵ Valerius Antias and Livy report that, in

⁷² Tabulated in Jory 1988: 73-6. See esp. Varro, *LL* 5.178; Plin. *NH* 21.4. Plaut. *Trin.* 706 is more metaphorical. Cf. Brown 2002: 234.

⁷³ Plaut. *As.* 2-3. Gruen 1992: 194 identifies the *conductores* as 'contractors or subcontractors'. But see Moore 1998: 216 n. 34 *contra*, arguing that the *conductor* here is better translated as the people who pay the actors' wages, namely the aediles. Cf. Jory 1966: 104 ('the term is particularly appropriate to those men who, mainly by their personal expenditure, controlled the finances of the production'); Muecke 1985: 177-8, with Plaut. *Trin.* 853-6. Even if the speaker of the prologue does not narrowly have magistrates in mind, the sentiment remains that he hopes the performance will 'go well' for everyone involved in the process, including aediles.

⁷⁴ A similar picture could be sketched of praetors in relation to the *ludi Apollinares*, who evidently distributed *palmae* to winning actors and hired actors of both sexes. Cic. *Att.* 4.15.6 remarks on his disappointment about the recipient of the *palma*, Antipho. *Mimae*, too, were hired (Hor. *Serm.* 1.10.76-7).

⁷⁵ Valerius Antias *apud* Asc. 69C; Liv. 34.44.5; Liv. 34.54.3-8; Val. Max. 2.4.3, 4.5.1; Plut. *Flam.* 19.4. Cf. von Ungern-Sternberg 1975: 157-63; Wiseman 1987: 79; Gruen 1992: 202-5; Bernstein 1998: 193-5; Manuwald 2011: 107.

194, a censorial edict gave senators the best seats at plays performed at the *ludi Romani*. The censors ‘won enormous gratitude from men of the senatorial order’ (*gratiam quoque ingentem apud eum ordinem pepererunt*) by separating senators from the rest at *ludi Romani* from 194 specifically; everyone ‘had previously watched from indiscriminate positions’ (*antea in promiscuo spectarant*). The censors instructed the curule aediles, as *curatores* of the *ludi Romani*, to oversee the division. The people’s exasperation, at least insofar as Livy records it, is suggestive of the how theatrical productions funded by aediles were perceived. The expectation was that the ‘*patres* should mingle with the *plebs* in the theatre’ (*immisceri sibi in cauea patres plebem*).⁷⁶ The innovation was viewed as an example of *noua superba libido* from the senatorial class. This rhetoric seems to reflect the people’s adverse reactions to the separation of equestrians by the *lex Roscia theatralis* of 67, which hints at just how controversial such measures continued to be.⁷⁷ It certainly ‘generated discussion’ (*praebuitque sermones*), as Livy euphemistically puts it.

The gaps in the evidence are large enough to leave doubt about what restrictions, if any, were imposed in the interim. In the second century, at least, the expectation seems to be that people of all classes would sit (or stand) *promiscue* in the *cauea*, and that any measures jeopardizing the mixing would risk the opprobrium of the people. The way Livy describes it, the censors’ measure of 194 was limited in scope. But there was confusion even in antiquity about the specific details.⁷⁸ He is evidently attempting to rationalize various contradictory traditions: he follows Valerius Antias in assigning the innovation to the *ludi Romani* (*ludis Romanis aedilibus curulibus*); Cicero would later claim that it applied to the *ludi*

⁷⁶ Liv. 34.54.6.

⁷⁷ Negative reaction: Plin. *NH* 7.117; Plut. *Cic.* 13.2-3 (with Rawson 1987: 112). In general: Asc. 78C-79C; Liv. *Per.* 99. Cf. Briscoe 1981: 135; Gruen 1992: 204.

⁷⁸ Damon 1997: 251-66.

Megalenses.⁷⁹ In either case, the separation occurred in theatrical productions arranged by curule aediles alone. The segregation of audiences, enforced by curule aediles, could be cited as proof of the games' role as public manifestations of Roman social order, a veritable 'synecdoche for Rome itself'.⁸⁰ Plebeian aediles, however, are never recorded as having been instructed to make a comparable division, perhaps creating a quite different and less clearly delineated synecdoche for Rome.⁸¹ Indeed, Livy implies that plebeian aediles upheld the principle of *mixtura* at the *ludi* they hosted; the curule aediles had to be instructed by their seniors to divide the audience.⁸² In any case, this separation was a small alteration to an already heterogeneous crowd. People from the wealthiest non-senatorial orders were seated *in promiscuo* with the poorest free citizens certainly before 194, and in many, if not most, theatrical productions thereafter.

Other evidence suggests that a diverse range of people attended these plays.⁸³ Attendance was free and not restricted by social class. The prologue to *Poenulus* gives an

⁷⁹ Our oldest source Valerius Antias (*apud* Asc. 69C) specifies only the *ludi Romani*, with Liv. 34.44.5, 34.54.4 following suit. Asconius (69C-70C) gives a sense of competing (later?) traditions. Cicero (*Har.* 24), quoted by Asconius, argues that the same edict applied to the *ludi Megalenses* (alone?), an assertion dismissed by Gilula 1996b: 240-1 as 'pure invention' given other sources' near unanimity in locating the innovation at the *ludi Romani* alone and Cicero's anachronistic reference to the temple of Magna Mater. Indeed, Asconius warns his readers to be cautious of Cicero's *calliditas*. More recently, Damon 1997: 263 has argued in favour of the *ludi Megalenses* on the basis that Antias was attempting to rationalize traditions based on his flawed understanding of the foundation of the *Megalesia*. One tradition even held that curule aediles had nothing to do with the separation, and that it was limited to *ludi uotiu* held by the consuls of 194 (Asc. 70C); Fenestella may be behind this tradition (Lewis 2006: 277).

⁸⁰ Parker 1999: 163. Cf. Fontaine 2010: 184-5. This separation may have extended to *ludi circenses* at the *ludi Romani*: Humphrey 1986: 70 with 643 n. 77; Gilula 1996b: 243.

⁸¹ *Contra* Gruen 1992: 203, who argues that the *ludi Romani* 'presumably serve as model for other *ludi*'.

⁸² Cf. Ov. *Fast.* 5.352 on the plebeian audience at the *ludi Florales*. Wiseman 1987: 79 rightly stresses the discretionary element of aediles' division of seating: 'it would be a *popular* move *not* to do so' (author's emphasis).

⁸³ Richlin 2014: 216-17 (with 2017: 89-90) provides a full discussion of the modern debate (*contra* esp. Fontaine 2010: 183-7). Cf. Beare 1964: 173-5; Wiles 2017: 75-6.

impression of the kinds of people in attendance.⁸⁴ Just as Mercurius mimics the terms of a *lex* in *Amphitruo*, the speaker of this prologue reads the terms of satirical *edicta*. He instructs sex-workers to vacate the best seats; slaves should not be taking free people's seats; no babies to disturb the performance with their crying; no chatter from wives 'lest they act as annoyances to their husbands here as well as at home' (*et hic uiris sint et domi molestiae*). These restrictions are not necessarily meant to be taken as reflections of actual practice by the *praeco* or magistrate.⁸⁵ What they vividly do show is the range of people who might be expected to show up to a play: men, women, children, free or otherwise.⁸⁶ One did not have to be a Roman citizen to attend these plays. It has been argued that the prologue proves the exact opposite: that slaves were barred, as the instruction that the slaves *domum abeant* suggests.⁸⁷ But the edictal structure of the address makes the slaves' presence virtually certain. The main prescription is that slaves vacate their seats: *serui ne opsideant, liberis ut sit locus*. They are ordered to go home only *si id facere non queunt*, *id* being the vacation of their seats. All we can take from this is that slaves had to stand at the back; if they refused to comply, they would be kicked out of the theatre.⁸⁸ Cicero's complaints about Clodius' notorious *seruorum Megalesia* in 56 can be used to compliment this evidence. Clodius' father and uncle, he argues, 'would order the slaves to depart from the *caued*' (*seruos de cauea exire*

⁸⁴ Plaut. *Poen.* 16-45.

⁸⁵ One is reminded of Pink's offensive excoriation of the imagined (and diverse) audience from Pink Floyd's 'In the Flesh' ('Who let all this riff-raff into the room?').

⁸⁶ Women in audience: in Ter. *Hec.* 35, Ambivivus Turpio mentions the *clamor mulierum* which contributed to the first performance of *Hecyra* being interrupted. Cf. Vitruvius 5.3.1 on spectators *cum coniugibus et liberis persedentes*.

⁸⁷ Brown 2019: 661 ('The prologue does not tell the slaves that they should stand and not sit; rather, it tells them to go home'). Cf. Maurach 1988: 53; Henderson 1999: 11.

⁸⁸ The *imperator histricus* asserts that latecomers must stand at the back with the slaves: Plaut. *Poen.* 21-2. Moore 1994-95: 115-17; 1998: 195-6; Richlin 2017: 89-90. There was evidently standing room at the back (*Capt.* 1-2, 13).

iubebant).⁸⁹ It is unclear whether this was regular practice. Reading through Cicero's exaggeration, Elizabeth Rawson has suggested that Clodius may have instead 'made special arrangements for the members of the *collegia* on whose support he relied'.⁹⁰ The environment may not have been the most welcoming, if the prologue is indicative of general attitudes to 'society's powerless', but anyone with the time was (theoretically) free to attend and watch from the periphery of the *cauea*.⁹¹

In general, then, aediles bought plays for an audience that was not strictly composed of male, upper-class voters. For this reason alone, one might be tempted to accept Erich Gruen's contention that aediles did not chiefly use their *cura* for most of Rome's *ludi publici* as a means of accumulating 'political advantage'.⁹² Forthcoming elections may not have been at the forefront of their minds if their audience did not comprise male voters alone. But it is more difficult to accept his argument that games, chiefly *ludi scaenici*, were manifestations of 'national unity', at which plays would be selected to unite the people and 'reassert the pre-eminence of the *nobiles*'.⁹³ Indeed, in the late republic, upper-class men with houses in the countryside might even avoid the throngs coming to the city on festival days.⁹⁴ Much ink has been spilled on the ideological power of Roman theatre in perpetuating the dominance of certain members of the elite by creating a feeling of consensus; this is not the place to cover the debate in detail.⁹⁵ We must, however,

⁸⁹ Cic. *Har.* 26.

⁹⁰ Rawson 1987: 88, following Lenaghan 1969: 115-16, although the latter maintains (after van den Bruwaene 1948: 86) that 'slaves were excluded from the games or at any rate from the Megalensian games'. Cf. Brown 2019: 669-70.

⁹¹ Slater 1992: 138.

⁹² Gruen 1992: 188.

⁹³ Gruen 1992: 204.

⁹⁴ Cic. *QFr.* 3.1.1; *De or.* 1.24. Cf. Balsdon 1969: 260-3; Wiseman 2017: 19-22.

⁹⁵ The debate generally centres on *ludi scaenici* as reinforcers of consensus (Clavel-Lévêque 1984: 23-35; Gruen 1992: 183-222; Flaig 1994: 18-22; 1995: 100-6; 2003: esp. 106-9; Bernstein 2007: 232-3; Orlin

find a middle ground between depicting aediles seeking untrammelled attention for political advancement and acting as organs of a homogeneous 'state' with homogeneous 'ends'.⁹⁶ Maintaining a visible presence at these plays was an essential part of the aedilician ideal. At this venue, they would develop their persona of being present and approachable. An aedile would evidently choose plays that he thought would go down well with his heterogeneous audience.⁹⁷ And he knew if he and his colleagues were going to be on the receiving end of metatheatrical jokes. The debate, then, goes beyond questions of popularity and electability: holding the aedileship prescribed a certain mode of behaviour that, though ideally achieving both in the long run, was based on traditions and implicit expectations embedded in the office itself.

Ludi scaenici represent just one institution among many where aediles would develop this persona before and among the people. The *contio* was another, as we saw above.⁹⁸ Clodius egged on the crowds at his *contiones* as aedile during the attempted prosecution of Milo, using his platform to deactivate 'the boundary between speaker and audience' and forge 'a unity with the audience'.⁹⁹ Both *contiones* and *ludi* were key spaces of communication. Indeed, these were the two institutions cited by C. Fannius (cos. 122) as being the special preserves of the *ciuitas*, preserves that would be jeopardized if citizenship were to be given to the Italians. 'Do you really think that you will have a place at *contiones*

2010: 153) or division (Fagan 2011: 142-54). Cf. in general Habinek 1998: 39 (on 'social cohesion' in early Latin literature); Hölkeskamp 2011: 161-2 (with further sources and discussion).

⁹⁶ Gruen 1992: 192, for example, treats aedilician decisions as synonymous with 'state interest in the encouragement and subsidy of dramatic performances'. Notion of aediles as 'state actors': Drummond 1989: 225.

⁹⁷ Aedile present at first reading of play: Ter. *Eun.* 22. On aediles selecting entertainment to receive 'a satisfied audience': Goldberg 1995: 32, 37, 43; Marshall 2006: 84 (here quoted).

⁹⁸ See *supra* § 2.1.

⁹⁹ Tan 2013: 119-20. Clodius' crowds are described derogatively by Cicero as *operae Clodianae* or *Clodiani*, while *clamor* was raised in response 'by our guys' (*a nostris*) (Cic. *QFr.* 2.3.2). Cf. Flambard 1977: 123-31; Morstein-Marx 2004: 132-3.

or be able to attend games and festival days as you do now?', he blustered (*existimatis uos ita, ut nunc constitistis, in contione habituros locum aut ludis et festis diebus interfuturos?*).¹⁰⁰ This is xenophobic scaremongering. We have already seen the diverse range of people present at plays.¹⁰¹ Similarly, anybody could theoretically wander into the forum while a *contio* was taking place; the institution was not guarded, even if orators may have sought to rouse up a favourable audience.¹⁰² As often in rhetoric that plays on parochial fears, there need be no grounding in fact. Beyond Fannius' divisive rhetoric, however, it is noteworthy that he should think of these two institutions as being particularly Roman and urban. These were the platforms from which a Roman magistrate would most prominently appear before and interact with the people. The *ludi scaenici* were occasions on which a section of the Roman *plebs* could encounter and communicate with their aediles.¹⁰³ This capacity for interaction is demonstrated by numerous examples from the late republic where public opinion is vocalized most prominently during plays.¹⁰⁴ Both *ludi* and *contiones* were theatres of

¹⁰⁰ ORF 32.3 (p. 144) = Iul. Vict. 41.26.

¹⁰¹ Cf. imperial evidence for people travelling to Rome for games: Noy 2000: 117-23.

¹⁰² Pina Polo 1995: 207; Morstein-Marx 2004: 36 with n. 5, 41-2, 128-36. Cynical as his view of the *πληθος* is at *B Civ.* 2.120.505, Appian indicates that one did not need to be a citizen to be deployable for a public show of support. Women could attend, even if their presence is only mentioned under exceptional circumstances: Boatwright 2011: esp. 113-14; Gladhill 2018: esp. 302-3. The examples supplied by Hiebel 2009: 57-9 do not prove that women and non-citizens were legally barred from *contiones*.

¹⁰³ Contrasts can be drawn between aediles' visibility at *ludi scaenici* and *ludi circenses*. At the latter, the *pompa circensis* would lay bare Rome's social divisions (Beck 2005b: 90-100; Latham 2016: 28-9), and the audience itself may also 'be seen as an ideological map of the social structure of the Roman state' (Gunderson 1996: 125). The *praesides ludorum* at the head of the *pompa* were magistrates *cum imperio*, who would stand at the *carceres* to begin the races (Pina Polo 2011: 44-52). Still, this view of the social makeup of the audience at circus games has recently been challenged. Fagan 2011: 142-54 has argued that such spectacles had a unifying effect on the community, in contrast to theatre games.

¹⁰⁴ Cic. *Att.* 2.19.3 (the dynasts at the *ludi Apollinares* of 59; unclear who urban praetor was); Cic. *Sest.* 118, 123 (Clodius as candidate for the aedileship in 57, during 'extraordinary games' held by a consul in 57, not at the *Floralia* as sometimes stated (Kaster 2006: 400 n. 25)). On the expression of public opinion at *ludi*: Flaig 2003: 232-4; Sumi 2005: 27-9; Coleman 2011; Rüpke 2012: 319; O'Bryhim 2015: 447.

communication, at which the aedile would speak to the people, but where the people could respond with collective gestures.

Two examples of the presentness of the aedile and of this two-way communication can be found in aedilician actions in the theatre in the late republic. First, Plutarch's story of M. Favonius' aedileship hints at the norms associated with the magistracy. Plutarch recounts that Cato assumed an aedilician role as *priuatus* while his fawning ζηλωτής, Favonius, was officially plebeian aedile, presumably during the *ludi Ceriales* or *plebeii* of 53 or 52.¹⁰⁵ Cato 'took responsibility for the other duties of his office and managed the plays in the theatre' (τά τε ἄλλα τῆς ἀρχῆς ἐπεμελεῖτο καὶ τὰς θεάς διεῖπεν ἐν τῷ θεάτρῳ). 'Managing' the plays apparently consisted of appearing on-stage alongside the 'actors',¹⁰⁶ giving them crowns. Cato adapted traditional aedilician practice, giving instead modest prizes to the actors instead of the usual gold.¹⁰⁷ Although Cato's unique self-image is at the forefront of Plutarch's anecdote, it nevertheless offers a glimpse of aedilician norms. By appearing in place of the real aedile, Cato was assuming the anticipated persona of someone holding that office. The effect, and perhaps the intent, is revealed by Plutarch:

¹⁰⁵ Plut. *Cat. Min.* 46.2-4. Cf. Drogula 2019: 225-6 in general on this episode. Ernst 2013 argues that these games were given 'non comme des *ludi officiels*' (§ 38) early in Favonius' aedileship on the basis that Cato's direct involvement would be 'peu vraisemblable' (§ 32). After all, Favonius' colleague may have objected to Cato's interference. However, it is hard to imagine what such 'unofficial' (but still aedilician) *ludi scaenici* would look like. A simpler argument would hold that Cato showed blithe disregard to the wishes of Favonius' colleague and of traditional procedure (which Plutarch recognized: ἐπραττε δὲ ταῦτα διασύρων τὸ πρῶγμα).

¹⁰⁶ Plut. *Cat. Min.* 46.2. He identifies these performers as θυμελικοί. Ernst 2013 (§ 28) argues that Plutarch is simply transliterating *thymelici*, members of the chorus in the orchestra (Vitr. 5.7.2), and not translating *histriones*. Though possible, this explanation relies on the assumption that Plutarch is simply parroting a Latin source text, retranslating the loan word back into Greek while maintaining the specific Latin sense. As Ernst concedes, Plutarch generally lacks precision in how he deploys θυμελικός. See e.g. Plut. *Fab.* 4.4 (more precise details in Liv. 22.10.8); *Sull.* 36.1 (variance in terminology suggested by 2.3-4).

¹⁰⁷ Crowns as prizes: Rawson 1981: 11-12; Jory 1988: 75-6. Political significance of Cato's usurpation: van der Blom 2012: 53.

‘some people began to respect Cato when they saw his austerity and sourness metamorphose somewhat into chumminess’ (οἱ δὲ ἠδοῦντο τοῦ Κάτωνος τὸ αὐστηρὸν καὶ κατεστυμμένον ὀρῶντες ἡσυχῇ μεταβάλλον εἰς διάχυσιν). His affectation of διάχυσιν was part and parcel of the aedilician role that Cato was playing on the stage, cosying up to the actors and accepting the applause of the audience.

But what of the real aedile? Favonius’ movements appear to be just as choreographed as Cato’s. Plutarch implies that he appeared alongside Cato on stage, only to descend into the audience (εἰς τὸν ὄχλον ἐμβαλὼν), taking a seat among the spectators (καθεζόμενος ἐν τοῖς θεαταῖς) after all was said and done (τέλος), behaving ‘as though he had handed over his authority to Cato’ (ὡς ἐκείνῳ τὴν ἐξουσίαν παραδεδωκώς). With this gesture, he broke down the boundaries between private citizen and magistrate: the people ‘willingly participated in the game in which Favonius played the part of a private citizen, Cato the organizer of the games’ (συνέπαιζον προθύμως ὑποκρινόμενῳ τῷ Φαωνίῳ τὸν ιδιώτην καὶ τῷ Κάτωνι τὸν ἀγωνοθέτην). Plutarch implies that Favonius’ ὑπόκρισις as a private citizen was unusual, a unique gesture in response to Cato’s assumption of the leading role. But Favonius’ descent into the audience may be instead seen as maintaining his own aedilician persona. That is, playing the part of the *priuatus*, *unus de illis*, was itself an ideal.¹⁰⁸ There was nothing unusual about his mingling with the audience. What was unusual was his redirection of the attention away from himself and towards his mock colleague. The theatre was a particularly fitting setting for this destabilization of the boundaries between aedile and *priuatus*, a space where he could be

¹⁰⁸ Cf. Clodius’ dressing as *priuatus* in his *contio in Marcellinum* (Cass. Dio 39.29.1) and Cicero’s framing of himself as aedile as *paulo amplius quam priuatus* (Verr. 1.37; cf. *supra* § 2.2).

on the same level as the spectators, imprecating Cato with recommendations on which performers should receive the crowns.

A second aedile who broke down social barriers in the theatre is M. Oppius, son of a proscribed man, a latter-day Aeneas who heroically carried his father to safety. Destitute because of the proscriptions, Oppius theatrically claimed that he would be forced to resign the aedileship of 37, lacking the liquidity to perform his duties adequately. In response, when he was organizing *ludi* (we do not know which), ‘each of the spectators tossed as many coins as they wished into the orchestra’ (τῶν θεωμένων ἕκαστος ἐπὶ τὴν ὀρχήστραν ὅσον ἐβούλετο νόμισμα ἐρρίπτει).¹⁰⁹ This allegedly spontaneous display of popular ἔπαινος brought about a remarkable transformation in Oppius, who became a rich man again overnight: ἕως τὸν ἄνδρα κατεπλούτισαν!¹¹⁰ Even common thieves were said to have sneaked in to help Oppius’ cause.¹¹¹ The tradition is muddled, the product of a blending of remarkably positive panegyric, such as comparisons between Oppius and Aeneas and his burial in the Campus Martius by his infatuated followers, with negative spin, such as his retinue of criminals posing as actors and the senate’s and *pontifices*’ insistence on disinterring his body because it lay ‘on sacred ground’ (ἐν τῷ ἱερῷ χωρίῳ).¹¹² Certain influential figures clearly felt threatened by Oppius’ political influence.¹¹³ What is most striking for our purpose is the timing of this display of support, both financial and

¹⁰⁹ App. *B Civ.* 4.41.173. Further details, some contradictory, supplied by Cass. Dio 48.53.

¹¹⁰ Courrier 2014: 846-7 and 2017: 121-2 accepts Appian’s point about popular spontaneity, reading this episode as an example of popular collective action, with the people acting ‘entirely in their own interests’.

¹¹¹ Cass. Dio 48.53.5.

¹¹² Cass. Dio 48.53.6.

¹¹³ Sumi 2005: 204-5. That all aedileships lay vacant the following year (Cass. Dio 49.16.2) may be no coincidence. So Sumi: the absence of a plebeian aedile ‘cleared the way for Octavian to stand without rivals in the gaze of the people’ (p. 207).

political, for Oppius. The people threw their money into the orchestra where the aedile was seated, having already 'rejected' (οὐκ ἐπέτρειψεν) his threat to resign his office ὑπ' ἀπορίας.¹¹⁴ The theatre, along with the *rostra*, was the space for these spectacles to play themselves out, for the aedile to communicate to the people, and for the people to respond. He presumably threatened his resignation before the people in a *contio*, making a spectacle of his incapacity and of the cruelty of the proscriptions several years before. The people chose the occasion of the *ludi*, which (curiously) went ahead despite Oppius' ἀπορία, to display their generosity towards him in a striking inversion of social norms. This case is exceptional: no other republican aediles sought to crowdfund their games.¹¹⁵ But the aedileship proves a fitting institution for this inversion to occur, the theatre a fitting setting.

We began this chapter with a passing reference to bad etymology. Writers of the late republic convinced themselves that aediles got their name from their inherent quality of *facilis aditus*. We have seen that, flawed etymology aside, there was every reason, from a socio-political perspective at least, for someone like Verrius Flaccus to make this connection. Petronius has a couple of his characters discuss the magistrates of their *colonia*, past and present. This conversation lays bare what an upper-class man thought mattered to the lives of colonial freedmen. Not only do they want grain and games from their aediles, but they want him to comport himself in a certain, *benignus*, way. Republican examples, especially those from *ludi scaenici*, demonstrate that this expectation was no pure invention of Petronius. By buying plays that they thought would be popular with their audience, an aedile could present himself as *unus de illis*. Theatrical productions saw a reversal of social

¹¹⁴ Magistrate seated within the orchestra space: *Lex Colonia Genetiuae* § 127, l. 8 = RS 1.25 (p. 414), with Rawson 1987: 107.

¹¹⁵ Deniaux 2016: 187; 2017: 273 ('Ce cas d'inversion est unique').

positions. Aediles were at the mercy of the jokes of the *histriones*. And they presumably could well anticipate this social subversion when attending the plays. Aediles consciously reduced the distance between themselves and the people, both physically and socially, presenting themselves as if they were ‘auf der gleichen Stufe’. Again, we are dealing with ancient ideals. This chapter has not been an encomium about how diligent aediles were. We see in Petronius that plenty of aediles fall short of this expectation. But successful and popular republican aediles would be expected, it seems, to assume, and perform, a jovial persona.

The performative element of these social interactions is suggested by a passing insult in Cicero’s *Pro Sestio*. Cicero accuses Clodius as curule aedile of being a ‘stage performer’ (*ludius*), ‘no mere spectator, but a leader of a theatrical troupe and a performer’ (*non solum spectator sed actor et acroama*).¹¹⁶ Clodius would hardly have relished the metaphor. But the speech was delivered at a time when Clodius was susceptible to receiving such insults. An aedile’s year of office is a *spectaculum*, literally something to be seen. He inhabits the public eye for his whole year of office, performing a rôle on the public stage. The ‘>Performanz< der Herrschaftsträger’, as Egon Flaig describes it, was a show to be observed by all.¹¹⁷ Clodius, by performatively reducing the distance between himself and his audience, to an extreme degree, if we believe Cicero, left himself open to such criticism. However, as the examples above suggest, he was not alone in cultivating this performative persona before his audience.

¹¹⁶ Cic. *Sest.* 116.

¹¹⁷ Flaig 2003: 13-31 (quoted at p. 20) discusses ‘aristokratische Performanzen’ in general; he subsequently locates this performativeness among Rome’s political institutions (pp. 181-212) and at the *ludi* (pp. 232-60). Cf. Hölkeskamp 2011: 161-2; 2014: 369-74.

3.2 Understudies

In the previous chapter, we explored interactions between aediles and the people in general terms. In the next two chapters, we turn to more specific connections. The present chapter outlines what the evidence can tell us about the relationships formed between aediles and their intermediaries. Evidence is scattered, generally revealing little about relationships and interactions. Nevertheless, a general picture of the nature of these connections can be reconstructed. The picture that emerges is one in which aediles were reliant on the work of various members of professional *ordines*. *Apparitores* were closely involved with the services performed by aediles. On the other hand, such an association with aediles allowed *apparitores* a chance for social mobility. Epigraphy evinces the pride in the work carried out and a sense of solidarity and shared identity between men employed in the aediles' service. This chapter will not discuss every attestation of an aedilician intermediary, nor is it a full catalogue of the duties of *apparitores*.¹ This invaluable service has been provided by, among others, Theodor Mommsen, Nicholas Purcell, Jean-Michael David, and Anne Daguey-Gagey.² Rather, it will home in on evidence, mostly republican, that sheds light on the nature of the interaction between aedile and intermediary.

We begin with careers linked directly with the aedileship, the *apparitores*. When we picture an aedile, we should imagine him surrounded by a retinue of staff, funded by the state treasury. According to the *Lex Coloniae Genetivae*, each aedile received one scribe, four public slaves, a crier, a *haruspex*, and a *tibicen*.³ Doubtless these prescriptions varied over

¹ Evidence, mostly imperial, tabulated in Daguey-Gagey 2015: 199-233.

² Mommsen, *Röm. Staatsr.* 1³.332-71; Purcell 1983; 2001; David 2019. Cf. Jones 1949.

³ *Lex Coloniae Genetivae* § 62 = RS 1.25 (p. 400).

time and across the empire.⁴ Various inscriptions, for example, coupled with a passing reference in Livy, show that aediles, alongside *scribae* and *praecones*, had *uiatores* in the republic.⁵

Most prominent among the aediles' staff were the *scribae*. *Scribae* specialized in matters pertaining to literacy and numeracy.⁶ Magistrates generally left a 'paper-trail', *tabulae publicae*, archiving their activities during their term, a trail diligently recorded by their scribes.⁷ Augustus is said to have stripped aediles and tribunes of archival responsibilities in 11 because they habitually deferred their duties to their *scribae*.⁸ Though there is limited evidence for the activities of aedilician scribes in particular, with no surviving epigraphic evidence for republican aedilician scribes, it is safe to assume that they made and kept records of all official activities of aediles that had a bearing on public life. We can make only plausible hypotheses about the fields where scribal services would be needed.⁹ One prominent tradition linked early aediles with record keeping, protecting documents in the temple of Ceres.¹⁰ Scribal services were doubtless required to assist Cn. Flavius in the publicization of the *ius ciuile*.¹¹

Moreover, we can be fairly certain that *scribae* were needed at *ludi circenses* for the purposes of recording outcomes in the contests. A fifth-century Etruscan bas-relief depicts a figure, stylus in hand, seated next to a pair of magistrates on a *tribunal* overlooking an

⁴ See e.g. Cohen 1984: 34 ('many and frequent fluctuations').

⁵ Evidence for *uiatores*: Daguet-Gagey 2015: 228-9. Aediles must be considered among those *qui habent uiatorem* in Varro *apud* Gell. 13.12.6.

⁶ See e.g. the most recent sketches of the capacities of *scribae* in David 2019: 57-67, 223-46; Hartmann 2020: 27-31. For a glimpse of scribal status, see Plut. *Cat. Min.* 16.1-3.

⁷ Hartmann 2020: 29-31.

⁸ Cass. Dio 54.36.1.

⁹ State of republican evidence: Daguet-Gagey 2015: 206-7.

¹⁰ See *supra* § 1.1.

¹¹ Liv. 9.46.5-6.

athletic contest.¹² The context is problematic: the relief presumably depicts funerary games, Etruscan ones at that. But the scene would not be alien to someone living in Rome centuries later. Festus, after all, appears to locate *scribae* at *ludi* overseen by a magistrate in an unfortunately lacunose passage.¹³ Records had to be kept at *iudicia publica*, namely *tabulae publicae* that could be readily accessed by other magistrates and referred to as precedents in future trials.¹⁴ Financial transactions would be recorded too.¹⁵ Records would have to be kept of aediles' financial transactions, such as the spending in *munera* in various guises of public funds and fines. Curule aediles had an *aerarium*, presumably a main location for scribal activity.¹⁶ The *Tabula Heracleensis*, meanwhile, prescribes the keeping of precise records of financial transactions in the maintenance of public roads, no doubt by the ever-present but invisible scribes whose presence is implied in the statute.¹⁷ One suspects that we owe the memory of the sums of money raised by aediles from fines to the scribes who made notes of these transactions.¹⁸ Finally, they would have assisted with the aediles' so-called *cura annonae*. During aedilician *discriptiones* of discounted foodstuffs, *scribae* were

¹² Colonna 1976: 187-9.

¹³ Fest. 272L. The surviving text mentions *magistratus* in the context of *publicos lud<os>*, during which they appear to include the right to *scribam hab<ere>*. Mueller 1839: 237 guesses that the text establishes that a magistrate has a scribe '[because of those] games that he provides' ([*propter eos*], *quos facit, ludos*). Whether or not we accept this reconstruction, Festus' entry, supplying details about the *ius* of magistrates at funerals, appears to offer similarities between the rights of magistrates at funeral games and *ludi publici*. Cf. Hartmann 2020: 67 for a sensibly cautious interpretation of the text.

¹⁴ Cf. Cic. *Vat.* 34, where the praetor C. Memmius is credited with recording the indiscretions at an earlier trial with *diligentia*, no doubt thanks to his scribes (Hartmann 2020: 35).

¹⁵ Scribes and financial administration: Hartmann 2020: 49-54.

¹⁶ Polyb. 3.26.1; cf. Liv. 30.39.7 (aedilician scribes steal money from *aerarium*). Cf. *supra* § 1.3.

¹⁷ *Tabula Heracleensis* ll. 34-40 = RS 1.24 (p. 364). The notices for contracts and maintenance are to be 'published' (*propositum habito*) in the forum and the notice is to be 'announced' at the house of those concerned (*domum denuntietur facito*). Cf. Daguët-Gagey 2015: 232 on scribes' 'implicit' presence.

¹⁸ Ateius Capito (*apud* Gell. 10.6.3) presumably made use of such records in composing *De iudiciis publicis*, in which he records that the aediles in 246 *multam dixerunt ei* [sc. *Claudiae*] *aeris grauis uiginti quinque milia*.

probably needed for tallying the quantities to be distributed to each *uicus*.¹⁹ Despite the enormous gaps in our knowledge, it stands to reason that aedilician scribes were intimately involved in aedilician processes.

Aediles' *uiatores*, meanwhile, acted as messengers, apparently in a manner comparable to the lictors of superior magistrates.²⁰ They may have escorted suspects to trial in *iudicia publica*.²¹ *Viatores* presumably lugged the aediles' chairs around, as Livy's anecdote about Flavius' aedileship suggests. In response to the *superbia* of the young *nobiles* who refused to stand in his presence, Flavius ordered that 'his curule chair be brought to him' (*curulem adferri sellam eo iussit*), implicitly by his *uiatores*.²² Amidst the shaky etymology provided by Festus and Columella, there are hints about the perceived original purpose of the position. As Columella tells it, because 'the leading men of the community used to spend their time in the fields' (*proceres ciuitatis in agris morabantur*), they would spend a lot of time on the road flitting between the senate and their rural toils, hence *uiatores* or 'road men'.²³ We can add this to the same category as Festus' alternative etymology for *aedilis* discussed above. Whether or not his suggestion is linguistically or historically sound, it reveals something about the idea of the role that these men were thought to play in public affairs.²⁴ *Viatores* were originally, in our sources' imagination of Rome's early days, the men

¹⁹ So, tantalizingly, Liv. 30.26.6: *aediles curules quaternis aeris uicatim populo discriperunt*. Interpretation of *uicatim*: Panciera and Virlovvet 1998: 253-5 (cf. pp. 261-6 on recording such distributions in the empire). Cf. Hartmann 2020: 30. Late-republican aediles were, because of their connections to *uici*, positioned to administer these distributions, which is why Curio's *lex agraria* of 50 nominated aediles as the distributors (Cic. *Fam.* 8.6.5).

²⁰ Mommsen, *Röm. Staatsr.* 1³.360-2; Lintott 1968: 100-1; Daguet-Gagey 2015: 153 n. 153; David 2019: 40-3.

²¹ The *uiatores* who escorted the matrons to trial *de uenificiis* in 331 (Liv. 8.18.1) may have been aedilician (Bauman 1974: 256-7).

²² Liv. 9.46.9.

²³ Colum. 1. *praef.* 19-20. Cf. Cic. *Sen.* 56; Fest. 509L.

²⁴ So, *en passant*, Purcell 1983: 170 n. 271.

who bound the urban magistrates and the rural *populus* together, informal go-betweens who morphed into formal assistants.

The *uiator* was, in republican practice, seemingly an enforcer of the aediles' and tribunes' *ius prensionis*, the right to place someone under arrest. Later jurists' writings on the subject are difficult to interpret because they focus on pedantic legal technicalities as against regular practice.²⁵ The claim, presented by both Ateius Capito and Varro, is that tribunes (and, implicitly, aediles) lacked the capacity to summon someone to court. In reality, they assuredly did this, as Capito suggests by criticizing the jurist Labeo's position on the matter. He dismisses Labeo's opinion as 'some excessive and insane notion of liberty' (*libertas quaedam nimia atque uecors*).²⁶ According to jurists such as Labeo, then, the aedilician *uiator*, a mere messenger, was powerless to intervene, and the aedile himself would have to apprehend the individual. But we know from several references to tribunician *uiatores* that they could be used to remove someone from a space.²⁷ As Lintott remarks, 'theory and practice seem to have differed'.²⁸ An aedile, with a group of men at his beck and call, presumably used his group for a bit of low-level intimidation.

Praecones acted as the mouthpiece of aediles on public occasions.²⁹ Few direct examples of aedilician *praecones* in action remain. We know that they were important instruments of assemblies, both electoral and judicial. They called *centuriae* and *tribus* to

²⁵ Gell. 13.12.1-6.

²⁶ Ateius Capito *apud* Gell. 13.12.2.

²⁷ Liv. 3.56.5; App. *B Civ.* 1.31.138; Cic. *Vat.* 22.

²⁸ Lintott 1968: 101 n. 4. This incongruity was not lost on Gellius, who remarked on Labeo's *uana fiducia* in legal technicalities.

²⁹ Mouthpiece: Hinard 1976: 733 ('sa voix n'est que le support sensible des décisions de ce magistrat'). General responsibilities: Mommsen, *Röm. Staatsr.* 1³.363-6; David 2019: 45-56, 207-22. Low reputation: Rauh 1989: 459-60; Bond 2016: 21-58.

vote and announced outcomes.³⁰ They appeared on the *rostra* to summon the accused to trial.³¹ They would demand silence before the magistrate spoke in a *contio*.³² Since aediles convoked *iudicia publica*, we can use these examples as typological. *Praecones* made announcements at the beginning of aediles' *ludi scaenici*. The metatheatrical prologue to Plautus' *Poenulus* has the speaker parodically supplant the role of the *praeco*, who was reminded of his *officium* to 'compel the people to listen' (*fac populo audientiam*).³³ The speaker goes on to individuate members of the audience, ordering, for example, that 'no slave should be seated, so that there should be a place for free people' (*serui ne opsideant, liberis ut sit locus*).³⁴ This may have been the *officium* of the *praeco* himself, since the speaker claims to have deliberately interrupted the *praeco* mid-flow (*age nunc reside*).³⁵ Indeed, during the allegedly chaotic *ludi Megalenses* under Clodius' direction in 56, Cicero claims that the slaves 'on previous occasions would be separated from free people at the *praeco*'s instruction' (*antea uoce praeconis a liberis semouebantur*).³⁶ The *praeco*, at the very least, played the role of conveying the aediles' instructions to the people in the theatre, maintaining public order and prescribed seating arrangements, at least at the *ludi Megalenses*. Any public gathering convoked or arranged by an aedile, then, had an employee acting as his mouthpiece.

The nature of the relationship between aedile and *apparitor*, however, remains obscure. Their method of appointment may offer some clues. This procedure can be pieced

³⁰ Liv. 24.8.20; Cic. *De or.* 2.260.

³¹ Liv. 8.32.2; 38.52.12; Plut. *Brut.* 27.5.

³² Auct. *ad Her.* 4.68.

³³ Plaut. *Poen.* 11-15. Cf. Gilula 1993: 287.

³⁴ Plaut. *Poen.* 23.

³⁵ Plaut. *Poen.* 15.

³⁶ Cic. *Har.* 26. See *supra* § 3.1 on slaves' presence in theatre.

together tentatively with reference to Sulla's *lex Cornelia de XX quaestoribus* of c. 81. In this text, quaestorian scribes are assigned a *prouincia*, namely carrying out duties in the quaestors' *aerarium*.³⁷ Since aediles apparently had their own treasury, and since aedilician scribes were said to have been caught embezzling treasury funds in 202, it seems likely that Sulla's law broadly reflects long-standing institutional practice and can be applied to both aedilician and quaestorian scribes.³⁸ *Apparitores* in general were public employees, earning a wage paid by the state.³⁹ They were selected from *decuriae* based, apparently, on the magistrate's discretion and judgement (*arbitratus*) of the individual's 'worth': in the *lex Cornelia* we are informed that the magistrates are to choose *apparitores* for the quaestors 'whom they shall judge to be worthy from that order' (*quos eo ordine dignos arbitrabuntur*).⁴⁰

Aediles found themselves at the head of a hierarchy of state employees: *apparitores* employed their own *uicarii* to support them in their duties. In Sulla's law, it is left to the *apparitores* 'to appoint or provide a replacement for' (*dare subdere*) these deputies, and the magistrates evidently had direct contact with these people too, since the quaestors are instructed to 'accept deputies from them just as it shall be appropriate for *uicarii* to be accepted from the other *uicarios* and *praecones*' (*ab eis uicarios accipiunto, ut ei aa [sic] ceteris uicatoribus praeconibus uicarios accipei oportebit*).⁴¹ This statute stipulates that magistrates play an intimate role in the appointment of these *apparitores*.⁴² That aediles were acutely

³⁷ *Lex Cornelia de XX quaestoribus* col. 1, ll. 1-2 = RS 1.14 (p. 294).

³⁸ Polyb. 3.26.1; Liv. 30.39.7. Cf. Purcell 2001: 639.

³⁹ *Lex Coloniae Genetivae* § 62-3 = RS 1.25 (pp. 401-2). Further references: Hartmann 2020: 20.

⁴⁰ *Lex Cornelia de XX quaestoribus* col. 1, l. 33 = RS 1.14 (p. 295). On the sense of *dignus*, which could be taken to denote appropriateness for the given position: Cohen 1984: 49-52, 57-8.

⁴¹ *Lex Cornelia de XX quaestoribus* col. 2, ll. 28-30 = RS 1.14 (p. 296). Crawford's translation here quoted and adapted.

⁴² David 2019: 84 argues for a stronger separation between the magistrate who chose the *apparitor* and the magistrate who would employ them. Elsewhere (pp. 149-81), however, he persuasively details the ongoing 'relations de dépendence' between individual senators and their *apparitores*.

concerned with their *apparitores' dignitas* is demonstrated by a passing reference to a *scriba's* prosecution in Cicero's *Pro Cluentio*.⁴³ Cicero cites, as a sarcastic *exemplum* of the *uoluntas siue opinio* of the censors of 70, his recent defence of a certain D. Matrinius, whom the censors had demoted to the demeaning status of *aerarius*. Successfully, he spoke *apud* two of the praetors and both curule aediles of c. 67 to convince them to (re?)appoint Matrinius as an aedilician scribe.⁴⁴ The aediles' presence at this hearing, more conventionally the preserve of the urban praetor, illustrates how active an interest the aediles might take in the character of the men they employed. A magistrate doubtless forged links of patronage with his *apparitores* that extended beyond his year of office.⁴⁵ The efficiency of one's aedileship depended on the capability of one's *scribae*, and poorly chosen *scribae* could result in *infamia* for the magistrate.⁴⁶ And maintaining a loyal cadre of scribes from one's year of office could yield future benefits.⁴⁷ Who worked for you mattered. As Purcell has shown, although *apparitores* were selected 'to serve any magistrate of a certain rank', an *apparitor* 'owed his appointment to the favour of a particular magistrate'.⁴⁸

Cn. Flavius stands as the most prominent surviving example of this relationship: he was evidently a *scriba* of one of the curule aediles of 305, and used the knowledge gained

⁴³ Cic. *Cluent.* 126.

⁴⁴ Cicero is unspecific about whether Matrinius was a scribe at the time of demotion. Differing views: Brennan 2000: 449 (he 'later sought the position of *scriba aedilicius'*); Cohen 1984: 43 n. 99 (dismissed in 70 and later reinstated, but kept his title in the interim); Hartmann 2020: 73 (argument centred on whether Matrinius would be designated 'once more').

⁴⁵ Purcell 1983: 138-42.

⁴⁶ Liv. 30.39.7.

⁴⁷ Cf. Badian 1989: 600, citing Verres' mutually beneficial relationship with Maevius (Cic. *Verr.* 2.3.187). Cf. David 2019: 156-61.

⁴⁸ Purcell 1983: 127; cf. p. 139. Quaestorian parallel: Q. Petillius reignited his *familiaritas* with his quaestorian scribe during his praetorship (Liv. 40.29.10).

in his profession, if we believe our sources, to revolutionize the office.⁴⁹ His training as a scribe doubtless gave him an unusually acute awareness of the internal workings of the aedileship, and the sort of information to which aediles' *scribae* had access, namely legal documents and pontifical records.⁵⁰ His position also gave him the patronage he would need to seek higher office. Purcell's hypothesis that his most prominent patron, Ap. Claudius, had been aedile while Flavius was a scribe is therefore not implausible.⁵¹ At the very least, Flavius' existing relationship with Claudius assisted him in his political career. It seems, too, that this relationship would extend from one magistracy to another. We know, for example, that Sex. Cloelius, a *scriba* by profession, continued to act as an agent of Clodius before, during, and after the latter's curule aedileship.⁵²

Epigraphic evidence points to the sense of pride and identity that serving as an *apparitor* gave. Visual representations of one's career, such as the anonymous (presumably quaestorian) *uiator* whose *métier* (*uiator ad aerarium*) was playfully commemorated on a relief of a money bag, demonstrate the pride with which *apparitores* plied their trade.⁵³ The *scribae* pictured on the so-called 'Ara degli scribi' are depicted in the action of carrying out their duties for their aedilician employers, handling the *tabulae publicae* that detailed the

⁴⁹ Piso *apud* Gell. 7.9.2 = *FRHist* 2.322-3, F29 (*isque in eo tempore* [sc. *comitiis*] *aedili curuli apparebat*). It is unclear whether he was attached to one of the curule aediles or both as a college, since Livy (9.46.2) uses the plural. Cf. Cohen 1984: 39-40; Purcell 2001: 635. That scribes could be tied to a single aedile is also implied in Liv. 30.39.7-8: the prosecution of *scribae* and *uiatores* for embezzlement resulted in *infamia* for Lucullus alone. Epigraphic evidence also points to a distinction between curule and plebeian (and Ceres') aediles' *apparitores*: Daguet-Gagey 2015: 206-30.

⁵⁰ Loreto 1991: 199.

⁵¹ Purcell 2001: 636.

⁵² In 56, Cicero refers either to Cloelius' past indiscretions (*Sest.* 133; *Har.* 11, 59), which continued *per biennium* (*Cael.* 78) or to his abortive prosecution (*QFr.* 2.5.4; *Cael.* 78). Cf. Damon 1992: 236-8 on Cloelius' activities in 56.

⁵³ *CIL* 6.1932.

actions carried out by aediles.⁵⁴ On a panel below, a crowd look up adoringly at the *scribae* at work in their elevated position, bearing in hand the fruits of their labour.⁵⁵ The artist places the *scribae* in a prominent, quasi-magisterial position resembling a *tribunal*, drawing direct parallels between the labours of the *scribae aedilium* and the aediles themselves; indeed, the *scribae* visually supplant their aedilician employers on the frieze.⁵⁶ The image of the two seated *scribae*, colleagues in their profession, surrounded by attendants (presumably *uicarii*) mimics the relationship between aediles and *scribae*. The figures exude magisterial authority and collegiality by the very act of sitting in the presence of a crowd of standing onlookers and workers.⁵⁷ Although visual representations of aediles are scarce, the imagery of colleagues seated on *subsellia* on an elevated platform resembles the portrayal of the plebeian aediles on coins minted in c. 86, C. Fannius and M. Critonius.⁵⁸ The *scribae*, by mimicking aedilician publicness, could celebrate a sense of identity united by their mutual association with their aedilician employers. This relationship also allowed them to acquire skills about which they could express pride. An anonymous aedilician *scriba* boasted of being *iuris prudens*, a *prudentia* achievable through his apparently successful scribal career.⁵⁹ Being a scribe could even act as a springboard to greater honours, including the aedileship itself. Flavius is exceptional in the republic, but imperial municipal

⁵⁴ Rotondi 2010: 139-40; Fioretti 2014: 349-51. Identification of documents as *tabulae publicae*: Hartmann 2020: 41.

⁵⁵ Zevi and Friggeri 2012: esp. 359-60 (on 'la folla dei beneficiati' gazing admiringly at the *scribae* at work, namely 'tutto il popolo di Roma'); Fioretti 2014: 350 (interpreting the crowd as 'cittadini comuni intenti a richiedere documentazione agli *scribae*').

⁵⁶ Zevi and Friggeri 2012: 360 ('su un suggesto, quasi un *tribunal*', resulting in 'una vera e propria scena magistratuale').

⁵⁷ The power of this gesture is illustrated by Flavius' insistence on sitting on his *sella curulis* before the arrogant young *nobiles* who refused to rise in his presence: Piso *apud* Gell. 7.9.5 = *FRHist* 2.322-3, F29.

⁵⁸ *RRC* 351. Similar collegial imagery was adopted by Agrippa and Augustus on coinage issued by C. Sulpicius Platorinus (*RIC* 406), celebrating their renewed *tribunicia potestas* (Rowan 2018: 160-1).

⁵⁹ *CIL* 6.1853.

inscriptions illustrate the link between working for an aedile and later becoming an aedile.⁶⁰ Aedilician patronage could develop one's career, just as Ap. Claudius gave Flavius a leg-up. *Scribae* found themselves in a privileged position of contact with men of growing influence.

There was, therefore, an incentive for both aediles and *apparitores* to maintain a close relationship. This closeness would also be physical. Aediles' *apparitores* were topographically linked with the men they served: by the Julio-Claudian period they had their own *schola* in the central location between the *rostra* and the temple of Saturn.⁶¹ This space was collegial, shared by curule aedilician *scribae librarii* and *praecones*. *Scribae* of plebeian aediles, including the imperial aediles of Ceres, were apparently, like their paymasters, linked with the temple of Ceres, as a third-century AD dedication by *decuriales aedilium pleb(is) et pleb(is) Cerealiium* suggests.⁶² This inscription was discovered below the Aventine at the church of S. Maria in Cosmedin, near the presumed location of the temple of Ceres. The bond between *apparitores* of both plebeian aediles and aediles of Ceres seems to affirm a long-standing topographical link between the temple of Ceres and her aediles and their workers.

Groups other than *apparitores* also appear to have worked for aediles. Aediles were associated with *aeditui*, or temple attendants. The connection seems to derive from aediles' association with temples, and not necessarily because they were uniquely under the aediles' charge. Still, Varro's passing reference to the ill-fated *aedituus* at the temple of

⁶⁰ See e.g. *CIL* 14.4642. Social climbing by scribes: Hartmann 2020: 111-39.

⁶¹ *CIL* 6.103. Cf. Purcell 1983: 135 (termed 'a clubhouse'), 141 n. 93 (date: 'presumably Julio-Claudian'); *LTUR* 4.257 (Chioffi); Purcell 2001: 668; Hartmann 2020: 74-5. Regular presence in forum is implied in *Tabula Heracleensis* ll. 80-1 = *RS* 1.24 (p. 366).

⁶² *CIL* 6.1095 = *ILS* 503. Cf. Purcell 1983: 144 with n. 111.

Tellus implies that the aedile exercised some authority over him. He speaks of an *aedituus* being ‘summoned by the aedile’ (*accersitus ab aedile*) who had *procuratio* over the temple.⁶³ From this passage, some scholars have hypothesized that some *aeditui* were ‘appointed’ by aediles, like *apparitores*.⁶⁴ Little evidence exists to support this contention. A small clue, however, is supplied by a lacunose inscription from the temple of Castor and Pollux at Tusculum. It provides a long list of names of men identified as *Augustales aeditui*, laid out in four columns beneath the names of two individuals by whom the monument was *refectum*. The large college of *aeditui* is evidently credited with raising money (*contulerunt*), along with two *praefecti sacrum*, for the reconstruction project at the temple presided over by the two magistrates, the self-identified *refectores*, M. Cutius Severus and C. Fabius Passienus Saturninus.⁶⁵ The middle section of the top panel is missing apart from a single letter *R*, which leaves open the question about what position Severus and Saturninus held.

Diana Gorostidi Pi has argued that, because *aediles lustrales* are widely attested at Tusculum, the lacuna may be reconstructed as [*aedilibus lust*]r(*alibus*). This reconstruction is not implausible: a certain Saturninus is identified as an *aedilis lustralis* in a separate inscription.⁶⁶ Although imperial and municipal, this inscription seems broadly consistent with what we might expect at Rome. The aediles *refecerunt* a sacred space with (*ex*) a sum of money (*stips* or *pecunia*). This money was cobbled together by the college of *aeditui*. The idiosyncratic feature of the inscription, which distances itself from Roman practice, lies in the fact that the names of the probable aediles seem to recur in the list of *aeditui*, at the head

⁶³ Varro, *RR* 1.2.2.

⁶⁴ Marquardt and Mommsen 1885: 218 (‘von der Aedilen ernannt’). Cf. Latte 1960: 410 (‘unter der Kontrolle der Aedilen’); Cavazza 1995: 61 (‘sotto il controllo e l’autorità di un magistrato’).

⁶⁵ Gorostidi Pi 2008: 860-1.

⁶⁶ *CIL* 14.2628.

of the first two columns of *aeditui*, which suggests that *aediles lustrales* in first-century Tusculum were elected from the college of *Augustales aeditui*.⁶⁷ Some caution should, however, be entertained. Gorostidi Pi assumes that the *aeditui* and *aediles lustrales* are the same men; it is possible that they are simply homonyms. In any case, read together with Varro's casual remark about the aedile at the temple of Tellus, the inscription shows how a college of *aeditui* might operate under an aedile's instruction, working to ensure the upkeep of the temple for whose *refectio* the aediles would claim credit. The Tusculan inscription is therefore peculiar in framing the operation as something of a shared enterprise. Roman republican aediles tended to take sole credit for such benefactions; the *collatio*, as well as the *refectio*, would be framed as being down to their efforts alone. Nevertheless, the inscription reminds us of the network of people involved in such restorations, who probably in turn employed *serui publici* and received summons (*arcessitus*) from aediles.⁶⁸

Aediles were flanked by *serui publici* too.⁶⁹ Varro complained that, contrary to the good old days when aediles could be summoned before a praetor by a private citizen, the aediles of his lifetime were *nunc stipati seruis publicis*; now, he goes on, aediles *etiam ultro submouent populum*.⁷⁰ Cicero's claim that the *ludi Megalenses* had become *ludi polluti*, a *seruorum Megalesia*, under Clodius' tutelage, may be taken as a reference to Clodius' use of his public slaves. It is difficult, however, to identify specific groups amidst Cicero's rhetoric, and these slaves may have been members of Clodius' *operae*, *histriones* not associated with

⁶⁷ Gorostidi Pi 2008: 862.

⁶⁸ *Serui publici* of *aeditui*: Tac. *Hist.* 1.43.

⁶⁹ In general: Cohen 1984: 30-3.

⁷⁰ Varro *apud* Gell. 13.13.4.

Clodius, or simply members of the audience.⁷¹ Varro's remark, and Cicero's if it also refers to public slaves, develops a picture of decadence. Aediles these days think they are above the law, Varro laments, relying on a *stipatio* of slaves that was unheard of in the good old days.⁷² It is tempting, therefore, to see this as a first-century development. Still, patchy attestations of *serui publici* long before the time of Varro should lead us to be sceptical of his decline narrative.⁷³ The complaint seems to be not the fact that aediles have public slaves – it is how they use them.

This chapter has been more than just a rollcall of people who worked for aediles. Although our sources usually identify aediles as the sole instigators of various actions, we should remember that a workforce of *apparitores* and *serui*, almost always invisible to us, supported them in their activities. Aediles were reliant on the labours of people who doubtless often knew far more about urban administration than they did.⁷⁴ *Apparitores* likewise drew significant benefit from their association with aediles, with *scribae* in particular enjoying significant social mobility. Several scholars have recognized that greater prestige could be gained by acting as quaestorian *scribae*, but for members of society

⁷¹ The link between Varro's and Cicero's complaints may not, therefore, be as strong as Daguet-Gagey 2015: 231 suggests. Clodius' notorious retinue of slaves (Sumi 1997: 87-92) was unlikely to be composed of *serui publici*, and the servile element has probably been distorted by Cicero. Still, Cicero's assertion that the games were 'overseen' (*praepositum*) by slaves leaves unanswerable questions about the manner of Clodius' organization of the *ludi Megalenses*.

⁷² It is uncertain when these good days were (cf. Wiseman 2009: 115; 2010: 32 with arguments in favour of Varro's decline narrative). Varro cites the arrest of an aedile, M. Valerius Laevinus, presumably bereft of a bodyguard of public slaves, who may have held office in the third or second century.

⁷³ Luciani 2019: 279-81; 2020: 381-2; Weiß 2004: 29-36. Eder 1980: 69-71 suggests that *serui publici* filled a role similar to that of lictors for magistrates *cum imperio*.

⁷⁴ Cohen 1984: 54. Even members of the aristocracy were aware of this: laws were, according to Cicero, *quas apparitores nostri uolunt* (Cic. *Leg.* 3.46). Cf. Dyck 2004: 549-50 on Cicero's general point that 'few aediles were prepared to exert themselves to verify drafts and root out mistakes'.

who stood to become *apparitores*, often freedmen, a gig with the aediles would be an enormous achievement.⁷⁵

To conclude, it is necessary to re-emphasize how closely *apparitores* tend to associate themselves with their aedilician employers. In some instances, epitaphs eulogize the solidarity of members of this particular order, and the cohesiveness of this section of society. Scribes, for example, regularly identify themselves not just as *scribae*, but *aedilium scribae*. Inscriptions give a sense of collegiality and shared identity. We do not know why a certain D. Caesilius Singenus took it upon himself to pay *de suo dono* for a *cubiculum hypaethrum cum ornamentis* (a roofless tomb with added decorations) for *apparitoribus aediliciis, praeconibus, uicariis ueteribus*.⁷⁶ What it does illustrate is a perceived solidarity and common identity between *apparitores aedilicii*. This *monimentum* represented an act of generosity by Caesilius, probably an *apparitor aedilicius* himself, targeted at colleagues all united by similar experiences and relationships with the city's aediles.⁷⁷ A second inscription bears out this collegiality: a funerary monument for Hateria Successa by her husband, an *apparitor aedilium*, was constructed *permissu collecarum*, by his apparitorial colleagues.⁷⁸ Although the nature of the relationship between aediles and their employees is often obscure, there is evidence for solidarity between these employees. From the exiguous evidence available, we begin to make out networks of individuals whose livelihoods and identities were directly connected to the institution of the aedileship.

⁷⁵ Conventional view: Mommsen, *Röm. Staatsr.* 1³.351-2: scribes of plebeian aediles, at least, 'scheinen nicht von der besonderer Bedeutung gewesen zu sein'.

⁷⁶ *CIL* 6.1947. Cf. 6.1946 for similar wording. Daguët-Gagey 2015: 200 provides a valuable discussion of these inscriptions.

⁷⁷ Caesilius' probable membership of the same *ordo*: Waltzing 1895: 475.

⁷⁸ *CIL* 6.1948.

3.3 Walk-on parts

In his important survey of interactions between leaders and the Roman *plebs*, Paul Vanderbroeck asserted in passing that Rome's lower magistrates, 'especially the aediles, ... had frequent dealings with the plebs'.¹ Election to the aedileship would necessitate close contact with a wide range of social groups in the *urbs*. This chapter demonstrates how social networks, 'patron-client relationships' as Vanderbroeck conceptualizes them, could be established and concretized by means of the institution of the aedileship. We have just seen, for example, how one's network of *apparitores* could be redeployed in future magistracies. An aedile would do well to establish a network of people ready to work for him should he win election to an urban praetorship a few years later. The same teleological perspective can be applied before one even undertakes an aedileship. As we shall see below, and as Élisabeth Deniaux's research in particular has shown, men elected to the aedileship would often benefit from existing bonds of *clientela* within and without Rome.

Such teleology alone, however, risks ignoring the perspective of the other half of the relationship. Vanderbroeck's remark, though perceptive and often overlooked, focuses only on the advantages that 'leaders', aediles in this instance, could derive from the relationship. This chapter, therefore, builds on his insightful hypothesis, adopting a more expansive, 'plebs'-eye' view of the situation. Two other scholars have recently applied a similar methodology to the study of the Roman world. Robert Morstein-Marx used the quoted phrase to investigate how a member of the *plebs contionalis* would construe Cicero's consular *popularis* rhetoric in his second agrarian speech before the people.² The benefit of

¹ Vanderbroeck 1987: 127.

² Morstein-Marx 2004: 204-40.

such an approach lies in the fact that it focuses on the audience, and not exclusively the deliverer of the message. More recently, Cyril Courrier's rich study of the culture of the Roman *plebs* attempts, among other things, to collect evidence for independent decision-making by the Roman *plebs*.³ Whether or not we accept his contention that the Roman *plebs* exercised greater autonomy in decision-making than is usually assumed, his contribution supplies a valuable blueprint for analysing Roman social and political history from the perspective of the lower classes whose voices are heard less frequently. This chapter adopts the perspective of both the aedile and the person with whom he interacted. It uses Vanderbroeck's tantalizing remarks as a point of departure, incorporating the valuable methods of Morstein-Marx and Courrier. Tracing the evidence that we have for interactions between aediles and people, it examines the economic and social opportunities that both parties could derive from this relationship.

An initial glimpse of these opportunities can be gleaned by Clodius' relationship with the architect Vettius Cyrus in early 56. Even Cicero had to admit that Clodius was a frontrunner at the forthcoming aedilician elections for 56, which had been repeatedly delayed owing to the waves of violence in 57.⁴ Construction work had suddenly ground to a halt on a project of Q. Cicero which Cyrus had undertaken.⁵ The realistic prospect of Clodius' election to the aedileship had caused an unexpected delay: 'all work has been severely delayed out of anticipation of his deranged aedileship' (*omnia sunt tardiora propter furiosae aedilitatis expectationem*).⁶ Evidently, Clodius had been negotiating with Cyrus even before the elections were eventually held, so confident was he of success. Cyrus had

³ Courrier 2014: esp. 460-2; 2017: 107-28.

⁴ Cic. *QFr.* 2.2.2.

⁵ Work would apparently continue apace by March: Cic. *QFr.* 2.4.2.

⁶ Cic. *QFr.* 2.2.2.

downed tools, awaiting a lucrative commission that might occupy him for the year. For a successful freedman like Cyrus, it was well to cultivate both Cicero and Clodius, despite their conspicuous enmity.⁷ The full extent of Clodius' building activities during his aedileship is unknown, although there are hints that he lacked the capital that many of his contemporaries had splurged on aedilician *munera*.⁸ What this story does show is the *expectatio* that would attend the aedilician elections each year, the opportunity that a patron like Clodius could offer when attended with the trappings of a new magistracy.⁹ Promising to fulfil the *spes* of the electorate was, after all, a normative technique in canvassing for office: a good candidate for any office should 'make it seem to them that your assistance is established and prepared' (*iis fac ut propositum ac paratum auxilium tuum esse uideatur*).¹⁰ Influential people's opinions can be changed if their true *spes* are understood.

What other groups around Rome, then, would entertain a similar *expectatio* for the future aediles? Who else might we imagine would be in the crowd escorting the fictional aedile to the Capitoline following his victory, just as the protagonists do in the third book of Varro's *De Re Rustica*?¹¹ A full survey is impossible. Clodius' implicit relationship with Cyrus is the sole piece of evidence for the negotiations that an aedile, aedile-elect, or aspiring aedile might transact with an *architectus*. What I hope to provide, instead, is a representative sample from republican evidence that offers insight into how an aedile

⁷ This resulted in the awkward meeting between Cicero and Clodius beside Cyrus' deathbed: Cic. *Mil.* 48. Cf. Rosillo-López 2017a: 40-1 on this meeting.

⁸ Tatum 1999: 198-9.

⁹ *Contra* Cicero's own assertion to the contrary at *Planc.* 13, which is undermined by his remarks elsewhere (see *supra* § 2.2). Cf. *Mur.* 37 on *expectatio muneris* as a boon for winning votes.

¹⁰ Q. Cic. *Comm. Pet.* 21-4.

¹¹ Varro, *RR* 3.17.10 implies a throng surrounding *candidatus noster designatus aedilis* by the 'racket' (*strepitus*) that accompanied his subsequent movements.

might interact with various groups of people, and vice versa. The settings for these interactions are by now familiar to us. At the *ludi publici*, play scripts had to be procured, actors hired, temporary theatres built. Their position in the market brought them into contact with a wide range of groups, from shopkeepers to sex-workers. And contractors were needed for everything in between. Although it stands to reason that these interactions would take place, the evidence often leaves us having to make logical guesses to fill in the gaps. Vitruvius' discussion of the use of *machinae* in the theatre neatly illustrates the problem. Reminding his reader that 'both praetors and aediles are annually obliged to furnish machinery in advance for their games' (*quotannis et praetores et aediles ludorum causa machinationes praeparare debent*), Vitruvius implies, without stating explicitly, that these magistrates would have to establish a working relationship with a wide range of labourers and craftsmen.¹² This chapter looks for the explicit evidence that writers like Vitruvius often take as read. The picture that emerges, I argue, is one of vibrant social interaction, a mutually dependent economic and social relationship from which both parties derived benefits.

For starters, an aedile might benefit from an established network of connections at his disposal before entering upon his office. The importance of such *clientela*, frequently hereditary, has been discussed in several illuminating studies by Élisabeth Deniaux.¹³ We

¹² Vitr. 10 *praef.* 4. Vitruvius directs this part of his discussion to magistrates, who, because of the singular importance of the *ludi*, 'must have careful foresight and make deliberations informed by an exceptionally learned intellect in these matters' (*in his uero opus est prudentia diligens et ingenii doctissimi cogitata*) (*praef.* 3). A learned praetor or aedile would do well to acquaint himself with the architect's art. Cf. Gros 1994: 88-9 on Vitruvius' *De architectura* as a service to a magistrate (or emperor) who would be obliged to seek the services of an architect.

¹³ Deniaux 2000: 1302-5; 2016: 184; 2017: 272-4. She stresses the importance of existing *clientela* in procuring animals in particular. Much of this is left to logical speculation. For example, L. Domitius Ahenobarbus' curule aedileship of 61, during which he procured animals from North Africa where a member of his family, Cn. Domitius, had gathered significant support in the civil war against Sulla (Plut. *Pomp.* 11.1), may illustrate this wider trend.

might take the importuning by M. Caelius Rufus (aed. cur. 50) as typical of the sort of negotiations that an aedile would carry out with established friends to support his aedileship. He repeatedly (*fere litteris omnibus!*) requested Cicero's proconsular assistance in the supply of Anatolian leopards for his aedilician *uenationes*.¹⁴ C. Scribonius Curio, who had intended to run for the aedileship of 50 but had evidently changed his mind, had already procured some from a certain Patiscus.¹⁵ Caelius' friendship with Curio had given him access to the latter's now superfluous leopards, but Caelius wanted more. Several individuals like Patiscus derived significant financial gain from the live animal trade in Cilicia. Caelius had a group of men at his disposal in Cilicia ready to tend to and ship (*qui alant eas et deportent*) the leopards back to Rome, although their avowed purpose was to settle a business arrangement with P. Sittius.¹⁶ Patiscus, these unnamed traffickers, and the *uenatores* whom Cicero claimed were working on Caelius' request may be taken as typical of the professional class that would spring up around Rome's predilection for animal cruelty, and around aedilician activities abroad in general.¹⁷

Caelius' cutting remark about his future colleague, M. Octavius, reveals something about the difference in approach available to aediles-elect, hinting at the hierarchy of connectedness that aediles would experience upon entering office. Writing in September 51, Caelius claimed that his labour had been made all the more difficult 'because I think I'll

¹⁴ Cic. Fam. 8.2.2, 8.4.5, 8.6.5, 8.8.10, 8.9.3, 2.11.2; Att. 6.1.21; Plut. Cic. 36.5.

¹⁵ Cic. Fam. 8.9.3. He claimed that Patiscus was working on Caelius' request: 2.11.2. Cf. Linderski 1972: 185-6 on Curio's original intention to run for the aedileship of 50.

¹⁶ Sittius himself may have been involved in the trade, having already been involved with the importation of grain to Rome (Cic. Fam. 5.17.2 with Heurgon 1950: 376). On Sittius' business arrangements in the late 50s: Rauh 1986: 23; Hollander 2007: 47-8.

¹⁷ Cic. Fam. 2.11.2 mentions the men *qui uenari solent*. Cf. Epplert 2001: 210-20 (survey of evidence, mostly imperial, for *uenatores*); 2003: 76-90 (imprisonment of animals in *uiuaria*). On role of *negotiatores* in general in the republican live-animal trade, for which Patiscus is the key example: Deniaux 2000: 1305-7.

have to arrange everything separately from my colleague' (*quod seorsus a collega puto mihi omnia paranda*).¹⁸ What Caelius means by *seorsus a collega* is unclear. We know from Cicero's letters to Atticus that Octavius would eventually join Caelius in requesting leopards, but seemingly much later and through a third party, namely Atticus.¹⁹ Implied, though, is the difference in connectedness between both aediles-elect in 51. Caelius attempted to exert his influence with Cicero directly, tying the success of his future *ludi* to Cicero's own *existimatio*.²⁰ He was also extremely well connected in Cilicia already. For whatever reason, although Octavius had been on the staff of Cicero's predecessor in Cilicia, Ap. Claudius Pulcher, he did not seem to be able (or willing) to use local connections to the same extent as his future colleague.²¹ Not only does this offer a glimpse into the different levels of preparation undertaken by future colleagues, but it also illustrates how some men elected to the aedileship enjoyed significant advantages from existing networks and connections.

The sourcing of grain is another area where aediles would rely on *clientela* and intermediaries working abroad, with whom they would doubtless have an existing connection predating their election. An inscription from Larisa in Thessaly, dating approximately to 129, provides intriguing evidence for this reliance. The *sunedrion* of Larisa judged that Q. Caecilius Metellus 'should let out the contract, as it seems most appropriate for him' (ποιήσεται τὴν ἔγδοσιν, ὡς ἂν αὐτῶι φαίνεται βέλτιστα).²² This is, at least, one option presented to Metellus. The second is more hands-off. It raises the possibility that ships may be unavailable to the aedile, with the result that Metellus should instead

¹⁸ Cic. *Fam.* 8.9.3.

¹⁹ Cic. *Att.* 5.21.5; 6.1.21 (both dated to February 50). The latter certainly implies that Octavius was writing on Caelius' behalf.

²⁰ Reflections on Cicero's reputation in the transaction: Cic. *Att.* 6.1.21.

²¹ Cic. *Fam.* 3.4.1 on Octavius' relationship with Ap. Claudius.

²² SEG 34.558. Reprinted in Garnsey, Gallant, and Rathbone 1984: 36.

‘dispatch men to hire ships’ (ἀποστείλη δὲ τοὺς ναυλωσμένους). This text is subject to the individual exigencies of 129, which are obscure. Exactly why Metellus might be unable to find ships goes unexplained.²³ Therefore, it is difficult to determine whether this agreement was a typical example of what a grain-seeking aedile might negotiate. After all, as we saw in the first section, the distribution of cheap basic resources like grain and oil was an exceptional, not prescribed, element of the aedile’s *munus*.²⁴ But we can safely determine that an aedile, having set out to, say, Sicily or Thessaly, went in the full expectation that he would have to shoulder the responsibility, if not the full cost,²⁵ of arranging for intermediaries to transport the grain from point A to point B, having groups of contractors in mind with whose assistance he could execute the transaction. Much of this seems, again, to depend on existing personal relationships at a political level. Coming to Larisa apparently on his own, Q. Caecilius Metellus ‘reminded the council of the generous deeds carried out by his ancestors’ (ἀνενεώσατο τὰς γεγενημένας εὐεργεσίας ὑπ[ὸ τ]ῶν προγόνων αὐτοῦ). The Thessalians had evidently been obliged to the Caecilii Metelli since Quintus’ intervention on their behalf in a border dispute with Philip in 186.²⁶ But it pays to examine this from the contractors’ perspective, too. For a grain merchant sailing the eastern Mediterranean, an aedilician contract would offer a lucrative opportunity. The financial interests of the ναυλωσμένοι are carefully protected in the agreement: if Metellus was

²³ Garnsey and Rathbone 1985: 25 (‘129 was not a favourable year for seeking surplus grain’) revises, after new evidence came to light, an earlier hypothesis in Garnsey, Gallant, and Rathbone 1984: 44 (‘most regular shippers were involved in the African expedition’ in the Third Punic War).

²⁴ Important reminder in Garnsey and Rathbone 1985: 23 (‘occasional rather than regular’).

²⁵ The terms of the agreement are vague enough to leave open the question of who is covering the bulk of the cost here (so Garnsey, Gallant, and Rathbone 1984: 43: ‘Presumably these levies would eventually be repaid in some part from the price of the wheat in Rome; although this need not necessarily be so’).

²⁶ Liv. 39.26.14 with Garnsey, Gallant, and Rathbone 1984: 37.

unable to supply his own ships, the Larisan magistrates are instructed 'to arrange for the payment for these services and for the shipment' (καὶ τὴν εἰς ταῦτα δαπάνην καὶ ἐξαποστολὴν ποιήσασθαι). Not only was this good money, but it was money guaranteed by a Roman magistrate.

For a *redemptor*, then, the institution of the aedileship represented a lucrative form of income. For public works undertaken by aediles, contractors had to be sought.²⁷ We know more about censorial contracts than aedilician.²⁸ However, the *Tabula Heracleensis* hints at how this process would work in terms of road building and maintenance, stipulating the 'letting of contracts for maintaining a road' (*uiam tuendam locare*).²⁹ The contract would be issued publicly with the urban quaestor or 'overseer of the treasury' present (*eamque locationem palam in foro per q(uaestorem) urb(anum) eumue qui aerario praerit facito*), so that all parties, *redemptores*, magistrates, and onlookers in the forum, would be aware of the terms of the agreement. Stress is placed on transparency and publicness. The terms are supposed to be written up clearly on *publicae tabulae*. The magistrates who let the contracts would be expected to check up on the progress and quality of work. Frontinus remarks that aediles were among the magistrates who had *operum probandorum cura*.³⁰ The people whose services aediles took advantage of were subject to the aediles' *probatio*.

Paving roads would establish relationships with commercial networks and procure *gratia* from those who were contracted. Aediles would doubtless develop an intimate relationship between various groups of people whose trade depended on moving large

²⁷ On general process of letting contracts and identity of *redemptores*: Mateo 1999: 34-65.

²⁸ Censorial parallel: *redemptores* in the Hannibalic War were desperate enough for contracts to offset costs *nisi bello confecto* (Liv. 24.18.10-11). Cf. Badian 1983: 16; Bernard 2018a: 153-7; 180-1.

²⁹ *Tabula Heracleensis* ll. 35, 45 = RS 1.34 (p. 364).

³⁰ Front. *Aq.* 2.96.

quantities of goods across the countryside. For example, members of the aristocracy began to raise concerns about C. Gracchus' extraordinary network of artisans and contractors when he arrogated to himself the responsibility for Italy's roads in 123 in what appears to be a challenge to censorial and aedilician *cura*.³¹ Looking after roads could indeed guarantee great popularity. For example, Cicero could judge a certain 'Thermus' to be a *firmior candidatus* for the consulship of 64 due to his curatorship of the *uia Flaminia*.³² We might easily imagine a third-century aedile, like Gracchus 'surrounded by contractors and builders' (ἐξηγητημένον ... ἐργολάβων, τεχνιτῶν).³³ Two of Pompeii's *programmata* bear out this relationship. Here, two local organizations with interests in mobility and commerce, the *saccarii* and *fabri*, embellished their election slogans with depictions of their vocations: a mule employed for moving building works and two men bearing a load between them.³⁴ These electoral slogans were put up with the expectation that M. Casellius' and A. Vettius' successful elections would be good for their business. It was likely aimed at other traders in the city who had a financial interest in clear and clean streets. For people associated with the transport industry, finding an aedile who would make their work easier would be important. An aedile might be selective about which trades he would patronize: the construction of a *porticus* in the timber traders' area of the city outside the porta Trigemina, literally 'among the timber traders' (*inter lignarios*), in 192 suggests the discretion with which aediles would establish these relationships.³⁵

³¹ Cf. Davies 2017: 179-80 (tribunes begin 'to usurp the mandates of other magistrates' in the late second century). Gracchus' responsibility for roads: Bodei Giglioni 1974: 98-101.

³² Cic. *Att.* 1.1.2. Thermus may be identified as one of the eventual winners, C. Marcius Figulus, if, as Broughton 1991: 11-12 suggests, he was dubbed 'Thermus' after an otherwise unattested adoption.

³³ Plut. *C. Gracch.* 6.4. Cf. App. *B. Civ.* 1.23.98.

³⁴ *CIL* 4.497; 4.540. Cf. Poehler 2017: 197-8.

³⁵ Liv. 35.41.10. This may have been a *uicus* (Holleran 2012: 54-5), on which see below.

Aediles' funding of *ludi scaenici* can be conceptualized in similar economic terms: that is, of aediles letting contracts for assistance with their anticipated *munera*. Indeed, Plautine and Terentian metatext sheds light on the interactions and transactions conducted between aediles and the professional classes involved in theatre production. A crucial stage in any aedileship was sourcing the plays. In the time of Plautus and Terence, there was little time between the assumption of the aedileship (15 March) and the first dramatic festival (the *ludi Megalenses* on 4 April).³⁶ The precise nature of this transaction is the source of some disagreement in modern scholarship. It is unclear whether aediles would buy the play (that is, either the script or a single performance of the play) from either the leader of a theatrical troupe (*actor*) or the playwright (*poeta*) himself. The debate centres on two inconclusive passages in the prologues of Terence's *Eunuchus* and his *Hecyra*, both apparently voiced by his promoter, L. Ambivius Turpio.³⁷ In the prologue to the *Eunuchus*, Turpio, in response to accusations of plagiarism by Terence's rival Luscius, delivers the following lines:

After the aediles bought the play that we are now about to perform, the *Eunuchus* by Menander, he [Luscius] ensured that he should have the capacity to observe it. When the magistrate arrived, it began to be acted out. He [Luscius] shouted that it was no playwright but a thief who was putting on the play, and that none of his [Terence's] protestations were of any use.

*quam nunc acturi sumus
Menandri Eunuchum, postquam aediles emerunt,
perfecit sibi ut inspiciundi esset copia.
magistratu' quom ibi adesset occeptast agi.
exclamat furem, non poetam fabulam*

³⁶ Cf. Marshall 2006: 22-3 (followed by Bexley 2014: 465) on the exigencies of the Roman calendar. In Plaut. *Trin.* 990, *nouorum aedilium* are mentioned, which leads to the reasonable hypothesis that the play was first staged at the *ludi Megalenses* after 194. There was, however, nothing to prevent an aedile from negotiating before their year of office (two examples: Cic. *QFr.* 2.2.2 and above on Vettius Cyrus' involvement with Clodius before the latter had assumed his aedileship; Cic. *Fam.* 8.9.3 and above on Caelius' exertions to procure panthers in the last few months of 51).

³⁷ Prosopography: Leppin 1992: 308.

*dedisse et nil dedisse uerborum tamen.*³⁸

At first blush, it appears that Terence himself had negotiated the transaction. Turpio seems to be referring to a preview performance of the play in the presence of the aedile at which Terence himself was present. Luscius interrupted the performance by complaining about Terence's alleged plagiarism before the aedile, claiming that the latter's protests to the contrary were in vain (*nil dedisse uerborum*). Meanwhile, Ambivius Turpio, the speaker of the prologue of Terence's *Hecyra*, implies that he himself had bought the play off Terence, now claiming some sort of ownership of the text. The final lines of the prologue, avowedly aimed at other playwrights, exhort the audience to 'be silent so that other people and I should be content in our writing so that it's worthwhile to put on new plays purchased at my own expense' (*dare silentium, / ut lubeat scribere aliis mihi que ut discere / nouas expedit posthac pretio emptas meo*).³⁹ Debate has centred on the expression *pretio emptas meo*, which is usually taken to mean 'at my [Turpio's] own expense' from the playwright himself.⁴⁰ Turpio appears to reveal his capacity for securing the scripts for certain plays for his *grex* should he decide to take a gamble on 'putting on new plays' (*discere / nouas*).⁴¹

There seem to be further contradictions in later accounts claiming that Terence received enormous sums for the production of the play. The sum of money, cited by Suetonius, that Terence 'earned' (*meruit*) for the performances of *Eunuchus* (8,000 *denarii*) may seem too high for an intermediary like Turpio to pay; and Suetonius seems to imply that Terence benefited financially from the play's success and iteration (*bis die acta est*), not

³⁸ Ter. *Eun.* 19-22. The singular *magistratus* must be one of the aediles mentioned two lines earlier (Stein 2003: 196).

³⁹ Ter. *Hec.* 55-7.

⁴⁰ Marshall 2006: 21-2, *contra* Lebek 1996: 32-3.

⁴¹ Ter. *Hec.* 56-7. Cf. Donatus, *Hec.* 57.

from a single transaction with an *actor*.⁴² Genre, too, creates a problem. The prologue, which is generally taken to represent the *actor's* position more than the *poeta's*, may well exaggerate the *actor's* agency. So when the *actor* boasts in *Phormio* that the play's success depends on his *opera*, less so Terence's artistry, caution should be exercised.⁴³ In any case, the examples cited are not irreconcilable. It may be the case that there were ongoing contracted financial arrangements between *actor* and *poeta* that ensured that the aediles' payment filtered back to the playwright himself. Turpio may hint at this arrangement when he says that Terence 'placed his hopes in my protection' (*in tutelam meam / studium suum ... commisit*).⁴⁴ It is reasonable to assume that, from the aediles' perspective at least, they were paying for the play from a compact formed by both the *actor* and the *poeta*, and not necessarily one or the other.⁴⁵

It is entirely possible, then, that the aediles would have to negotiate with both the likes of Turpio and Terence in order to buy scripts. Aediles were granted sums of money, known as *lucar*, from the treasury to fund such displays.⁴⁶ Although aediles were at liberty to subsidize and aggrandize their *munera* with the proceeds of fines (or with their own wealth), theoretically an aedile could seemingly spend his entire year of office relying entirely on treasury funds.⁴⁷ Such restraint, however, was almost unheard of by the second

⁴² Parker 1996: 592 interprets this sum as 'a reward after performance'. Marshall 2006: 21 n. 31, following Gilula 1985-88: 74-8, argues that Turpio would have paid this sum to Terence for the script.

⁴³ Ter. *Phorm.* 9-10.

⁴⁴ Ter. *Eun.* 53-4.

⁴⁵ Cf. Lucarini 2016: 14 ('aediles had to negotiate the price with both at the same time'). According to this reading, Donatus' interpretation of Ter. *Hec.* 57 (*aestimatione a me facta, quantum aediles darent*) would seem to be correct. Cf. Brown 2002: 231; Manuwald 2011: 81 n. 139; Lightfoot 2017: 137-8. Franko 2014: 415 (with Gruen 1992: 192; Lebek 1996: 32-3) rightly advises caution in attempting to reconstruct 'a single, unchanging procedure' from the available evidence.

⁴⁶ Plut. *Quaest. Rom.* 88; Fest. 106L (*lucaris: pecunia, quae in luco erat data*). Cf. Thullier 1990: 371.

⁴⁷ Liv. 22.10.7 provides a glimpse of the senate decreeing funds for *ludi*. Cf. Beare 1964: 164; Beacham 1991: 225-6 n. 25.

century, and a *senatus consultum* in 179 aimed to rein in excessive spending on *ludi*.⁴⁸ Examples such as this demonstrate the enormous breadth available to aediles in this stage of negotiation. They could fund and select the entertainment that they perceived would draw the biggest crowds and use as much money as was available to them.

A glimpse of this negotiation process is provided by another story about Clodius. In an anecdote preserved by Macrobius, the mimographer D. Laberius is said to have displeased Clodius 'because he had refused Clodius' request for a mime play' (*quod ei mimum petenti non dedisset*).⁴⁹ We know not in what capacity Clodius engaged in these negotiations, but his curule aedileship seems the most likely contender. Mimes were more conventionally performed at the *ludi Florales*, overseen by plebeian aediles; therefore, the employment of *mimae* could be seen as their exclusive preserve. However, given Clodius' unconventional use of the *ludi Megalenses*, it would not be surprising if he had included mimes as part of his production.⁵⁰ Macrobius also records Laberius' famous witticism that poked fun at the brevity of Cicero's exile: 'So what're you going to do about it? Make me go to Dyrrhachium and back again?' (*quid amplius [...] mihi factururus es, nisi ut Dyrrhachium eam et redeam?*).⁵¹ Even the negotiation between playwright and magistrate could be a public, political affair, one in which a well-known mimographer like Laberius could exert

⁴⁸ Liv. 40.44.8-12. Because Ti. Sempronius Gracchus' *sumptus* were *graves non modo Italiae ac sociis Latini nominis, sed etiam prouinciis externis*, it has been suggested that he did not use his own money for his lavish *ludi* of 182 (Develin 1985: 139-40; Jory 1986: 146-7; Gruen 1992: 193 n. 48).

⁴⁹ Macrobius *Sat.* 2.3.6. Val. Max. 3.7.11 may supply a similar story of a *poeta's* interaction with an aedile. C. Iulius Caesar Vopiscus, perhaps as curule aedile in 90, visited the *collegium poetarum* regularly, but the tragedian Accius would refuse to show him due courtesy. Other theories on Caesar's presence at the *collegium*: Badian 1972: 190; Horsfall 1976: 81-2; Heslin 2015: 232-3.

⁵⁰ Till 1975: 262 cites Cicero's response to Paetus' witticisms in *Fam.* 9.16.7 (written a decade later) as evidence of a late-republican trend (*ut nunc fit*) to follow tragedies with mime plays at the same festivals. Panayotakis 2010: 40 n. 71 interprets this reading as 'slightly odd', but there was no reason for the idiosyncratic Clodius to adhere strictly to convention.

⁵¹ Macrobius *Sat.* 2.6.6.

a surprising amount of influence. His prominent refusal of one of the curule aediles may have been uncommon, and, judging from his response, was coloured by his politics, but it paints a singular picture of a magistrate engaging in a *petitio* for a popular play from a popular playwright that would go down well with his audience.

Having secured the play script, aediles may also have exercised some sort of quality-control over the process. Read in isolation, Turpio's paraphrase of Luscius' complaints implies that it was customary for one of the aediles to sit in on a performance to give it some sort of official seal of approval. That is, one of the curule aediles of 161, either L. Postumius Albinus or L. Cornelius Merula would have, as a matter of course in the weeks leading up to the *ludi Megalenses*, attended a preliminary reading of the play.⁵² We are forced to assume that Turpio's matter-of-fact temporal clause (*magistratus quom ibi adesset*) would not have surprised the audience. Indeed, the very *magistratus* cited would have been present at the play, listening to Turpio's version of events, so the text appears to be aimed at him as much as the wider audience. The singular *magistratus* reveals that, although the aediles worked together to buy the scripts, they could work individually in the scrutiny of them. The episode was worked into Turpio's prologue, perhaps to win influence in the court of public opinion (the people are indeed characterized as voters in a public trial: *id ita esse uos iam iudicare poteritis*) against antagonistic rival playwrights.⁵³ It allowed Turpio and Terence to get the final say in an argument that had played itself out before an aedile, and was now concluding before an aedile and his electorate.

⁵² Ter. *Eun. Did.* Cf. Mattingly 1959: 167-9 on this 'dress rehearsal'.

⁵³ Motivation for Terence's defensive stance: McGill 2012: 132-4 (aimed at the aediles as much as his audience).

Aediles thus appear to be intimately involved in the preliminary process. Suetonius preserves a tale in which the aediles, having been 'given' the play (*Andria*) by Terence (*cum aedilibus daret*), directed Terence to recite the play before the eminent playwright Caecilius, whose commendation was apparently sufficient for *Andria's* official approval for performance.⁵⁴ The aediles, it seems, were content to outsource some of the quality control to trusted individuals like Caecilius. This anecdote sheds light on the process of approving plays alluded to in the prologue to *Eunuchus*. That Luscius had waited until the preliminary reading of the play was delivered for his outburst before the curule aedile suggests that aediles generally provided some sort of quality control before performance, conceptually similar to the *probatio* that aediles would carry out following construction projects funded by them.⁵⁵ The aedile evidently chose not to intervene, despite Luscius' protestations, since the play was performed nonetheless. Why exactly an aedile would insist on attending a preliminary reading, after (*postquam!*) the script had been purchased, is uncertain. There is no suggestion that he did so at Luscius' request. Nor is there any evidence that the sponsors of *ludi scaenici* made any interventions in existing theatrical scripts as we have them.⁵⁶ These were not sanitized productions, vetted by aediles on behalf of the senate for public consumption. They were plays that individual aediles, depending on their *arbitratus*, judged would go down well with their public. As Terence's anecdote shows, aediles, hardly experts in theatrical matters, could outsource this *inspectio* to trusted and well-known playwrights. Aediles changed annually; playwrights had to target the institution of the

⁵⁴ Suet. *Ter.* 2.

⁵⁵ McGill 2012: 124-5. Epigraphic evidence for aedilician *probatio*: *CIL* 1.2675c = *ILLRP* 45; 6.1277 = *ILLRP* 449; 6.7 = *ILLRP* 39.

⁵⁶ Goldberg 1995: 31; Richlin 2014: 179-81. For a different view, see McCarthy 2000: 17-18 n. 27.

aedileship, making sure that their reputation would follow them each year, a reputation evidently gained by Caecilius first and Terence later.

Various other relationships were established. Aediles apparently worked with *choragi* to rent out costumes. In Plautus' *Persa*, Toxilus, when asked by Saturio where to get his daughter's costume from (*πόθεν ornamenta?*), instructs him to 'get them off the *choragus*; he's got to give them to you: the aediles rented them for this purpose' (*aps chorago sumito; / dare debet: praebenda aediles locauerunt*).⁵⁷ This arrangement again paints a picture of aediles using intermediaries to transact their business. The aediles presumably rented the costumes as part of the outlay of the play, and then entrusted these to the *choragi* to distribute them among the troupe. They may have taken a personal interest in the employment of certain *histriones*. A handsome *puer histrio* is said to have caught the eye of M. Terentius Varro (cos. 216) as aedile, to the extent that he would place him in the *tensa* during the *ludi Romani* after the conclusion of *ludi scaenici*.⁵⁸ In the *Pro Sestio*, meanwhile, Cicero attempts to highlight Clodius' unpopularity by citing an instance from extraordinary games held the previous year. Particularly galling for Clodius, who was aedile when the speech was delivered, was the fact that *histriones, tota caterua* no less, delivered a politically charged line *a corpore eius*.⁵⁹ To illustrate his point that the current curule aedile lacked popular *studium*, Cicero attempts to claim that a core constituency of an aedileship, the *histriones*, were univocally opposed to Clodius even when he was canvassing for the office (*tum petens iam aedilitatem*).

⁵⁷ Plaut. *Pers.* 159-60. The same process is obliquely mentioned in *Curc.* 464, where the *choragus*, here a character, mentions the *ornamenta quae locauit* (presumably *aps aedilibus*). Cf. Franko 2014: 416. Both references are metatheatrical (Gilula 1996a: 480-2; Marshall 2006: 27).

⁵⁸ Val. Max. 1.1.16.

⁵⁹ Cic. *Sest.* 117. Identity of extraordinary games: Kaster 2006: 400 n. 25.

There are hints, too, that aediles may have, occasionally at least, established an overbearing relationship with individual *histriones*. In the *Trinummus*, the Sycophant threatens Charmides with a beating, both from him and from the aediles watching the play (*uapulabis meo arbitrato et nouorum aedilium*), implying that such threats were a trope of the *histrion*'s working relationship with aediles.⁶⁰ That actors were susceptible to beatings should not come as a surprise since many were slaves.⁶¹ This passing reference to the lived experience of *histriones* suggests that aediles, having purchased the play-script or performance, now exerted added influence over the *histriones*. Given the comedic nature of this passage, we should naturally be sceptical about the likelihood or regularity of an aedile bothering to discipline a member of the troupe, not least because characters threaten to beat each other up all the time.⁶² At the very least, this passage sheds light on the hierarchical structure underlying the organization of plays: *histriones* were at the bottom of this chain.

Nevertheless, for an acting troupe, winning an aedilician contract would represent a lucrative opportunity.⁶³ Comedy was a business; aedilician or praetorian funding was the foremost financial opportunity of the year.⁶⁴ Amy Richlin has argued persuasively that the public festivals at Rome were just one feature of a theatrical troupe's annual calendar.⁶⁵ They would travel around Italy from festival to festival earning a living. She has also

⁶⁰ Plaut. *Trin.* 990. Cf. *Amph.* 83-5. In the context of the Sycophant's threats, the aediles' capacity for beating seems to be confined to *histriones* (Muecke 1985: 184; Riemer 1996: 46; Moore 1998: 11; Lintott 1999: 130; Barbiero 2014: 53-4) and not to their *ius prensionis* generally. On beatings generally in Plautus, and the constant threat facing actors: Richlin 2017: 90-104.

⁶¹ Suet. *Aug.* 45.3 mentions a *lex uetus* which allowed magistrates to beat *histriones*. *Histriones* could be considered responsible for provoking unrest in the theatre (*theatri licentia*): Tac. *Ann.* 1.77. Cf. Goodyear 1981: 174.

⁶² See e.g. Plaut. *Cist.* 782-5 for joke suggesting a *dominus gregis* would beat his troupe for stumbling over their lines.

⁶³ Marshall 2006: 83-94; Csapo 2010: 189.

⁶⁴ Ov. *Trist.* 2.507-8 with Marshall 2006: 21.

⁶⁵ Richlin 2017: 14-17.

argued that a troupe's acceptance of an aedilician gig would involve a degree of 'selling out'.⁶⁶ Be that as it may, getting work in the *ludi publici* represented a significant boon, a pinnacle of an artist's career, whose prize (*palma*) would be competitively sought. Having the chance to perform for the *noui aediles* at the *ludi Megalenses*, for example, would offer the troupe an opportunity to prove itself in front of influential patrons and a diverse audience.⁶⁷

The comedic *grex* was not the only group of individuals whose livelihood would centre on annual *ludi*. Plebeian aediles presided over the *ludi Florales*, games that were notorious, at least among prudish imperial and Christian writers, for their licentiousness. There was a moralistic tendency to conflate mime-actresses and sex-workers into the same category.⁶⁸ Both prostitutes and actresses were in the business of 'faking' it, so the predominant male discourse considered it.⁶⁹ Still, the frequency of the terminological slippage between *meretrix* and *mima*, even among writers like Ovid who express no disapproval of the practice, does indeed suggest that sex-workers were employed in acting roles at the *Floralia*.⁷⁰ The central piece of evidence for this comes from Valerius Maximus, who implies that a strip show was a regular part of the entertainment performed by *mimae*. He recalls an anecdote in which the people allegedly waited for Cato to vacate the theatre

⁶⁶ Richlin 2005: 24. 2017: 55. Richlin's assertion ultimately stems from the brief biography of Plautus in Gell. 3.3.14 who, because he was destitute (*inops*), worked for a miller just to make money (*ob quaerendum uictum*).

⁶⁷ Cf. Gruen 1992: 193-5 on actors as the 'principal beneficiaries' of aedilician productions.

⁶⁸ Duncan 2006: 157-9.

⁶⁹ Duncan 2006: 124, 136-7.

⁷⁰ Ov. *Fast.* 5.347-54 positively revels in the involvement of *meretrices*. Moralizing: Sen. *Ep.* 97.8; Mart. 1.35.8-9; Lact. *Div. Inst.* 1.20.10.

before calling on the *mimae* to proceed with the striptease (*nudarentur*) which was apparently customary (*spectaculi consuetudinem*) at the *ludi Florales*.⁷¹

But striptease was far from the only practice in mime, and *meretrices* were just some of the women who might perform.⁷² Late imperial evidence attests to the vast diversity of roles available to performers.⁷³ Moralistic categorizations, motivated by ‘intellectual snobbery’ and ‘the biased moralism of Christian authors’, often obscure the full range of professions available to actresses who performed on the Roman stage.⁷⁴ An elegiac inscription praising the actress Licinia Eucharis, no *meretrix*, has the subject claim that ‘I graced the games of famous men by appearing in the chorus, and I appeared as the first performer in a Greek play before the people’ (*nobilium ludos decoravi choro et Graeca in scaena prima populo apparui*).⁷⁵ This inscription has been variously dated from the late republic to the second century AD, though spelling and letter forms encourage most scholars to date it to the first century BC.⁷⁶ The dating is not crucial to my interpretation. The inscriber emphasizes the talent and educatedness of the young woman, allowing us to move away from the moralistic discourse of later writers. It also offers a glimpse into how a woman

⁷¹ Val. Max. 2.10.8. Cf. Sen. *Ep.* 97.8.

⁷² Problems in wading through later authors’ moralizing towards a clear definition of republican mime: Panayotakis 2010: 1-16.

⁷³ Webb 2002: 286-92.

⁷⁴ Panayotakis 2010: 26.

⁷⁵ *CIL* 6.10096 = *ILS* 5213 = *ILLRP* 803. The inscriber takes pains to identify his daughter as a *uirgo*. Interpretation of *prima* is difficult (discussion in Massaro 1992: 168-9; Courtney 1995: 238-9). I follow here Alonso Fernández 2015: 324 with n. 86, who argues that *prima* equates to the first performer, first in the hierarchy of fellow *mimae*. Uniquely, Purcell 1999: 192 n. 36 reads *Graeca* as nominative, making Licinia claim to be the first Greek woman (*Graeca ... prima*) to appear before the people.

⁷⁶ Massaro 1992: 115-95 provides the fullest study, conservatively locating it in the first century BC (p. 120), while warning against citing coincidental literary parallels as arguments for dating (cf. Massaro 2009 for similar methodology). Other views: Wiseman 1985: 32-3; Leppin 1992: 236 (late republican, owing to mention of *nobiles*); Frascari 1997: 71 (after Julius Caesar); Popova 1968: 64 (first century AD); Fernández Martínez and Gómez Pallarès 2010: 221, 228; Alonso Fernández 2015: 322 n. 82 (first or second century AD).

like Eucharis might interact with the men who oversaw the games. The crowning glory of Eucharis' short career was, from her father's perspective at least,⁷⁷ her performance in the games of so-called *nobiles*. There is no way of knowing for certain whether aediles are among those *nobiles* who hired Eucharis. The inscriber may well have several different *ludi*, private and public, in mind when referring ambiguously to *nobilium ludi*.⁷⁸ The inscription may be taken as typical of the experience of a young freedwoman employed in the theatre in the late republic. She would aspire towards gaining employment in public spectacles, using one audience, the *curatores ludorum*, as a means to winning praise from another, the *populus*.

This is not to overstate the agency of a young woman like Eucharis. *Mimae* were chosen to satisfy the male gaze, as the inscriber self-consciously remarks by appealing to the *oculo errante* in a manner typical of theatrical metatext (*heus!*).⁷⁹ And, as several recent studies have argued, the mime's voice reflected male preoccupations and desires, acting in itself as a means of social control, sending messages to the female members of the audience, especially the married ones to prescribe their social responsibilities.⁸⁰ The lines, though delivered by women, were usually composed by men; the characters they played were, if the surviving fragments of D. Laberius and Publilius Syrus are anything to go by, 'artificial and conventional'.⁸¹ According to this view, the *mimae* were instruments manipulated by aediles to be used to deliver certain messages to their audience.

⁷⁷ Massaro 1992: 149-50; Panayotakis 2006: 131-2.

⁷⁸ Wiseman 1985: 32-3 thinks that Eucharis performed at *ludi uotiuvi* or *funebres*, on the basis that *ludi publici* belonged to the gods, whereas at votive games 'the greatness of the presiding magistrate and his family was even more directly advertised'. It would be perfectly normal, however, for the author of Eucharis' elegy to conceive of *ludi publici* as *nobilium*. Cf. Liv. 23.30.17 (*plebeii ludi aedilium*).

⁷⁹ Fernández Martínez and Gómez Pallarès 2010: 227; Alonso Fernández 2015: 322.

⁸⁰ Panayotakis 2006: 129-30.

⁸¹ Panayotakis 2006: 124. Cf. 2010: 6-7.

Understanding the relationship between actresses and aediles, then, is frequently left to logical inference. Aediles funded and attended games. People had to be hired. Aediles hired popular performers. But evidence seldom allows us to make clear connections. Returning to the story of Cato's prudishness, one might note that Valerius adds that 'Messius put on these games as aedile' (*quos Messius aedilis faciebat*). It is curious that Valerius deems this mundane detail noteworthy enough to include in an anecdote otherwise fully devoted to Cato's exemplary *continentia*. Perhaps Messius was more crucial to the original story than Valerius implies. Cato may have consciously stolen Messius' thunder by storming out of the mime play while 'the people followed him, applauding wildly' (*ingenti plausu populus prosecutus*), perhaps to draw attention away from the man who had funded these entertainments.⁸² Pliny's story of the career of Galeria Copiola may offer a clue. Remarking on her extraordinary longevity, he says that she received her first career break from one of the aediles of 82: 'she had been promoted to her profession by the plebeian aedile, M. Pomponius' (*producta fuerat tirocinio a M. Pomponio aedile plebis*) at the age of thirteen.⁸³ Because she was presumably an *emboliaria* and not a *mima*, she may have featured during interludes at the *ludi Ceriales*.⁸⁴ Pliny may not have had intimate knowledge of the negotiations, but he implies that Pomponius had acted as a patron to Galeria in her youth. Ironically enough, since we generally only hear about women with respect to the men in their lives, the only reason we remember Pomponius is in the context of this

⁸² Val. Max. 2.10.8. Drogula 2019: 188-91 attempts to reconstruct the intentions behind Cato's gesture. Messius had exerted his influence in favour of the dynasts as tribune in 57, possibly attracting the ire of a man like Cato. Cato would later hijack Favonius' aedilician games in a similar manner (Plut. *Cat. Min.* 46.2-5), on which see Drogula 2019: 225-6.

⁸³ Plin. *NH* 7.158.

⁸⁴ Starks 2008: 123. The *ludi plebei* may be less likely because of the chaos in November following Sulla's invasion.

illustrious woman. He gave Galeria her a start, an opening to her *tirocinium*; she soon overshadowed him.

Christian writers might also help us understand aediles' links with these apparently disreputable professions. Augustine was baffled by Cicero's role as overseer of the *ludi Florales*, which he cites as a prime example of how Romans were educated in vice by the spectacles put on by magistrates.⁸⁵ Why would a good Roman (*uir grauis et philosophaster*) like Cicero stoop to this level, to allowing *actores* (here seemingly 'performers' generally) who are otherwise held in contempt to display themselves before, and set bad examples for, the entire city? Cicero's *placatio* of Flora (which was *petulantissimam impurissimam impudentissimam nequissimam immundissimam*) required him to consort with actors whom the Romans nevertheless 'recognized were lewd and made shameful' (*agnouit turpes fecit infames*). Aediles were seen by Christian writers as enablers and purveyors of this licentiousness. They were aware, and despaired, of the tradition according to which, as Ovid would put it, Flora 'willed it that her rites would be open to a plebeian crowd' (*uolt sua plebeio sacra patere choro*).⁸⁶

The aedile, then, particularly the plebeian aedile, seems to embody the paradoxical relationship that upper-class men had with forms of public entertainment that they considered inferior. He could attend these farces regularly, spend a year patronizing their performers, and find their jokes genuinely funny, while still complaining of their baseness.⁸⁷ Indeed, Augustine's moralizing offers a useful reminder about the centrality of the gods to these festivals, a perspective that is often overlooked in the transactional

⁸⁵ Aug. *Civ. Dei* 2.27.

⁸⁶ Ov. *Fast.* 5.352.

⁸⁷ Panayotakis 2010: 15.

language that typically describes the relationships between performers and aediles. By giving these women the opportunity to perform, aediles could claim to be conducting the festival in a way appropriate for Flora, with a *turba meretricia* at the forefront: as Ovid put it, 'light-hearted theatre is fitting for Flora' (*scaena leuis decet hanc*).⁸⁸ The *ludi Florales* were both a propitiation of the goddess and an opportunity for the crowd to let their hair down. The *meretrices* who performed at Flora's games were seemingly employed as embodiments of the characteristics of the goddess.⁸⁹ By employing them, Cicero could claim that he was placating Flora for the benefit of the whole community.⁹⁰

A further glimpse of aediles' connection with such apparently disreputable trades appears in their mysterious relationship with sex-workers. It has been suggested that aediles exercised some degree of control over brothels and sex-work in the republic.⁹¹ The evidence for this is ambiguous. Amid the slew of repressive social legislation in the early Principate, we learn in Tacitus of a law forbidding women from equestrian families from registering as sex-workers. This legislation is framed as a reaction, signified by Tacitus' *nam*, to the *libido feminarum* allegedly rife in the city early in Tiberius' reign. This *libido* manifested itself in the registration as a sex-worker of a well-to-do woman, Vistilia: 'for Vistilia, born to a praetorian family, had publicized the wantonness of her indecency before the aediles' (*nam Vistilia, praetoria familia genita, licentiam stupri apud aedilis uulgauerat*).⁹² This

⁸⁸ Ov. *Fast.* 5.349. Cf. Wiseman 2008: 186 ('to the ambitious aediles ... it was surely a proper way to honour the goddess at her holiday time').

⁸⁹ Fabbri 2019: 153-8 rightly argues against the idea that *meretrices* were employed as priestesses of Flora (Perea Yébenes 2004: 23) or solely to promote fertility (Le Bonniec 1958: 200), suggesting instead that 'la partecipazione delle meretrici ai riti di Flora è funzionale alle caratteristiche della dea' (p. 158).

⁹⁰ Cic. *Verr.* 2.5.36 (*mihi Floram matrem populo plebique Romanae ludorum celebritate placandam*).

⁹¹ Mommsen, *Röm. Staatsr.* 2³.1.510-11 with n. 2; Robinson 1992: 120; Wallace-Hadrill 1995: 50-1; McGinn 2004: 148-57.

⁹² Tac. *Ann.* 2.85.

notice was taken by Mommsen as evidence of aediles' supervision of brothels.⁹³ Although referring specifically to legislation passed in AD 19, Tacitus describes Vistilia's decision as one that had long precedent. Vistilia registered with the aediles 'because the custom was accepted among our ancestors, who believed that unchaste women were sufficiently penalized for their disgrace by this open declaration' (*more inter ueteres recepto, qui satis poenarum aduersum impudicas in ipsa professione flagitii credebant*).⁹⁴ The reason for Vistilia's *professio* in this context is clarified by Suetonius. She was part of an apparently wider trend of *matronae* registering as sex-workers 'in order to avoid the punishment of the laws' (*ad euitandas legum poenas*).⁹⁵ This offered a legal loophole to the *lex Iulia de adulteriis coercendis* of 18 BC, a loophole that was partially closed by the ban on women from equestrian families registering as sex-workers.⁹⁶

Whether republican sex-workers had to profess their professional status (their *stupri licentia* in Tacitus' transparently moralizing language) hinges on how far back the *mos inter ueteres receptus* extends. Tacitus is unspecific: he tells us that sex-workers traditionally declared their status before aediles, that in the good old days the *professio apud aedilis* was a 'sufficiently' (*satis*) metaphorical 'punishment' (*poena*) imposed by aediles with the purpose of stigmatizing sex-workers without punishing them directly. Thomas McGinn sees this as a relatively recent development, one dating from the *lex Iulia* itself because Vistilia's registration 'would have served no purpose before the introduction of the statutory

⁹³ The republican evidence (Plaut. *As.* 130-2; *Truc.* 759-63) employed by Mommsen (*Röm. Strafr.* 159 n. 2) to argue for the existence of a register of sex-workers held by *tresuiri capitales* or aediles proves nothing about official conduct in any period (Scafuro 1997: 456-7).

⁹⁴ Tac. *Ann.* 2.85.

⁹⁵ Suet. *Tib.* 35.2.

⁹⁶ Levick 1983: 110-14; Daube 1986: 2-9; Formigoni Candini 1990: 110-13; McGinn 1992: 281.

exemption for prostitutes' included within Augustus' law.⁹⁷ And Augustus did assign to aediles responsibility for overseeing *mores*, such as provisions for restoring 'the ancient habit of attire' (*habitum uestitumque pristinum*).⁹⁸ The aedileship, with a history of prosecuting people based on moral vices, was a useful institution through which to wield a new social agenda.

But Tacitus' belief that the *mos* was practised by *ueteres*, 'the ancients', would logically imply a republican precedent.⁹⁹ Describing a practice started less than four decades earlier as *ueteris*, though not impossible, would be unconventional. The central evidence for an interaction between a republican aedile and a sex-worker comes from Ateius Capito's story of Manilia, who successfully sought tribunician intercession after the curule aedile, A. Hostilius Mancinus, attempted to prosecute her for wounding him with a stone.¹⁰⁰ The crux of Capito's story is that even a woman of meretricious standing could successfully seek tribunician intercession, an act that, for Gellius, was 'replete with ancient solemnity' (*grauitatis antiquae plenum*). The nature of her defence is abstruse: she argued, and the tribunes agreed, that Hostilius should not have sought entry to her home as a *comessator* while wearing a *corollarium*: in this state, 'it was not in accordance with her business to admit him' (*eum sibi recipere non fuisse e re sua*). His attire, then, was the finer point on which her objection relied.¹⁰¹ Presumably, then, she argued that he had not

⁹⁷ McGinn 1992: 282. Cf. 1998: 201 ('There was no other practical purpose for registration'). Note that he still maintains a republican link between brothels and aediles.

⁹⁸ Suet. *Aug.* 40.5. McGinn (1998: 154-5; 2004: 152) attempts to read this as evidence of aediles enforcing social divisions through dress code between sex-workers and respectable *matronae*. Evidence listed in Daguet-Gagey 2015: 443-6 for regulation of moral sphere by imperial aediles.

⁹⁹ The examples cited by McGinn 1992: 283 with n. 51 (esp. Tac. *Agr.* 10.3) seem to reinforce this picture, not undermine it as he intends. Tacitus' pluperfect (*uulgauerat*) confirms that Tacitus believed that this practice was common among the *ueteres* relative to Tiberius' day, not to his own day. Evans 1991: 164 n. 151 argues, I think rightly, in favour of republican interpretation.

¹⁰⁰ Gell. 4.14.1-6.

¹⁰¹ Lintott 2009: 16; 2021: 421.

attempted entry in his official capacity as an aedile, and therefore had no obligation to let him in. Had he been dressed in his *toga praetexta*, she would not have had a case, in which case he would have required entry to her house. *Res sua*, then, may be a euphemism to refer to her profession.¹⁰² The implied normative practice, then, was that a curule aedile could expect to enter a sex-worker's home without interference provided that he conducted himself in a magisterial way.

So aediles appear to be involved in some way in the sex-trade long before the repressive measures initiated by Augustus. This involvement raises two interrelated questions: why would sex-workers need to be registered, and why did it fall to aediles to do this? Tacitus supplies his own interpretation: registration before the aediles was punishment enough, a stigma that would discourage reputable *matronae* from pursuing a shameful career.¹⁰³ This judgement may not wholly reflect the predilections of the second century. The relationship between aediles and sex-workers may be based more on economics and aedilician topography than morals.¹⁰⁴ McGinn, in a more recent work, has argued that, in the absence of good evidence for aediles' role as a *police des mœurs*, their relationship with sex-workers may have been 'embedded in in the oversight of commerce and the maintenance of public order overall'.¹⁰⁵ Admittedly, much of the evidence he supplies is circumstantial: a probable brothel-keeper publicly supporting an aedile's

¹⁰² OLD s.v. 'res' 8. Gell. 4.11.10 uses *res ueneria* in this sense earlier in the same book. But note that this text professes to be Capito's, not Gellius'. The phrase *e re sua* is usually more prosaic, however (see e.g. Liv. 32.21.3).

¹⁰³ Tac. *Ann.* 2.85. Cf. Ulp. *Dig.* 23.2.43.4 on sex-work as a legislated *turpitude*, which evidently has basis in Augustus' *lex Iulia* (23.2.43.13).

¹⁰⁴ See e.g. Bauman 1992: 16 on aediles as prosecutors of sexual offences by dint of their role as 'market supervisors' with a responsibility for brothels.

¹⁰⁵ McGinn 2004: 153. Cf. Gardner 1986: 251 ('in the interests of public order').

election at Pompeii,¹⁰⁶ aediles renting out spaces for shopkeepers under public arches where prostitution happened to be practised,¹⁰⁷ and an *agoranomos* at Corinth adjudicating on a dispute between the exiled tyrant Dionysius II and *lenones*.¹⁰⁸ ‘Economic exploitation’ might describe an aedile’s conduct, deriving financial benefits from a ‘cozy relationship’ with the sex-trade.¹⁰⁹ Social control may well be a factor, too, as Tacitus believed.¹¹⁰ Whether or not we accept McGinn’s ‘cosiness’ thesis, the evidence paints a complicated picture of the role of the aedile in the market. Public order and economic oversight seem to be interrelated, necessitating that republican aediles kept some sort of record of who was employed in the sex-trade.

Finally, it is worth looking into the means by which these groups might communicate and interact with the aedile. Vanderbroeck’s contention quoted at the beginning of the chapter is particularly dependent on the relationship between aediles and *uici* and *collegia*, local administrative units and collectives united by geography or profession.¹¹¹ From the perspective of the *plebs*, the *uicus* or *collegium* represented a normative channel through which to communicate with an aedile. That *uici* had long been at the heart of aedilician administration is suggested by Livy’s passing remark that the curule aediles of 212 distributed oil to each *uicus*.¹¹² Similarly, Frontinus writes that aediles

¹⁰⁶ *CIL* 4.817-18.

¹⁰⁷ *CIL* 4.1096-7b; 4.1115; 4.2485.

¹⁰⁸ Justin 23.5.6, on Dionysius II’s exile in Corinth, who presumably has local magistrates in mind and not ‘Roman practice’ (*contra* McGinn 2004: 153).

¹⁰⁹ McGinn 2004: 154.

¹¹⁰ Laurence 2007: 85.

¹¹¹ Courrier 2014: 129-31 conceptualizes *uici* as ‘créations artificielles contrôlées par l’administration républicaine puis impériale’ (quoted at p. 131). Social life, he argues, centred on *insulae*, while the *uicus* represented a more heavily legislated form of communication between ‘state’ and *plebs*.

¹¹² Liv. 25.2.8. From this, Lott 2004: 41 argues that *uici* were ‘under the supervision of the aediles’, though the relationship may have been more informal and normative.

assigned two men 'from each *uicus*' (*per uicos singulos*) to oversee public fountains.¹¹³ Agrippa reinforced this relationship between aedile and *uicus* in 33 by constructing hundreds of *lacus* and *salientes* throughout the city.¹¹⁴ Epigraphic evidence appears to support this link. Two curule aediles from the late republic (c. 44), A. Terentius Varro Murena and L. Trebellius, granted the space for several *magistri ueici* (sic) to make a dedication to what appear to be the *lares Compitales*.¹¹⁵ The proximity between *uici* and aediles may have been one of the reasons behind making Agrippa aedile in 33. A lacunose inscription commemorates his repair of a shrine, perhaps a compital shrine, for a *uicus* (*Salutis* or *Salutaris*).¹¹⁶ There was no more fitting magistracy than the aedileship with which to be seen to be paying 'particular attention to the practicalities of daily life'.¹¹⁷

Magistri uici evidently acted as intermediaries between their *uicus* and the aediles. In the inscription cited above recording the grant by Trebellius and Varro Murena, the *magistri uici* successfully negotiated a plot of land from the aediles for their lavish dedication, namely a large column with statue atop. Leaders of such 'important subdivisions of the plebs', as Vanderbroeck describes them, appear to have forged a close link with aediles, negotiating with them for the use of public space and thanking them by displaying their names above their own. Both parties received mutual benefit. These institutions facilitated dialogue between magistrates and influential members of plebeian society, who in turn could use their prestige among their communities to enhance the aedile's popularity. Clodius was doubtless mindful of the reciprocal benefits he could draw

¹¹³ Front. *Aq.* 2.97.

¹¹⁴ Plin. *NH* 36.121. Cf. Lott 2004: 70-1.

¹¹⁵ *CIL* 6.1324 = 1².2514 = *ILLRP* 704 = *ILS* 6075. Date: Ryan 1997: 259. *Lares Compitales* in general: Fine 1932: 268-73; Daguet-Gagey 2015: 401-2; Flower 2017: 76-159.

¹¹⁶ *CIL* 6.31270 = 40319 = *ILS* 128 = *ILLRP* 434.

¹¹⁷ Flower 2017: 258-9. Cf. Lott 2004: 70.

from *collegia* and *uici* by holding the aedileship.¹¹⁸ As the *Commentariolum Petitionis* recommends, winning over the *principes* of these organizations inevitably results in the support of *reliqua multitudo*.¹¹⁹

Some *collegia* and *uici* may have had closer dealings with aediles than others. The *collegia* formed by *apparitores*, for instance, such as those of *poetae*, *scribae* and *tibicines*, evidently had closer dealings with aediles than others. In the previous chapter, we remarked on the shared identity and collegiality expressed by aedilician *apparitores* in epigraphic evidence. This shared identity may even extend beyond groups that might be identified as *apparitores*. Festus remarks that, from the time of the Hannibalic War, the temple of Minerva on the Aventine was granted, *ex senatus consulto*, as a space for scribes and actors, a space in which they were permitted to reside and make benefactions (*in qua liceret scribis histrionibusque consistere ac dona ponere*).¹²⁰ There was indeed some perceived connection between *scribae* and *poetae*, being members of a literate group supporting magisterial activity.¹²¹ Evidently, *histriones*, thanks to state recognition, began to develop a sense of shared identity in the third century.¹²² *Tibicines* assembled at the temple of Minerva during the lesser *Quinquatrus*.¹²³ Aediles are not mentioned in either instance. A lacunose late-republican inscription might allow us to make a connection between aediles and the professional *collegia* based at the temple of Minerva. In a similar manner to Trebellius and

¹¹⁸ Tatum 1999: 142-4; Tan 2013: 132.

¹¹⁹ Q. Cic. *Comm. Pet.* 30, with Tatum 2018: 242.

¹²⁰ Fest. 448L. Horsfall 1976: 79 remarks that Festus' preservation of the SC is in 'a tolerably authentic form'. Questions over whether the *collegium scribarum histrionumque* mentioned by Festus was the same institution as later iterations with similar names (such as the *collegium poetarum*): Caldelli 2012: 134-41 (distinct); Heslin 2015: 230-7 (single institution).

¹²¹ Fest. 446L on *scribae* as originally synonymous with *et librariorum et poetarum*.

¹²² Horsfall 1976: 81; Goldberg 1995: 29-30.

¹²³ Varro, *LL* 6.17.

Varro Murena above, the anonymous aediles gave the space ([*locum*] *dederunt*) for a *collegium*, in this case the (if Panciera's reconstruction is to be believed) *con[ll(egio) / tib]ic(inum) Roman(orum) Miner(uae) d(e)d(icato)*.¹²⁴ As we saw in the previous chapter, imperial aediles at Urso counted *tibicines* among their *apparitores*. And it was an aedile who 'ordered that the number of pipe players should be just ten' (*artifices solos iusserat esse decem*) in the late fourth century.¹²⁵ What we have here is a web of circumstantial evidence. But a hypothetical reconstruction can be made. The people who engaged in professions associated with aedilician activities developed some degree of shared identity. The formation of *collegia* and *uici* reinforced this solidarity, and likewise made the aedile's job easier when looking for people to staff his *ludi publici*.¹²⁶ Even if *tibicines* were not originally counted among aediles' *apparitores*, they were needed for *pompae circenses*.¹²⁷ We can therefore expect that the *collegium tibicinum* would have regular interactions with the year's aediles. Representatives of a *collegium* or *uicus*, such as those here who presumably approached the aediles asking them to *locum dedere*, would act as intermediaries between their organization and the magistrates.

This is just a taste of the kinds of social and professional groups whose livelihoods were closely linked with the institution of the aedileship. A well-connected aedile might

¹²⁴ *CIL* 12.2984b = *AE* 1973, 38. Cf. Panciera 1991: 285-6; Daguet-Gagey 2015: 402. The deity (Minerva) and the formula (*tibicines Romani*) make Panciera's identification of the *collegium* virtually certain.

¹²⁵ *Ov. Fast.* 6.663-4. *Liv.* 9.30.5-10 supplies the date (312), but his details are different. Censors restricted the practice, in Livy's version, of holding banquets. But as Littlewood 2006: 193 points out, the 'essential point' of both stories is similar: namely, 'that unfair restrictions were imposed on the *tibicines*'. Note that this particular aedile's restriction refers to private *ludi funebres* (cf. *Cic. Phil.* 9.17), but as Littlewood notes, *tibicines* were essential parts of aedilician *pompae* too.

¹²⁶ Lafaye 1883: 38 (followed by Horsfall 1976: 83-6) suggests that the *collegium* would be a useful means for aediles to source play scripts. The chief evidence for this is the involvement of Sp. Maecius Tarpa in the selection of mimes for Pompey's one-off games in 55 (*Cic. Fam.* 7.1.1). On Tarpa's membership of the *collegium*: Crowther 1973: 577-8. On the relationship between contracts for *ludi scaenici* and the *collegium scribarum*: Romano 1990: 106-8.

¹²⁷ Péché 2001: esp. § 27, 40-1; Littlewood 2006: 194-5; De Quiroga 2018: 149.

benefit from already having these connections in place. And vice versa: Cyrus was doubtless overjoyed about Clodius' election to the aedileship in early 56, anticipating, perhaps mistakenly as it transpired, a well-financed patron. For most, however, the aedileship would have forced its holders to interact with various socio-economic groups with whom they would have had limited prior direct contact. And they would have to pretend to be happy about it. This front was part of the aedile's jovial persona, a persona that we began constructing in the first chapter of this section ('Mingling with the audience'). This analysis has allowed us to consider the question of an aedile's 'Jovialität' in a new light. The picture that emerges continues to be quite idealistic, one of the benevolent, *benignus* aedile stooping to interact with actors, sex-workers, and traders.

Too idealistic, perhaps. Claude Nicolet has argued that the *apparitores* we encountered in the previous chapter 'servent d'écran entre [les magistrats] et les citoyens'.¹²⁸ Magistrates were often 'ignorants ou négligents', relying entirely on their professional staff. There may be some truth in this. But the ideal, as I have argued, is important in helping us to uncover the people's, as well as the aristocracy's, *expectatio*. An aedile would do well to be seen as a cultured patron of the arts, expert on stage machinery (as Vitruvius advocated), and appreciator of earthy mime. Cato, we should note, was painted as singular in his distaste for burlesque. The cultivation of a positive aedilician persona relied on establishing a close rapport with a wide range of people, with no obvious 'écran' between magistrate and *plebs*.

¹²⁸ Nicolet 1976: 438.

3.4 Antagonists

Much of this thesis has traded in ideals. A great deal of panegyric is devoted to praising aediles for ‘giving’ something, be it the service itself or a physical manifestation of their service. Most surviving evidence pertains to the *insignis*, the memorable aspects of one’s aedileship. But Ganymedes’ complaints from Petronius’ *Satyrice* about the current aediles of his *colonia* reveal a different side of the office.¹ A failure to intercede in distortions of the market by private enterprise could lead to accusations of collusion. His complaints lay bare a tension at the heart of the aedileship, between presenting oneself as a man of people, at the same level as the people, and being above the people, coercing them to behave in certain ways and antagonizing various groups. We saw in the previous section, for instance, the kind of us/them rhetoric that an aedile might deploy in prosecuting maligned groups such as *faeneratores* and *pecuarii*.² This chapter investigates the tension in the evidence between aediles restricting activities, their *fastidium*, and the picture of aediles’ unmitigated generosity, of their *publica cura*.³ Indeed, a critical facet of aediles’ *publica cura* rested on holding certain groups accountable for urban problems.

To begin, we return to Varro’s wistful reminiscence about the aediles of old discussed in ‘Understudies’. He laments the fact that first-century aediles, with their *stipatio* of *serui publici*, now throw their weight around in the city; far from being jovial men of the people, aediles *ultra submouent populum*.⁴ Varro’s reckoning of republican law, complaining about the decline of magisterial morals, is influenced by his own experience in the

¹ Petron. *Sat.* 44.3.

² See *supra* § 2.1.

³ *Fastidium*: Plaut. *Rud.* 372-3; *publica cura*: Ov. *Fast.* 5.290.

⁴ Varro *apud* Gell. 13.13.4.

tribunate, during which he adhered to what he considered to be *uetus ius*; he presents a limited, and inconsistent in Gellius' opinion, idea of the powers of tribunes.⁵ But his opinion of the conduct of contemporary aediles swaggering around and pushing the people aside deserves to be taken seriously, since this section of the thesis has dealt with expectations and opinions. Varro's grumbling hints at the fact that the aedileship forced its holders to negotiate this disparity between restrictive and permissive, to present themselves as *unus de populo* in some people's view, or as people who *submouent populum* in others' view.

Much of the restrictive rhetoric was centred on aediles' involvement in markets and economic affairs. Plautus' character Trachalio described Neptune as a *fastidiosus aedilis* charged with casting aside 'poor quality goods' (*improbae merces*).⁶ The implication here is that shopkeepers selling defective goods could be scrutinized by aediles. Failure to conform to aedilician edicts about weights and measures could result in *mercatores'* stock being cast aside and ruined (*frangi*) by the aedile.⁷ Some particularly pernicky aediles would be viewed with unease by *tabernarii* and *mercatores* for their *fastidium*. A similar picture emerges in imperial evidence. In Apuleius' *Metamorphoses*, Pythias, a fictional aedile and *curator annonae* in the so-called 'delicacy market' (*forum cuppedinis*) of Hypata in Thessaly, offers to help the protagonist Lucius with his shopping.⁸ Having glanced at Lucius' shopping basket, he starts to berate a little old man who sold Lucius fish at an exorbitant price, in a voice 'befitting the aedile's authority' (*pro aedilitatis imperio*). The sense here, in the second century AD anyway, is that the aedile, conducting himself in an imperious way

⁵ Gell. 13.12.6. Gellius contests Varro's account at 13.12.7-9.

⁶ Plaut. *Rud.* 372-3. Cf. *supra* § 1.6.

⁷ Ulp. *Dig.* 19.2.13.8. Cf. Lamberti 1994: 364 (role of aedile in general); Rizzi 2012: 181-98 (legal justification for aediles' conduct); Daguet-Gagey 2015: 142-3 (general survey of evidence).

⁸ Ap. *Met.* 1.25. Note that Apuleius' 'aedile' may tell us more about the imperial *agoranomia* than the aedileship at republican Rome (Migeotte 2005: 290).

and with *morum seueritudo*, took pains to discourage *edulium caritas* (excessive costs for market goods) and had the power to prevent shopkeepers from price-gouging. Pythias is characterized as morally upstanding to a fault, a pompous, self-important local official who would look after the consumer and keep a sharp eye on *tabernarii* who would artificially inflate prices.

The extent to which this later, fictional, and Greek example reflects Roman republican practice is uncertain.⁹ Still, Apuleius gives a sense of the sort of relationship a shopkeeper might have with aediles throughout the empire. Satirists of the first-century AD, such as Juvenal and Persius, paint a picture similar to the *asperitas* of Apuleius' market-inspector. Juvenal contrasts a petty, 'ragged' (*pannosus*) aedile of a tin-pot town like Ulubrae (*uacuis aedilis Vlubris*), charged with 'smashing inadequate vessels' (*uasa minora / frangere*), with those who aspire to high office in Rome. He presents two distasteful scenarios. Those politically ambitious at Rome who covet the *toga praetexta* experience a commensurate share of disasters (*par mensura malorum*).¹⁰ The alternative is to be a big fish in a small pond: to have *potestas* in Fidenae or Gabii, or to be a petty aedile in Ulubrae. The municipal aedileship is here a byword for petty domesticity. Persius paints a similar picture. His 'haughty' (*supinus*) aedile at Arretium similarly 'smashed unfair measures' (*fregerit heminas ... iniquias*).¹¹ The substance of Persius' complaint seems to be that petty municipal aediles spent far too long agonizing over weights and measures instead of pursuing gambling cheats. Persius' *supinus* Italian aedile should be repressive; he just concentrated his energies in the wrong field. These poets certainly suggest that municipal aediles of the early

⁹ Daguet-Gagey 2015: 499-500 rightly problematizes this passage. Cf. in general Millar 1981: 69.

¹⁰ Juv. 10.99-102. Ulubrae was often the butt of such jokes: Panciera 1960: 13-14; Garofalo 2017.

¹¹ Pers. 1.129-30.

Principate were apparently notorious for their pedantry in market affairs. They could reject goods if they deemed that they were not up to scratch, or if the goods did not conform to the stipulated weights and measures.¹² All three of these aedilician allusions, especially Juvenal's, are designed to contrast the unimportance of local elites with the political situation at Rome. For many involved in commerce in imperial Italy, encounters with aediles in *fora* would reinforce a notion of *fastidium* or *asperitas*.

Their activities in the marketplace could be perceived as restrictive and pedantic by some, helpful by others. Different audiences perceived aediles in different ways. Some would be dismissed as elite *maiores maxillae*, perceived to be colluding with *pistores* to keep food prices high if they failed to intervene in manipulation of prices; the *pistores* at Pompeii, meanwhile, doubtless perceived that Cn. Helvius Sabinus would protect their economic interests when they actively campaigned for his election.¹³ Intervening by lowering grain prices, however, would undercut the global market, forcing traders to resort to alternative measures to retain capital.¹⁴ For some, the aedile's presence would be enough to cause even apprehension. Seneca writes, approvingly, that there were places of pleasure in the city that 'feared' the aedile: 'you will find pleasure most commonly lurking about, seeking the dark corners around the baths, the sweat-rooms, and the spots that fear the aedile' (*conuenies ... uoluptatem latitantem saepius ac tenebras captantem circa balnea ac sudatoria ac loca aedilem metuentia*).¹⁵ Exactly what gave the people who frequented these *loca* reason to fear is unclear. Aediles in the Principate evidently restricted or regulated certain *uoluptates*, such

¹² Aediles' concern for weights and measures in the early Principate: Berrendonner 2009: 358-9, 370; Pérez Zurita 2011a: 123-43; Daguet-Gagey 2015: 541-50.

¹³ Petron. *Sat.* 44.3; *CIL* 4.7273.

¹⁴ See e.g. Liv. 30.38.5: due to the *uilitas annonae*, *mercatores* paid their shipping contractors in grain. Cf. Hollander 2007: 61-2 n. 18.

¹⁵ Sen. *Beat.* 7.3.

as gambling.¹⁶ Imperial satirists, echoing the likes of Plautus, would tend to home in on aediles' pedantry, using *aedilitas* as shorthand for petty officials who used their position to throw their weight around. They both facilitate freedoms and prevent transgressions, both commercial and moral.

Aediles therefore walked a fine line between being one of the people and distinguishing themselves before the people. Their presence generated *metus* for some, *expectatio* for others. Across Juvenal's *Satires*, the picture is inconsistent, the idea of the aedileship susceptible to either idealization or trivialization. Juvenal's praise of Italian aediles in his third *Satire* offers a different perspective, far removed from his Ulubran aedile, on how aediles should present themselves. 'It is the case in most of Italy' (*pars magna Italiae est*), Umbricius claims, that 'white tunics are sufficient clothing of the glorious office obtained by the most illustrious of aediles' (*clari uelamen honoris sufficiunt tunicae summis aedilibus albae*).¹⁷ Everyone, aediles included, is dressed in the same humble attire in the *herbosum theatrum* of the Italian countryside. Aediles, *orchestra*, and *populus* are indistinguishable. Umbricius has an agenda: to criticize the perceived *ambitiosa paupertas* in urban Rome in contrast with a 'very selective' picture of bucolic bliss outside the city.¹⁸ The caricatured Umbricius is describing an ideal that Juvenal's readers were aware was knowingly exaggerated. Still, Juvenal, through the mouthpiece of the acrimonious Umbricius, is evidently vaunting the municipal aedile's perceived *aequalitas* and *similitas* with the audience, both in dress and conduct.

¹⁶ Repression of gambling in *popinae*: Mart. 5.84.4-5; 14.1.3-4. Cf. Edwards 1993: 173-4; Wallace-Hadrill 1995: 50-1; Flemming 1999: 54; McGinn 2004: 148-9, 243-4. Cf. Seneca's Stoic musings on the irreconcilability of *uoluptas* and *uirtus*: *Beat.* 12.3.

¹⁷ *Juv. Sat.* 3.178-9.

¹⁸ Braund 1989: 26-8 (quoted at p. 27).

A dialectic consistently therefore emerges in the evidence between the permissive, giving, aedile and the restrictive aedile who takes things away. There are glimpses of this trend in their relationship with republican *tabernarii*. Aediles rebuilt *tabernae* around the forum in 191.¹⁹ Their actions were sufficiently notable to make it reasonable for Festus to call these ‘new shops’ (*nouae tabernae*) ‘shops for the plebs’ (*plebeiae tabernae*), named perhaps in honour of the aediles who created them, if Lindsay’s interpretation of Festus’ lacuna is correct.²⁰ Aediles would later be found granting shopkeepers permission to occupy physical space at Pompeii.²¹ They had the capacity to improve the city’s commercial space; *tabernarii* answered to their authority.

By contrast, in 50 we find M. Caelius Rufus engaged in a *pugna* with shopkeepers and water providers (*cum tabernariis et aquariis pugnarem*).²² He published a speech titled *De aquis* which was still famous by Frontinus’ day, in which he railed against wealthy private citizens siphoning public water supplies for use in their estates and against humble shopkeepers and brothel owners at Rome.²³ Caelius considered this contest monumental enough to occupy the people’s attention while Curio was (temporarily) ineffective in his tribunate (*Curioni nostro tribunatus conglaciat*); his *pugna* was, Caelius playfully asserts, the most interesting thing to happen at Rome in 50. Why did Caelius feel compelled to justify his struggle with the *aquarii* and *tabernarii* in a *contio*? The speeches *De aquis* do not seem to be *contiones* in an *anquisitio* of a trial, but rather a measure to court public opinion in his

¹⁹ Fest. 258L. Cf. Daguet-Gagey 2015: 419.

²⁰ Fest. 258L: [*plebeias appell*]amus a genere magistratus.

²¹ CIL 4.1096-1096a (*permissu aedilium ... occupauit*). Cf. Holleran 2018: 467.

²² Cic. *Fam.* 8.6.4. Cf. de Kleijn 2001: 95. Cf. *supra* § 2.1.

²³ Front. *Aq.* 2.75. Rodgers 2004: 93, 240 deletes Polenus and Bücheler’s reading of the MSS (MSS: *uel ad oritorum*; P. and B.: *uel ad hortorum* <usum> or <usus>). Even if their correction is superfluous, Frontinus’ general point is to critique landowners in the areas around Rome for tapping water for selfish private usage.

struggle with these groups. His task was to convince the public that his measures were necessary for the good of the city in 50, that *plerique possessores* were cheating the urban population out of their water supply, to the extent that ‘public watercourses ran dry’ (*ductus publici ... suspendant*). The details of Caelius’ *pugna* with the *tabernarii* are less certain, except to say that it was concurrent with his struggle with the *aquarii* and provided entertainment for the *ciuitas*: without his *pugna*, he playfully claimed, ‘a state of listlessness would have seized the community’ (*ueternus ciuitatem occupasset*). Caelius apparently lamented the polarization inherent in pursuing such people: ‘if only I could prove my point without causing indignant reactions’ (*utinam non per offensas probaremus*), implying that he was making some prominent enemies among the propertied classes in his *contio* as well as humble shopkeepers.²⁴ Ruffling a few feathers, even among groups whose *gratia* would be beneficial, was part of the role. Ulpian’s interpretation of the *Edict of the Curule Aediles* reinforces this dialectic negotiated by Caelius between the permissive and the restrictive in Rome’s commercial spaces. After quoting the *Edict’s* prescriptions on slave merchants, Ulpian remarks that ‘the reason why this edict was delivered was to hold in check the deceptions of the sellers and to provide assistance to the buyers’ (*causa huius edicti proponendi est, ut occurratur fallaciis uendentium et emptoribus succurratur*).²⁵ Ulpian summarizes the tension at the heart of aediles’ interactions in the market: to restrict *fallacia*, but to present this in such a way that they appear to be permissive, to be giving something

²⁴ Cf. Peachin 2004: 38-9 on Frontinus’ use of Caelius’ *contio* as an *exemplum* to anticipate adverse reactions from his peers. He later (pp. 67-8) remarks on the disjuncture between aristocratic *priuati* watering their gardens and ‘riff-raff stealing water’ here, which he shows to serve Frontinus’ purpose to humiliate aristocratic water thieves who were ‘sinking to the level of tavern keepers and pimps’. This seems to have been Caelius’ purpose, too, as he apparently criticized both lowly *tabernarii* and wealthy *possessores* in his *contio*. Rodgers 2004: 242 frames aediles as ‘old boys’ who might, unlike Caelius, often ‘turn a blind eye to reprehensible actions on the part of their fellows’.

²⁵ Ulp. *Dig.* 21.1.1.1-2.

to the community. Just as Caelius was protecting the people from *fraus aquariorum*, so perhaps he could claim to be protecting *emptores* from the dishonesty of shopkeepers.

Caelius' *contiones* were crucial for the construction of his aedilician persona. There were limitations, however, upon aediles' coercive and restrictive powers, suggested by the fact that *contiones* delivered in the court of public opinion against *aquarii* and *tabernarii* were the primary weapon in his arsenal during the *pugna*. Historical cases of aedilician repression demonstrate these limitations. In 213, aediles (both curule and plebeian?), together with the *tresviri capitales*, were instructed by the senate to drive people corrupted by soothsayers from the forum.²⁶ Livy picks up the narrative *in mediis rebus*, so some inferences must be made. With news of disasters early in the war against Hannibal, 'foreign superstition' (*religio externa*) had infiltrated the city, with the result that 'Roman rites were being worn away' (*abolebantur Romani ritus*). The aediles were, at first, completely inactive in repressing the activities, which earned them censure from the senate after a *publica quaerimonia* was made. The aediles' seniors in the senate had evidently expected that they should have already intervened independently without direct orders.²⁷ Indeed, it is implied that the aediles should have as a matter of course had their ears to the ground, since 'the upright citizens' private expressions of indignation were initially heard' (*primo secretae bonorum indignationes exaudiebantur*). The senate implied that the aediles should have done something about the matter before it reached the senate: the *secretae indignationes* should have been heard *ab aedilibus*. Similarly, the plebeian aediles of 186 were called by the consuls to 'see to it that no rites [of the *Bacchanalia*] should be practised in secret' (*viderent ne qua*

²⁶ Liv. 25.1.6-10. Cf. Pailler 1988: 452; Daguet-Gagey 2015: 176-8.

²⁷ In the analogous case of the repression of the *Bacchanalia* three decades later, both plebeian and curule aediles received orders from the consul (Liv. 39.14.9).

sacra in aperto fierent).²⁸ The consuls considered plebeian aediles particularly fitting magistrates to root out nefarious *operta*. The aediles' social connections, granting them access to information, were what set them apart from other magistrates. In 213, when direct orders did indeed follow, the aediles tried to move the *multitudo* from the forum and dismantle the ritual objects that the people had set up. They failed, with the crowd even threatening physical violence; the praetor instead took it upon himself to intervene, which (Livy implies) settled the matter.

These episodes complicate the notion that aediles were responsible for religious and public order.²⁹ Above all, it reveals their limitations: 'it soon became apparent that the perturbation was too great to be relieved by minor magistrates' (*potentius iam esse id malum apparuit quam ut minores per magistratus sedaretur*). Their *sedatio* was, by definition, different from and inferior to that of the urban praetor.³⁰ What this may reveal, by extension, is the aediles' peculiar relationship with the people, lying somewhere below the praetor whose edicts had significantly more clout than the aediles' futile attempts at *sedatio*. In fact, it was perhaps in the way aediles comported themselves in such situations that diverged from the behaviour of magistrates *cum imperio*. There is something strikingly innocuous about their behaviour, at least insofar as Livy describes it. They tried to 'calm' (*sedaretur*) the situation, attempting ineffectively 'to move that crowd on from the forum' (*emouere eam multitudinem e foro*). Evidently, the aediles of 213 did not swagger around as effectively as those of Varro's

²⁸ Liv. 39.14.9. Mommsen (*Röm. Staatsr.* 2³.1.511-12 with n. 3) rightly sees this intervention as exceptional.

²⁹ Daguet-Gagey 2015: 435 characterizes aediles as 'les responsables de l'ordre religieux public'.

³⁰ Cf. Nippel 1984: 20-1 (followed by Becker 2017: 186-7 with n. 234) against reading this episode as evidence of aediles' responsibility for dealing 'independently with major disturbances of and threats against public order and security'. Limitations of aedilician *coercitio*: Kunkel and Wittmann 1995: 490-1; Drogula 2007: 429-30. Gradations between *potestates* of magistrates: Bleicken 1981: 278-87.

day.³¹ It would be dangerous to read any more into Livy's verbiage than this: hysterical cultists, many of whom were women, are often generic characters in his accounts of the repression of cultic activities carried out for and by the 'other'.³² Nevertheless, the story provides a tantalizing window into the relationship between *multitudo* and aediles in times of crisis. The aediles were apparently initially reluctant to intervene and were powerless to do anything effective when they received senatorial instructions. One pictures a well-meaning supply teacher unable to control an ill-disciplined class, with the deputy-headmaster forced to intervene. A humorous anecdote preserved by Macrobius appears to reinforce this picture. After P. Vatinius was attacked with stones at his own gladiatorial games, given soon after his defeat for the aedileship, the notorious *editor* 'ensured' (*optinuerat*) that the current aediles delivered an edict to prevent people from throwing hard objects into the arena.³³ But the aediles' intention was evidently to permit certain behaviour as well as to restrict it: the edict explicitly allowed fruit to be thrown. They were seemingly content to grant Vatinius this concession, but were equally unwilling completely to undermine popular displays of self-expression. If we believe Macrobius' story, the people found ways to exploit the aedilician concession by hurling pinecones at Vatinius instead.

This section of the thesis has mixed republican and imperial evidence, claiming some sort of ideological continuity in perceptions and expectations of the aedileship. This approach needs further defence. M. Vipsanius Agrippa, aedile in 33, standing on the

³¹ One might compare the story, of dubious historicity, of the ineffective aediles who got beaten up by patricians in Plut. *Cor.* 17.2, 18.2-5 (cf. Dion. Hal. 7.27.2, 7.35.3-4), immortalized by Shakespeare (*Cor.* 3.I.324): 'Our aediles smote?'. Suetonius (*Ner.* 4.1) illustrates that Nero's grandfather was *arrogans, profusus, immitis* by telling the story of his shoving the censor Plancus off the road as a mere aedile.

³² See Santoro L'Hoir 1992: 90-1 on genericness of Livy's pejorative narratives on the pernicious influence of *externa religio* on the female population.

³³ Macrobius *Sat.* 2.6.1. Vatinius' games: Cic. *Sest.* 134-5; *Har.* 56. Cf. Bryen 2019: 672-3.

threshold of republic and Principate, may act as a bridge between these two clusters of evidence. His aedileship relied on perceptions of the purpose of the republican aedileship; and it stood as a point of departure for any future aedileship, with his being the ideal standard to which all future aediles would be compared. Amidst the clamour of encomium surrounding his aedileship, the tension between permissive and restrictive emerges. In many respects his aedileship was exceptional: an *aedilitas post consulatum* was practically unheard of, and his generosity was unparalleled. His was, as James Tan puts it, ‘a year in office like no other’.³⁴ It is possible that Agrippa was the only aedile of any description in 33: the enormous list of achievements is attributed solely to him, including fifty-nine days devoted to *ludi*; and epigraphic evidence appears to record him simply as *aedilis*.³⁵ His beneficence was recorded, presumably in sumptuous detail, in Agrippa’s own *aedilitatis commemoratio*, a chief source for Pliny’s description of the aedile’s benefactions.³⁶ If the other five positions were filled in 33, Agrippa’s *commemoratio* may well not have named them. The achievements he listed were manifold: the entire drainage system of the city was revolutionized, turning Rome into what Pliny called an *urbs pensilis*, a hanging city, a feat of engineering comparable to the wonders of the world.³⁷ He improved the water supply

³⁴ Tan 2019: 188. He conceives of Agrippa’s aedileship as a ‘replacement’ for requesting no triumph for his victory over the Aquitani (p. 189). Cf. Hor. *Sat.* 2.3.185-6 on the unrivalled *plausus* that Agrippa received.

³⁵ Sole aedileship: Roddaz 1984: 147. With colleague: Reinhold 1933: 48 n. 16. *Ludi*: Plin. *NH* 36.121. Inscription: *CIL* 6.31270 = 40319 = *ILS* 128 = *ILLRP* 434. There is room on the stone, which is badly damaged on the right, for the type of aedileship. The more likely reconstruction (Alföldy 1996: 4378), however, is the ablative *iussu* given the presence of *IMP CAE*, presumably in the genitive, on the third line: *M(arcus) Ag[rippa] / aed(ilis) [iussu] / Imp(eratoris) Cae[saris] Diui f(ili)*. Still, the succinctness of the inscription in the absence of *nomen* and prior magistracies (Boatwright 2014: 255-6) might deter us from drawing firm conclusions.

³⁶ Plin. *NH* 36.121. Probably part of Agrippa’s memoirs: Reinhold 1933: 142 n. 7; Roddaz 1984: 569-70.

³⁷ Plin. *NH* 36.104. Cf. Gowers 1995: 25 on Pliny’s literary configuration of the sewer.

by repairing existing aqueducts.³⁸ He gave out things for free, including hair-cuts and ‘tokens’ (σύμβολα) exchangeable for cash, clothes, salt, olive oil, and other essentials; entry to the baths was also made free for a year.³⁹ Needless to say, the sources are unanimous in relaying the *gratia* that the people felt towards Agrippa for his extraordinary *liberalitas*.

But, in some respects, his year in office was much like the others, following the shape of a standard republican aedileship, albeit on a much more lavish scale. Dio preserves a subtle nod to Agrippa’s republican predecessors. He writes that ‘Agrippa willingly became aedile’ (ἀγορανόμος ὁ Ἀγρίππας ἐκὼν ἐγένετο). The adverb ἐκὼν registers the surprise of Agrippa choosing to become aedile at this stage of his career, as well as drawing a contrast with the general unwillingness among the aristocracy to run for this office in the 30s.⁴⁰ It also recalls the language Cicero employed to describe his aedileship in 69: his aedileship itself was a *munus*, a burden under which he would opt, willingly, in his rhetoric, to serve the people and protect the city. Furthermore, the aedileship was chosen both because it was considered by the dynasts to be the appropriate office to repair the city’s ills and because it offered a unique platform from which one of them could communicate with the people. As Tan has argued, the holding of the aedileship drew attention to Agrippa himself, of which Octavian was acutely conscious, pointing to the former’s ‘flamboyant self-promotion’ and ‘ambition’.⁴¹ He appeared on stage during the *ludi* that he funded from his own purse, raining ‘tokens’ (σύμβολα) on the heads of the audience.⁴² He made a spectacle of his navigation of Rome’s stormwater system, emerging

³⁸ Front. *Aq.* 1.9, 2.98; Plin. *NH* 36.121. Cf. Suet. *Aug.* 42.1.

³⁹ Cass. Dio 49.43.4-5. Definitions of σύμβολα: Crisà, Gkikaki, and Rowan 2019: 1-9.

⁴⁰ Cass. Dio 49.16.2: no aediles elected for 36 owing to ἀπορία τῶν αἰρεθησομένων.

⁴¹ Tan 2019: 189.

⁴² Cass. Dio 49.43.4.

in the Tiber having sailed through the now cleared sewers.⁴³ Assuming the position allowed Agrippa to appear before the people, on-stage.

Hidden beneath this liberality, however, looms an undertone of restrictiveness. Aediles were not responsible for one single discernible area of criminal conviction, but instead prosecuted based on their *arbitratus* at the time.⁴⁴ Agrippa, taking advantage of this flexibility, drove ‘astrologers’ (ἄστρολόγοι) and ‘sorcerers’ (γόητες) from the city.⁴⁵ Both were often seen to be a destabilizing influence on the city: Otho, so Tacitus would lament, would later be encouraged in his nefarious desires by astrologers (*urgentibus etiam mathematicis*), a group of people with a reputation for leading powerful men astray (*potentibus infidum*), who occupied a liminal space between legitimacy and illegality (*quod in ciuitate nostra et uetabitur semper et retinebitur*).⁴⁶ It is therefore unsurprising that Agrippa would choose to expel such groups at a time when stability and conformity with the regime were of critical importance, with civil war with Antony looming. Astrologers were easy scapegoats for the city’s ills. Maecenas’ speech in 29, in which Cassius Dio has him articulate arguments in favour of monarchy, puts the decision to exile these groups in context. *Diuinatio* is a necessary component of Roman practice (μαντική μὲν γὰρ ἀναγκαία ἐστί), he argues, but other forms of predicting the future, foreign forms, are menacing to Augustus’ monarchy.⁴⁷

⁴³ Plin. *NH* 36.104; Cass. Dio 49.43.1-2. Tan 2019: 188 compares this act to a triumphal procession.

⁴⁴ Cf. *supra* § 1.3, 1.7.

⁴⁵ Cass. Dio 49.43.5. The terms seem to be synonymous, falling under the umbrella of μαντική practised by τοὺς δὲ δὴ ξενίζοντάς (52.36.2-3).

⁴⁶ Tac. *Hist.* 1.22.

⁴⁷ Cass. Dio 52.36.2-3.

Much of this speech benefits from hindsight, from Dio's foreknowledge of monarchical rule.⁴⁸ However, the reshaping of the narrative retains the same rhetoric as republican examples of expelling hostile foreign cults, such as the repression of 213 which we saw earlier. Whereas the earlier examples of external religious influence are inimical to the republic (*publicus pudor*), those of the early Principate are deemed by Dio to be 'most unprofitable to sole rule' (ἥκιστα μοναρχία συμφέρει).⁴⁹ Part of the impetus behind Agrippa's actions was to reinforce a feeling of consensus in the city, a consensus undermined by astrologers.⁵⁰ Evoking consensus was particularly important during the propaganda war that erupted between Octavian and Antony in the mid-30s.⁵¹ Agrippa played a 'rôle de propagandiste et d'intermédiaire entre Octavien et le peuple'.⁵² The aedileship, with its amalgam of permissive and restrictive, was viewed as a useful tool for reinforcing this impression of consensus at Rome and in Italy, with a people united by an aedile who gave them heaps of free stuff, expressed the togetherness of the urban population by giving especially lavish and long *ludi*, and expelled the 'other' from the city. The aedile was perceived as the official best positioned to achieve these things, cleaning the city both physically (by clearing the sewers) and morally (by expelling undesirables).⁵³ Indeed, Agrippa's aedileship is similar to rare cases in the third and second centuries when

⁴⁸ The speech is more Dio than Maecenas or Agrippa (Millar 1964: 107) but still seems to reflect contemporary preoccupations about the pernicious influence of false prophets (Adler 2012: 509-10).

⁴⁹ Liv. 4.30.10. Cf. Ripat 2011: 118-19, 138-40 for examples of astrologers being exiled or viewed as potentially subversive.

⁵⁰ Ripat 2011: 142.

⁵¹ Plut. *Ant.* 55.1 (in 33, Octavian 'began to stir up the crowd against Antony' (παρώξυνε τὸ πλῆθος ἐπ' Ἀντώνιον)); Cass. Dio 49.41.5-6 (locating the propaganda war in the context of Agrippa's election); 50.2.1 (confrontations continuing in 32). Cf. Pelling 1988: 252-3; van der Blom 2020: 253, 276.

⁵² Roddaz 1984: 156.

⁵³ Cf. Wallace-Hadrill 1995: 51 on the 'symbolic aspect' of this purging: 'The aediles maintained symbolic as well as literal purity'. Aediles and *munditia*: Plaut. *Stich.* 347; Sen. *Ep.* 11.86.10.

aediles were called upon to suppress religious practices that were deemed unconventional or threatening, especially the *Bacchanalia* crisis.⁵⁴ What these have in common is the imposition of duties by men of consular status: *consules imperarunt*. It reveals what senior members of the senate thought that the aedileship could be used for under exceptional circumstances. It was a fitting, plastic, office to resolve certain extraordinary domestic crises.

Agrippa's restrictiveness, like any good aedile's, was selective. Certain social groups inevitably received favourable treatment. Frontinus praises Agrippa for his *moderatio* in administering Rome's water supply, for desisting from drawing from the *Aqua Crabra* because the water was used exclusively by wealthy villa owners at Tusculum.⁵⁵ Any *aquarii* who disobeyed these instructions incurred the wrath of the aedile (or, subsequently, *curator aquarum*).⁵⁶ Agrippa was among those who 'confiscated land for public use from people who illegally irrigated their land with public water' (*agri uero, qui aqua publica contra legem essent inrigati, publicabantur*).⁵⁷ But the landowners around Tusculum were protected by him, at least while he was in charge of the water supply.⁵⁸ Agrippa could justifiably be described as the *uindex* of these villa owners as well as a *uindex uolgi*.⁵⁹ Some *possessores*

⁵⁴ Liv. 25.1.10; 39.14.9.

⁵⁵ Front. *Aq.* 1.9. Cf. Rodgers 2004: 172-3; Marzano 2007: 166-8. Frontinus prided himself on following Agrippa's example, ensuring *insolita abundantia* for the *Tusculani possessores*.

⁵⁶ Cf. Caelius' speeches against *fraus aquariorum*: Front. *Aq.* 2.75-6. On illegal siphoning of water: Bruun 1991: 55-8, 106-9; Bannon 2009: 78-9. *Aquarii* in Frontinus can be either official workmen in charge of public supply or people employed to distribute water to *priuati* (Rodgers 2004: 173). Those guilty of *fraus* seem to fall into the latter category. Frontinus (2.98) presents Agrippa's aedileship as a point of departure, after which *curatores aquarum* followed his aedilician example.

⁵⁷ Front. *Aq.* 2.97-8.

⁵⁸ Front. 1.9 implies that Agrippa's *moderatio* was later undone by *aquarii* who tapped the *possessores'* supplies 'for personal profit' (*compendi sui gratia*), until Frontinus himself heroically reinstated Agrippa's practices.

⁵⁹ Compare Front. *Aq.* 1.9 with Ov. *Fast.* 5.285: in the former, the immoderate *aquarii* are said to have 'always laid claim (*uindicauerunt*) to a portion of the water to supplement the *Iulia*' (*partem eius semper*

received much better treatment from certain aediles. In fact, choosing one's battles was a key part of one's aedileship: Caelius was far from shy about committing himself to a *pugna* against *aquarii* – some *aquarii*, at least.

Claude Nicolet has argued that the role of the Roman magistrate was, at its heart, 'répressif et coercitif'.⁶⁰ Even lesser magistrates like aediles had a group of *uiatores* 'armés du bâton'. He contrasts this coercive power with that of tribunes, guarantors of the people's *libertas*, who he frames as 'un dispositif de protection des droits individuels et collectifs du peuple'. Aediles fit awkwardly into this binary notion. They fall somewhere between magistrates *cum imperio* and tribunes in their relationship with the people. The aediles involved in the repressions of 213 embody this liminality, stuck between the power of the urban praetor and their relationship with the people. Consequently, they were completely ineffective in their *sedatio* of the cultic activities. Navigating the tension between restrictive and permissive was one of the central challenges that holding an aedileship presented. Agrippa's aedileship neatly illustrates this tension. He reveals just how intimately involved an aedile was perceived to be in controlling public discourse and narratives. His actions sent a clear message designed to encourage consensus. The decision to exile practitioners of magic and divination reveals this intent, since astrologers themselves could wield influence in their own right.⁶¹ Part of being an aedile was controlling the narrative surrounding one's office, presenting one's repressive acts as essential for public order. This is what Agrippa and Augustus saw in the aedileship: an institution, with restrictiveness

in supplementum Iuliae uindicauerunt), drawing a direct contrast with Agrippa who, *mutatis mutandis*, acted as a metaphorical *uindex* for the Tusculan landowners. Cf. Cic. *Agr.* 3.9 on the high expectations of the wealthy men who owned villas in the area.

⁶⁰ Nicolet 1976: 428.

⁶¹ Examples in Ripat 2011: 138-9.

and permissiveness at its heart, which could unite the people under a narrative of consensus; his aedileship was a kind of 'consensus ritual'.⁶² We encountered this kind of universalizing rhetoric in the previous section, when Cicero claimed *tutela* of *tota urbs* during his aedileship.⁶³ Agrippa's aedileship is an extreme example, perhaps the most idealized of all. Frontinus vaunts his *singularis cura*.⁶⁴ Indeed, any subsequent aediles would doubtless fail to live up to his standard, *astutae uolpes* mimicking an *ingenuus leo*.⁶⁵ The aedilician ideal became the Agrippan ideal in the early Principate. Petronius' ideal aedile was a lion of his fictional colony, dressing down grain-hoarders and guaranteeing cheap market prices; so Agrippa was a lion of Rome by giving free haircuts and expelling astrologers.⁶⁶

⁶² On which rituals, see Hölkeskamp 2004: 234-42; 2010: 72-3.

⁶³ Cic. *Verr.* 2.5.36 with *supra* § 2.2.

⁶⁴ Front. *Aq.* 1.9.

⁶⁵ Hor. *Sat.* 2.3.185-6.

⁶⁶ Petron. *Sat.* 44.15.

3.5 Conclusion: *Facilis aditus*

This section has argued that aediles were expected to comport themselves in a distinctive way before the people. The institution carried with it a set of norms which necessitated breaking down the barriers between aristocrat and *plebs*, magistrate and electorate. How best to describe this aedilician quality embodied by the likes of Sabinus and Agrippa? I have argued that the characteristics certainly mirror those developed by Martin Jehne to define 'Jovialität'. Aediles, in the middle of developing their political careers and personas, found themselves in the ideal position in Roman society to express this 'Jovialität'.¹ *Iovialitas*, 'Jupiterness', is not a word. *Facilis aditus* was how lexicographers thought of aediles. Petronius' Ganymedes thought of them in terms of *amicitia* and *benignitas*. The complex array of building blocks that makes an aedile eludes neat definition. In the end, it matters little what we call it. A diverse range of expectations attended one's aedileship, expectations placed on them by a diverse range of groups. In the view of the Roman people, inasmuch as a *plebs'*-eye view can be reconstructed, men who were elected to this middling office were expected ritually to reduce the distance between themselves and the people, both physically and socially. This may have all been a show, the aedileship their metaphorical stage. But the audience expected them to play their part well, in their vocation of endless imitation.

¹ Babcock 1965: 9 (with n. 19), 20, using the case study of C. Scribonius Curio, who considered running for an aedileship for 50 instead of a tribunate, discusses the rationale behind political decision-making in one's mid-30s (that is, whether to pursue a tribunate or aedileship). Cf. Dio's crude caricature of the aedileship and tribunate (which claims to be paraphrasing Cicero himself), with the former magistracy ideologically here aligned with τοὺς βελτίους (36.43.5).

CONCLUSION

This thesis has raised questions about the agency behind the development of normative aristocratic behaviour. Were aedilician norms engendered by self-reinforcing aristocratic expectations, or did the Roman people play a significant role in imposing this standard upon the Roman aristocracy? The issue is encapsulated by the *sermocinatio* in Cicero's *Pro Plancio*, in which the orator claims to be speaking with the voice of the *populus Romanus*. This is how he imagines, or represents to his audience, the perspective of the man on the street. According to Cicero's ventriloquized people, the aedileship does not matter; aediles are all the same. It is the tribunate that has true importance. Of course, Cicero completely undermines this picture elsewhere, even within the same speech. Of interest, however, is not so much the content of the *sermocinatio* as the technique itself as a means of understanding the desires of the Roman people. Cicero claims, rhetorically, that the expectations of the people are central to how aediles comport themselves. The potential magistrate is passive according to this rationale; the people are the agents. As I have argued throughout 'Script', Cicero is imagining the people through an upper-class lens, a unique one at that. But, as 'Audience and Cast' revealed, there were indeed significant constituencies who would indeed have their own particular *spes* and *expectationes* surrounding the new aediles' year in office.

This thesis has explored this tension. Cyril Courrier's recent book on the culture of the Roman *plebs* has ingeniously, if controversially, laid bare this tension.¹ He argues that the capacity for independent decision-making by the Roman *plebs* has been drastically

¹ Courrier 2014: 437-68.

underestimated in modern scholarship. Before him, Fergus Millar argued forcefully in favour of the notion that the Roman crowd was involved in several key decision-making processes, especially trials and law-making, with tribunes acting as ‘champions’ of popular rights.² These theses have certainly not been met with universal approval.³ A central finding of the present thesis is one of ambivalence. Both elite and perceived popular expectations came together to develop aedilician norms. The Roman aristocracy formed an idea of what the aedileship was for, and how aediles should behave, based on what they imagined the expectations of the Roman *plebs* were, meaning that, to some extent, we too are forced to reconstruct the will of the crowd with some logical hypotheses. The Roman people were ideologically constructed as being ‘(spect-)a(c)tors’, as Hölkeskamp termed them, witnesses of, and participants in, aedilician pageants.

Let us, then, look at the aedileship first from an aristocratic perspective with a hypothetical reconstruction of a curule aedile of the second or first century. By the time a wealthy Roman male reached his mid-thirties, he had an important decision to make. It represented a key inflection point of his career. It was a point at which he could decide what kind of political persona he might project, at which point he would decide whether to run for the aedileship in the first place, and, should he win election, the extent to which he would conform to and develop broad aedilician norms. He had already served in a junior capacity in the field, gaining a fair amount of popularity among Rome’s urban population.⁴ His family name helped a lot, but he still had to earn his reputation and felt the weight of expectation of his deceased ancestors. Given Roman demographics, his

² Millar 1998: 209-10; 2002: 96-8, 102, 169-70.

³ See e.g. the various critiques in Hölkeskamp 2010.

⁴ See e.g. App. *Pun.* 112.529-30.

mother would possibly be his only surviving parent, and, channelling her late husband's name and reputation, she provided no end of support and guidance in his career.⁵ Having recently married, he could also use the clout that his wife and her noble family would bring him; seeing his potential, she decided to marry him a year after her first husband died.⁶

To emulate his ancestors and to cement his place in the public eye, our wealthy male will have decided long before his thirty-sixth birthday to run for the aedileship – and will have advertised his intentions early. He had forged a close working relationship with several of his freedmen who were now working as *apparitores*. Architects were sought; contracts were drafted in anticipation.⁷ He advertised the munificence with which he would repay their votes; supporters would relay these messages with electoral slogans painted across the city.⁸ But, most importantly, he highlighted his aristocratic virtues, his supreme moral qualities to lead that would overshadow his numerous *noui* rivals. Though recent aedilician elections had seen enormous numbers of candidates, far more than could ever dream of holding the office, our man was confident of winning.⁹ After winning, he returned home via the Capitol with his gleeful supporters in tow.¹⁰ The remainder of the year was occupied with administrative duties: he confirmed his contracts, got in touch with his colleague, and starting scheming how he might outdo the spectacles at this year's *ludi Megalenses*.

⁵ See e.g. Polybius' account (10.4.1-5.5) of the influence of Scipio's mother Pomponia in the former's pursuit of the aedileship. Reading through Polybius' lens, which employs standard misogynistic tropes, it is certainly noteworthy that Scipio 'troubled himself only with her' (ἡς μόνῃς ἔμελεν αὐτῷ).

⁶ Cf. Treggiari 2019: 9 for speculation on Servilia's influence on the aedileship of D. Silanus (aed. cur. 69?), who progressed to higher office despite his mediocre *studium* (Cic. *Brut.* 240).

⁷ See e.g. Cic. *QFr.* 2.4.2

⁸ Distribution of electoral slogans at Pompeii: Viitanen and Nissin 2017: 117-44.

⁹ See e.g. Plut. *Aem.* 3.1.

¹⁰ Varro, *RR* 3.17.10.

Once aedile, he could choose how to use his platform and project his political persona. Always in the public eye, especially in the forum, he plotted how he might leave a lasting imprint on the *urbs*. If he was an aedile of the second or first century, he would doubtless use his personal wealth to supplement the cost of the games. Unlike his ancestors, who tended to use public prosecutions as a means of raising income and crafting their political image, he contented himself with what he hoped would be lasting reminders, displaying artwork, procured from Sparta a few years earlier, around the *comitium* which happened to coincide with the elections for next year's aediles.¹¹ He did this with his colleague, mindful that sharing the *gratia* and making a show of collegiality and consensus went down well with his peers and the people.¹² They even went about minting some coins to prove it.¹³

From the people's perspective, *spes* and *expectatio* would surround the aedile's canvass and election. Underwhelmed by the current aediles' programme, and burdened by rising food prices, the person on the street was hopeful that this singular personality would provide for their interests this year. They would hope that the new aediles would purchase play scripts from the most prominent celebrity playwrights for the upcoming *ludi Megalenses*.¹⁴ Reducing market prices could shift public opinion towards an aedile who had previously been unpopular with certain sectors of society.¹⁵ They would expect their aediles to appear publicly, to create a display of approachability and joviality, to be their champion.

¹¹ Vitr. 2.8.9; Plin. *NH* 35.173. Forethought: Cic. *Dom.* 111-12.

¹² Liv. 33.42.9. Antithesis: Suet. *Iul.* 10.1.

¹³ *RRC* 351.

¹⁴ Goldberg 1986: 8, 14: supporting Terence 'was both good politics and good business'.

¹⁵ Cic. *Off.* 2.58 mentions the *inueterata inuidia* that M. Seius managed to cast aside thanks to his cheapening of grain.

Of course, aedilician conduct, and projections of aedilician personae, varied. Not every aedile would speak and comport himself as jovially as, say, Caesar Strabo did.¹⁶ Saskia Roselaar has commented on how few attestations of fines and land redistributions there are in the fourth century, despite the existence of legislation to prevent this. Much of this is down to the nature of the evidence: whether these fines were 'occasional' depends very much on whether we think Livy's small sample size is representative of the century. But Roselaar's point stands that these prosecutions were left very much up to the *arbitratus* of the magistrate: if the aediles of the year 'had little inclination to fine their fellow nobles', then they could and would desist.¹⁷ Aediles would, ideally, perform a distinctive rôle before the crowd, for the crowd.

¹⁶ Cic. *De or.* 3.30, 3.91.

¹⁷ Roselaar 2010: 113.

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