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# The Role of Aedilician Fines in the Making of Public Rome\*

**ABSTRACT:** The loss of Livy's second decade and the scantiness of epigraphic evidence for fines at Rome prevent us from appreciating the significant role played by these sanctions between the third and the first century BC as sources of funding for public building activities. By re-considering literary and epigraphic evidence, and comparing numerical data to *census* figures, this study aims to reevaluate the economic impact of aedilician fines on Roman state finances, and more in general the scale of this practice.

**Keywords:** aediles – fines – public building – temple building – *census* – Roman public finances.

## 1. Introduction

In his review of Salerno's monograph on confiscations of property in the Roman Republic, Hinard remarks that one of the crucial points, which still remains to be explored, is the role of fines within the study of confiscation.<sup>1</sup> Indeed fines deserve to be analysed within the wider historical phenomenon of confiscations for a number of reasons. First of all, fines were a more frequent and successful means of punishment in comparison to the seizure of someone's property, which in the historiographical tradition of the Republic seems to play the role of negative *exemplum* rather than being a recurrent and usual punishment; a considerable number of confiscations of property only occurred in extraordinary historical contexts such as in 121 BC, with the confiscations of property of C. Sempronius Gracchus, M. Fulvius Flaccus and their supporters, and during the Sullan and triumviral proscriptions.<sup>2</sup> Second, the confiscation and dedication of fines or their proceeds to public and religious activities mirrors the procedure performed in some cases for complete confiscations of property, and are more frequently attested in literary sources. Hence, a comparison of fines may help us to understand better how confiscation of entire properties would have functioned.<sup>3</sup> Above

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1 Salerno 1990; Hinard 1993: 11–23.

2 For the confiscations of C. Sempronius Gracchus, M. Fulvius Flaccus, and their supporters see Plut., *C. Gracch.* 17.6; Oros. 5.12.9. For the confiscations of property carried out during the proscriptions see the fundamental work of Hinard 1985, esp. 51; 85–6; 186–203.

3 For example, the consecration of Spurius Cassius' *peculium* or property, the proceeds of which were con-

all, fines imposed either by curule or plebeian aediles at Rome between the third and the first century BC, seem to have continually funded numerous public building activities. Thus, a re-examination of these sanctions may help us to appreciate better their financial influence on the construction and maintenance of public buildings in Republican Rome.

The most accurate definition of a fine (*multa*) can be found in Varro:

A ‘fine’, a *multa*, is the money specified by a magistrate, that is to be exacted on account of a transgression.<sup>4</sup>

The term *multa* is here employed with the specific meaning of pecuniary sanction, while in many literary sources the same term is used to indicate general punishment or condemnation.<sup>5</sup> The two meanings are also attested in the Digest: the jurist Labeo claimed that *multa* could be used as a synonym for *poena* (punishment), while his commentator, Paulus, argued that the term was specific to fines. Ulpian also supports Paulus’ statement by affirming that: ‘a fine today is the pecuniary punishment of a specific offence.’<sup>6</sup>

Although Gellius claimed it was a Sabine term, *multa* is probably an Oscan loan word as attested by a few Oscan inscriptions and by Festus.<sup>7</sup> The amount of a fine could be fixed by law or set case by case, and it was initially measured in metal or animals, for the tradition records a series of laws which set ratios for conversion from cattle and sheep into pounds of bronze (*asses*).<sup>8</sup> In literary and epigraphic sources, among the offences which may incur a fine exacted by magistrates, we find usury, excessive ownership of cattle and sheep and occupation of public land, theft of sacred objects, sexual and other moral offences, hoarding grain from the market, and so on.<sup>9</sup>

secreted to Ceres in the form of a statue (Livy 2.41.10–1; Dion. Hal., *Ant. Rom.* 8.79.3–4), or that of Vitruvius Vaccus to Semo Sancus from which proceeds bronze plates were dedicated and set up in his *sacellum* (Livy 8.19–20; Cic., *Dom.* 38).

- 4 *multa ea pecunia quae a magistratu dicta, ut exigi posset ob peccatum* (Varro, *Ling.* 5.177). Cf. *Multam ... M. Varro ait poenam esse, sed pecuniarum.* (Festus, *Gloss. Lat.* 142L). Other synonyms rarely employed for *multa* are *condemnatio*, *damnum*, and *interminatio*. The Greek terms are ἡ ποινή, ἡ ζημία, τὸ ἐπιτίμιον.
- 5 For instance Plaut., *Asin.* 801; *Rud.* 20; *Stich.* 727; *Capt.* 494; Cic., *Or.* 194.
- 6 ‘... *multa specialis peccati, cuius animadversio hodie pecuniaria est*’ (Dig. 50.16.131); Dig. 50.16.244. For a detailed discussion of these passages, see Brasiello 1937: 131.
- 7 Gell., *NA.* 11.1.5; Vetter 12; Vetter 22; Vetter 115; Vetter 116; cf. Untermann 2000: 482–3; Festus, *Gloss. Lat.* 126L. The fundamental modern studies of fines are still those of Huschke and Mommsen, which both give an overall outline of the practice with a helpful collection of sources, supplemented by the entries in the *Dictionnaire des antiquités grecques et romaines*, the *Realencyclopädie der Classischen Altertumswissenschaft*, and the *Novissimo Digesto Italiano*. Huschke 1874; Mommsen 1907 (I): 55–61, and (III): 366–88; Lécivain 1918: 2014–20; Hellebrand 1935: coll. 542–55; Brasiello 1964: 984–5.
- 8 *lex Aternia Tarpeia*, 454 BC; *lex Menenia Sestia*, 452 BC; *lex Iulia Papiria*, 430 BC. A detailed account of these laws is in Rotondi 1912: esp. 200–1; 211–2.
- 9 Magistrates would seem to be responsible for imposing and exacting fines in sacred contexts. Fines against people who violated sacred groves are imposed by magistrates as attested by the *lex luci Lucerina* and the *lex luci Spoletina*, both to be dated between 315 BC and 240 BC. Fines imposed on people who stole sacred objects from temples are attested by the so-called *lex aedis Furfensis*, the dedication of the temple of Jupiter Liber in the *vicus* of Furfo made on 13<sup>th</sup> July 58 BC. In this provision the aedile was responsible for selling, renting the property of the temple, and he is also to impose fines on theft of sacred object. *Lex*

Fines were usually imposed and collected by magistrates (*multam irrogare*), and were first assigned to the public treasury.<sup>10</sup> Magistrates could also allocate part of these fines to fund the construction or restoration of public and sacred buildings. The precise destination of the proceeds of a fine is indicated by the employment of specific expressions in literary and epigraphic sources, such as *in sacrum iudicare*. For example, the plebiscite known as the *lex Silia*, which according to Cloud is to be dated between 287 BC and 223–218 BC, says:

It is to be lawful for any magistrate who shall wish to fine him, up to half his estate (*familia*); or if any (magistrate) shall have wished to adjudge (it) for sacred purposes, it is to be lawful.<sup>11</sup>

In the *lex Silia*, the term used to quantify the wealth of the individual on whom a fine has been imposed by a magistrate is *familia*, which indicates someone's household and possessions; this helps to clarify fines in a partly monetised or non-monetary society, when these sanctions may have still been assessed in kind.<sup>12</sup> Moreover some provisions, such as the *lex Silia* (cited above) or the *leges regiae* recorded by Dionysius, suggest that the convicted could not be fined more than half of his property, as also noted by Laffi.<sup>13</sup>

A few legal documents tell us more about the management of the proceeds of fines by magistrates. The first is a provision in the so-called *lex Tarentina*, of around 90 BC, which specified what magistrates must do with fines exacted for illegal demolition of buildings belonging to the *municipium*:

The magistrate who shall have exacted is to pay half into the public treasury and is to spend half on the games which he shall give publicly in that magistracy, or if he shall wish to spend it in public on his monument, it is to be lawful and it is to be lawful for him to do that without personal liability.<sup>14</sup>

As Crawford has already pointed out, a similar provision is attested by a Pompeian inscription of the Sullan age. The inscription attests the construction of two rooms of

*Lucerina*: CIL IX, 782 (p. 667) = CIL I<sup>2</sup>, 401 (pp. 720, 832, 883) = ILS 4912 = ILLRP 504; *lex Spoletina*: CIL I<sup>2</sup>, 366 (pp. 720, 831–2, 877, 2872); XI, 4766 (p.1374); ILS 4911; ILLRP 505–6, cf. Panciera 1994: 31–2; *lex aedis Furfensis*: CIL I<sup>2</sup>, 756 (pp. 727, 839, 946); IX, 3513; ILS 4806; ILLRP 508, cf. Laffi 2001: 515–544.

<sup>10</sup> See for instance *lex Tarentina* l.36; Crawford 1996: 301–312, cf. also *lex Coloniae Genetivae* LXV, ll.18–20; Crawford 1996: 393–454; *lex Irnitana* LXVI, l.19; Livy 10.23.11–3.

<sup>11</sup> *eum quis uolet magistratus multare{tur}, dum minor<is> pa<rt>is familias taxat, liceto, siue quis in sacrum iudicare uoluerit, liceto*, Cloud in Crawford 1996: 737–9. The provision may also be compared with the Tuder fragment of the *lex Valeria Aurelia*, which contains a similar expression: Crawford 1996: 522–43. Literary sources on the use of *multam irrogare*: Plaut., *Capt.* 494; Cic., *Leg.* 3.3.6; *Dom.* 45; *Mil.* 14.36; Livy 26.3.8; Gell., *NA.* 6.19.

<sup>12</sup> Hinard 1993: 11–23.

<sup>13</sup> *Lex Silia*, Crawford 1996: 737–9; Cato, *apud Gellius* 6.3.37 = Malcovati O.R.F 167; Front., *Ad Anton.*, 1.5.3; Dion.Hal., *Ant.Rom.* 2.15.2, Cf. Laffi 2001: 537, n.73. For other evidence of amount of fines which could not be higher than half of the property see also *lex Latina tabulae Bantinae* ll.7–13, Crawford 1996: 193–208; *lex Osca tabulae Bantinae* ll. 5;8;12; Crawford 1996: 271–284; *lex repetundarum* ll. 45–6, Crawford 1996: 39–112; *lex Gabinia Calpurnia de insula Delo* ll. 31–6; Crawford 1996: 345–351.

<sup>14</sup> *magi(stratus) quei exegerit dimidium in [p]ublicum referto, dimidium in l[u]deis, publice in eo magistratu facie[t], consumito, seive ad monumentum suom in publico consumere uolet, l[icet]o idque ei s(ine) fraude s(ua) facere liceto*, ll. 36–8; Crawford 1996: 301–312.

the Stabian baths and the restoration of the *porticus* and *palaestra* undertaken by the *duoviri iure dicundo* ‘from that money which by law they have to spend on games or monuments.’<sup>15</sup> According to Pobjoy, the *lex* mentioned in this inscription should be interpreted as the colonial charter given at the time of the Sullan foundation which aimed to regulate the duties of the *duoviri*. This would suggest that some of the commemorative inscriptions of magistrates who funded building activities without previous public authorization were not simply acts of euergetism or the employment of their *summa honoraria* but could correspond, at least in some cases, to the obligations specified by the local council in the colonial charter.<sup>16</sup>

However, it is important to stress that it did not make any formal difference whether the money collected from fines was allocated to a sacred or to a civic project, as this income was always intended for public purposes. Crawford has clearly illustrated this point by discussing the legal categories of public, private and sacred property in the theoretical framework of middle and late Roman Republic. The domain of the public would seem to have embraced also the sacred, as both these spheres were very much associated with communal civic life, whereas the main boundary would seem to have been between private and public *res* rather than between public and sacred.<sup>17</sup>

## 2. Aedilician Fines at Rome

Aedilician fines which explicitly mention the allocation of their proceeds at Rome are well attested in the literary sources, mainly in Livy but also in Ovid, Pliny, Plutarch, and Festus.<sup>18</sup> The episodes recorded range from 304 BC to 189 BC, with a gap in the historical record from 242 BC to 219 BC, mainly due to the loss of Livy’s second decade (covering 292 BC to 219 BC), and of all his books from 166 BC on. The money collected from the fines funded the construction and maintenance of public works and temples, the celebration of the Roman and plebeian games, and the setting up of precious metal objects in the shrines of several different deities. In a recent article Estienne and De Cazanove have collected and examined some of the literary sources for aedilician fines deposited or used in Roman sanctuaries during the Republican

15 ILLRP 48; CIL X, 829 (p 967, 968) = CIL I, 1635 (p 1014) = ILLRP 648 = AE 2009, 52 C(aius) Vvilius C(ai) f(iilius) P(ublius) Aninius C(ai) f(iilius) Ilv(iri) i(ure) d(icundo) / laconicum et d(e)strictarium / faciund(um) et porticus et palaestr(am) / reficiunda locarunt ex / d(ecreto) d(ecurionum) ex / ea pe<c=Q>unia quod eos e lege / in ludos aut in monumento / consumere oportuit faciun(da) / coerarunt eidemque probaru(nt). Cf. Crawford 1996: 310–11. Contra Cébeillac Gervasoni 1998: 100–1, who thinks that the Pompeian inscription regards the *summa honoraria* which civic magistrates have to pay when they start their office.

16 Pobjoy 2000: 82–4.

17 Crawford 1989: 93–8. For a recent discussion on the meaning of ‘public’ and ‘private’ space in Republican Rome see Russell 2016.

18 Note that in this survey I will consider only cases which explicitly refer to the employment of the proceeds of fines to civic and sacred purposes. An overview of aedilician prosecutions with a collection of sources is in Bauman 1974: 245–264; Lintott 1999: 129–132, esp. nn. 43–6. For a recent overview of aedilician activities see also Daguet-Gagey 2015.

age.<sup>19</sup> As pointed out in their work, the dedication of precious metal objects seems to be the most frequent destination of the proceeds of a fine, and is often related to the celebration of the Roman or plebeian games. For instance, according to Livy, the first attested plebeian games were funded from fines in 296 BC.<sup>20</sup>

Table I presents an overall summary of the literary evidence for aedilician activities funded by fines. I have included a few references not considered by Estienne and De Cazanove and those where the source of the funding is not mentioned but may presumably come from fines (\*). Table Ia lists the only epigraphic attestation of aedilician fines at Rome.

Table I. Aedilician fines in literary sources

Reference	Date	Magistrates	Divinity	Activities	Terms	Convicted
Pliny, <i>HN</i> . 33.19–20; cf. Livy 9.46.6, who does not mention the source of funding	304 BC	Cn. Flavius curule aedile	Concordia	Construction and dedication of a small bronze shrine to Concordia.	<i>ex multatitia faeneratoribus condemnatis</i>	usurers
Livy 10.23.11–3	296 BC	Cn. and Q. Ogulnius curule aediles	Jupiter, Remus and Romulus	Brazen thresholds in the Capitol, and silver vessels for the three tables in the shrine of Jupiter, and a statue of the god in a four-horse chariot on the roof, and at the fig-tree Ruminalis. A representation of the infant Founders of the City being suckled by the wolf. They also made a paved walk of squared stone from the <i>Porta Capena</i> to the temple of Mars. <sup>21</sup>	<i>quorum bonis multatis ex eo quod in publicum redactum est</i> <sup>22</sup>	usurers

19 Estienne-De Cazanove 2009: 5–35. Note that in their survey they do not include the following relevant cases: Livy 10.47.4–5; 25.2.9–10; Ov., *Fast.* 283–194, cf. Festus, *Gloss.Lat.* 276L; Plut., *Marc.* 2.3–4.

20 It is safer to say that the first attestation of plebeian games funded from fines is only according to Livy as Valerius Maximus describes the games instituted in 491 BC as ‘plebeian’, Val. Max. 1.7.4, while Livy refers to the same games as *ludi magni*, Livy 2.36.1; cf. 10.23.11–13.

21 For an earlier reference of the way, which connected the *Porta Capena* to the temple of Mars, see Livy 7.23.3.

22 For the expression *redactum est* see Livy 7.27.8.

Reference	Date	Magistrates	Divinity	Activities	Terms	Convicted
Livy 10.23.13	296 BC	L. Aelius Paetus, C. Fulvius Curvus plebeian aediles	Ceres	Plebeian games, golden bowls for the temple of Ceres. <sup>23</sup>	<i>ex multatitia item pecunia</i>	graziers <sup>24</sup>
Livy 10.31.9	295 BC	Q. Fabius Gurges <i>consulis filius</i> (presumably a curule aedile) <sup>25</sup>	Venus	Construction of the temple of Venus.	<i>pecunia multavit (...) ex quo multatitio aere</i>	<i>matronae for stuprum</i> <sup>26</sup>
Livy 10.33.9–10	294 BC	L. Postumius Megellus consul	Victory	Construction and dedication of the temple of Victory. <sup>27</sup>	<i>ex multatitia pecunia</i> (collected when he was aedile)	not mentioned
Livy 10.47.4–5	292 BC	aediles curules		Roman games, paving of a stretch of the <i>Via Appia</i> from the temple of Mars to Bovillae. <sup>28</sup>	<i>damnatis aliquot pecuariis</i>	graziers
Livy 2.4.16.19	246 BC	Ti. Sempronius Gracchus plebeian aedile	Jupiter Libertas	Construction and dedication of the temple of Jupiter Libertas. <sup>29</sup>	<i>ex multatitia pecunia</i>	not mentioned

23 First attestation of plebeian games in Livy see n.20 above.

24 They presumably had infringed the law regarding the number of cattle and sheep they were allowed to pasture see Jones 1972: 15; Briscoe 1981: 330; Roselaar 2010: 99–101. I note that while most scholars have taken the law to limit the number of animals pastured on *ager publicus*, in his article on the control and exploitation of *ager publicus* in the Roman Republic, Rathbone argues that the Licinian law limited the ownership of private land, and of cattle and sheep, whenever they were pastured, Rathbone 2003: 146–7.

25 See Oakley 2005: 341.

26 *Stuprum* in Roman Republic means any kind of sexual offences, see Robinson 1995: 58; Oakley 2005: 341, and more in general Cavaggioni 2004.

27 Ziolkowski suggests that the temple was vowed during Postumius' consulship in 304 BC and the construction began only later, when he was aedile, see also Oakley 2005: 358, n.1.

28 The same stretch of the street would seem to have been paved with *silex* in 189 BC by the censors: Livy 38.28.3–4.

29 According to Livy, Ti. Gracchus seems to have acted alone, although we have evidence for his prosecution activity together with his colleague C. Fundanius Fundulus: Val. Max. 8.1 *damn.* 4; Suet., *Tib.* 2.3; Gell., *NA.* 10.6.1–4. The temple could have been constructed between his aedileship in 246 BC and consulship 238 BC.

Reference	Date	Magistrates	Divinity	Activities	Terms	Convicted
Ov., <i>Fast.</i> 5. 283–294; Festus, <i>Gloss.Lat.</i> 276L; Tac., <i>Ann.</i> 2.49 (temple) who does not mention the source of funding <sup>30</sup>	240 or 238 BC	L. and M. Publicius Malleolus plebeian aediles	Flora	Construction of a temple to Flora. Part of the fine dedicated to Flora (Chloris), for the games and construction of a road.	<i>multam subiere nocentes/pecuaris condemnatis ex pecunia</i>	graziers
Plut., <i>Marc.</i> 2.3–4; cf. Val. Max. 6.1.7	226 BC	M. Claudius Marcellus curule aedile	Gods	Silver libation– bowls dedicated to the gods.	<i>και χρήμασιν ἐξημίωσαν Καπετωλῖνον, ἐξ ὧν ὁ Μάρκελλος ἀργυρᾶ λοιβεῖα ποιησάμενος τοῖς θεοῖς καθιέρωσεν.</i>	C. Scantinius Capitolinus convicted for trying to seduce Marcellus' son <sup>31</sup>
*Livy 23.30.16	216 BC	C. Laetorius, Ti. Sempronius Gracchus curule aediles		Roman games repeated three times.		
*Livy 23.30.17	216 BC	M. Aurelius Cotta, M. Claudius Marcellus plebeian aediles		Plebeian games repeated three times.		
*Livy 24.43.6–8	214 BC	Cn. Fulvius Centumalus, P. Sempronius Tuditanus curule aediles		<i>Ludi scaenici</i> for four days.		

<sup>30</sup> Cf. also Varro, *Ling.* 5.158.

<sup>31</sup> According to Plutarch, Scantinius was Marcellus' colleague, whereas in Valerius Maximus' account he was a tribune of the plebs. I am not convinced by Broughton's argument, who supposes he was plebeian aedile, Broughton 1951: 230.

Reference	Date	Magistrates	Divinity	Activities	Terms	Convicted
*Livy 25.2.6–9	213 BC	M. Cornelius Cethegus, P. Cornelius Scipio curule aediles	not mentioned	Roman games repeated for one day and measures of oil for each borough ( <i>in vicos</i> ). <sup>32</sup>		
Livy 25.2.9–10	213 BC	L. Villius Tappulus, M. Fundanius Fundulus plebeian aediles	Jupiter	Plebeian games repeated for two days, banquet for Jupiter.	<i>damnatas in exilium</i> <sup>33</sup>	<i>matronae</i> for immorality
*Livy 27.6.19	210 BC	L. Veturius Philo, P. Licinius Varus curule aediles		Roman games set up for one day.		
Livy 27.6.19	210 BC	Q. Cadius, L. Porcius Licinus plebeian aediles	Ceres	Bronze statues for the temple of Ceres, plebeian games.	<i>ex multatio argento</i>	not mentioned
*Livy 27.21.9	209 BC	Q. Caecilius Metellus, C. Servilius aediles curules		Roman games.		
*Livy 27.21.9	209 BC	L. Cornelius Caudinus, Ser. Sulpicius Galba plebeian aediles		Plebeian games.		
*Livy 27.36.8	208 BC	Q. Caecilius Metellus, C. Servilius curule aediles		Roman games.		
*Livy 27.36.9	208 BC	C. Mamilius, M. Caecilius Metellus plebeian aediles	Ceres / Jupiter	Plebeian games repeated for two days, three statues set up in the temple of Ceres, banquet for Jupiter.		

32 Note that in this passage, precisely at 25.2.9, there is a *lacuna*.

33 The standardized expression *ex argento multatio* is not mentioned but we may suppose from this sentence that the magistrates imposed and collected fines on the convicted *matronae*.



Reference	Date	Magistrates	Divinity	Activities	Terms	Convicted
*Livy 28.10.6	207 BC	Cn. Servilius Caepio, Ser. Cornelius Lentulus cu- rule aediles		Roman games repea- ted for three times.		
*Livy 28.10.3;7	207 BC	M. Pompo- nius Matho, Q. Mamilius Turrinus plebeian aediles		Plebeian games repea- ted for three times.		
*Livy 29.11.12	205 BC	Cn. And L. Cornelius Lentulus cu- rule aediles		Roman games repea- ted for three times.		
*Livy 29.11.12–3	205 BC	Ti. Claudius Asellus, M. Junius Pen- nus plebeian aediles		Plebeian games repea- ted for seven times.		
*Livy 29.38.8	204 BC	C. Livius Salinator, M. Servilius Ge- minus curule aediles		Roman games repeated for two days, a gilded four-horse chariot set up on the Capitol.		
*Livy 29.38.8	204 BC	P. Aelius, P. Villius Tappulus plebeian aediles	Jupiter	Plebeian games, banquet for Jupiter.		
*Livy 30.26.5–6	203 BC	M. Vale- rius Falto, M. Fabius Buteo curule aediles		Roman games repea- ted once.		
*Livy 30.26.11	203 BC	M. Sextus Sabinus, Cn. Tremellius Flaccus plebeian aediles		Plebeian games repea- ted for three days.		
*Livy 30.39.8	202 BC	L. Licinius Lucullus, Q. Fulvius curule aediles		Roman games repea- ted for three days.		

Reference	Date	Magistrates	Divinity	Activities	Terms	Convicted
Livy 30.39.8	202 BC	P. Aelius Tubero, L. Laetorius plebeian aediles	Jupiter	Plebeian games, banquet for Jupiter, three statues on the Capitol. <sup>34</sup>	<i>ex multatioio argento</i>	not mentioned
*Livy 31.4.5–6	201 BC	L. Quinctius Flaminius, L. Valerius Flaccus curule aediles		<i>Ludi scaenici</i> repeated for two days.		
*Livy 31.4.7	201 BC	L. Apustus Fullo, Q. Minucius, plebeian aediles	Jupiter	Plebeian games repeated for three days, a banquet to Jupiter.		
Livy 31.50.2–3	200 BC	M. Claudius Marcellus, Sex. Aelius Paetus curule aediles	Public treasury ( <i>aedes Saturni</i> ) <sup>35</sup>	Roman games for one day, five bronze statues set up in the public treasury.	<i>ex multatioio argento</i>	not mentioned
*Livy 31.50.3–4	200 BC	L. Terentius Massiliota, Cn. Baebius Tamphilus plebeian aediles		Plebeian games repeated three times, and a gladiatorial show.		
*Livy 32.7.13–14	199 BC	M. Porcius Cato, C. Helvius plebeian aediles	Jupiter	Plebeian games, banquet for Jupiter.		
*Livy 32.7.14–15	199 BC	C. Valerius Flaccus, C. Cornelius Cethegus curules aediles		Roman games.		
*Livy 32.27.8	198 BC	Quintus Minucius Thermus, T. Sempronius Longus curule aediles		Roman games repeated for four times.		

34 Both curule and plebeian aediles of this year were involved in episodes of corruption. The *scribae* and *viatores* of L. Licinius Lucullus were condemned for having stolen money from the public treasury, while the plebeian aediles abdicated their offices after having carried out the dedication from fines because of a legal defect during their elections.

35 For the temple of Saturn and the location of the public treasury see Coarelli LTUR (IV) 1999: 234–6.

Reference	Date	Magistrates	Divinity	Activities	Terms	Convicted
*Livy 33.25.1–2	197 BC	P.Cornelius Scipio Nasica, Cn. Manlius Volso curule aediles		Roman games repeated three times.		
Livy 33.25.2–3	197 BC	M. Acilius Glabrio, C. Laelius plebeian aediles	Ceres, Liber and Libera	Plebeian games repeated for seven times, erected three bronze statues to Ceres, Liber and Libera.	<i>de argento multatio</i>	not mentioned
*Livy 33.42.8–10	196 BC	M. Fulvius Nobilior, C. Flaminus curule aediles		Roman games repeated three times.		
Livy 33.42.10; 34.53.4–5	196 BC	Cn. Domitius Ahenobarbus, C. Scribonius Curio plebeian aediles	Faunus	Construction of the temple of Faunus in the Tiber Island. <sup>36</sup> Plebeian games repeated for two days and a banquet.	<i>tres ex his condemnati sunt; ex eorum multatio pecunia (...)</i>	graziers
*Livy 34.54.3–8	194 BC	A. Atilius Serranus, Lucius Scribonius Libo curule aediles		<i>Ludi scaenici</i> at the Megalesian games for the first time.		
Livy 35.10.11–2	193 BC	M. Aemilius Lepidus, L. Aemilius Paulus curule aediles	Jupiter	Gilded shields set up on the roof of the temple of Jupiter, construction of one portico outside the <i>Porta Trigemina</i> , addition of a wharf on the Tiber, and another portico from the <i>Porta Fontinalis</i> to the altar of Mars.	<i>multos pecuarios damnarunt; ex ea pecunia (...)</i>	Graziers

36 The temple was dedicated two years later in 194 BC by C. Domitius Ahenobarbus, during his praetorship Livy 34.53.4–5.

Reference	Date	Magistrates	Divinity	Activities	Terms	Convicted
Livy 35.41.10	192 BC	M. Tuccius, P. Junius Brutus curule aediles	Jupiter	Gilded four-horse chariots set up on the Capitol, twelve gilded shields set up on the roof of the inner room of the temple of Jupiter and a portico outside the <i>Porta Trigemina</i> .	<i>de multa damnatorum</i> (...) <i>Iudicia in faeneratorum eo anno multa severe sunt facta accusantibus privatos</i>	Usurers <sup>37</sup>
Livy 38.35.5–6	189 BC	P. Claudius Pulcher, S. Sulpicius Galba curule aediles	not mentioned	Twelve gilded shields presumably set up on the Capitol, Roman games repeated three times. <sup>38</sup>	<i>qua frumentarios ob annonam compressam damnarunt</i>	grain dealers condemned to pay for hoarding grain-supply
Livy 38.35.6	189 BC	Q. Fulvius Flaccus plebeian aedile <sup>39</sup>	not mentioned	Two gilded statues presumably set up on the Capitol, plebeian games repeated five times.	<i>uno reo damnato</i>	grain dealers condemned to pay for hoarding grain-supply
*Livy 39.7.8–9	187	P. Cornelius Cethegus, A. Postumius Albinus curule aediles		Roman games repeated for two days.		
*Livy 39.7.10	187 BC	C. Sempronio Blaeso, M. Furio Lucio plebeian aediles		Plebeian games for one day.		

37 Perhaps usurers were prosecuted under the plebiscite of M. Sempronius passed in 192 BC which disciplined the loan of money and rates of interest, see Livy 35.7.5. Also for previous laws on the rate of interest see Livy 7.16.1; 7.42.1. cf. App. *BCiv.* 1.54; Tac., *Ann.* 6.16. For other attestations of trials against usurers see Livy 7.28.9, which simply states that there were many severe judgements against usurers that year.

38 *Clipea* as ornamental shields rather than medallions: see Briscoe 1981: 121. For hoarding grain see Garnsey 1988.

39 Livy says explicitly that A. Caecilius, Q. Fulvius Flaccus's colleague, did not condemn anybody that year whereas aediles used to prosecute and condemn together, see also Briscoe 1981: 121.

Table Ia Epigraphic record of aedilician fines in Rome

Reference	Date	Text	Type of object
CIL I 2675c (p. 954); ILLRP 45 (p. 317); AE 1946, 172; AE 1949, 180	End of II BC ca.	] <i>aidiles curules moltaticod dedere esdem probaverunt</i>	Mosaic inscription on the pavement of the temple of Apollo Medicus.

## 2.1 The Monumentality of Aedilician Fines

The activities funded by fines are sometimes monumental and in some cases even independently attested, for instance the statue of Jupiter in a four-horse chariot erected on the roof of its Capitoline temple by the curule aediles Ogulnii in 296 BC from the fines they had collected from usurers, may be the chariot represented on *quadrigati* didrachms issued by Rome in the period 225–214 BC.<sup>40</sup> Despite the popularity of the coin type of Jupiter in *quadriga*, a link might be also found in the denarius minted in 86 BC by the moneyers Gargonius, Vergilius, and Ogulnius. Jupiter in *quadriga* is depicted on the reverse, and this would suggest that one of the minters, Ogulnius, wished to recall the famous sculpture set up on the temple of Jupiter by his ancestors.

Ancient sources record at least six foundations of temples financed by fines. The first one is a little bronze shrine (*aedicula*) dedicated to Concordia by the aedile Cn. Flavius in 304 BC, near the *comitium*, with the fines collected from usurers, as no public money was assigned for this purpose.<sup>41</sup> In 295 BC Q. Fabius Gurges, presumably curule aedile, founded the temple of Venus, allegedly the first dedicated to this divinity in Rome, near the *Circus Maximus*. There are two traditions regarding this foundation: Livy says it was constructed with the fines imposed on *matronae* convicted of sexual offences, whereas Servius reports that the temple was vowed by Gurges during the third Samnite War, and that Venus was worshipped as *Obsequens*.<sup>42</sup> Livy's explanation would seem to be more reliable: although sexual offences were usually prosecuted privately, we have at least two other cases which attest aedilician competence on this matter, and a dedication of the temple to Venus Verticordia after a similar

40 Livy 10.23.11–3; Cf. Mattingly 1945: 73–4; Crawford 1974: 145–7. For the statue of Remus, Romulus and the wolf see further bibliography in Oakley 2005: 264–6.

41 'cum ad id pecunia publice non decerneretur' Pliny, *HN*. 33.19; Livy 9.46.6, dedication: *InstIt* XIII 2, 15; 47, cf. Ziolkowski 1992: 21–2; Ferroni *LTUR* (I) 1993: 320–1. For a discussion on the dedication law reported in Livy see Mommsen 1887 (II): 618–20; Ziolkowski 1992: 219–34; Orlin 1997: 163–178; see also Oakley 2005: 621–4 for a summary of previous discussions and a commentary on Livy's passage.

42 Livy 10.31.9; 29.37.1; Servius *ad Aen.*, 1.720. Dedication: *InstIt* XIII 2, 17; 148–9, Ziolkowski 1992: 167–71; Papi *LTUR* (V) 1999: 118–9. There would seem to be a family association between the *Fabii* and the cult of Venus, as in 215 BC Q. Fabius Maximus Verrucosus dedicated a temple to Venus Erycina, see Livy 23.20.13–4.

offence.<sup>43</sup> Above all, the punishment of a group of *matronae* would suggest some kind of organized misbehaviour, which would need a public prosecution.<sup>44</sup> The next year, in 294 BC, the consul L. Postumius Megellus dedicated a temple to Victory, which he funded with the proceeds of fines collected when he was curule aedile from unspecified offenders. Remains of the monumental *podium* have been identified in the southwest area of the Palatine.<sup>45</sup> In 214 BC, Livy records that Ti. Sempronius Gracchus set up a celebratory painting of the victory of Beneventum in the temple of Iuppiter Libertas. His father began the construction of this temple in 246 BC, when he was plebeian aedile together with his colleague C. Fundanius Fundulus. Among the sanctions which financed this temple, we may include the fine imposed on Claudia, the daughter of Ap. Claudius Caecus, for her arrogant words against the People.<sup>46</sup> Between 241 and 238 BC the plebeian aediles L. and M. Publicius Malleolus celebrated games in honour of Flora because of a famine. They managed to finance not only the games, but also the construction of a road, and according to Tacitus, the foundation of a temple to Flora near the *Circus Maximus*, close to the temple of Ceres, out of the fines they had levied on graziers.<sup>47</sup> The last aedilician foundation of a temple known to us is that of Faunus, constructed in 196 BC on the northern side of the Tiber Island by the plebeian aediles Cn. Domitius Ahenobarbus and C. Scribonius Curio with the fines imposed on three convicted graziers.<sup>48</sup> During his praetorship two years later, Cn. Domitius Ahenobarbus dedicated the temple, the remains of which were visible until the eighteenth century. This temple is the only one dedicated to this divinity known in Rome.

High-cost initiatives such as paving roads are also attested in Livy.<sup>49</sup> In 296, the curule aediles Ogulnii used the money they had collected from usurers to pave with squared stones the first mile of the *Via Appia*, from the *Porta Capena* to the temple of Mars. In 293 the surfacing of the *Via Appia* was extended to Bovillae, again financed by two unnamed curule aediles with the fines imposed on convicted graziers. These works must have been highly expensive if Diodorus tells us that Ap. Claudius expended the entire funds of the public treasury while digging through elevated places and

43 For other cases of sexual offences prosecuted by aediles see Livy 8.22.3; 25.2.9. For the dedication of temple to Venus Verticordia built after a case of unchastity of three Vestal Virgins see Ov., *Fast.* 4.157–160; Val. Max. 8.15.2; Oros. 5.15.22; Obs. 37.

44 For a detailed discussion of this episode see Cavaggioni 2004: 44–6.

45 Livy 10.33.9. Dedication InsIt XIII, 2, 16; 134–5. Pensabene LTUR (V) 1999: 149–50; *contra* Ziolkowski 1992: 172–9, who argues for a manubial foundation.

46 On the fine imposed on Claudia: Livy, *Per.* 19; Val. Max. 8.1.damn.4; Suet., *Tib.* 2.3; Gell., *NA.* 10.6.1–4. Cf. Cavaggioni 2004: 108–20. Dedication: InsIt XIII, 2, 8, cf. RGDA 19.2; Ziolkowski 1992: 85–7; Andreussi LTUR (III) 1996: 144.

47 Tac., *Ann.* 2.49, Ov., *Fast.* 5. 283–294; Festus, *Gloss.Lat.* 276L; cf. Varro, *Ling.* 5.158. Dedication: InsIt XIII 2, 180–1. Ziolkowski 1992: 31–3; Papi LTUR (II) 1995: 253–4.

48 Livy 33.42.10; 34.53.4. Degrassi LTUR (I) 1993: 242.

49 Livy 10.23.11–3; 10.47.4, cf. 9.1.7. For similar aedilician activities, which do not mention the source of funding, see for example an inscription from Beneventum, which records the construction of a cistern and the paving of a street by the aediles C. Ennius and C. Bergonius. CIL IX, 1644: *C(aius) Ennius M(arci) f(ilius) / C(aius) Bergonius Q(uinti) f(ilius) / aed(iles) / viam straverunt / et lacu{u}s fecerunt.*

levelling the ground through ravines and valleys to build the *Via Appia*.<sup>50</sup> Another example is the construction of the *clivus Publicius*, a street that ran from the *Forum Boarium* to the *Porta Trigemina*, on the north side of the Aventine. The *clivus* was named after the aediles L. and M. Publicius Malleolus, who built the street between 241 and 238 BC out of the fines they had levied on graziers.<sup>51</sup>

The construction of porticoes and a wharf on the Tiber are other aedilician activities funded by fines. In 193 BC, the curule aediles M. Aemilius Lepidus and L. Aemilius Paulus built a portico, the *Porticus Aemilia*, with the money collected from convicted graziers, and a wharf on the Tiber. The construction of another portico in the same area is reported by Livy to have been built by the curule aediles M. Tuccius and P. Junius Brutus in 192 BC. In 174, the censors paved the wharf in stone, and added stairs and ramps to descend to the Tiber. The excavations of this structure, carried out in the late nineteenth century and in 1952, revealed a wharf 500 meters long and 90 meters deep. Remains of concrete structures, restored under Trajan, are still visible on the left bank of the Tiber near Monte Testaccio, although the identification of these structures with the *Porticus Aemilia* is still very much debated.<sup>52</sup> Nevertheless, these new constructions were part of a significant extension plan of South Aventine, which provided the city of Rome, rapidly expanding after the Hannibalic War, with new river port facilities.

Aediles seem to have carried out these initiatives without authorization from the Senate or People; and, they presumably did so by virtue of their magisterial powers, which included the right to make votive offerings (*stipes*), to temples.<sup>53</sup> The surviving inscriptions recording aedilician activities do not mention any authorization from the Senate or the people. There is no evidence that the Senate objected to their initiatives.<sup>54</sup> For comparison, Ziolkowski notes that just as consuls and praetors vowed and

50 Diod. Sic. 20.36.2, cf. Wiseman 1970: 144.

51 The *clivus* was built in 241 BC according to Vell. Pat. 1.14.8 or in 238 BC according to Pliny, *HN*. 18.286. The *clivus Pullius* and *clivus Cosconius* are other examples of streets named after their constructors, see Palombi *LTUR* (I) 1993: 284. According to Varro and Ovid, the Publicii Malleoli were plebeian aediles; according to Festus curule aediles, while Tacitus makes them tribunes. The aediles also vowed and dedicated the Temple to Flora during a famine after the consultation of the Sibylline Books, and founded the *ludi florales*, which is the general procedure followed for the foundation of a new temple as in the case of the temple of Ceres, Liber and Libera. Indeed, this cult has been often linked to that of Flora because of the agrarian and plebeian features of them both and their close location, near the starting gates of the *Circus Maximus* and the *Forum Boarium*.

52 The identification of these concrete structures with the *Porticus Aemilia* is based on the extant label –LIA in the *forma Urbis* and that Livy says it was *extra portam Trigemina*. However, this identification has been challenged by Cozza and Tucci, who suggest that it was the *Navalia* and Coarelli who proposed the identification with the *Horrea Cornelia*. See Tuck 2000: 175–182; Cozza – Tucci 2006: 155–202; Coarelli 2007: 41–6.

53 Aediles responsible for offerings to the temples (the so-called *procuratio aedium sacrarum*): CIL VI, 7 (p 3003, 3755) = CIL I, 800 (p 953) = ILLRP 39 = AE 1987, 53: [V]al[eriu]s L(uci) f(ilius) Flaccus / a<ε=I>d(iles) d(e) stipe Aesculapi / faciundum locavere / eidem(que) pr(aetores) probavere. See also Varro, *Ling.* 5.81; *de r. rust.* 1.2.2: Cic., *Verr.* 2.5.14.36; Dion.Hal., *Ant.Rom.* 6.90.2–3; Festus, *Gloss.Lat.* 21L; Dig. 1.2.2.21.

54 See for example: CIL III, 1139; CIL VIII, 972–3; CIL VIII, 978, CIL VIII, 2631; CIL X, 225; CIL XIV, 2123; 2975; 3538; 3678; cf. De Ruggiero 1895: 262.

built temples funded by booty, fines provided the funding for foundations by magistrates who did not have consular or praetorian *imperium*.<sup>55</sup> As with the building projects of senior magistrates, aediles must have contracted out their projects to *publicani*, as the verbs *locare* and *probare*, attested both in literary and epigraphic evidence of fines, seem to suggest.<sup>56</sup>

## 2.2 Literary and Epigraphic Correspondence

The dedications in Livy are generally recorded with standard expressions such as *ex multatitia pecunia, ex argento multatitico, ex multatitico aere ... faciendam curavit*, which mirror the only extant inscription of fines from Rome and a similar practice testified by several inscriptions in Italian *municipia* and *coloniae*, and in other contemporary Italic states. The only known epigraphic evidence attesting this aedilician procedure at Rome is the mosaic inscription of the temple of Apollo Medicus, renamed Apollo Sosianus after its restorer. According to the latest study by Viscogliosi, the inscription, found in 1950, belongs to the pavement of the previous temple of Apollo Medicus, and probably attests restoration work made in the first decades of the second century BC. The inscription in *opus tessellatum* runs along the longest side of the rectangular room on the pavement in a central position; indeed, it was conceived to be the emblem of the mosaic composition.<sup>57</sup> Due to its fragmentary status, we do not know the names of the aediles but the object of dedication could have been the pavement itself.<sup>58</sup> The inscription of the temple of Apollo Medicus is not only an important chronological element to date one of the earliest stages of the temple, but it seems also to be the only known example of an inscription in Rome with the typical formula *multatitico*, an archaic version of the ablative *multatitico (aere)*, which supports the patterns of aedilician activities in Rome financed by fines recorded in the literary sources.<sup>59</sup> The practice of allocating the proceeds of fines to the adornment or maintenance of public

55 Ziolkowski 1992: 258–60.

56 For *locare* see Livy 34.53.4–5, for *probare* see CIL I, 2675c (p.954), Badian 1972: 30–1; Trisciuglio 1990: 136, *contra* Orlin who supposed that for temple foundation aediles needed a senatorial decree: Orlin 1997: 144.

57 Livy records that in 179 BC the censor M. Fulvius Nobilior contracted out the construction of a number of porticoes. One of them would seem to have been constructed by the temple of Apollo Medicus '*ad aedem Apollinis Medici*', Livy 40.51.4–6. This passage is the only attestation of the cult-title *Medicus*. The number of porticoes and their locations have been much debated and this passage has been variously emended. Although the chronology of this intervention would seem to be close to that of the mosaic inscription of the temple, we do not know if the construction of this portico affected the temple itself and regarded also restoration work undertaken by the censor that year. For a discussion and a summary of the *status quaestionis* see Viscogliosi 1996: 3, esp. n. 35; Briscoe 2008: 545–6.

58 See also an interesting parallel from Tibur, I BC ca. This mosaic inscription was found in a cellar close to the Cathedral of S. Lorenzo in 1754, in the proximity of the sanctuary of Hercules Victor, and it is now displayed in the city hall. The inscription confirms that a similar procedure seems to have been adopted by municipal magistrates. CIL I<sup>2</sup> 1496 (p.999) = CIL XIV, 3678 = ILS 6231 = ILLRP 683 = InscrIt 4-1- 23: *M(arcus) Scaudius C(ai) f(ilius) / C(aius) Munatius T(iti) f(ilius) / aediles aere multatitico*.

59 Viscogliosi 1996: 23. Cf. Coarelli 1997: 390.



and sacred building is also attested and widespread through central and southern Italy, both in *municipia* and Roman *coloniae*, showing that it had an early development outside Rome too from at least the third to the first centuries BC. Marengo has carried out a survey of Latin inscriptions of fines by searching for occurrences of *aere multatio*, *ex aere multatio* / *moltatio*, *ex multis*, *argento multatio*, through which the author collected an interesting group of commemorative inscriptions recording magistrates' activities funded by fines.<sup>60</sup> Marengo noticed that most of these inscriptions belonged to the Republican period and that four go back at least to the third century BC; hence, it is possible to conclude that the term *multa* was already employed to denote 'a fine', whereas it had been generally thought to have been used initially as a synonym for *poena*.<sup>61</sup> The use of this term is also attested in some Oscan inscriptions from Pompeii and Nola.<sup>62</sup> Aediles are the most frequent magistrates recorded in this epigraphic survey, responsible for the fines in six of the fifteen cases; two inscriptions refer to quaestors, three refer to Oscan magistrates, one to a *tresvir*, and at least four are too fragmentary to preserve the title of the magistrate.<sup>63</sup> The variety of evidence and types of dedications resemble those made in Rome by the aediles as recorded in literary sources (see Table I). Inscriptions attest the dedication of statues (Alba Fucens, Tusculum), of a sundial (Pompeii Ve. 12), of a *mensa* (Paestum 161), and of precious objects such as a bronze jug (Lanuvium CIL I, 2442), votive offerings, such as bronze tablets (Firmum Picenum, Cubulteria), and also restoration or construction works on mosaic pavements (Tibur). Only a small percentage of such inscriptions will have survived the ordinary processes of decay and rebuilding, let alone the destruction caused by the Social and Civil Wars. Dedications of this type must have been far more common, if we consider the variety of settings and materials on which these inscriptions were inscribed, their geographical spread, and the numerous literary sources for the practice. The bronze *olpe* from Lanuvium, for example, is the only extant example of this category of metal object, while cases of precious objects offered to divinities and funded by fines occur in the Livian narrative several times. Metal objects must frequently have been lost or melted down, as the property and treasuries of sanctuaries could serve as a crucial reserve of money when the public treasury was empty. One example is that of Octavian who, after the Battle of Philippi, borrowed money from several temples to pay his soldiers, although he promised to return it. Appian lists

60 Marengo 1999: 73–84.

61 Marengo 1999: 77. See discussion in Introduction (1).

62 Pompeii: Vetter 12; Vetter 22; Nola: Vetter 115; Vetter 116.

63 In her survey Marengo collected also Imperial inscriptions of fines from Roman provinces. In this section I refer only to Republican inscriptions from Italy: Lanuvium: CIL I<sup>2</sup> 38 (p. 831, 866) = XIV 2123; CIL I, 2442 (p. 866) = EE-09, 619 = ILLRP 130a (p. 320) = TermeDiocleziano-02, p. 33 = AE 1908, 118a = AE 1908, 184. Tibur: CIL I<sup>2</sup> 1496 (p. 999) = CIL XIV, 3678 = ILS 6231 = ILLRP 683 = InscrIt 4-1-23. Cubulteria: BollArch-1996-37 = AE 2001, 856. Tusculum: CIL XIV, 2621 = ILS 6207. Alba Fucens: ArchClass-1951-71 = ArchClass-1955-66 = AE 1951, 22 = AE 1952, 152. Firmum Picenum: CIL IX, 5351 = CIL I<sup>2</sup>, 383 (p. 879) = CIL V, \* 429, 12 = ILLRP 593. Paestum: CIL I<sup>2</sup>, 3156 = Paestum 161 = AE 1975, 268, for the identification of this inscription with a *mensa* see Turi 2014: 165–180; CIL I<sup>2</sup>, 3155 = Paestum 162 = AE 1975, 269; CIL I<sup>2</sup>, 3151 = Paestum 140 = AE 1967, 106b. Spolegium: ILLRP-S, 143; AE 1991, 627.

the temples from which he took money.<sup>64</sup> Another comes from Valerius Maximus, who informs us about a *senatus consultum* to melt down gold and silver decorations from temples in order to pay Marius' soldiers at Praeneste during the civil war against Sulla.<sup>65</sup> Hence, the assignment of the proceeds of fines to a specified deity should not be merely considered an archaic practice and consequently underestimated. Indeed, the richness of dedications inscribed on different materials, and the variety of this practice show that this was an important and common way to restore temples and to enrich their treasury, which also reinforced the special relationship of individuals or political groups with the divinity.

### 2.3 The Dualism Between Curule and Plebeian Dedications

Aediles would seem to prosecute and dedicate the proceeds of fines as a pair, within the collegiality of their office. The few exceptions are: foundation of temples which in four out of six cases is recorded as an individual act, the prosecution of Scantinius by Marcellus in 226 BC, which was for a personal matter, and the case of 189 BC, about which Livy states explicitly that A. Caecilius, one of two plebeian aediles, did not condemn anybody that year. Livy usually refers to the activity of the curule aediles first, while the account of the activities of plebeian aediles comes second.<sup>66</sup> As already noticed by Oakley, in Livy's accounts curule aediles and plebeian aediles seem to carry out prosecutions separately, even when they were prosecuting people for the same offence. On this point, Livy's account of aedilician prosecution in 189 BC is quite self-explanatory. Both curule and plebeian aediles prosecuted grain dealers for hoarding grain-supply; whereas the curule aediles condemned many of them, the plebeian aedile Q. Fulvius Flaccus managed to condemn just one grain dealer.<sup>67</sup> Moreover, the management and the destination of the proceeds of the fines differ according to the curule or plebeian office of the magistrate. This dualism can be seen not only in the obvious distinction between the Roman and the plebeian games, but even by the choice of funding sacred buildings. One of the most emblematic examples is again in 296 BC, the curule aediles offered silver vessels for the shrine of Jupiter, and the plebeian aediles who offered in the same year golden bowls for the temple of Ceres. Curule aediles dedicated once to Concordia, Remus and Romulus, Venus, Victory, and three times to Jupiter. The plebeian aediles dedicated either to Ceres (three dedications and one to the triadic cult of Ceres, Liber and Libera) or Jupiter (five dedications). They also dedicated once to Liberty, Flora and Faunus. As one would expect, the curule aediles never made dedications to Ceres; indeed, except for Jupiter, they allocated the proceeds of the fines to a group of different divinities, whereas plebeian aediles found-

64 App., *B. Civ.* 5. 22.87–24.97. For the management of money by sanctuaries see Bodei Gigliani 1977: 33–76.

65 Val. Max. 7.6.4; cf. Crawford 1974: 637.

66 The only exception would seem to be Livy 32.7.13–4; Oakley 2005: 259.

67 Aediles were responsible for the *cura annonae* Livy 38.35.6.

ed the temple of Flora, and Faunus, both divinities very much linked to the plebeian cultural background. Furthermore, when in 305 BC the curule aedile Cn. Flavius published the *formulae* of the civil law and posted up the calendar in the Forum – so that everybody might see when they could bring an action – he chose to dedicate a bronze shrine to Concordia, funded by the proceeds of fines, to legitimate his political actions.<sup>68</sup> It is emblematic that his political activities were validated by a patrician cult: the cult of Concordia seems to have been founded in 367 BC to symbolize the agreement between patricians and plebeians and, as in 121 BC, as senatorial propaganda to preserve aristocratic interests.<sup>69</sup> One may argue that the variety of these dedications shows the competition between curule and plebeian aediles but it would probably be safer to say that they simply indicate that each office had a particular and more relevant set of divinities to make an offering to and the choice of deity depended also very much on the magistrate himself.<sup>70</sup> We have seen that Q. Fabius Gurgus dedicated a temple to Venus after condemning some *matronae* for *stuprum*. The association of sexual offence with Venus, the divinity of love *par excellence* is certainly appropriate but the *gens* Fabia had also a family tradition with this specific cult.<sup>71</sup> Hence, the allocation of fines' proceeds to fund specific building activities, which would have recorded their sponsors on inscriptions, could also have been a unique chance of self-promotion for junior magistrates within the civic sphere at Rome. A quick look at the subsequent careers of curule and plebeian aediles between the third and the first century BC reveals that, at least until the 190s BC, the aedileship was dominated by consular *gentes* and where not, most of aediles reached at least the praetorship.<sup>72</sup> The holding of this 'junior' office was contested by a restricted group of *gentes* as their recurring names show in Table I. Indeed, the evidence analysed so far demonstrates that fines could fund political actions and their application to the appropriate shrine could be strictly linked to politics.

### 3. Aedilician Fines at Rome: A Reassessment

The literary sources collected in Table I and discussed so far offer only a partial representation of the practice of allocating the proceeds of fines to public purposes. An example is that of aedilician foundations: according to Ziolkowski, aedilician foundations of temples were 'a short-lived phenomenon', limited to the third century, main-

68 Although it is very much debated, despite his humble and plebeian origin, Cn. Flavius would seem to have been appointed curule aedile and not plebeian aedile as stated in Estienne- De Cazanove 2009: 31; see Broughton 1951: 168.

69 Cf. D'Arco 1998: 103; Oakley 2005: 614 n.3. It is also emblematic that the foundation of the temple of Concordia by the consul L. Opimius in 121 BC was carried out after the killing of C. Gracchus and their supporters, and it was presumably funded with the proceeds of the sale of their properties.

70 *Contra* Pellam 2014: 74–95, who has recently challenged the idea of Ceres as the plebeian goddess *par excellence*.

71 See note 42 above.

72 See Table I and Develin 1979: 98.

ly because chances to collect enough funding from fines to build a temple were less frequent than income from booty, and because money from fines was later used by aediles mostly to fund Roman and plebeian games.<sup>73</sup> Orlin has endorsed this idea by stating that aedilician foundations were exceptions to the normal practice: that is manubial or senatorial foundations.<sup>74</sup> This is only partially true. First of all, Livy is our main and often only source, and the loss of his second decade, and of all his books from 166 BC onwards, does not allow us to appreciate the real frequency of this practice. Only Ovid and Festus record the well-known construction of the *clivus Publicius* and the foundation of the *Floralia* in 240 BC, both established by the plebeian aediles Publicii Malleoli with the money paid by convicted graziers.<sup>75</sup> Even when data are available, they are not always reliable. For instance, Livy does not record the dedication by the curule aediles attested on the mosaic pavement of the temple of Apollo Medicus. This dedication shows an important commitment of curule aediles in the second century to the construction or restoration of this temple, using money from fines. Second, in his work on Roman Republican temples and politics, Orlin collects seventy cases of state temples introduced in Rome between 509 and 55 BC: it is striking that in at least fifty-one cases we do not know anything about the source of funding, of course many of these temples were vowed for military reasons and one could argue for a manubial foundation; however, in at least fourteen cases we do not know anything about the circumstances, the vower and the dedicator too. Only three cases mention explicitly the funding from booty, six instances from the Senate, four from the *duumviri*, and as seen above, six cases from the money collected from fines.<sup>76</sup> Hence, I think we should be at least more cautious when approaching this topic.<sup>77</sup>

The monumentality of such plans raises an important question: do big building projects imply a large and quite regular income from fines? Were these fines, as Briscoe proposed, a ‘large scale operation’, or did they represent only a small contribution to the public treasury in comparison to, for example, war booty?<sup>78</sup> We cannot determine what percentage of the public income derived from fines, as the amount of fines collected presumably varied every year. Also we cannot know how many fines aediles attempted to impose; as already suggested by Oakley the absence of unsuccessful prosecutions may indicate that the annalistic sources were more interested in recording successful aedilician trials rather than acquittals.<sup>79</sup> Indeed the lack of need to dedicate left no record, or even more simply, it shows that the annalistic tradition recorded only things that did happen.

73 Ziolkowski 1992: 258–60.

74 Orlin 1997: 134–5.

75 Ov., *Fast.* 5. 283–294; Festus, *Gloss.Lat.* 276L. See Table I and section 2.1.

76 Orlin 1997: 199–207. Note that in his Appendix Orlin does not include the temple of Jupiter Libertas founded by Ti. Sempronius Gracchus in 246 BC ca.

77 See Orlin 1997: 127–38 for a discussion on manubial building of temples in Roman Republic.

78 Briscoe 1981: 330.

79 Oakley 2005: 260–1. For aediles activities see Trisciuglio 1990: 134–6; Ziolkowski 1992: 258–60.

The numerical data for aedilician dedications are few and varied, but help to clarify the phenomenon and to grasp the scale of this practice. In 246 BC, the construction of the temple to Jupiter Libertas on the Aventine by Ti. Sempronius Gracchus was probably partly funded by the fine imposed on Claudia, the daughter of A. Claudius Caecus, and sister of the consul P. Claudius Pulcher; she was condemned to pay a fine of 25,000 *asses* because of her arrogant words against the People.<sup>80</sup> To understand better the importance of this figure, we may compare this sum to the *census* qualification of the *prima classis* based on Rathbone's reconstruction of *census* levels of that time.<sup>81</sup> Between the third century and 212 BC, before the conversion into sextantal *asses*, the levels would seem to be calculated and expressed in libral *asses*, and the *census* qualification of *prima classis* was 10,000 libral *asses*, which means that the fine imposed on Claudia was two and half time higher the minimum level required to be admitted to the *prima classis*. Such high figures may suggest that fines were employed not just as punishment but also as deterrence to prevent certain transgressions. This large sum of money may allow us to appreciate better other attestations in which numbers are mentioned, such as when Livy records that in 196 BC the construction of the temple of Faunus was funded by the condemnation of three people to pay fines.<sup>82</sup> In 193 BC he records that many graziers were fined, and the proceeds were used for the construction of a *porticus* and a wharf, and the decoration of the roof of the temple of Jupiter, as similarly happened also in 192 BC.<sup>83</sup> In 189 BC Livy records the conviction of one man and the setting up of two statues.<sup>84</sup> These numerical data suggest that, if not comparable to the income from booty, money from fines was still enough to make an on-going visible difference to the monumental appearance of Rome. Hence, the analysis of aedilician activities funded by fines' proceeds and the incomplete records and gaps of literary sources concerning this phenomenon would suggest that we should re-evaluate the scale of this practice, which played not only a crucial part in the making of public buildings in Republican Rome, but it was frequently carried out by aediles, more than what it is generally thought.

80 On the fine imposed on Claudia: Livy, *Per.* 19; Val. Max. 8.1.*damn.*4; Suet., *Tib.* 2.3; Gell., *NA.* 10.6.1–4. Cf. Cavaggioni 2004: 108–20.

81 Rathbone 1993: 121–152.

82 Livy 33.42.10.

83 Livy 35.10.12; 35.41.10.

84 Livy 38.35.5–6.

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