

DRINKING FROM THE WATER-CLOCK: TIME AND SPEECH IN IMPERIAL ROME*

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lex bona dicendi, lex sum quoque dura tacendi,
ius avidae linguae, finis sine fine loquendi,
ipsa fluens dum verba fluunt, ut lingua quiescat.

Kind law of speaking, I am also the hard law of silence,
rule for a greedy tongue, end of talking without end,
myself flowing while words flow, so that tongue may rest.

So speaks the clepsydra (water-clock) in the fourth- or fifth-century collection entitled *Aenigmata* attributed to Symphosius. In addition to its play upon the flow of water and flow of words, the short riddle captures the twofold, law-like authority with which the clepsydra is invested when used in the courtroom: first to license speech, then to impose silence. Given the possible connection of the *Aenigmata* to the riddles of the symposium (cf. *Aenigmata symp[h]osii*), we can only guess how the riddle might have played out amid the flow of wine and wit.¹

Danielle Allen took the authority of the clepsydra as the focus for

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1 *Aenig.* 70 = *Anth. Lat.* 281 SB, 225–27. For *symposii* vs. *Symphosii*, and for useful commentary on *Aenig.* 70, see Bergamin 2005.xi–xxxix, 168–69. Note also the pun on *ius* as “soup” (“gruel for a thirsty tongue?”), making for extra points of contact with the drinking in Martial 6.35 discussed below. All translations are mine unless otherwise indicated.

her 1996 essay on the time-orders in classical Athens. Citing an enigmatic gloss by Hesychius, ἀνάγκη· ἡ δικαστικὴ κλεψύδρα, which indicates that the term for “necessity” was used at least once to denote “the water-clock in the law court” (= Ar. frag. 584 Kassel-Austin), Allen considers what it meant for the city to embrace the clepsydra as an enforcer of necessity in its political and judicial institutions. The Athenian clepsydra, she suggests, facilitated a “schedule of boundaries” that separated civic discourse from endless discussion, citizen from other, and democracy from other types of constitution.

My purpose is not to revisit the questions explored so incisively by Allen with regard to Athens but to ask how the “necessity” of the clepsydra manifested itself in the political and judicial landscape of Rome. Allen briefly sketches a contrast between the “democratic mechanism” of the clepsydra in Athens, in which time limits were an inbuilt acknowledgement of human fallibility, and the predominant practice in the Roman law courts where (as she understands it) clepsydrae were employed to enforce the limits imposed by judges for each case—limits reflecting “a claim by judicial officials to infallibility” (1996.164). This certainly captures one dynamic of the judicial clepsydra at Rome. But the writings of Tacitus, Pliny, and Martial, from which we receive almost all our evidence on this topic, allow us to locate the behavior of judges within a more complex culture. Through these works, we can glimpse the conspicuous presence of the clepsydra in the courtrooms of the Flavian and early Trajanic period, but we can also trace at least two fundamentally different views of the “necessity” that the clepsydra embodied.

THE CLEPSYDRA AND ROMAN TIME

Of the technologies employed for time marking at Rome, the judicial clepsydra measured out the briefest span. Over the last couple of decades, scholars have illuminated some of the larger scale Roman exercises in time marking and time *making*: the representation of Rome’s history in mythic and historic time, both internally and relative to other Mediterranean empires (for example, Feeney 2007, Beard 1987); the calendrical reform of Julius Caesar and its consolidation in the age of Augustus, together with Ovid’s poetic project in the *Fasti* (Fantham 1996, Newlands 1995); the concentration of knowledge and authority in the person of Augustus, both in various forms of *fasti* and in his monumental *horologium* on the Campus Martius (Wallace-Hadrill 1987, Buchner 1982); and the elaboration of new structures such as Christian historiography or the seven-day week

(Salzman 2004). A diffuse but also more tangible pattern has been charted by Christine Kondoleon in domestic art and architecture across the empire, where the visual representation of time's multiple units and festive occasions, often in conjunction with Roman spectacles, played a central role in aristocratic self-fashioning and in the cultivation of *civitas* and *communitas* (Kondoleon 1999).

The internal structure of the day has been relatively neglected, receiving scholars' attention only as a constituent of the festival calendar and as a site of specific annual rituals.² Yet the *horologium Augusti*, with its shadow describing both annual and diurnal time, can remind us that the princeps's stamp was no less visible in the hour-to-hour experience of the day than it was in the annual calendar. The Augustan *horologium*, in turn, was simply one device in a longer history of diurnal time marking at Rome from which we possess some revealing anecdotes. These include: Pliny the Elder's account of the halting steps by which Rome proceeded from *lux indiscreta*, "undivided daylight," to participation in the informal "consensus of nations on observing hours" ("gentium consensus . . . in horarum observatione"), passing from its archaic conventions of having "Noon!" (*meridies*) and "Final hour!" (*suprema*) announced in the forum, to the use of public sundials and, with the water-clock, the marking of the hours even indoors and through the night (*HN* 7.212–15); a fragment of Plautus in which a parasite laments the invention of the sundial, which, he says, has alienated the marking of dinnertime from his body ("For when I was a boy, my belly was the only sundial," "nam <unum> me puero venter erat solarium") and surrendered it to the sundials with which the city is now replete (*NA* 3.3.3–5);³ and the portrait of Trimalchio's dining room in the *Satyricon*, where "Trimalchio, man of supreme elegance, has a clock in his dining room equipped with a trumpeter" ("Trimalchio, lautissimus homo, horologium in triclinio bucinatore habet subornatum," *Sat.* 26.9), a device that fits well with his micro-management of the diners' moment-to-moment experience.⁴ Many have noted that Trimalchio's *horologium* may have been part of his distorted emulation of Augustus.

2 An exception, dealing with the night, is the work of Mueller, e.g., 2004. Insights can also be gleaned from the idealizing picture in Carcopino 1940.141–276.

3 On this fragment, see Gratwick 1979. For the topos of the sundial (or shadow) as marker of mealtime, see Gibbs 1976.7, 94–95 n. 15; Kondoleon 1999.323–24.

4 For this emended text (reading *bucinator* for *et bucinatorem*), and for full discussion of Trimalchio's clocks, see Magnusson 2000. As Magnusson notes, the status of the *bucinator* (real person or hydraulic automaton) is not entirely certain.

In a world where the marking of the hours was effected through non-centralized devices and messengers, and in which there was major disagreement among clocks (cf. Sen. *Apocol.* 2.2), there was always leeway for a princeps to rationalize the day, just as the republican calendar with its lunar cycle and imprecise intercalations had been rationalized through the Julian calendar (cf. Suet. *Iul.* 40.1–2). To what extent Augustus (or Julius Caesar) did so is less certain for the day than it is for the year, though Augustan decrees such as the restriction of women's presence in the theater till the fifth hour (Suet. *Aug.* 44.3) help us to build up a picture of a newly regulated day. The influence of the *horologium Augusti* itself may have been limited (being out of kilter by Pliny's era; cf. *HN* 36.72–73), but the emperor's daily round itself became a staple of imperial biography,⁵ and his close connection with patronage, the law courts, and the provision of public baths entitles us to read the urban routine written about by Martial as a reflection of an imperial system (4.8):

prima salutantes atque altera conterit hora,
 exercet raucos tertia causidicos,
 in quintam varios extendit Roma labores,
 sexta quies lassiss, septima finis erit,
 sufficit in nonam nitidis octava palaestris,
 imperat extractos frangere nona toros . . .

The first and second hours fatigue the greeters,
 the third puts to work the hoarse case-pleaders,
 Rome stretches her various labors till the fifth hour,
 the sixth will give rest to the tired, the seventh will
 bring an end,
 the eighth to ninth is enough for oily wrestling matches,
 the ninth commands us to pile up cushions and
 crush them . . .

As Martial's second line makes clear, a salient component of the day was judicial process. While activity in some law courts may have been adjourned as early as the end of the fourth hour (cf. Mart. 8.67.3), the imperial biographers often emphasize the personal *diligentia* of the emperor in

5 E.g., Suet. *Vesp.* 21. See also Millar 1977.209–10.

his hearing of cases, and especially his pushing of temporal boundaries, continuing until nightfall and over multiple days⁶—and having the maximum water (that is to say, time) “measured out” for speakers.⁷

The judicial clepsydra, as a unit for regulating the relative time of speeches within a trial, must be distinguished from the water-clock (*horologium ex aqua*) more generally, which could also be referred to with the term “clepsydra” but was more capacious and continuous, and sometimes equipped with hydraulic mechanisms, as in the case of Trimalchio’s clock.⁸ Judicial clepsydrae appear to have been simple out-flow vessels that could be used to provide an iterable unit of time within a given trial.⁹ The standard clepsydra allowed the speaker a quarter of a Roman hour, though adjustments could be made to increase its capacity.¹⁰ While we do not have any direct accounts of how water was measured out or of exactly what happened when each clepsydra ran dry (were multiple clepsydrae lined up in a row?), it is easy to imagine that there was a routinized procedure that ensured transparency.

Furthermore, as is registered in the phrase “*ipsa fluens, dum verba fluunt*” from the *Aenigmata* quoted above, the clepsydra must have depended for its effect not simply on the impact of its running dry, but also on the tense parallel between water and words as speakers and listeners kept an eye on the clock. This aspect of the clepsydra was exploited by Seneca to make a point about existential time, appealing to the reader’s experience of each successive drop as an irretrievable loss, no less dramatic than the final drop (*Ep.* 24.20): “*quemadmodum clepsydrā non extremum stilicidium exhaurit sed quidquid ante defluxit, sic ultima hora qua esse desinimus non sola mortem facit sed sola consummat; tunc ad illam pervenimus, sed diu venimus*” (“Just as it is not the final drop that empties the water-clock, but

6 E.g., Augustus in Suet. *Aug.* 33.1, Dio 72.6.1–2. For nocturnal adjournments already in the Twelve Tables, see Gell. *NA* 17.2.10.

7 Cf. Dio 72.6.1 (of Marcus Aurelius): ὕδωρ πλεῖστον τοῖς ῥήτορσι μετρεῖσθαι ἐκέλευε.

8 On the mechanisms, see Vitruv. 9.8.2–15.

9 On the judicial clepsydra in particular, see Marquardt 1864.276–77.

10 The main evidence is Plin. *Ep.* 2.11.14 (of a trial held in January): “*dixi horis paene quinque; nam duodecim clepsydris, quas spatiosissimas acceperam, sunt additae quattuor.*” This indicates that sixteen unusually capacious clepsydrae were equivalent to almost five hours, hence each about 0.3 of an hour; see Sherwin-White 1966.167. But Grewing 1997 ad Mart. 6.35.1 suggests that clepsydrae were adjustable according to season; if so, the capacious clepsydrae may have reflected summer measurements used in a January trial, while Pliny’s “hours” may refer to winter hours.

whatever has flowed out before, so the final hour in which we cease to exist is not the only one that produces death, but just the one that completes it. At that time we *arrive* at death, but we have long been coming to it"). But Seneca's analogy was focused on the philosophical problem of death. In the world of the Roman law courts, the clepsydra's emptying drop-by-drop dramatized the pressures and limits of a socially constructed necessity.

In his article also appearing in this issue, Andrew Riggsby argues that in the early imperial courts, the water-clock may have functioned as a figuration of the emperor's authority; he draws on the analogy of other figurations of the emperor, such as father, master, host, and patron that Matthew Roller has shown were used by the Julio-Claudian aristocracy to negotiate workable relationships with the emperor (Riggsby this issue p. 274). In contrast with these other figurations, however, Riggsby points out that the clepsydra was relatively impersonal, a figuration less of the emperor's ethical qualities than of his authority over time and law. He also compares the clepsydra and the calendar as similar but distinct: both are "instances of the rationalization of time by a centralizing imperial authority" (Riggsby this issue p. 276), but the emperor's monopolization of the calendar was mediated through "technical experts" (Riggsby this issue p. 276), whereas the impersonality of the clepsydra allowed it to be "imposed more-or-less directly" (Riggsby this issue p. 276), making it a more effective and more surreptitious device of power. At the same time, however, Riggsby, dealing primarily with Pliny, does not portray a world in which the clepsydra was exclusively understood as a stand-in for imperial authority. Its impersonality, for example, could allow it to serve as a "comfortable outlet" for criticism of the system without the criticism being construed as anti-Caesarean (Riggsby this issue p. 277). Its impersonality also allowed it to be *repersonalized* by judges who exercised their own discretion in overriding or manipulating the clepsydra—allowing aristocrats, that is, to embody in their own person the authority of the system, and even the emperor, at least temporarily.

Riggsby's essay offers a useful path toward exploring the social life of the clepsydra in the principate. Here, however, I will juxtapose Pliny's views with the different face of the clepsydra's necessity portrayed by Martial. Pliny's and Martial's perspectives can be correlated with the distinct economies of time that each enacted through his writings. These perspectives can also be correlated with two distinct strains of thought in Roman elite culture concerning the impact of the imperial system on opportunities for public speech as a mode of cultural production.

CHANGING TIMES: FROM REPUBLIC TO PRINCIPATE

Although Augustus did much to transform the judicial landscape, there is no smoking gun connecting him with an increased use of the clepsydra or even with the imposition of stringent time limits. The clepsydra already enjoyed *some* place in the rhetorical culture of the late republic as we know it through Cicero. In the *de Oratore*, Cicero praises the education of Pericles by asserting that “he had not been taught by some declaimer to bark to the clepsydra” (“hunc non declamator aliqui ad clepsydram latrare docuerat”), but had been taught rather by the philosopher Anaxagoras (*de Or.* 3.138). He also ends the second day of the *Tusculan Disputations* by saying to his interlocutor: “Tomorrow, then, to the clepsydra” (“cras ergo ad clepsydram,” *Tusc.* 2.67). These two comments identify negative and positive aspects of the clepsydra, respectively stressing corruptive and efficiency-raising influences. Cicero, however, nowhere associates the clepsydra directly with the law courts of his day in the way that we find in Demosthenes, who says: “I am forced to omit [many other things] on account of the little amount of water remaining to me” (ἀναγκάζομαι διὰ τὸ ὀλίγον εἶναι μοι τὸ ὕδωρ παραλιπεῖν, *Boeot.* 2.38.3).¹¹ We can only *infer* that a clepsydra was present to allow Cicero in his trials to make some occasional self-conscious comments on time. In some cases, he invokes the general limits on the time for presenting a case as a reason to pass over a particular topic in *praeteritio* (cf. *Verr.* 2.32, *Flacc.* 82). In one case, the limitation of his time is more personalized. In the *divisio* of his brief speech from 63 B.C.E. defending C. Rabirius on a charge of treason, he attacks his adversary, the tribune Labienus, for, he says, “obstruct[ing] my carefulness by shortening my time and forcing me from the span provided to the defense by convention, into the tight limit of a half-hour” (“diligentiae meae temporis angustiiis obstitisti meque ex comparato et constituto spatio defensionis in semihorae articulum coegisti,” *Rab. perd.* 6). Although Cicero yields to this time limit, claiming that he can nevertheless make his case, he argues that the half-hour has deprived him of the part due him as consul (*partis . . . consulis ademisti*). These comments show that the antagonisms between speakers in the criminal trials of the late republic could be fought through the manipulation of time limits. But no broader self-conscious discourse on time limits is yet in evidence.

11 Cf. Allen 1996.158–59, with further examples from Demosthenes.

An historicizing narrative on time limits, however, is found at the end of the first century C.E. in Tacitus's *Dialogus de Oratoribus*, written in the first years of the second century but depicting a dramatic date from the reign of Vespasian.¹² Two of the speakers, M. Aper and Curiatius Maternus, mention time limits as characteristic of their own age when contrasted with the republic. Neither speaker mentions the clepsydra explicitly. But their accounts, both in their common ground and in their contrasting appraisals of contemporary oratory, offer crucial contexts for the explicit references to the clepsydra we will see in Pliny and Martial.

Aper's general argument (*Dial.* 19.1–20.7) is that oratory is flourishing, and its differences from republican oratory can be understood by noting how it has adapted to present conditions. Referring to the days before Cassius Severus, whom he credits with having deliberately transformed rhetoric, Aper asserts (*Dial.* 19.2): “facile perferebat prior ille populus, ut imperitus et rudis, impeditissimarum orationum spatia atque id ipsum laudabat, si dicendo quis diem eximeret” (“The people in those earlier days, being inexperienced and uneducated, readily endured the extent of the most cumbersome speeches, and if someone took up a whole day in speaking, they actually praised this”).

Audiences were patient with all of the rhetorical and philosophical devices with which orators loaded their speeches—at least while these devices were unfamiliar (19.5):

at hercule pervulgatis iam omnibus, cum vix in corona quisquam assistat quin elementis studiorum, etsi non instructus, at certe imbutus sit, novis et exquisitis eloquentiae itineribus opus est, per quae orator fastidium aurium effugiat, utique apud eos iudices qui vi et potestate, non iure et legibus cognoscunt, nec accipiunt tempora sed constituunt, nec exspectandum habent oratorem dum illi libeat de ipso negotio dicere, sed saepe ultro admonent atque alio transgradientem revocant et festinare se testantur.

But now, by Hercules, when all [these elements] are entirely familiar, when virtually everyone sitting in the

12 For commentary, see Mayer 2001. A subtle account of the interactions of history and rhetoric in the *Dialogus* is given by Syson 2009.

audience, if he has not been educated in the basics of [rhetorical] learning, has at least had some exposure to them, there is a need for newly sought-out paths of eloquence through which the orator can escape the fussiness of their ears, especially when faced with judges who try cases through force and power rather than in keeping with justice and the laws, and do not obey time limits but set them, and do not accept that they should wait until it takes the orator's fancy to talk about the case in hand, but often spontaneously remind him and when he digresses call him back and announce that they are in a hurry.

Aper here draws attention to contracting time limits, both as an effect of audience pressure and from "activist" judges who do not make use of the longer allowances of time provided by the laws. This, in turn, produces the broader stylistic differences which Aper seeks to justify, including brevity (cf. 20.1–7).

By contrast, Maternus's argument (*Dial.* 38.1–2) is largely political: eloquence has been rendered redundant by the conditions of the principate, and especially by the reign of Vespasian. Maternus recalls an age in which all forensic speeches were unrestricted in time (38.1): "eloquentiam . . . illud forum magis exercebat in quo nemo intra paucissimas horas perorare cogeatur et liberae comperendinationes erant et modum dicendo sibi quisque sumebat et numerus neque dierum neque patronorum finiebatur" ("Eloquence . . . received better training from that forum in which no one was forced to wrap up his speech within a very few hours, and there were free adjournments, and each man chose his own limit for his speaking, and there was no finite number of days or of advocates").

These conditions partly changed, he argues, when Pompey introduced some restrictions (referring to the *lex Pompeia de vi et ambitu* of 52 B.C.E.¹³) (38.2): "primus haec tertio consulatu Cn. Pompeius astrinxit imposuitque veluti frenos eloquentiae, ita tamen ut omnia in foro, omnia legibus, omnia apud praetores gererentur" ("The first to constrain these things was Cn. Pompey in his third consulship: he put the reins, as it were, on eloquence, though in such a way that all things were done in the forum, according to the laws, and in the presence of praetors").

13 For the Pompeian law, see Dio 40.52.2; cf. Mayer 2001.206–07.

But Maternus draws a still starker contrast between the republic as a whole and the present era by noting that criminal trials have more-or-less disappeared as opportunities for orators to show their talents, leaving the centumviral court to occupy center stage (cf. 38.2: “*causae centumvirales, quae nunc primum obtinent locum*”). We know from other sources that these two types of trial had different forms of time allowance. In criminal trials, fixed hours were stipulated by law (*legitimae horae*). In extortion trials, for example, six hours were allowed for the prosecution and nine for the defense (cf. Plin. *Ep.* 4.9.9), with this proportion corresponding to that seen in the Pompeian law (two hours : three hours), but the actual number of hours was determined either by the Augustan *lex iudiciaria* or by earlier laws specific to extortion trials.¹⁴ In civil trials, by contrast, especially those of the centumviral court, time was negotiable between the speakers and the judges.¹⁵ The latter type of trial, in fact, is likely to be what Aper referred to in *his* speech; when he alluded to interventions by judges, he was probably registering the ascendancy of the civil trial as the dominant forum for contemporary oratory. In the view of Maternus, however, these conditions have not produced improvements in oratory. While he concedes that the present situation may be “better suited to integrity” (*aptior . . . veritati*, 38.1),¹⁶ eloquence itself has atrophied.¹⁷

The two speeches, then, are distinctive both for their similarities and their differences, as Aper and Maternus develop two distinct moral and social narratives around the pressure of time restrictions. Both identify specific *uses* of time (*tempora*) with specific *periods* of historical time (also *tempora*)—a characteristic pattern of Roman moralizing discourse.¹⁸ But Aper does not subscribe to the traditional privileging of *antiqua*: for him, the time restrictions characteristic of the present age both reflect and

14 Cf. Plin. *Ep.* 2.11.14, with Sherwin-White 1966.167.

15 Cf. Plin. *Ep.* 6.2.5 on the “*consuetudo . . . et dandi et petendi*” and 6.2.7 on his own practice as judge; with Mayer 2001.206–07, Sherwin-White 1966.357–58.

16 The translation “integrity” is Mayer’s 2001.206.

17 Vespasian inherited a backlog of cases in the courts and responded with an efficiency drive; in the centumviral court, he aimed to reduce the cases *ad brevissimum numerum* (Suet. *Vesp.* 10).

18 Compare Sen. *Ep.* 86.12 on sparse bathing in archaic Rome contrasted with bathing several times a day in imperial Rome. As Riggsby points out concerning the same trope used by Pliny, however, “the republic itself is not to be taken literally as a political order but as a figure of the independent value of the individual aristocrat” (Riggsby this issue p. 276); i.e., the moralizer maps synchronic distinctions onto diachrony.

facilitate the dynamic interaction between speaker, audience, and judge in which brevity has pride of place. For Maternus, however, the limitation of speaking time is symptomatic of a bigger temporal loss: the loss of an age in which eloquence had been free to exist. If he seemingly applauds oratory's redundancy through praising the emperor, saying that the time of the principate "had pacified even eloquence itself, as it had everything else" ("ipsam quoque eloquentiam sicut omnia depacaverat," 38.2), he also implicitly laments eloquence's passing.¹⁹

PLINY: TIME GIVEN AND RECEIVED

In Pliny's world, the clepsydra seems at the very least to be complicit in the decadence of the times. "We fast track our cases," he laments in a letter, "using clepsydrae less numerous than the number of *days* it once took for cases to be set forth" (*Ep.* 6.2.6; see below p. 290). In this letter, written sometime after 105, he reflects on the death of M. Aquilius Regulus, the *delator* and orator who had flourished under Nero and Domitian, and who had frequently spoken in the same trials as Pliny, especially in the centumviral court.²⁰ In earlier letters written during Regulus's lifetime, Pliny had portrayed Regulus (and, by association, the reign of Domitian) in very unsympathetic colors. Here, however, he recalls some aspects of Regulus's career with fond irony (*Ep.* 6.2.3): "iam illa perquam iucunda una dicentibus, quod libera tempora petebat, quod audituros corrogabat. quid enim iucundius quam sub alterius invidia quamdiu velis, et in alieno auditorio quasi deprehensum commode dicere?" ("But these things were especially pleasing for those speaking together with him: that he requested free time allowances and that he brought his own audience. For what is more pleasant than to speak as long as you wish while someone else incurs the ill-will, and to speak readily, as if held hostage in someone else's auditorium?").

Pliny's words indicate that the negotiability of time limits in the centumviral courts could be open-ended, and indeed this can explain how we elsewhere find Pliny speaking for seven hours in a centumviral trial (4.16.2). But it is equally clear that such protracted trials could also produce

19 A reader for the journal notes that the unique verb *depacaverat* itself hints at domination; it may be better to render it more ambiguously, with "subdued."

20 On this letter, see Riggsby this issue p. 273; also Sherwin-White 1966. On Pliny's Regulus letters, see Hoffer 1999.55–91.

invidia, and the beauty of Regulus was that he could incur the blame for having requested *libera tempora* while all of the other speakers simply enjoyed the opportunity he provided to speak at length.

In order to emphasize the value of these *libera tempora* in Regulus's lifetime, Pliny next compares the usage of more recent times and explicitly mentions the clepsydra twice (6.2.5–6):

nam, postquam obiit ille, increbuit passim et invaluit consuetudo binas vel singulas clepsydras, interdum etiam dimidias et dandi et petendi. nam et qui dicunt, egisse malunt quam agere, et qui audiunt, finire quam iudicare. tanta neglegentia, tanta desidia, tanta denique irreverentia studiorum periculorumque est. an nos sapientiores maioribus nostris, nos legibus ipsis iustiores, quae tot horas, tot dies, tot comperendinationes largiuntur? hebetes illi et supra modum tardi; nos apertius dicimus, celerius intellegimus, religiosius iudicamus, quia paucioribus clepsydris praecipitamus causas quam diebus explicari solebant.

For after the time of [Regulus's] death, it became a widespread and established practice both to give and to request just two clepsydrae, or a single, or even sometimes a half. For those who speak prefer to have made their case than to be making it, and those who listen prefer to make an end of it than to be in the process of judging. So great is our negligence, laziness, and indeed irreverence toward learning and lawsuits! I suppose we are wiser than our ancestors and more just than the very laws that generously provide so many hours, days, and adjournments? How obtuse they must have been, and unusually slow. *We* speak more clearly, understand more quickly, and judge more solemnly—now that we fast track our cases using clepsydrae less numerous than the number of *days* it once took for cases to be set forth!

In the practice of today's courts, Pliny sees a conspiracy of haste among both speakers and judges. Their sense of superiority over ancestral tradition has led them to depart from the spirit of the laws, which Pliny sees more fully exhibited in the *legitimae horae* and protracted trials of the

republic. The clepsydra helps Pliny to quantify this decadence, measuring out the diminished times in which “we” are all complicit.

In characterizing clepsydrae as increasingly fewer and increasingly subdivided, and contrasting this with the normative and expansive unit of “days” in court, Pliny makes the “giving” of clepsydrae in present conditions an act that, in fact, takes away—and compromises justice. He underlines, in other words, the time-stealing aspect that is inherent to the very name of the clepsydra.²¹ This travesty of justice effected by the clepsydra can be inferred from a separate letter in which Pliny, without mentioning the clepsydra itself, emphasizes the notion of a “just and fitting time” (“iustum et debitum tempus”) that it is the judge’s obligation to provide (1.20.10). “My opinion has on its side,” writes Pliny, “the laws that generously provide to speakers not brevity but abundance, that is, diligence. Brevity cannot provide [sufficient abundance] except in the most trivial of cases” (“adsunt huic opinioni meae leges, quae longissima tempora largiuntur nec brevitatem dicentibus sed copiam (hoc est diligentiam) suadent; quam praestare nisi in angustissimis causis non potest brevitatis,” 1.20.11).²² Pliny’s regrets about time limits resemble the viewpoint of Maternus in the *Dialogus*, who saw the judicial culture of the principate as defined by a tightening of time constraints. And in rejecting *brevitas* as a rhetorical quality that might redeem or even celebrate the limitation of time, Pliny also inverts the stylistic canon espoused by Aper.

Against his generally negative portrait of his contemporaries, however, Pliny distinguishes some starkly positive features of the age. For unlike Maternus, Pliny does not abandon hope for eloquence and *libera tempora* in speeches. One such feature is the beneficent rule of Trajan, under whom, he suggests, even the malign Regulus, had he still been alive, “would not have been able to cause harm” (*nocere non poterat*, *Ep.* 6.2.4). On its own, this praise of the times might have resembled Maternus’s praise of Vespasian, except that Maternus had used this as a justification for his own departure from the forum and dedication of his life to poetry, whereas Pliny emphasizes his own continuing involvement. And not just as an orator, but as a judge (6.2.7–8):

21 For Latin acknowledgement of the derivation from κλέπτω, see *Gloss. Lat.* 5.277.50: “horologium dictum est a furti (*furto* Goetz) aquarum”; quoted in *TLL* s.v. *clepsydra*.

22 This letter is cited by Greewing 1997 ad Mart. 6.35.1.

equidem quotiens iudico, quod vel saepius facio quam dico, quantum quis plurimum postulat aquae do. etenim temerarium existimo divinare quam spatiosa sit causa inaudita, tempusque negotio finire cuius modum ignores, praesertim cum primam religioni suae iudex patientiam debeat, quae pars magna iustitiae est. at quaedam supervacua dicuntur. etiam: sed satius est et haec dici quam non dici necessaria.

As for me, whenever I am judging—which, in fact, I do more often than speak—I give as much water as someone asks. For I regard it as rash to guess the size of a case before it has been heard and to end the time for a process whose measure you do not know, especially when the judge owes it to the sanctity of his office to show patience, which is a great part of justice. “But redundant words are uttered!” Indeed, but it is more satisfactory for these to be uttered than for necessary ones not to be uttered.

The clepsydra runneth over. Rather than impose necessity on the speakers, it serves the necessity of the case even if this means erring on the side of redundancy. As Riggsby puts it, in Pliny’s hands, “the clock ceases to be an impersonal, systemic force” (Riggsby this issue p. 274). We might say that it allows Pliny to retrieve time in service of the ideal of *iustitia*. While this seems partly in keeping with the ancient *religio* of his identity as a judge, it also reflects well upon the age of Trajan.

The figures of the good emperor and the time-generous judge are combined in an earlier letter recounting Pliny’s involvement in the famous senatorial trial of Marius Priscus in January of 100 (*Ep.* 2.11). In this trial, Pliny was a speaker for the prosecution, while Trajan presided in the senate as consul, though several senatorial judges had been appointed. Since Priscus was being tried for extortion, in principle six hours were allowed for the prosecution to speak (three for Pliny, three for Tacitus), and nine hours for the defense.²³ But Pliny is at pains to report that he was given longer time (2.11.14–15): “dixi horis paene quinque; nam duodecim clepsydris, quas spatiosissimas acceperam, sunt additae quattuor. adeo illa ipsa, quae

23 On the time allocation here, see Sherwin-White 1966.167.

dura et adversa dicturo videbantur, secunda dicenti fuerunt” (“I spoke for almost five hours. For the twelve clepsydrae I had received, which were most capacious, were added to with four more. Thus the same things that had seemed hard and stacked against me as I began to speak, were easy when I was speaking”).

Not only were extra clepsydrae added to Pliny’s allotment, but the adjective *spatiosissimas* indicates that all of Pliny’s clepsydrae had contained more than the usual amount of water. Normally sixteen clepsydrae would have taken four, not five, hours (cf. n. 10 above). Even if the reason for this time expansion may have been the difficulty of the suit (cf. *dura et adversa*), and Trajan, in fact, warned Pliny not to overdo it (§15), the generous allowance of time is implicitly credited to the emperor. The capacious clepsydrae also resonate with other temporal virtues of the trial: its atmosphere was “most august” (*augustissimus*), a description that connotes Augustus as an exemplary judge; Trajan “presided” (*praesidebat*), suggesting the marked conditions of the emperor’s quasi-divine παρουσία; the timing of the trial placed it in “the month of January . . . packed close with senators” (“Ianuarius mensis . . . senatorum frequentia celeberrimus”); the delaying of the trial till then had also created a sense of “anticipation” (*expectatio*, §10); and in reflecting on the trial after its conclusion, Pliny remarks: “But this itself was noble and archaic, for the senate to be dismissed by nightfall, to be summoned for three days, and to confine itself to three days” (“iam hoc ipsum pulchrum et antiquum, senatum nocte dirimi, triduo vocari, triduo contineri,” §18). Thus the use of time in its many different dimensions makes the trial a rare throwback to the *tempora* of the republic, a throwback partly mediated through the memory of Augustus as the exemplary princeps.

Pliny’s point of view, then, shares in the nostalgia of Maternus in the *Dialogus* yet also finds opportunities to revive that lost world within the present. This is in keeping with the broader economy of time represented in, and enacted through, Pliny’s letters, in which there is an emphasis on generosity in both giving and receiving, and an ongoing reciprocity between the transactions of private life and public life, especially Pliny’s trials.²⁴ Indeed Pliny concludes his letter on the Priscus trial by remarking

24 On time and *otium* in Pliny, see Leach 2003, Riggsby 2003. Pliny’s treatment of the clepsydra also resonates with the stratagems used for framing his orations discussed by Mayer 2003.

to his addressee, Arrianus Maturus: "You have the news from the city. Now it's your turn to write news from the country . . . In a nutshell, if you do not return to me an equally long letter, in future you will only be able to expect the briefest of letters" ("habes res urbanas; invicem rusticas scribe . . . in summa, nisi aequae longam epistulam reddis, non est quod postea nisi brevissimam expectes," 2.11.25). Within the terms of the epistolary economy, this seeks from Arrianus an equal exchange of rustic *otium* for urban *negotium*. The length of Pliny's letter reflects in turn the generous proportions of the trial that it described and, in particular, the many capacious clepsydrae (cf. *spatiosissimas*) that he had received.

If there is a limit-case in Pliny's representation of the clepsydra, it comes in 1.23, where he describes a dilemma he had faced during the year of his tribuneship (91 C.E.): "I thought it grotesque," he says, "for someone who had the power to order anyone to be silent, himself to *be* silenced by the clepsydra" ("deforme arbitrabar . . . qui iubere posset tacere quemcumque, huic silentium clepsydra indici," 1.23.2; cf. Riggsby this issue p. 271). As a result, Pliny explains, he avoided pleading any cases for that whole year so as not to be subjected to a necessity unbefitting his persona as tribune (cf. *personam*, §5). This shows the clepsydra in its most "impersonal" role: its inconsistency with the *potestas sacrosancta* and the inviolate voice of the Roman magistrate (cf. "quem interfari nefas esset," §2).²⁵

But we have seen that Pliny always finds a strategy to make the necessity of the clepsydra work in his favor. It is a necessity from which he is freed either by the audacity of Regulus or (more virtuously) by the generosity of the emperor giving him the *libera tempora* or *clepsydrae spatiosissimae* that more closely approximate the times of the republic. It is also a necessity that, as a judge, he can contravene in service of the greater necessity of justice. The tenure of his tribuneship simply required a more extreme tactic: that of immunizing himself altogether from the clepsydra's necessity for the whole year. In Pliny's world, then, the clepsydra exists to be multiplied and over filled, though sometimes (in Pliny's privileged position) it can and must be avoided altogether. It is the manifestation of constraint against which he is able to define his own measure of freedom.

25 As a reader for this journal notes, implied threats to Pliny's autonomy may have included the personalized associations of the tyrant Domitian.

MARTIAL: TIME STOLEN

Martial turns the clepsydra's necessity to his own advantage more directly²⁶ in two scoptic epigrams where the poet mocks orators who requested extra clepsydrae (from Books 6 and 8, published in the early 90s).

Martial exaggeratingly mocks "Cinna" for squandering his allotted time, then asking for more (8.7):

hoc agere est causas, hoc dicere, Cinna, diserte,
 horis, Cinna, decem dicere verba novem?
 sed modo clepsydras ingenti voce petisti
 quattuor. o quantum, Cinna, tacere, potes!

Is this pleading cases, Cinna, is this speaking eloquently
 —to say just nine words, Cinna, in ten hours?
 But just now in a huge voice, you requested four
 clepsydrae. How greatly you keep silence, Cinna!

The poet draws attention to the loud and self-important request at the same time as he characterizes the content of Cinna's speech with *tacere*, which might be understood primarily as "saying nothing of importance" (cf. Shackleton Bailey ad loc.: "What a capacity you have for saying nothing, Cinna!"). Secondarily, *tacere* might also refer to the power of *closure* (a use seen in the *lex . . . dura tacendi* of *Aenig.* 70.1), which Cinna possesses only sarcastically: "How good you are, Cinna, at shutting up (not)!" Martial's own mockery of Cinna's endlessness, however, comes as the end of *his* poem, thereby showing that Martial does know how to *tacere*. Martial's poem is thus complicit with the pressure applied by the clepsydra and even *becomes* a clepsydra: Cinna's time and speech are siphoned into the epigram and made to disappear.

Within Martial's corpus, this poem most closely recalls 6.35, the other clepsydra poem, in which the poet had carried out a similar procedure, though by more complex means (6.35):²⁷

26 In this section, I build upon the broad-brush comparison of Grewing 1997 ad Mart. 6.35.1, who notes that orators in Pliny speak for too short a time, in Martial for too long.

27 For commentary, see Grewing 1997.252–56, Post 1908.156–57.

septem clepsydras magna tibi voce petenti
 arbiter invitus, Caeciliane, dedit.
 at tu multa diu dicis vitreisque tepentem
 ampullis potas semisupinus aquam.
 ut tandem saties vocemque sitimque rogamus
 iam de clepsydra, Caeciliane, bibas.

When you asked for seven clepsydrae in your great voice,
 Caecilianus, the judge against his will granted them.
 But you say many things at great length and you lean back
 and guzzle warm water from glass vessels.
 So that you may finally satisfy both your voice and
 your thirst,
 we ask, Caecilianus, that you now drink from the
 clepsydra.

Martial characterizes *this* loud-voiced orator with more details. “Caecilianus” speaks too long on too many points (cf. *multa diu*, 3) rather than too slowly. He also squanders time by drinking water—the gesture that contains within it the seeds of Martial’s punch line. In his pose (*semisupinus*), the use of glass vessels (*vitreis ampullis*), and his guzzling (*potas*), the speaker is portrayed as quasi-luxurious and lascivious (cf. Grewing 1997 ad loc.). Drinking was an inappropriate delay for an orator,²⁸ and the warmth of the water itself, while it could be therapeutic, more likely helps to suggest that the day is hot and much time has passed. All are impatient: both the judge (cf. *invitus*) and the audience for whom the poet speaks (*rogamus*). The verb tenses, suggesting that the speech has begun (cf. *dedit*), is in process (*potas*), but has yet to end (*bibas*), locate the imagined time of the poem *during* the trial in progress. In this setting, Caecilianus is tone deaf to what Aper in the *Dialogus* calls *fastidium aurium* (*Dial.* 19.5; see above p. 286) and just keeps going.

Martial, by contrast, is the mouthpiece for the audience’s impatience and, as in the Cinna poem considered above, he finds an ending that imposes epigrammatic brevity—a brevity that Aper would applaud. But here the time-siphoning function of the poem is realized through the more sophisticated trick of turning Caecilianus’s greed against him, hav-

28 Cf. Post 1908.156, citing Quint. *Inst.* 11.3.136.

ing him drink directly from the clepsydra. The fantasy of the poem is that all of Caecilianus's time can be drained away in one gulp, along with the poem's end. But it does so by force-feeding Caecilianus, making *him* a living, breathing clepsydra.

In addition to comparing Martial's two clepsydra poems with one another, we may also read them within the broader fabric of his books. The reader of Book 6, for example, will soon encounter a poem in which a *recitator* is singled out (6.41):

qui recitat lana fauces et colla revinctus,
hic se posse loqui, posse tacere negat.

He who recites with his throat and neck wrapped in wool
indicates that he cannot speak, and cannot shut up.

This epigram, like 6.35, once again reveals that the speaker's own greed for speaking is ironically entangled with his loss of voice. Another poem (6.69) turns upon the double sense of *aquam potare* to denote fellatio, which may add to the symbolic violence of Caecilianus's forced drink. Later Martial uses a mechanism similar to that of the clepsydra drinker to mock "Panaretus," who used as a chamber pot the same flagon from which he had earlier drunk the wine that made him need the chamber pot (6.89). These examples scarcely exhaust the potential resonances. The reader will, for example, encounter three "Caecilianus" poems in the book, of which the other two mock a moneylender (6.5) and a patron (6.88)—relationships that hint by analogy that the situation in the courtroom (6.35) could be one in which Martial is bristling at an obligation to attend or even to applaud Caecilianus's performances (compare the hired audiences at the trials of Regulus in Plin. *Ep.* 6.2.3).²⁹

It is also worth noting that very soon after the first clepsydra poem, Martial celebrates the orator to whom he refers in some fourteen poems throughout his books, namely Aquilius Regulus (6.38). Referring to Regulus's son, Martial exclaims: "Already the infant takes pleasure in the clamor and the Hundred Men and the thick packed crowd and Basilica Iulia" ("iam clamor centumque viri densumque corona / vulgus et infanti Iulia tecta placent," 6.38.5–6). If Martial's "Caecilianus" does not directly

29 The role of claqueurs in the centumviral courts is lamented at Plin. *Ep.* 2.14.4–13.

point to Regulus, the two orators are eerily similar, given what we have read in Pliny concerning Regulus's approach to time limits (cf. *Ep.* 6.2.3). Certainly the clepsydra poem could be used to deconstruct Martial's recurring praises of Regulus.

One of the central themes of the clepsydra poem addressed to Caecilianus (6.35) is the symbolic violence done to the orator's body, as Martial fantasizes about it becoming the repository for the consumed time. A striking comparison for this comes in a Greek epigram attributed to none other than the emperor Trajan (*Anth. Graec.* 11.418 Beckby):³⁰

ἀντίον ἡελίου στήσας ῥίνα καὶ στόμα χάσκων
δείξεις τὰς ὥρας πᾶσι παρερχομένοις.

Standing your nose before the sun and opening your
mouth,
you will show the hours to all who pass.

In Trajan's poem, the addressee, either because of his physiognomy or perhaps just because of his lazy habits, is exposed as a living, breathing sundial, with his teeth calibrating the hours as the shadow of his nose moves across them—a parallel for the Caecilianus poem in which the addressee becomes a clepsydra. Both poems rely for their effect upon the mutual assimilation of person and clock, in the same way as we see in an ancient sundial that juxtaposes face and dial (Gibbs 1976, n. 1018) and in the numerous other embodiments and personalizations of time telling in Roman culture. But both poems also suggest that the addressee, even as he becomes a time-telling machine, is himself a problematic user of time and, by implication, a poor fit for the times in which he lives. In Trajan's poem, the addressee becomes the butt of jokes from passersby, while in Martial's poem, the addressee is subjected to the pressure of the clepsydra's necessity, which enforces the impatience of audience and judge. In both poems, the epigrammatic poet comes out on top by pointing to the clock *and* pointing at his addressee in one economic gesture. We cannot, however, ignore the different social positions of the two poets: Trajan's cruel joke has the additional backing of the princeps's unique time monopoly.

30 For discussion of Trajan's epigram, see Nisbet 2003.196–97. The poem is also given as an epigraph by Gibbs 1976.3.

Martial's clepsydra poems are representative transactions within his more general economy of time, which centers less on the habits of giving and receiving copious time seen in Pliny's epistolary economy and more on using various aspects of the epigram to enforce brevity, whether through minimizing the time alienated from him (and his book) by some, or through minimizing the time he (and his book) require of others.³¹ Consider the warm water drunk by Caecilianus in court, which we saw culminating in Martial's fantasy of stealing time back from the orator, alongside the sympotic beverage evoked in an early epigram in which Martial apostrophizes his book as follows: "You will be read by the guest after his five measures have been mixed, but before the cup set down has begun to grow cool" ("te conviva leget mixto quincunce, sed ante / incipiat positus quam tepuisse calix," 2.1.9–10).³² Martial's whole book will fit within the temporality and aesthetics of the *convivium*, being perfectly reconciled with the liquids, vessels, and pleasures of the audience. This is the same time economy that he brings to the speech of Caecilianus in the courtroom, ready to embrace, and indeed to enforce, the necessity of the clepsydra.

None of this, however, is to assert that Martial's economy of time is irreconcilable with that of Pliny. For Martial also instructs his book on how to approach Pliny's door (10.20.12–18):

sed ne tempore non tuo disertam
pulses ebria ianuam videto:
totos dat tetricae dies Minervae,
dum centum studet auribus virorum
hoc quod saecula posterique possint
Arpinis quoque comparare chartis.
seras tutior ibis ad lucernas:
haec hora est tua, cum furit Lyaeus,
cum regnat rosa, cum madent capilli:
tunc me vel rigidi legant Catones.

But watch that you don't knock on his eloquent
door in a drunken state, at a time not yours.
He gives whole days to sour Minerva,

31 On the approach to time in Martial and his contemporaries, see Connors 2000.

32 For "cool," see Shackleton Bailey's 1993 note ad loc.

while preparing for the ears of the *centumviri*
 that which the ages of posterity will be able
 to compare even to the pages from Arpinum.
 Safer to go by late lamplight:
that is your hour, when Lyaeus rages,
 when the rose reigns supreme and hair is damp.
 At that time even stiff Catos may read me.

In this instance, Martial locates his book in relation to the social clock of Pliny as a capacious user of time, conspicuously deferring to the time demands of Pliny's forensic oratory and his ambitions of rivaling the oratory of Cicero's republic and of finding immortality. Thus while Martial is capable of aligning his own epigrams with the brevity enforced by the judicial clepsydra when a Cinna or a Caecilianus is speaking, he is also capable, when required, of reconciling this program with the necessity imposed on him by the overflowing schedule of the orator-patron.

CONCLUSION

Given the conspicuousness of time limits in the law courts of the first century, it should be no surprise that the clepsydra was perceived as a symptom of the principate's transformation of Roman time. It served as a "schedule of boundaries," to use Allen's terms; most of all, it characterized the perceived boundary between the rapid present of the principate and the slow past of the republic. But the texts we have examined reveal that there were at least two possible approaches to responding to the clepsydra's necessity. For Pliny, the clepsydra was a clock whose flexibility (or, sometimes, whose avoidability) allowed for a quasi-republican time to be negotiated, played out, and further exchanged within the epistolary economy. For Martial, it was a clock whose temporal constraints prompted creative innovation both in composing literature and in navigating the social hierarchy. If, then, the clepsydra served as a figuration of the princeps and his authority, a workable social position could be negotiated through more than one method: through pushing the clepsydra's temporal boundaries outward, thereby embracing the present world of the principate as if it had time for a restored republic; or drawing its temporal boundaries inward, thereby embracing the principate and *its* times.

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