A well-known peculiarity of form of the aedilician edicts is their use of the future imperative in laying down rules. Thus, Aulus Gellius, 4.2.1, tells us of a clause which was obsolete in his day.

In edicto aedilium curulium, qua parte de mancipiis vendundis cautum est, scriptum sic fuit: 'Titulus servorum singulorum scriptus sit curato ita, ut intelligi recte possit, quid morbi vitive cuique sit, quis fugitivus errove sit noxave solutus non sit'.

And in Julian's redaction of the edict De mancipiis vendundis there appears palam recte pronuntianto and ea omnia in venditione pronuntianto. And De iumentis vendundis has palam recte dicunto and de cetero quoque pecore omni venditores faciunto. The problem is that the imperative does not appear in the praetorian Edict nor, with two significant exceptions, in senatus-consulta, but the future imperative is common in leges proper. How to explain its presence in the aedilician Edict? Daube, who has recently studied the problem in depth, rightly excludes the possibility that the imperative here derives from that of true legislation. He also shows the weakness of the general argument that the imperatives reflect the nature of the aedilician provision as police-measures: statutes which are not police-measures use imperatives, praetorian edicts which are in the nature of police-

1) D. 21, 1, 1, 1 (Ulpian 1 ad ed. aed. cur.).
2) D. 21, 1, 38pr., 5 (Ulpian 2 ad ed. aed. cur.).
4) *Forms*, pp. 91ff.
measures do not. Also, he observes that from the general philo-
logical point of view there is nothing in the future imperative
making it particularly suitable for police-measures).

He himself develops the following thesis: There is also a non-
legal branch of ancient Roman literature where the future im-
perative is frequent, namely, the writings on husbandry. Thus,
Cato’s *De agri cultura* contains some 200 such imperatives.
‘The conclusion is plain. The imperatives in the aedilician Edict
derive from the treatises on husbandry. Their original setting in
life is not in the court of the aediles nor, indeed, in any statutes —
how could it have been there? — but in a circle of technical experts,
whose suggestions deserved to be made part of the law. The
teachers of husbandry, that is, recommended certain ways of
negotiating an agreement, and the aediles announced that they
would give actions if these were disregarded’. The didactic
*titulus scriptus sit curato ita* no longer, he claims, creates any
difficulty: it is exactly what one would expect in a guide. Cato
has: *boves aquam bonam bibant curato*; *vilicae quae sunt officia
curato faciat*.

So far, Daube feels, he is on safe ground, but he also hazards
the conjecture that it was Cato himself who, when aedile in 199,
prompted the publication of the earliest edict on the sale of slaves.
(Since Cato was a plebeian aedile, not a curule one, he did not
himself have the right to issue edicts). In support of this he urges
the fact that after Cato the future imperative fades out of agri-
cultural treatises: it does not occur in Varro at all, and is very
rare in Columella and Pliny. Daube then shows that the evidence
for the traditional dating of the *De agri cultura* around 160 B.C.
is not strong and suggests that that book is an early production
of Cato whose style was already formed by 199 B.C.

This thesis of Daube seems to me implausible and I should like
to argue its fragility.

First of all, to look at a point which is of little importance to

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6) *Forms*, pp. 91f.
7) 73.
8) 143.1.