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R. Malcolm Errington **Themistius and His Emperors**

aus / from

Chiron

Ausgabe / Issue **30 • 2000**

Seite / Page **861–904**

<https://publications.dainst.org/journals/chiron/243/4868> • urn:nbn:de:0048-chiron-2000-30-p861-904-v4868.6

Verantwortliche Redaktion / Publishing editor

Redaktion Chiron | Kommission für Alte Geschichte und Epigraphik des Deutschen Archäologischen Instituts, Amalienstr. 73 b, 80799 München

Weitere Informationen unter / For further information see <https://publications.dainst.org/journals/chiron>

ISSN der Online-Ausgabe / ISSN of the online edition **2510-5396**

Verlag / Publisher **Verlag C. H. Beck, München**

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R. MALCOLM ERRINGTON

Themistius and His Emperors

I. Introduction

Late antique panegyric literature is difficult to classify. Were it not for the fact that the more than sixty public panegyric speeches which the manuscript tradition has preserved¹ give the impression of offering contemporary opinions about or even of having been influenced by the immediate circle of the imperial court, historians might have given up the struggle long ago to separate the nuggets of historically sensitive caviar out of what so often has the intellectual texture of a cotton-wool sandwich: little taste and nothing to get your teeth into. The speeches have been variously classified en masse as merely part of court ceremonial² – without serious thought in detail about the political function of court ceremonial or of its constituent parts – or in some vague sense as official publicity material, aiming to influence a never-defined «public opinion».³ Too common to list are scholars who have even taken seriously the explicit or implicit claims of panegyric writers to be offering advice to the emperor or even to be aiming to influence imperial policy;⁴ the vague ideal «image» of «the emperor» in late antiquity has been distilled from the eclectic platitudes of panegyric speakers,⁵ without however reflecting MacLuhan's maxim that the medium can also be the message, which at least implies that by analysing the medium we might find a message – but from whom?

¹ For an overview see W. PORTMANN, *Geschichte in der spätantiken Panegyrik*. Frankfurt – Bern – New York – Paris 1988.

² Cf. e.g. A. CAMERON, *Claudian. Poetry and Propaganda at the Court of Honorius*, Oxford 1970, 37; S. MACCORMACK, *Latin Prose Panegyrics: Tradition and Discontinuity in the Later Roman Empire*, REAug 22, 1976, 29–77; id., *Art and Ceremony in Late Antiquity*, Berkeley – Los Angeles – London 1981.

³ E. g. J. STRAUB, *Vom Herrscherideal in der Spätantike*, Stuttgart 1939; V. ASCHE, *Roms Weltherrschaftsidee und Außenpolitik in der Spätantike im Spiegel der Panegyrici Latini*, Diss. Bonn 1983; C. E. V. NIXON – B. S. RODGERS, *In Praise of Later Roman Emperors*, Berkeley – Los Angeles – Oxford 1994.

⁴ Most recently A. CHAUVOT, *Opinions romaines face aux barbares au IV^e siècle ap. J.-C.*, Paris 1998, esp. 195f.

⁵ Most recently A. MAUSE, *Die Darstellung des Kaisers in der lateinischen Panegyrik*, Stuttgart 1994.

The only scholar who has systematically and critically studied the historical-political function of a selection of panegyrics is HANS-ULRICH WIEMER in his seminal study of Libanios and Julian.⁶ In his summary of conclusions he discusses briefly the use of Libanios' panegyrics as historical sources, and makes it clear that each speech (and a fortiori each speaker) has to be regarded as a separate case which requires analysis of its (or his) precise political status and function.⁷ In particular it is important to attempt to discover the conditions under which speeches were delivered and to ascertain as precisely as possible the audience which might have been addressed. WIEMER distinguishes four main classes of speeches actually delivered: the purely epideictic speech, which has the emperor as subject, but which otherwise has no connection with the court («Das Schaustück»); the introductory speech at court, the primary purpose of which is to recommend the person of the speaker for future use («Der höfische Probevortrag»); the ambassadorial speech, in which the speaker addresses the emperor and the court not in his own name, but as representative of (say) his city or province («Die Gesandtschaftsrede»); and – politically the most far-reaching category – the official speech on a major occasion of state such as consular celebrations or imperial anniversaries, where the speaker can only have been officially invited and where his function is to praise the emperor as the emperor's chosen spokesman. This latter type of speech can not unreasonably be described as propaganda, since it depicts the emperor as he and his intimate court advisers wished him to be seen; statements respecting events, facts of policy – particularly about the immediate past or future – are in speeches of this sort inevitably official versions or policy statements. The role of the speaker is to provide the rhetorical structure and dress, the intellectual glamour, which such official occasions required.⁸ This differentiated view represents a major breakthrough in thinking about late antique panegyric and opens the way, as WIEMER implicitly, but too briefly, indicated,⁹ for a new evaluation not only of Libanios but of the whole corpus of late antique panegyric. Scholars have been slow to realise this, and consequences have not been drawn for the evaluation of the other panegyric speeches as historical sources. It seems likely, for instance, that several of the eleven classic Panegyrici Latini are no more than rhetorically dressed-up versions of the official attitude to the events described in them – a view to which lip-service has indeed often enough been paid, but which has never been consistently observed in practice.¹⁰

⁶ Libanios und Julian. Studien zum Verhältnis von Rhetorik und Politik im vierten Jahrhundert n. Chr., München 1995.

⁷ As n. 6, 367 ff.

⁸ Cf. Libanios Ep. 1434, 4.

⁹ As n. 6, 376.

¹⁰ This view is explicitly rejected by NIXON in: NIXON – RODGERS (as n. 3) 31: «few of the panegyrist seem to have been commissioned to deliver the speeches.»

But this is a subject for another paper. Here I am concerned to remain in the East and to apply WIEMER's results to the public speeches of Themistius in order to assess the quality of the information which can be gained from him about political decision-making at the highest level of the Empire and its diffusion. Three recent works, though they do not adequately address the primary historical problem of the functionality of the speeches and therefore of the status of the information offered by Themistius, have nevertheless eased the lot of the historian working with Themistius.¹¹ For it must be admitted that of all the panegyrists surviving from late antiquity at first sight Themistius seems to come closest to offering the classic cotton-wool sandwich, and any and every attempt to understand his meaning and intention makes a welcome contribution to what is otherwise a fairly thankless task. Themistius is not an easy author and I make no claim to have seen everything correctly: there will remain, even after detailed discussion, many uncertainties and imponderables. But of all the writers of panegyrics Themistius has also the greatest claim to be regarded as the «speaker» of the emperor in WIEMER's sense, since he served no less than four emperors, Constantius II, Jovian, Valens and Theodosius, in each case performing publicistic functions on occasions of the greatest ceremonial importance on invitation of the court.

It is clear enough that not all the surviving «public» speeches of Themistius belong to WIEMER's top political category, in particular those held for Constantius at a time when Themistius was first building up his position and influence show traces of uncertainty. Only detailed discussion can clarify the issue, and even then, given the nature of the problem, doubts will remain. But enough is known of the circumstances to be reasonably certain of being able to posit major public occasions for the majority of Themistius' surviving public speeches. He himself in the speeches of the post-Constantian period occasionally provides explicit evidence that he speaks on the invitation of (indeed, under pressure from) the emperor or the court,¹² and he it is who provides indubitable evidence for the emperor's not being personally the prime recipient of formal panegyrics on himself, since it is he who informs us several times

¹¹ R. MAISANO, *Temistio, Discorsi*, Torino 1995; J. VANDERSPOEL, *Themistius and the Imperial Court. Oratory, Civic Duty and Paideia from Constantius to Theodosius*, Ann Arbor 1995; H. LEPPIN – W. PORTMANN, *Themistios, Staatsreden*, Stuttgart 1998. See also the brief comments, unfortunately without argument, in P.J. HEATHER – J.F. MATTHEWS, *The Goths in the Fourth Century. Translated Texts for Historians* 11, Liverpool 1991; also the essay by P.J. HEATHER, *Themistius: a Political Philosopher*, in: M. WHITBY (ed.), *The Propaganda of Power*, Leiden – Boston – Köln 1998, 125–150. The translation of Themistius by D. MONCUR, noted by HEATHER as «forthcoming 1999» and to which he makes frequent reference, was not available to me at the time of writing.

¹² Or. 5,63c; Or. 8,104c; Or. 10,129a; Or. 11,143b; cf. Or. 7,84b, Or. 18,217d.

that Valens, with whom he was particularly closely involved, could not understand Greek at all (Themistius plays fancifully with the notion that Valens nevertheless enjoyed the sound of his words!),¹³ and one of his panegyrics is directed to the three-year-old Valentinian Galates.¹⁴ The main recipients of his messages were therefore the assembled Eastern officers, officials of the court and other dignitaries, often enough the Senate in Constantinople. And if this was the case for Valens, there is no reason to believe that the fundamental function of his panegyric in a ceremonial situation was significantly different under Jovian and Theodosius. Only for Constantius, as we shall see, do the extant speeches seem less well integrated into the structure of imperial ceremony – two were certainly not delivered in the emperor's presence, but in his absence before the Senate at Constantinople – and suggest that this was the period in which Themistius was building up his influence, which he then later used on behalf of the three named emperors. Ceremonial did not exist for its own sake, but was a stylised form of selective communication serving imperial purposes, and the panegyrist as communicator, as soon as he became integrated into court ceremonial, also served imperial purposes both in what he said and in how he said it. There is no evidence nor is it fundamentally likely that under the autocracy of the Late Empire formal public or semi-public ceremonial occasions were the place where an outsider would be given the opportunity repeatedly to air his own new ideas about high imperial affairs for the first time. It follows from this that concrete requests formulated by a speaker, or «advice» on policy given by him in a major ceremonial situation cannot be taken at face value, since neither the speaker nor the emperor could afford to be seen to be unsuccessful, ungenerous or inaccessible on an important formally structured occasion before the assembled magnates of the court and/or the whole Empire. The occasion always demanded a no-risk situation for both. It follows from this that the more concrete the speaker's formulation is, the greater is the likelihood that he is using vetted material, the more general and «philosophical» the formulation, the less immediately political the message will be.¹⁵ In both cases, however, the general political context is critical: for instance, in the middle of a war praise of peace can only be a prepared political statement intended to make the hearers sit up and pay attention; in the midst of peace an identical formulation might be merely a «golden age» platitude.

The function of the panegyrist performing on such ceremonial occasions is thus highly political, not wholly different from that of a modern democratic «government speaker» or even a totalitarian «propaganda minister». His function was to «sell» his product by praising it, whether it was the government, its com-

¹³ Or. 6,71c.

¹⁴ Or. 9.

¹⁵ Cf. WIEMER (as n. 6) 372f.

position, character, quality of policy, to those high-placed listeners who constituted the broader political class of the Empire – who were, however, not so highly placed as to have been directly involved in influencing governmental decisions at the highest level – who through their education were accessible to the severely traditional form of communication represented by the panegyric address. The speaker will doubtless have been granted sufficient artistic licence to produce the type of educated structure supported by the usual eclectic rag-bag of imperial themes of self-justification taken from popular philosophy and the poetic canon which the developed genre demanded. He was operating at high pressure at the highest level of imperial policy, at the point where it overlapped with structural ideology, where it could (or, according to imperial tradition, must) be presented as an expression of philosophical commitment and in its ceremonial presentation be so deeply embedded in the cultural substrate that it was both understood, but also respected and accepted by listeners who shared, or pretended to share, that same cultural substrate. The panegyrist is a medium of imperial communication in this complex politico-cultural environment; he is important under such circumstances, since the form in which he clothes the imperial message is also constitutive for its particular flavour, therefore for its suitability and acceptability: the medium is thus indeed at least part of the message. But the actual decisions or policies which the speaker announces or interprets by praising in his own particular way will have been prepared, as ever, in the imperial scrinia and decided in the consistorium, to which the speaker may, or perhaps more likely may not, personally have had access. In modern terms, the panegyrist performing on a high imperial occasion is the spin-doctor.¹⁶

II. Constantius II

In the eleven years between Themistius' first rhetorical performance before Constantius in 350 at Ankara¹⁷ and the emperor's death in 361 Themistius had become the most influential senator in Constantinople with a position which he later described as *prostasia*.¹⁸ A direct contemporary of Constantius,¹⁹ son of

¹⁶ So also HEATHER (as n. 11) 141.

¹⁷ Or. 1. On the date see R.M. ERRINGTON, The date of Themistius' First Speech, *Klio*, forthcoming.

¹⁸ Or. 34.13. ἐξ ἐκείνου τῆς προστασίας ταύτης ἡπόμην, ἐξ ὅτου με πρεσβεύειν εἰς τὴν αἰοίδιμον Ῥώμην ἐχειροτονεῖτε καὶ πρὸς τὸν παῖδα ἐστέλλετε τὸν Κωνσταντίνου. The *προστασία* which Themistius here claims has caused much confusion, since it cannot adequately be associated with any formal office or rank, cf. most recently VANDERSPOEL (as n. 11) 105f., who argues that Themistius was *princeps senatus*, though this function is not attested for Constantinople. Better with G. DAGRON, L'empire romain d'orient au IV^e siècle et les traditions politiques de l'hellénisme. Le témoignage de Thémistios, *T & MByz* 3, 1968, 217, to regard it as an unofficial but widely accepted position of prestige.

¹⁹ Or. 1,18a.

a Paphlagonian philosopher (or teacher of philosophy: neither late antiquity nor modern scholarship seems to make a distinction), he took up residence in Constantinople, it seems in the 340s, and devoted himself to teaching philosophical texts to young men.²⁰ In 350, perhaps on the occasion of Constantius' annual celebration of his becoming Augustus on 9th September, someone, perhaps Fl. Saturninus,²¹ introduced Themistius to the court as speaker in a delicate political situation, in which the emperor had just broken off the Persian War without making a treaty in order to hurry westwards to negotiate with the double usurpers Magnentius and Vetrano. It was a make-or-break situation for Themistius, who took his chance with a bravura speech ignoring the civil war completely, blaming Shapur for the unsatisfactory ending of the Mesopotamian war and praising with such intensity and at such length the classic imperial virtue of *philanthropia/clementia* in Constantius that this became also in the future the most frequently emphasised characteristic of this emperor.²²

For several years we know nothing more of Themistius' relationship with Constantius until in 355 an imperial letter arrived at Constantinople, which was read out in the Senate on 1st September by the proconsul Iustinus, appointing Themistius to the Senate and describing him in terms which amount to a programmatic statement of some of Constantius' aims and expectations for Constantinople. It is an expression of imperial policy for the political and social restructuring of the East, cast in the form of a panegyric of Themistius, an attempt to capture the intellectual high-ground of Eastern society by rewarding a particularly loyal subject of the emperor and the city after the disastrously brutal reign of the decidedly non-philosophical Gallus.²³

²⁰ On Themistius' life see now VANDERSPOEL (as n. 11) with earlier literature.

²¹ Or. 16,200b (delivered on 1st January 383) places his first contact with Saturninus «more than thirty years ago, as I first began to appear at the palace».

²² Aur. Victor, Lib. de Caes. 42,23: *placidus clemensque pro negotio* ...; cf. Zonaras 13.11.13; Amm. Marc. 17.13.28: ... *affusi sunt vestigiis Augusti clementis*; 21.16.10: *mortem factura crimina aliquotiens lenius vindicabat*; 21.16.11: *instumque in eiusmodi titulis capitali odio oderat, cum maxime id ageret, ut iustus aestimaretur et clemens*; Julian, Ep. 33 (BIDEZ-CUMONT); Ep. ad Ath. 270c.

²³ Or. Const. is printed in vol. 3 of the Teubner edition, 122f.; MAISANO (as n. 11) follows DINDORF and prints it before Or. 2. Here cf. esp. 21d: ... αὐθαίρετος ἡμῶν γερονῶς Θεμιστίος ἐραστής καὶ τὴν πόλιν τὴν ἡμετέραν οἰκεία κρίσει προὔτιμησε τῆς ἐνεγκούσης καὶ πρότερον γνώμη πολίτης ἢ προσηγορίᾳ γέγονε. The circumstances of delivery emerge from a scholion in the codex Salmanticus. The original Latin version reached Antioch in 355, and was made known to Libanios, who however needed a translator (Ep. 434,2); the Greek version which we have is transmitted uniquely in three manuscripts but always in the company of speeches of Themistius, and the question as to who did the translation is legitimate. O.SEECK, Die Briefe des Libanios, Leipzig 1906, 294 n. 1, following HARDUIN, guessed the translator to be Themistius himself. DAGRON (as n. 18) 60ff. draws attention to even verbal similarities or echoes in later speeches of Themistius, but regards SEECK's suggestion as unfounded (20). The reason

Themistius offered a useful paradigm for the building out of the new city, since his career up to this point had been almost ideal: he represented in his person precisely the level of provincial society which Constantius needed to attract to Constantinople: he was not super-rich – but not poor either; he was not an official of the government; but above all he had chosen of his own accord to come to Constantinople, to live there and to build his career and the future of his family there. That he was involved in philosophy – i.e. the education of the young rich – put him into the class of influential leaders and formers of public opinion which the emperor needed to win in order to consolidate the rule of the dynasty.²⁴ Themistius will set up «the gymnasium of virtue»,²⁵ while providing a role model to be imitated, that of the educator who does not neglect public affairs, but who by creating good men also creates excellent citizens.²⁶ However bound up in the ideas of the classical city-state the form in which these ideas are expressed might be, particularly in the Greek translation which we have, there can be little doubt that «excellent men» who are «excellent citizens» meant in practice loyalty to the dominant political structure: «lovers of us», as Constantius formulated it in praising Themistius.²⁷ Themistius' nomination to the Senate was thus a bid for the loyalty of the intellectual class towards the political values of the ruling dynasty and advertisement for Constantinople as the ruling city: behave like Themistius and you have a brilliant future in the imperial city open to you.

It is legitimate to ask in what circles the idea can have been born to put Themistius in the forefront of the battle for the hearts and minds of the Eastern intellectual classes, to promote Constantinople and its Senate as their particular focus of political loyalty and social ambition at this particularly difficult time for Constantius. It is not easy to imagine that the Western court circles within which Constantius had moved since leaving the Greek-speaking world in 350 would have had much interest in boosting either Constantinople or Eastern intellectuals; on the other hand Themistius was not the only Greek intellectual to rise in favour at court in 355: Julian's appointment as Caesar on 6th November 355²⁸ brought another student of Greek philosophy into much

seems to be (explicit in Teubner ed. 122) that Themistius in Or. 6, pronounced in Greek before Valens, apologises for being unable to deliver a speech in Latin. But this does not mean he understood no Latin, see n. 96 below. In view of Themistius' later use of this translation it seems possible that he had transformed the official Latin into a Greek version in his own style and then included it with his collected works which formed the basis for the surviving manuscript texts, perhaps already incorporated in the Constantian library in Constantinople (Or. 4,61cd).

²⁴ Or. Const. 22a–c.

²⁵ Or. Const. 21b.

²⁶ Or. Const. 22b.

²⁷ Or. Const. 21d, quoted above n. 23.

²⁸ Amm. Marc. 15.8.12.

greater political prominence, and although other factors were doubtless decisive there, the coincidence is striking; and it should not be forgotten that Themistius and Julian corresponded early in Julian's period as Caesar,²⁹ and that among the compliments which Themistius paid to Constantius in his speech thanking him for his appointment to the Senate was that he had made his partner-in-rule a philosopher through their association in virtue.³⁰ «Philosophy» was programme, and it is perhaps not being too wildly speculative to think that Themistius himself might have had something to do with its initiation.

He certainly picked up the ball which Constantius had thrown to him, and in a lengthy and learned piece thanking the emperor for his generosity, delivered in the Senate in Constantinople towards the end of 355,³¹ he laid down once more the general lines of the imperial image of Constantius the philosopher, which policy demanded that the Senate of the new city hear and adopt. Themistius' thanks are thus expressed as praise and learned discourse, but also – how could it be otherwise under the circumstances? – are not without their political element. For in the midst of the general argument intended to prove that Constantius is a true philosopher Themistius draws attention to Constantius' way to power, thus reminding the senators of the preferred official version.³² Just as Zeus drove out Typhon and so freed the Egyptians from barbarian rule, so Constantius had to deal with several such: this emperor was not chosen at a drinking party by a bunch of drunks (so the favoured version of

²⁹ Julian's letter to Themistius of 356 was a reply to a communication, a *protreptikos*, of Themistius. The date is disputed, but I follow here S.H. BRADBURY, *The date of Julian's Letter to Themistius*, GRBS 28, 1987, 235–51, against earlier views that it was written after Julian's usurpation, e.g. DAGRON (as n. 18). I am not convinced by T.D. BARNES' and J. VANDERSPOEL's attempt to have it both ways, Julian and Themistius, GRBS 22, 1981, retained by VANDERSPOEL (as n. 11) 118f., and to show that Julian indeed wrote his reply in 356 but left it lying around for four years until 360, when he added the tail-piece, which they interpret as justification for the revolt and propaganda intended to attract public sympathy, like the letter to the Athenians (which, however, does not require modern ingenuity to reveal it as propaganda!), and only then sent it to Themistius, but as an open letter. This does not seem to conform with Julian's method of working, as displayed in his other pieces, all of which seem to have been written in extremely short time.

³⁰ Or. 2,40a: ... τὸν συνάρχοντα φιλόσοφον ἐποιήσατο, mistranslated by LEPPIN, in: LEPPIN – PORTMANN (as n. 11) 67 («daß er einen Philosophen zum Mitherrscher gemacht hat . . . »).

³¹ Or. 2. The critical date as terminus post quem is Julian's accession as Caesar on 6th November 355 (Amm. Marc. 15.8.17). Julian's marriage to Helena *deinde diebus paucis* is not mentioned by Themistius – news of which arriving in Constantinople has since H. SCHOLZE, *De temporibus librorum Themistii*, Diss. Göttingen 1911, 13, been regarded as a certain terminus ante quem – but is hardly relevant to the «philosophical» context in which Julian is mentioned in Or. 2, therefore as argumentum ex silentio of dubious value. The traditional date, however, will not be far wrong.

³² Or. 2,34a.

the usurpation of Magnentius), but was born to rule.³³ It was philosophy which gave him the courage and power to defeat Vetranio, whom he generously allowed to live on as an imperial pensioner;³⁴ the other (Magnentius) committed suicide («became his own tyrant-killer»);³⁵ a third (Silvanus) was overcome before he noticed what was happening.³⁶ Themistius could reasonably have stopped here with his flattering parallel Zeus-Constantius, but chose to go on to mention the much more delicate family history: how the hand of God brought the whole empire into Constantius' hands without his having to do violence to a brother: «Look here. There was a time when it seemed that our emperor would have to choose either to accept the status quo and be satisfied with the possession of only a small part of his father's empire or, if he wanted it all, to fight a civil war against his kith and kin. But watch the wisdom of the divinity: almost like a dramatic poet who holds his spectators in suspense by frequently threatening some fearful event, and then unexpectedly with some surprise trick finds a solution to the difficulty in his play, so the playwright of real events, having presented the emperor with the alternative of being seen either as wrongdoer or coward, has brought on his surprise solution, which allowed him to escape both, indeed which caused the opposite to happen. For he did not do violence to his brothers, but experienced the opposite, suffering along with one of them, feeling great pain on behalf of the other because of his excessive love for him, and so came into sole possession of their father's inheritance. So there you have it.»³⁷

This passage is at least as remarkable for what it does not say as for what it does. Less than a year since the murder of Gallus, the Caesar who had ruled the East, a speech in the Senate of Constantinople could present Constantius' rise to sole power as if Gallus had never existed. Only the three brothers

³³ Or. 2,36b: ὁ δὲ τῇ φύσει βασιλεύς.

³⁴ Or. 2,34b, 38a.

³⁵ Or. 2,34b, 38b: συνηνάγκασεν ἑαυτοῦ γενέσθαι τυραννοκτόνον.

³⁶ Or. 2,34b. The identification of the third «Typhon» is not wholly certain, but Silvanus seems most likely (so G. WIRTH, *Themistius und Constantius*, Byz. Forsch. 6, 1979, 301f., followed by LEPPIN, in: LEPPIN – PORTMANN [as n. 11] and MAISANO [as n. 11] ad loc.).

³⁷ Or. 2,38cd: ἀθρεῖτε οὖν ᾧδε. ἦν που καὶ ἐφαίνετο, ἀναγκαῖαν ἢ τὰ ὑπάρχοντα ἀγαπῶντα τὸν βασιλέα μοῖραν ὀλίγην κεκτήσθαι τῆς πατρῴας ἀρχῆς, ἢ τοῦ ζυμπαντος ὀργινώμενον πρὸς τοὺς συναίμους τὰ ὅπλα κινεῖν καὶ στασιάζειν. ὁρᾶτε οὖν τὴν τοῦ δαιμονίου σοφίαν. Σχεδὸν γὰρ καὶ ὥσπερ ἐπὶ σκηνῆς ὁ τοῦ δράματος ποιητὴς δεινόν τι καὶ φοβερόν πάθημα πολλάκις ἐπικρεμάσας τοῖς θεωμένοις κᾶτα παραλόγως ἐκ μηχανῆς λύσιν εὔρετο τῷ δράματι τῆς δυσχερείας, οὕτω καὶ ὁ τῶν ἀληθινῶν παθημάτων μυθοποιὸς περιστήσας ἔνθεν καὶ ἔνθεν τῷ βασιλεῖ ἢ ἀδικίας ἀνάγκην ἢ ἀνανδρίας, ὅμως ἐπήγαγε μηχανὰς ὥστε ἄμφω διαφυγεῖν, μᾶλλον δὲ ὥστε ἐμπαλιν ἄμφω συμβῆναι. Οὐ γὰρ ἀδικήσας τοὺς ἀδελφούς, ἀλλὰ τοῦναντίον τῷ μὲν συναλγῆσας, τοῦ δὲ καὶ πάνυ ὑπεραλγῆσας ὑπὸ τῆς ἄγαν φιλαδελφίας μόνος ἐγκρατής ἐστι τῶν πατρῶων. Εἶεν.

belonged to the family; to the usurpers only the «barbarians» (Typhons) – for which purpose Vetranio became a kind of honorary barbarian. The choice of emphasis is delicate, under the circumstances statesmanlike. For the first time, it seems, we might be seeing here Themistius growing into that well-informed representative of government policy which he was under Constantius' successors, here instructing his colleagues in the Senate in Constantinople of the preferred official version of recent events at the highest level of imperial politics. It is hardly surprising that Constantius was so pleased with this performance of his new appointee that he granted him a bronze statue for it.³⁸

Themistius was a made man, chief candidate for embassies to Constantius, who since 350 had remained in the West. His two remaining surviving Constantian speeches result from such occasions. One (Or. 4) was delivered in connection with an embassy which would have involved winter travel and which Themistius refused to undertake, speaking instead in Constantinople of Constantius' «love» for Constantinople – where he had not been seen for six years at the time of the speech, and showed no sign of imminent return! The themes presented by Themistius are, as so often, diffuse and merge imperceptibly into one another, but his praise of Constantius' love and attachment to the city founded by his father seems to be the main theme, dressed up in various rhetorical guises: the imperial «tribute payments» to Constantinople show the city as a dynastic temple,³⁹ the civil wars are depicted as saving the city from its fears,⁴⁰ the careful victory announcements sent to Constantinople show high respect for the city,⁴¹ and the celebrations in the hippodrome set the seal on the emperor's attachment to the city.⁴² Constantius' influence, even in diplomatic affairs, is explicitly not limited to where he happens to be (the Persians want to negotiate even while Constantius is in Gaul).⁴³ Then come the infrastructure investments in Constantinople: baths, colonnaded streets, architectural decorations and, for Themistius particularly important – though others might have set other priorities – a library and scriptorium, which Themistius interpreted as an attempt to put Constantinople on the map as the premier centre of learning.⁴⁴ He did not refer to the potential competitors for intellectual leadership in the East, Antioch and Alexandria, but his hearers will have understood the implications, that Themistius was counteracting expressed or implicit criticism of Constantius in senatorial and perhaps other circles by emphasising the emperor's attention to and favour for Constantinople. Once more it is

³⁸ Or. 4,54b.

³⁹ Or. 4,52cd.

⁴⁰ Or. 4,55d–56d.

⁴¹ Or. 4,56d.

⁴² Or. 4,58a.

⁴³ Or. 4,57ab.

⁴⁴ Or. 4,59c.

hardly likely that Themistius was here speaking at the express wish of the court; at the same time, however, there can be little doubt that in his praise he was again representing imperial policy, from which he and his fellow Constantinopolitan senators could only benefit, even if they might have preferred to see Constantius in person more frequently.

A few months later a second request to Themistius to go to the West could not be so easily rejected. The embassy from Constantinople was part of Constantius' ceremonial visit to Rome in early summer 357, from 28th April to 29th May 357.⁴⁵ Themistius' embassy to him there is thus firmly dated to spring 357. Or. 3 presents itself as the speech held on this occasion, and there is no internal reason to think that it is not what it purports to be.⁴⁶ The specific occasion for the embassy in April/May 357 is disputed. Ever since MOMMSEN, following the Paschal Chronicle, «corrected» in the *Consularia Constantinopolitana* the transmitted *edidit xxxu* to *edidit vicennalia*,⁴⁷ with rare exceptions scholars have assumed that Constantius celebrated his *vicennalia* in Rome.⁴⁸ But neither Ammianus' substantial account of Constantius' visit to Rome⁴⁹ nor Themistius' *Presbeutikos* mention this event, and if Themistius had travelled all the way from Constantinople to Rome as representative of the Senate in order to help celebrate the *vicennalia*, it would indeed be astonishing if he did not even mention the occasion in his speech. Victory celebrations are, however, named explicitly both by Ammianus and Themistius and are commemorated in 24 hexameters engraved on the base of the obelisk intended to mark the occasion; it therefore seems obtuse to seek a different reason for the visit.⁵⁰ Themistius' speech, formally a *presbeutikos* directed

⁴⁵ Amm. Marc. 16.10.20.

⁴⁶ SCHOLZE (as n. 31) 14ff. took the view that the speech was merely sent to Constantius, not delivered in person. But the speech itself offers no reason to doubt the *intitulatio* ΠΡΕΣΒΕΥΤΙΚΟΣ ΥΠΕΡ ΚΩΝΣΤΑΝΤΙΝΟΠΟΛΕΩΣ ΦΘΕΙΣ ΕΝ ΡΩΜΗΙ, and in Or. 34.13 Themistius says explicitly that he was chosen to go to Rome and Constantius (text in n. 18 above) as representative of the Senate. Given Constantius' itinerary, this can only have been during these weeks.

⁴⁷ Chron. Min. I 239. The most recent edition by R. W. BURGESS, *The Chronicle of Hydatius and the Consularia Constantinopolitana*, Oxford 1993, reverts to the manuscript reading.

⁴⁸ Most recently MAISANO (as n. 11) 209; DAGRON (as n. 18) 21; unsure PORTMANN, in: LEPPIN – PORTMANN (as n. 11) 68.

⁴⁹ 16.10ff.

⁵⁰ ILS 736. STRAUB (as n. 3) 176ff., correctly points out that the *dies imperii* of Constantius was either 9th September (as Augustus) or 8th November (as Caesar). 23rd May was merely the date of Constantine's decease. He disputes, therefore, it seems correctly, that *vicennalia* were celebrated at Rome. VANDERSPOEL (as n. 11) 101 and n. 138, while in principle following STRAUB, thinks «Constantius . . . found pretexts to celebrate something»; also sitting on the fence PORTMANN, in: LEPPIN – PORTMANN (as n. 11) 68. T. D. BARNES, *Ammianus Marcellinus and the Representation of Historical Reality*, Ithaca – London 1998, 135 thinks «the official occasion was the emperor's thirty-fifth year of

to Constantius – though neither the precise occasion within Constantius' visit to Rome nor the public before which it was held can be worked out with any certainty – verges again on being an official statement of public policy in the form of praise of Constantius, Rome and Constantinople, which is now the second city in the Empire after Rome.⁵¹ Most remarkably Themistius formulates no explicit request to the emperor – the usual function of a *presbentikos* (though we know that behind the scenes he affected the restoration of the full *annona* to Constantinople, which Constantius had earlier halved, and thus boosted his position in Constantinople, not just in the Senate but also generally in the city).⁵² Themistius, though indeed a serious student and teacher of philosophical texts, as his Aristotelian work shows,⁵³ seems to appear here increasingly as a willing instrument of imperial policy, for in the meanwhile his own career was firmly tied to it. He returned to Constantinople not merely with the restored *annona* but with the manifest favour of the emperor, which brought him κοινωνία τραπεζης,⁵⁴ and the imperial instruction to recruit more senators for Constantinople. He later claimed responsibility for increasing the senatorial class in Constantinople from less than 300 to 2000;⁵⁵ and even if he were exaggerating the level of personal achievement which this increase represented, Themistius' close involvement in the procedure and his role in it is documented by several letters of Libanios, who was not enthusiastic.⁵⁶ He was also the last occupant of the proconsulship of Constantinople before the status of the post was changed into an urban prefecture on the Roman pattern in 359.⁵⁷ Given the formal patronal structure of ancient society, it is scarcely surprising that the recruiter of new senators enjoyed a generation of prominence and influence in the group which he had himself largely created and advanced to prominence. This prominent role in Constantinople, though without further office, which he later called his *prostasia* and dated from the time of the embassy to Constantius, Themistius was able to uphold until his death.

rule (admittedly celebrated a little early)). Not just «a little early», but a whole year and a half before the first possible date on 8th November 358. This is hardly a serious suggestion, despite its air of authority. The editor of the Cons. Const. has probably merely inserted the item under the wrong consuls and then falsely attached it to the Rome visit.

⁵¹ Or. 3,42cd.

⁵² Or. 23,298b; Or. 34,13. VANDERSPOEL (as n. 11) 105 seems to think the *siteresion* which Themistius restored was a public office: «he undertook the *siteresion*».

⁵³ Whether this makes him «a real philosopher», as HEATHER (as n. 11) 127 claims, others may judge.

⁵⁴ Libanios Ep. 66.

⁵⁵ Or. 34,13.

⁵⁶ Eg. Epp. 34, 40, 67, 70, 76, 86, 99, beginning in 358/59.

⁵⁷ Libanios, Ep. 40. See on this matter L. J. DALY, Themistius' Refusal of a Magistracy, Byzantion 53, 1983, 164–212, refuting DAGRON's rejection of this office for Themistius ([as n. 18] 213ff.).

III. Julian and Jovian

Themistius' role under Julian is a classic field for dispute, especially in recent years, and neither clarity nor unanimity has yet emerged.⁵⁸ Here I am only concerned with the question whether some kind of official or semi-official function can be established for him. That Themistius as ex-proconsul and recruiter of senators remained influential in the Senate at Constantinople can hardly be doubted, and that he will have addressed Julian in this capacity at some time during Julian's period of residence in Constantinople from December 361 to June 362 is extremely probable: it would have amounted to a quite unnecessary mutual insult if he had not, or if Julian had refused to listen to him. Libanios provides positive evidence that Themistius had indeed composed a panegyric on Julian, which Libanios asked to see⁵⁹ and received before Julian's death, but the letter which he wrote to Themistius about it dated after he had received the news of Julian's death.⁶⁰ More we cannot know with certainty.⁶¹

A recent book sums up Themistius' activity under Jovian so: «He attempted to place his own stamp on imperial politics as a public dissident for the first time, revealing maturity as both a philosopher and a politician.»⁶² This could hardly be further from the most likely interpretation of Themistius' career, for it is under Jovian that Themistius' function as a speaker of the government, dressed indeed in the scanty robes of the philosophical representative of the Senate of Constantinople, is for the first time clearly and unmistakably observable.⁶³ The single speech which we have was held in Ankara – no unfamiliar ground for the Paphlagonian Themistius – on 1st January 364 to celebrate the consulship of the newly acceded Jovian and his baby son Varronianus.⁶⁴ Themistius spoke on the express wish and invitation of the emperor.⁶⁵ Moreover the content of the speech was regarded as so important that it was repeated shortly afterwards in Constantinople.⁶⁶ VANDERSPOEL could not therefore be much further from the truth when he asserts that Themistius' «relations with Jovian thus begin and end with the panegyric delivered on 1 January 364 at Ancyra . . .»⁶⁷ The speech for this highly important ceremonial occasion could

⁵⁸ See the chapter Themistius and Julian in VANDERSPOEL (as n. 11) 115 f. with literature.

⁵⁹ Ep. 818.

⁶⁰ Ep. 1430.

⁶¹ See appendix I on some modern attempts to know more.

⁶² VANDERSPOEL (as n. 11) 154.

⁶³ See HEATHER (as n. 11) 141 f.

⁶⁴ Amm. Marc. 25.10.11.

⁶⁵ So convincingly LEPPIN, in: LEPPIN – PORTMANN (as n. 11) 101 n. 6.

⁶⁶ Sokr. H. E. 3.26.3.

⁶⁷ (As n. 11) 137.

not have been conceived or have been delivered without significant preliminary consultations with responsible advisers. Since SEECK scholars have been puzzled about the reason why Themistius was not part of the senatorial embassy to Antioch to greet and congratulate Jovian when he arrived there on the way back from Mesopotamia.⁶⁸ But it should be clear that Themistius, as the established leader of senatorial opinion, was potentially far too important to waste on such a mission of mere congratulation. When it became clear that Jovian would survive as emperor and his advisers realised their need for an influential publicist, then was time enough for Themistius to become personally involved. There is no good evidence that Themistius was ever asked and refused to go to Antioch: this is a mere suspicion uttered by Libanios in a flattering personal comment, which receives no confirmation elsewhere; it does not deserve to be taken at face value.⁶⁹

Jovian came to the throne under quite exceptional circumstances on the death of Julian in Mesopotamia, and Ammianus explains at length his difficulties in establishing his authority in the Empire, particularly in the West.⁷⁰ In the East his peace-treaty with the Persians attracted immediate opposition and continuous notoriety as a result of his surrendering Nisibis;⁷¹ and if there was ever an emperor in need of a good spin-doctor Jovian was the man. It is therefore hardly surprising that efforts were made to win the support of Themistius and the Constantinopolitan Senate for the new emperor. Themistius praises Jovian for his choice of advisers, one or other of whom will doubtless have been responsible for this particular piece of stage-management and Themistius' participation in it.⁷² It was thus no accident that it was Themistius who was chosen to celebrate the incipient new dynasty on its first joint consulate, the first grand official ceremonial occasion of the new emperor. It was, indeed, unfortunate for the protocol that Jovian's winter journey across Anatolia had been so slow that he had not reached Constantinople by 1st January (which must surely have been his aim); but even here Themistius was the man for the job. He knew how to reach the ears of the influential Constantinopolitans and

⁶⁸ SEECK (as n. 23) 301. SEECK thought Jovian as a Christian would be a poor and unattractive listener for Themistius, who only agreed to appear before him after an edict of religious toleration had been issued. VANDERSPOEL (as n. 11) 137, suggests he did not want to compromise himself by meeting Libanios. There is, as usual, no evidence, but these explanations seem far-fetched.

⁶⁹ Lib. Ep. 1430,5: καὶ περὶ Κλεάρχου μὲν ὡς ἐρῶντος γράφεις καὶ φης αὐτῷ πρὸ τῆς πρεσβείας εἶναι τοῦμόν· σὺ δὲ οὐθ' ὡς ἐρῶν οὐθ' ὡς ἐρασθεὶς ποτε ἦλθες. καίτοι τὴν βουλὴν ἀμήχανον τὴν σὴν ὑπερβῆναι πειθῶ, δι' ἣν πλείω γεωργεῖ καὶ γέγινεται μείζων, ἀλλ', οἶμαι, ἐξωμόσω· χορὴν γάρ με καὶ ταύτῃ κακῶς παθεῖν.

⁷⁰ Amm. Marc. 25.8–10.

⁷¹ E. g. Amm. Marc. 25.7.13: *ignobile decretum*. Full sources in: R. SORACI, L'imperatore Gioviano, Catania 1968, 42–44.

⁷² Or. 5,67ab.

had sufficient authority and influence to get away with a repeat performance there of the consular speech. This seems to be a unique event, so emphasising the importance of the message he bore.⁷³

In the speech all possible points of criticism are addressed, though with differing emphasis, and given a more positive, regime-friendly interpretation, though the severely criticised peace-treaty with Persia is heavily underplayed. This speech, however, is in general not the type of harmless panegyric which totally avoids awkward subjects, but is aggressively forward-looking, a presentation of the new emperor, both his person and his policies, to a potentially – or actually – hostile world, inevitably clad in the «philosophical» literary garb which Themistius had made so peculiarly his own. So his own invitation to speak is presented as the recall of «philosophy» (i.e. himself) to a place of honour at the court, thus implicitly criticising the court ethos of Julian, and implying that his own role under Julian had been negligible.⁷⁴ After the prooemium Themistius addresses the awkward and essentially unaesthetic and politically unconvincing problem of the joint consulate of the emperor and his baby boy,⁷⁵ but has an explanation for why this had happened: an accident of fate had made a last-minute change necessary – certainly a reference to the sudden death of Jovian's father, whose distinction and qualities are then praised in the next section of the speech.⁷⁶ Jovian had not challenged Julian on Constantius' death – here, therefore, implicit praise of his loyalty to the Constantinian House – but in the crisis after Julian's death was elected by the free choice of the electors and the soldiers.⁷⁷ Even the Persians «elected» Jovian, in that they did not attack.⁷⁸ A spate of classical allusions covers with delicate distancing filigree the fact that peace had, however, cost territory.⁷⁹ So, therefore, the

⁷³ Sokr. H. E. 3.26.3 says the repeat performance was ἐπὶ τοῦ πλήθους. It is not easy to imagine what he means – perhaps a performance in the Senate House not restricted merely to Senators, or «before a full house» (suggestion of WIEMER).

⁷⁴ Or. 5,63c, cf. also Or. 7,99b–101a.

⁷⁵ Varronianus was «as old as his father's purple» (Or. 5,65a); on the rather scurrilous scene see Amm. Marc. 25.10.11.

⁷⁶ Amm. Marc. 25.10.16–17.

⁷⁷ Or. 5,65cd: οἱ δὲ ἡμέτεροι ψηφοφόροι καὶ στρατιῶται τῆς τοῦ σώματος ἀγχιστείας τὴν τῆς ψυχῆς προεξήτασαν, καὶ ἀπέφηναν κληρονόμον τῆς ἀλουργίδος τὸν κληρονόμον τῆς ἀρετῆς, καὶ ταῦτα οὐκ ἐν σχολῇ, οὐκ ἐν εἰρήνῃ, οὔτε ἐνδιδόντος τοῦ καιροῦ θεραπείας καὶ παραγγελίας καὶ δεκασμούς, ἀλλ' ὥς ἐν ἀκμῇ τῆς Ἐννοῦς ἐν τοῖς ξίφεσιν, ἐν τοῖς δόρασι φέροντες τὰς ψήφους, ἀπαράκλητον γνώμην, ἀκατασκεύαστον χειροτονίαν, ἣν ὁ καιρὸς ἐψηφίζετο, πρὸς ἣν ἡ χρεῖα ἐχειραγώγει, καὶ τό γε ἔτι θαυμασιώτερον, ἐν ἐκκλησίᾳ ὑπερορίῳ, ἔξω τῆς Ῥωμαίων γῆς, ὑπὲρ τῆς Ῥωμαίων ἀρχῆς.

⁷⁸ Or. 5,66a: ὅτι γὰρ οὐχ ἡττόν σε Πέρσαι ἐχειροτόνουν Ῥωμαίων, ἔδειξαν τὰ ὅπλα ῥίψαντες, ἐπειδὴ τῆς ἀναρρήσεως ἥσθοντο, καὶ τοὺς αὐτοὺς πρὸ τοῦ μὲν θαρροῦντες, ὀλίγῳ δὲ ὑστερον εὐλαβοῦμενοι.

⁷⁹ Or. 5,66c: ἀλλὰ ταύτην τὴν γῆν ἀναμίζαντες, καὶ τὴν ὑπόθεσιν τοῦ πολέμου συμμαχίας ἀφορμὴν ποιησάμενοι.

official version, which can be compared with the «historical» situation depicted by the contemporary witness Ammianus.⁸⁰ Bloodletting in civil war had been averted – here certainly criticism of the House of Constantine, perhaps directed above all at winning the sympathies of those «many» opponents of dynastic war in the East, who had even opposed Constantius' civil war against Magnentius,⁸¹ but above all an official hope for the future, that this might still be the case, an advance warning perhaps also to supporters of other potential candidates for the throne, such as Procopius, of the unpopularity civil war would bring with it.

The problem of religious tolerance takes up by far the longest section of the speech and must be official programme. Praise of tolerance in a programmatic speech on the first major ceremonial occasion of the reign means an official policy of tolerance and certainly a warning to Christian groupings that hate-filled triumphalism after the death of Julian would not meet with imperial approval or support.⁸² Whether or not Jovian had already issued legislation on the issue, perhaps in Antioch to the local authorities there, is not of central importance to understanding Themistius.⁸³ Here the court and provincial dignitaries of the diocese Pontica, in the second performance the Senate and perhaps other highly-placed persons in Constantinople – that is, taken together the whole body of Eastern decision-makers and formers of public opinion – were being addressed and had to be convinced of the benefits of tolerance after the upheavals of Julian's reign, had to be convinced that it was a good

⁸⁰ Amm. Marc. 25.5–7.

⁸¹ Or. 4.62b.

⁸² Sokrates H. E. 3.24.1–2 draws attention to the hopes of the leaders of Christian sects to win imperial approval and support, each for his own views, and Jovian's tolerant approach.

⁸³ It is difficult to avoid the conclusion that Jovian had already issued some kind of pronouncement which could be regarded as law before Themistius spoke (so SEECK [as n. 23] 301). VANDERSPOEL (as n. 11) 148–49 argues against this, since there is no such law in the codes, and wants to interpret Themistius' statements on the matter in terms of the emperor's being νόμος ἔμψυχος (64b). This might perhaps be possible if Themistius had merely used the substantive νόμος, which might indeed be used imprecisely, but his use of the verbal form νομοθετεῖν twice, which he usually uses concretely, and νομοθεσία (only in Or. 5) together with νομοθέτης, which – while inevitably including Plato – also seems not to be used in a metaphorical sense (see examples in: A. GARZYA, In Themistii orationes index auctus, Napoli 1989, s. vv.), suggests some concrete activity. Moreover VANDERSPOEL misunderstands the political situation of the speech, being misled by Themistius' artistic licence in dressing up his praise as a plea (on this see now HEATHER [as n. 11] 145f., who however cites no source for his assertion that there was already a law), and finds a «logical fallacy» (148 ad n. 61). Certainty is impossible with an allusive author like Themistius, but it seems probable that some kind of decision, perhaps only of local relevance, was the basis for Themistius' playing on the theme, and that this was now to be turned into imperial policy for the whole Empire.

thing that the imperial government had no intention of taking sides in matters of religion.⁸⁴

This message was – given the space devoted to it by Themistius – clearly the most important aspect of the new government's programme (whose members also receive their due meed of praise from Themistius in a section leading immediately into the description of the new religious policy).⁸⁵ The most controversial aspect of Jovian's short period of rule, the peace-treaty with the Persians, is by comparison massively played down.⁸⁶ The treaty was nothing to be proud of, nothing which could win over influential opinion for Jovian, nothing about which anything could be done immediately, since a revision did not come into question, therefore nothing to be treated to 'Themistius' normal spin-dry. Opinion, it seems, had to be won for Jovian, despite the treaty with the Persians. Themistius fits it in nevertheless briefly (having already admitted *en passant* that territory had been divided up to obtain peace)⁸⁷ in the epilogue where, however, he puts Constantinople elegantly in the centre and introduces Persia only in the psychologically distancing form of a reference to Athenian celebrations after the battle of Salamis: just as the Athenians celebrated the mysteries on their ships, not being able to reach Eleusis, so after the peace Jovian has celebrated «outside the temple» and will complete the ceremony when he reaches the sanctuary, i.e. Constantinople. The phrasing is particularly careful: that Jovian celebrated a victory is never explicitly said, only suggested by the comparison with the Athenians. Jovian's celebration is merely «after the peace».⁸⁸ The message seems clear. The Persian treaty was to be played down, victory not loudly claimed, but defeat not admitted. There was after all something to celebrate.⁸⁹

⁸⁴ Praised by Sokr. H. E. 3.25.20–21.

⁸⁵ Or. 5,67ab.

⁸⁶ It is mentioned briefly, but certainly not «discussed» (so, however, misleadingly VANDERSPOEL [as n. 11] 138).

⁸⁷ Or. 5,66c (text above n. 79).

⁸⁸ Or. 5,71a: Πέρσας δὲ καὶ Ἀθηναῖοι νικῶντες ἐν ταῖς ναυσὶν ἐθαδούχησαν τὰ μυστήρια, καὶ βασιλεὺς μετὰ τὴν εἰρήνην ἔξω τοῦ νεῶ τὰ προτέλεια μῆσας εἰς τὰ ἀνάκτορα τὴν τελετὴν καταθήσεται. HEATHER (as n. 11) 141 does not do justice to the subtlety of Themistius' expression when he claims that «Themistius stood up and claimed it as a Roman victory».

⁸⁹ The coinage which Jovian issued was not all so modest in taking up well-established military themes: some eastern mints issued solidi with the by now traditional reverse legend *securitas reipublicae*, whereas traditional victory propaganda was restricted to bronze issues with *victoria Romanorum* or *gloria Romanorum* (overview in RIC 8). On these coins see K. EHLING, Der Ausgang des Perserfeldzuges in der Münzpropaganda des Jovian, *Klio* 78, 1996, 186–191, who, however, does not attend to the long tradition of these legends, which suggests that their absence after a major campaign might well have been regarded as more significant and have attracted more attention as an admission of defeat rather than that their presence was seen as an active assertion of

Perhaps nobody would be convinced, but Themistius made his talents available to the new regime to praise the quality of the new emperor, who with his select band of advisers promised internal stability, peace and religious tolerance: the civilian in Themistius could doubtless find much in that programme to be thankful for as he prepared his propaganda offensive.

IV. Valens

Jovian's sudden death before he had even arrived in Constantinople put an end to Themistius' hopes of playing a long-term publicistic role on his behalf. The game had to begin again. But Themistius had no need to worry. His position as leader of the Senate and former of opinion in the circles which mattered in Constantinople was secure. Indeed, a new period of prosperity and influence was opened up to him by Valentinian's appointment of his brother Valens as co-emperor with special responsibility for the East at Constantinople on 28th March 364.⁹⁰ If the Pannonian soldier Jovian had needed Themistius, then his fellow-countryman Valens, who had been much less prominent in the army and had had no close connection with Eastern society, being at first unable even to understand Greek,⁹¹ had precisely the same publicistic needs. Under Valens Themistius flourished, served the regime loyally, and claimed to have gained influence on the emperor.⁹² We have no good reason to deny this, though his formal public speeches are not the place to look for it, despite the literary form of their presentation.⁹³

No less than seven public speeches of Themistius are preserved from the reign of Valens, all of them delivered on important ceremonial occasions

victory. It seems nevertheless possible that Jovian's advisers may have had different messages for different levels of the population, Themistius and the unspecific but reassuring message of the *solidi* being directed above all at the rich ruling classes, the traditional victory message, restricted to the bronze issues, aiming at the lower classes and above all the army, who will have been the first recipients of the new bronze coins.

⁹⁰ Amm. Marc. 26.4.3.

⁹¹ Them. Or. 6,71c. We have, however, no reason to believe that Valens, who spent most of the next 14 years in a Greek-speaking environment, continued to be wholly ignorant of the language, though even after ten years he was not up to following a speech of Themistius without interpreters (11,143c). This is perhaps not entirely surprising!

⁹² Or. 31,354d. It is not clear which emperor he refers to in Or. 34,14, but Valens is not improbable (see below, appendix I, p. 901), cf. Sokr. H. E. 4.32.2. Which emperor granted him his second bronze statue (Or. 34,13) remains also unclear, but Valens is again not excluded, indeed quite probable. In spring 365 Libanios attested Themistius δύναις as a result of his reputation and his speeches καὶ τῶν ἄλλων (whatever that might mean precisely), dating back to early winter 364 (Ep. 1495,4).

⁹³ So also briefly HEATHER (as n. 11) 146–47.

where, even if Themistius had not explicitly indicated that he spoke on the invitation of the court, it would be necessary to assume a prior consultation with the responsible members of the government. Read as governmental publicity, each and every one of them makes excellent sense as a statement of public policy, as a fixation of what was seen to be important by the highest levels of the Empire at specific moments in time. The first of the extant «Valens» speeches was held at Constantinople in the Senate and in the presence of the emperor probably late in 364, since the overriding theme is the functional «brotherliness» of the joint rule of Valentinian and Valens – which gained the speech the title Φιλᾶδελφος – whereas the first joint consulship, which began on 1st January 365 and would have added a further welcome dimension to Themistius' rhetorical palette, is not mentioned.⁹⁴ The speech must therefore be dated earlier.

Serious problems were created for the imperial system by the successive sudden deaths of Constantius, Julian and Jovian within a three-year period. All had ruled the Empire – or, in the case of Jovian, had apparently intended to – without a formally equal colleague, and the soldiers who elected Valentinian insisted that it was time this demonstrably unsatisfactory system of one-man rule should stop: Valentinian should choose a colleague of his own liking.⁹⁵ The structure demanded by the troops was, of course, also problematical, as the history of the Constantinian dynasty had shown only too well, but Valentinian capitulated and with Valens as colleague returned to the solution introduced by Diocletian, dividing responsibility with his colleague geographically between East and West. Specific problems were posed by this solution; particularly affecting the East was the question of the suitability of a Pannonian soldier ignorant of Greek to rule there, but more general problems were also raised: did the Empire still exist as a single political unit after the division, and if so how would it work in practice? Were the new emperors so firmly in the saddle that usurpation was excluded, and did they adequately represent imperial tradition? What was to become of Constantinople, a particularly urgent question to Themistius' hearers in the city when he rose to speak.

He addressed all these matters. The most obvious immediate problem, Valens' lack of experience in the cultured world of the East and his ignorance of the Greek language Themistius attacked head on. He himself spoke, of course, in Greek, but he pretends to know no Latin (though later in the speech he betrays this as a rhetorical conceit when he refers positively to Valens' recent

⁹⁴ So SCHOLZE (as n. 31) 25–27. Themistius seems to have held another speech shortly afterwards, which SCHOLZE, 27, identifies as a speech for 1st January, now lost. Libanios Ep. 1495,6 merely calls it λόγον τόν τε νῦν, contrasted with τόν τε πρὸ τοῦδε, i.e. Or. 6. See also VANDERSPOEL (as n. 11) 157f.

⁹⁵ Amm. Marc. 26.3–4.3.

speech in the Senate, possibly even in the same meeting, which he must therefore have understood!).⁹⁶ The rhetorical purpose of the apologetic confession, however, is to make Valens' inadequacy seem less important by drawing attention to the speaker's own linguistic weakness, especially since Themistius asserts firmly in his opening words that Latin is the «ruling language», and therefore by implication for a ruler entirely adequate; at the same time he is putting himself on the same level as his Eastern audience; in any case, he says, the meaning is more important than the precise words, and there is a flock of helpers and translators to hand.⁹⁷

More fundamental were other problems, and Themistius appropriately spends much longer on them. For all who had lived through the dynastic conflicts of the Constantinian dynasty culminating in Julian's recent usurpation, blood relationship among rulers must have seemed to offer in itself far too weak a guarantee for family solidarity in practice. The problem had been serious, and is the main theme of the speech, the tenor of which is that despite recent experience *these* two brothers were different and did indeed offer a guarantee of stability, that the geographical division of responsibility was part of this security system, which ensured that «the emperor» was at the same time in Italy and on the Bosphoros, in Britain and in Syria, on the shores of the ocean and on the banks of the Tigris, which otherwise only god (as Zeus, in Homer) could achieve.⁹⁸ The Empire was thus paradoxically united and strengthened by being geographically divided, the brothers in their mutual trust and interdependence, in which they received the support of divine powers, were the ideal solution to the problems of the Empire.

The positive side of the imperial tradition was also emphasised as part and parcel of the Valentinian solution: the soldiers (explicitly) had chosen Valentinian, whereby the wishes of the powers above had manifested themselves.⁹⁹

⁹⁶ Or. 6,81a: καὶ ταῦτα ἔναυλον εἰς τὰ ὅτα ἐνδεδυνότα περιφέρων ἔτι τὸν λόγον, ὃν πρῶν διελέχθης πρὸς τὴν βουλὴν καὶ παραδέδωκας ἐγγυητὴν τῆς μελλούσης εὐδαιμονίας. Cf. *ibid.* d: ὅταν δὲ καὶ τὰς ὑπὲρ τοῦ πατρὸς φωνὰς ἐννοήσω... Modern commentators have usually misrepresented Themistius' linguistic competence, cf. DAGRON (as n. 18) 60ff., even suggesting that Themistius was proud of his ignorance of Latin. But Themistius disclaims merely his ability to deliver a ceremonial speech in Latin i.e. an active knowledge of the language at the highest cultural level, and the passages cited show that his passive knowledge was at least adequate. A direct parallel from an earlier age would be the much-read Plutarch, who also claimed difficulties with Latin, which, however, did not prevent him from reading a great deal of it (Demosth. 2.2–4, cf. C. P. JONES, *Plutarch and Rome*, Oxford 1971, 81ff.).

⁹⁷ Or. 6,71c–72a.

⁹⁸ Or. 6,75b–d.

⁹⁹ Or. 6,73c: μὴ γὰρ οἴεσθε, ὦ γενναῖοι, τοὺς στρατιώτας κυρίους εἶναι τηλικαύτης χειροτονίας, ἀλλ' ἄνωθεν αὐτὴ κάτεισιν ἢ ψῆφος, ἄνωθεν ἢ ἀνάγκης τελειοῦται – τοῦτο δὲ φησιν Ὅμηρος, ἢ τοῦ Διὸς βουλή – ταῖς τῶν ἀνθρώπων διακονίαις. Cf. 75b.

That means, the army was satisfied and so everybody else – in particular Themistius' listeners in the Constantinopolitan Senate – should be as well. But this was not enough in itself: imperial qualities come from god, especially *philanthropia*¹⁰⁰ and respect for the values of philosophy;¹⁰¹ Titus, not Domitian is the model;¹⁰² and out of the recent past Constantius' generous treatment of his opponents after the civil war against Magnentius and Vetrano can serve as a positive example.¹⁰³ For the interests of Constantinople Valens offers better prospects than even Constantine, since Valens was raised to the purple there,¹⁰⁴ had publicly called the city «mother of his imperial rule»,¹⁰⁵ and therefore owed it gratitude (i.e. investments) over and above the mere building out of the Hebdomon, where the imperial power had been ceremoniously conferred on Valens.¹⁰⁶ The total message is summarised in the form of a prayer in the last sentence of the speech: «O royal Zeus, father of mankind, protector of the cities of Rome, both that in the East and that in the West, may you preserve these coupled cities, this yoked pair of emperors, who guarantee the fulfilment of your will.»¹⁰⁷

The problems addressed by Themistius in this speech are quite different from those which had seemed important to Jovian's advisers at the beginning of the year. Here is no concrete programme expressed as policy: the emperors themselves are, it seems, the whole programme. The stability of the imperial structure and the role of Constantinople in it are the main problems which presented themselves to Valens' pragmatic advisers and – rightly enough – to the leaders of opinion in the East. Religion is only mentioned where a diffuse god, in the chosen literary clothing addressed as Zeus, is claimed as supporter of the new imperial pair. There were, it seems, after Jovian's death, greater difficulties and more acute problems facing the Empire than those posed by questions of religious tolerance. It was not long before they emerged.

The usurpation of Procopius and its successful suppression provided the occasion for Themistius' next surviving speech, which is to be placed in au-

¹⁰⁰ Or. 6,73c, 78a, 78d, 79d.

¹⁰¹ Or. 6,72a and *passim*.

¹⁰² Or. 6,72d, 74c, 80ab.

¹⁰³ Or. 6,80c.

¹⁰⁴ Or. 6,83b.

¹⁰⁵ Or. 6,82d: μητέρα ἀνειπὼν τῆς βασιλείας.

¹⁰⁶ Or. 6,83a.

¹⁰⁷ Or. 6,84a: ἀλλ' ὃ βασιλεῖε Ζεῦ, ὃ πάτερ ἀνθρώπων, ὃ πολιούχε, καὶ τῆς ἑφ' ἡμῶν πόλεως καὶ τῆς ἐσπερίας, φυλάττοις μὲν τῶν πόλεων τὴν ξυνορίδα, φυλάττοις δὲ τῶν βασιλέων οἱ τὸ σὸν βούλημα διασφύουσιν. Both MAISANO (as n. 11) *ad loc.*, and PORTMANN, in: LEPPIN – PORTMANN (as n. 11) *ad loc.*, alter the order of Themistius' *Romes*, and place West before East. We may be sure that Themistius' order – East before West – was deliberate.

turn 366 or winter 366/67.¹⁰⁸ The precise occasion on which Themistius delivered this speech «On the Unfortunates under Valens» cannot be established with certainty. Since he addresses the emperor, but also asserts the claims of the soldiers to their part in the victory,¹⁰⁹ it will be best to assume the presence of at least the highest ranks of the army; and since Themistius' usual audience was the Senate in Constantinople, a scene can reasonably be constructed of a Senate meeting attended by emperor, court and consistory including the generals. The speech dates not to the immediate period after the defeat of Procopius, but to some months later,¹¹⁰ is thus not primarily a victory speech congratulating Valens, therefore not in the first instance concerned to relate and interpret the events of the war, but above all to discuss the emperor's policy after it, especially his generosity to the defeated, and his use of his victory in general. It is therefore essentially forward-looking. Themistius claims, of course, explaining his delay rather disingenuously, that philosophy needed time to reflect on events and cannot rush in with well-considered statements at short notice. But given the fact that Procopius' usurpation had originated in Constantinople and some sympathies for him doubtless still existed among the senators, the delay will have served Themistius well enough to find out, perhaps even to influence, Valens' attitude and future policy. We cannot tell what had been going on behind the scenes before it came to this ceremonial occasion several months after the victory, but the time had by no means been eventless, and what Themistius means here is that he had to know what policy was before his «philosophy» could present it adequately in public: the close identity between Themistius himself, his views on policy, and what he apostrophises as philosophy is clearly apparent here, and not for the first time.

Since the historians Ammianus Marcellinus and Zosimos both write about a reign of terror immediately following the victory over Procopius on 27th May,¹¹¹ Themistius' speech has often enough been regarded as shameless flattery. But this would be to misunderstand its function: if a government speaker six months or more after the victory and after a period of searching out accomplices and fellow-travellers in a speech before Senate and court – i.e. before those who knew well enough what had been going on – praises the generosity and mildness of the emperor, while at the same time blackening the character of the defeated usurper and reminding his senatorial listeners of how

¹⁰⁸ So SCHOLZE (as n. 31) 28–29 and all subsequent writers. The most extensive recent discussion of Procopius' usurpation is by F.J. WIEBE, *Kaiser Valens und die heidnische Opposition*, Bonn 1995, 3–85. WIEBE, however, is interested in Themistius only as an additional source of facts and is therefore disappointed, «von nur mäßigem historiographischen Auskunftswert» (4).

¹⁰⁹ Or. 7,85d–86a.

¹¹⁰ Or. 7,84c.

¹¹¹ Amm. Marc. 26.10.6–14; Zos. 4.8.4–5. See also WIEBE (as n. 108) 57–61.

badly Procopius had treated the Senate, this can only mean one thing: that the reign of terror was over, that the official view was that it could have been a lot worse, and in particular that the highly placed and potentially endangered listeners now had nothing more to fear. Themistius does not cover up or deny that punishments had taken place, but he speaks of them in the past tense.¹¹² In particular Themistius praises the release of the philosopher Maximus of Ephesos and uses it to illustrate and emphasise Valens' true honouring of philosophy, by which he also seems to be sending out the message that he Themistius, as self-proclaimed representative of true philosophy, was back in business at the court.¹¹³

In the following spring Valens began a three-year campaign against the Goths on the lower Danube, whereby he wintered at his military base Marcianopolis, some 400 km from Constantinople. In March 368 Themistius was present at the imperial winter quarters, invited to participate in the celebrations of Valens' *quinquennialia*. His speech on the occasion is preserved.¹¹⁴ Much of it is fairly general stuff on the good ruler without obvious immediate relevance to the current situation, but a reference to Valens' still not being able to follow the words of the speech¹¹⁵ makes it again clear that Valens himself was not the primary audience for the speech, so that Themistius' praise of the emperor's being a good listener to advice is in effect a concealed compliment to his advisers (including, of course, Themistius himself!).¹¹⁶ The extraordinary thing about this speech, delivered at the imperial base camp on a major ceremonial occasion in the middle of an ongoing war just as a new campaign was being prepared, is Themistius' generally negative attitude to military activity: far more important to him in this speech is the financial side of imperial affairs, within which his sparse references to military activity are firmly embedded, beginning

¹¹² Cf. Or. 7,93a–c.

¹¹³ Or. 7,99b–101a. In this passage it becomes ever more clear that when Themistius speaks of philosophy and its influence he means, or can mean, little more than himself: «philosophy» is his code-word for his own person and personal values and views. His criticism of Julian (the man with the beard in 99d) for not damaging, but merely neglecting philosophy, is thus merely a further admission that Themistius had not had the influence under Julian which he would have liked and which he had had under Constantius, Jovian and now again under Valens. WIEBE (as n. 108) 75, thinks the man with the beard in 99d was Procopius, who, as his coins show, also wore a beard (good photograph of a solidus of Procopius in RIC 9, plate XL,6); but Procopius cannot have been described by Themistius after his defeat as καὶ τοῦ φιλοσοφώτατου τῶν βασιλέων ἀντιποιούμενος. In the next sentence this beard-wearer is a pupil of Maximus of Ephesos and emperor, neither of which could be asserted of Procopius (καὶ τοῦτον μὲν ἔδω, ἀλλὰ τὸν καθηγητὴν ἐκείνου τοῦ αυτοκράτορος...).

¹¹⁴ Or. 8. On the date see SCHOLZE (as n. 31) 29ff.; on the imperial «invitation» 104c.

¹¹⁵ Or. 8,105c.

¹¹⁶ Or. 8,109a.

with a long-winded truism, that the emperor cannot spend more than he takes in, and the assertion that the best present to his subjects is to lower the taxes.¹¹⁷ This latter is being done, despite the ongoing war. More remarkable are explicitly negative remarks on military activity: the emperor's subjects benefit far more from his reducing expenditure than from recovering lost territories in Mesopotamia or by taming the Goths, since the latter benefits merely the local populations recovered, whereas tax reduction benefits everybody in the Empire;¹¹⁸ even booty and prisoners benefit only the soldiers and not those who pay them;¹¹⁹ true victory is when both the Goths and the taxman are simultaneously defeated, to stop the taxman being even more frightening than the barbarian.¹²⁰ In this way the emperor will gain eternal fame, for not even Trajan or Marcus Aurelius would have enjoyed a good reputation merely through their military successes: the sufferer does not ask if he is suffering under Goth or Roman: whoever it is who does wrong is always the enemy.¹²¹

Given that these drastic statements were made by a highly placed invited speaker on one of the most prominent ceremonial occasions the Empire had to offer and were uttered in praise of an emperor who was stuck in the middle of a fairly hopeless frontier war in the presence of the court, the highest echelons of the army and (presumably) the local dignitaries from the diocese of Thrace, it seems impossible to believe that they had not been vetted in advance. What Themistius is saying is that listeners should not think that the current war was worth the expense, that other things were more important for the good of the Empire as a whole, therefore that an indefinite continuation of the war until total victory was achieved (whatever that might have meant in practice) was ruled out, was no longer part of imperial policy.¹²² Themistius also gives a hint of where the military machine, which Valens is praised for having already made cheaper and more efficient, might be better employed: a recent refugee from the East serves Valens and is an omen for future victories

¹¹⁷ Or. 8,112a–d.

¹¹⁸ Or. 8,114c.

¹¹⁹ Or. 8,114d: καὶ τῶν μὲν λαφύρων καὶ τῶν αἰχμαλώτων εἰς τοὺς τὰ ὅπλα φέροντας μόνους ἢ ἀπόλαυσις περιίσταται, καὶ τὸ πρᾶγμα οὐδαμῶς ἴσον, μισθοφορεῖν μὲν ὑπὲρ τοῦ κρατεῖν τῶν πολέμων, τῶν ἄθλων δὲ μὴ κοινωνεῖν τοὺς μισθοδότας.

¹²⁰ Or. 8,115a: καὶ ταύτην τὴν νίκην ἀληθινήν, δι' ἣν ἅμα Σκύθαις καὶ τῶν δασμολόγων ὑπερφρονήσομεν, καὶ οὐκ ἔσονται μοι τῶν βαρβάρων οἱ πράκτορες φοβερότεροι ...

¹²¹ Or. 8,115c.

¹²² Somewhat in this sense HEATHER – MATTHEWS (as n. 11) 25, though postulating an undefined 'public opinion'. I see specifically military officers on the spot, local dignitaries and the representatives of the Senate and the court as the prime recipients for the message, which bears a strong civilian flavour. CHAUVOT (as n. 4) 195–97, sees Themistius here as 'porteparole d'un courant d'opinion répandu dans l'Empire' esp. in the Senate, and thinks Valens did not allow himself to be convinced because Themistius' arguments were too feeble.

in the East.¹²³ Opinion at the camp and in the army was clearly being prepared for the transfer of activity from the Danube to the eastern frontier; and had not the unexpectedly extensive Danube spring floods prevented all effective military activity in the area in 368,¹²⁴ we might well have seen the famous agreement concluded with Athanaric on the boat anchored in midstream taking place in the immediately following winter, not as actually happened in that of 369/70.

One further point is worth noting in the epilogue, a place where Themistius regularly puts important statements. Here the listeners are being publicly prepared for a future public imperial role for Valens' two-year-old son Valentinian Galates. Themistius sees him as a future Alexander, he himself as his Aristotle; Galates already shows royal characteristics.¹²⁵ It is worth remembering that it was only as recently as 24th August 367 that in the West Valentinian had raised his eight-year-old son Gratian to the purple.¹²⁶ Themistius here gives the first hint that Valens was not prepared to wait so long to introduce a parallel development for Valentinian Galates in the East. The dynasty was all set for internal consolidation.

The next stage of public recognition was a consulate for the child, and this must have been agreed with the Westerners, since the second consul to take office on 1st January 369 was also an Easterner, the general Victor.¹²⁷ Once more Themistius made the winter journey to Marcianopolis to make his publicistic contribution to the ceremonial of this central measure of dynastic consolidation;¹²⁸ once more the circumstances of the speech make it clear that the primary audience cannot have been the nominally addressed recipients of the

¹²³ Or. 8,116c: σὲ δὴ ἤδη τις τὰ σκηπτρα ὑπεριδὼν τὰ πατρῶα, καὶ ταῦτα οὐκ ἀφανοῦς βασιλείας, μετάνστης ἥκει δορυφορήσων, ἀγαθὸν οἰώνισμα τῶν ἀπὸ τῆς ἑω τροπαίων. The exile is identified as Bacurius of Iberia by D. HOFFMANN, Wadomar, Bacurius und Hariulf. Zur Laufbahn adliger und fürstlicher Barbaren im spätrömischen Heere des 4. Jahrhunderts, MH 35, 1978, 307–318.

¹²⁴ Amm. Marc. 27.5.5.

¹²⁵ Or. 8,120a.

¹²⁶ Cons. Const. ad ann. 367; Sokrates H. E. 4.11.3.

¹²⁷ DOWNEY, Teubner Themistius vol. 1,181 mistakenly thinks the consul was the later Valentinian II, who, however, was not yet born!

¹²⁸ Since SCHOLZE (as n. 31) 37 the unfounded suspicion has been regularly repeated (most recently by VANDERSPOEL [as n. 11] 172), that Themistius might have merely sent the speech to Marcianopolis and not delivered it in person. No reason has ever been given for this odd idea. It seems on general grounds quite inconceivable that Themistius would have passed up the opportunity of appearing in person on this most delicate imperial occasion, and the speech as we have it is such an important piece of dynastic propaganda that Themistius must have known in advance the line he needed to take. Moreover, as LEPPIN, in: LEPPIN – PORTMANN (as n. 11) 173 n. 4 points out, the reference at Or. 9,128ab to the limited time available for speaking also argues strongly for Themistius' having been personally present.

praise, the child Valentinian Galates, since he was not yet three years old, and Valens himself, who nine months before was still addressed as not comprehending Themistius' Greek,¹²⁹ but the assembled court, senators – for Themistius will scarcely have travelled alone, particularly since he claims to represent Constantinople and the Senate there – and local dignitaries of the city and the diocese. Praise of a small child on the scale required of a consular speech was a challenge even to an experienced speaker; but Themistius lost no time in addressing the main purpose of the occasion already in his prooemion: the consulship was only the beginning of imperial honours for Valentinian Galates.¹³⁰ The main subject of the speech is, however, inevitably Valens himself, who provides an admirable model for a ruler: he had created harmony in the kingdom at the time of Galates' birth (so the official view of the measures taken against the usurpation of Procopius),¹³¹ as a lover of the Muses – particularly Kalliope – he had picked out Themistius as his own «professor and director of studies»,¹³² and Valentinian Galates can learn even more, given his natural advantages of having been born in the purple and receiving the succession not like Valens as a reward for his *arete*, but because of his birth.¹³³ He is a direct parallel with Gratian;¹³⁴ the Empire currently has three protectors, soon it will be four.¹³⁵ This state of affairs – framed as a request by Constantinople as a whole, not just the Senate¹³⁶ – should be achieved as soon as possible, and Valentinian Galates and Victor should come to Constantinople, where Valens had been made emperor.

The speech, properly understood, is a contemporary document of the very first order for the concrete nature of the plans of the imperial brothers Valentinian and Valens to continue the consolidation of the political structure of the Empire by creating a dynasty which (they doubtless hoped) would effectively

¹²⁹ Or. 8,105c.

¹³⁰ Or. 9,120c.

¹³¹ Or. 9,122c.

¹³² Or. 9,123b: οὐκ ἀτιμάζει καλεῖν ἑαυτοῦ καθηγεμόνα καὶ ἐπιστάτην ἓνα πρεσβύτην.

¹³³ Or. 9,124bc: ὅτι μὲν γὰρ ἔφυς ἐκ βασιλέων, οἱ δὲ ἐξ ιδιώτου, πλεονεκτεῖς· ὅτι δὲ οἱ μὲν ἀρετῆς ἄθλον ἐκαρπώσαντο τὴν βασιλείαν, σοὶ δὲ ἡ τοῦ γένους δίδωσι διαδοχή.

¹³⁴ Or. 9,125b: τὸν ὁμόστοιχόν σοι λαμπτήρα τοῦ γένους.

¹³⁵ Or. 9,127ab.

¹³⁶ Or. 9,128ab. The sentence ἃ δὴ νῦν ἀντιβολεῖ μὲν ὁ δῆμος ἀντιβολεῖ δὲ ἡ μεγάλη βουλή, προσθεῖς, ἵνα μὴ πέρα τοῦ καιροῦ διοχλοῖν, ἀπαλλάξομαι is often regarded as evidence that Themistius here «represented the Senate» or was «instructed by the Senate» (e.g. LEPPIN, in: LEPPIN – PORTMANN [as n. 11] 173). This is in an obvious sense correct, since Themistius was its most prominent member, but does not do justice to the epilogue, where Themistius claims to represent Constantinople as a whole, *demos* and Senate; ἡμεῖς in the next sentence means, of course, not Themistius but Constantinople. The tenor of the whole speech shows that Themistius is here, as usual, speaking for the imperial government.

rule out the chance of further usurpations like that of Procopius. Valentinian Galates, tiny as he was, gave them the chance of creating in the East a directly parallel structure to that in the West; there Ausonius served already as teacher and guardian of Gratian in Trier, while Valentinian travelled on imperial business; so Themistius hoped – or expected – to serve the same function in due course in Constantinople for Galates, who might be expected to take up residence there once the war on the Danube was over. That the ending of the war was officially planned, Themistius' speech for the *quinquennialia* in March had shown; that this was not forgotten, despite the frustrating lack of development during the year, is perhaps suggested by his «request» to Victor to rest awhile on his shield and visit Constantinople with his fellow consul. It could be a gentle indication that the militarily indispensable *magister equitum* might hope to be free during the year of his consulship to leave the front and visit Constantinople.¹³⁷ He missed it by just a few weeks.

When the peace came, after another fairly ineffective trans-Danubian campaign, it came through the famous head-to-head negotiations between Valens and Athanaric on the ship moored in the middle of the Danube around February 370.¹³⁸ On the return of the court to Constantinople in ca. February/March 370 it fell to Themistius once again on the express wish of the emperor,¹³⁹ to interpret events of the war and their less than satisfactory outcome to a doubtless sceptical public in the Senate at Constantinople. Once more he feels compelled to address the language question for those who might have regarded the dramaturgy of the scene as more than slightly bizarre: Valens, says Themistius this time, prefers ideas to words, therefore is happy for Themistius to speak Greek.¹⁴⁰ Once again, however, with all desirable clarity, Themistius is revealed as speaking to a different audience than formally seems to be the case. He is not addressing Valens directly so as to be understood by him. The audience for this piece of imperial spin is therefore to be sought in Constantinople. Selling compromise as victory – even though opinion had been prepared for this solution for more than 18 months – to those living nearest to the potential danger was a tricky problem, and it is perhaps no surprise that after the speech Valens did not stay for more than a few more

¹³⁷ Or. 9,128cd.

¹³⁸ Amm. Marc. 27.5.6–10, cf. Them. Or. 10,134ab. On the date see appendix II.

¹³⁹ PORTMANN, in: LEPPIN – PORTMANN (as n. 11) 184 rather sophistically remarks that although Themistius says he has often spoken before the emperor he does not mention an explicit invitation in this speech. But the expression he uses for his speech «like an annual tribute» (ὥσπερ εἰσφορὰν ἐνιαύσιον φοιτᾶν οἶσι σοι δεῖν καὶ τὴν ἐκ τῶν λόγων συντέλειαν) is surely clear enough: εἰσφορὰ was never entirely voluntary. The phrase does not, however, necessarily imply that this was Themistius' first speech of the year, as SCHOLZE (as n. 31) 39 suggests, «quasi novum tributum novi anni».

¹⁴⁰ Or. 10,129cd.

weeks in the city. For Themistius' role it is important to point out that he had been on the spot with Valens when the peace was made, and that he liked to represent this participation in imperial diplomacy as performing an embassy for the Senate of Constantinople.¹⁴¹ In this way Themistius involves the Senate, his immediate audience for the speech, by depicting them as representing the interests of the Goths, by their having elected «philosophy» – Themistius' favourite self-description – as their ambassador for peace.¹⁴² He thus binds the senators in moral responsibility for the peace-treaty. Otherwise the speech fits well enough into the normal model of imperial victory propaganda and requires no further interpretation here.

By the end of the Gothic war Themistius was clearly well established as *persona maxime grata* at Valens' court, as the chosen interpreter of major governmental policy decisions to the most influential Eastern intellectual and political circles. Valens' departure to the eastern provinces, where he remained for seven years, except for the winter 370/71 which he spent in Constantinople, meant that Themistius' immediate contacts with the court were less easy to maintain at the level of intimacy which characterises these early years. Only two more speeches are preserved from the next eight years, of one other, now lost, we have information. Two periods during which Themistius was at court after Valens finally left Constantinople in May 371 can be reconstructed: in March 373 when, probably in Antioch, he delivered a speech celebrating the emperor's *decennalia*,¹⁴³ and again two years later in the autumn, when he held a speech, now lost, announcing a change in religious policy, which gained him a notice in the ecclesiastical histories of Sokrates and Sozomenos.¹⁴⁴

The audience for the speech on the *decennalia* will as usual have been composed of the court and the local, this time Antiochene, upper classes; no doubt Themistius was not the sole representative of the Senate in Constantinople present. The speech, however, does not betray the immediate level of information and purpose which the earlier speeches demonstrate. Nevertheless, an explicit imperial invitation was again its point of origin,¹⁴⁵ and, as with all such invitation speeches, it is clear that opinions expressed by Themistius on matters of public policy or attitudes will have been lanced or vetted by the imperial government. Once more Themistius makes explicit reference to Valens' lack of

¹⁴¹ Or. 10,132c–133a.

¹⁴² Or. 10,133a: ἀλλὰ βασιλεὺς τῶν μὲν βαρβάρων πολλὰς ἀπέπεμψεν εἰς τοῦπισω πρεσβείας ἀπράκτους, τὴν δὲ ἡμετέραν κατηδέσθη. καί, ὥς ἔοικεν, ὑπὲρ Σκυθῶν ὑμεῖς ἐχειροτονήσατε φιλοσοφίαν, τὴν μόνην θεῖαν τε οὖσαν καὶ δίκαιον θυμὸν καταπραῦνειν.

¹⁴³ Or. 11.

¹⁴⁴ Sokr. H. E. 4.32.2; Soz. H. E. 6.36.6–37.1, cf. SCHOLZE (as n. 31) 43f., see also R. M. ERRINGTON, *Church and State in the First Years of Theodosius I*, Chiron 27, 1997, 28 n. 38.

¹⁴⁵ Or. 11,143b.

competence in Greek, thus indicating yet again – despite translators – that the immediate audience was not the emperor but those Eastern courtiers and other dignitaries who were present.¹⁴⁶

After a long introduction, in which the only concrete point is a reference to a tax amnesty,¹⁴⁷ and which otherwise emphasises – how could it be otherwise? – the importance of *philosophia* and *philanthropia*, Themistius comes to speak about the ongoing war against the Persians, which concerned all his listeners in Antioch. What was the difference between Goth and Persian? Why was it possible to make peace with the one but not with the other? The answer is disappointing, and no doubt disappointed many of his listeners: because the Goths were passionate but chaotic, the Persians, however, treacherous and deceitful. The only solution for them is to eradicate and extirpate them.¹⁴⁸ Themistius then drifts off into describing how physically hard the war was and how great the personal engagement of Valens, to impress the listening civilians with the quantity of hard personal effort that was being invested on their behalf by the emperor.

But that is all: there is no hint of a solution other than a military one. Themistius then passes on to civilian policy – investment and help of all kinds for the cities, but especially for Constantinople's water supply.¹⁴⁹ How well this last point will have gone down in Antioch is dubious, but there is no doubt that it represented imperial policy, even if the concrete hopes Themistius and Constantinople had associated with the child Valentinian Galates five years earlier had vanished as a result of his premature death in 370 or 371.¹⁵⁰ It is therefore only consequent when, in his epilogue, as five years before, Themistius comes to speak of the fortune of the dynasty: the hope that male children might be born to share the responsibility of rule.¹⁵¹ Galates is not mentioned.

The last surviving speech from the reign of Valens is a panegyric of Gratian known as the *Erotikos*.¹⁵² A marginal note in the codex Ambrosianus says it was delivered in Rome which, however, could be merely a guess based on the last sections of the speech.¹⁵³ Modern opinion offers uncertainty both on place and date, since apart from this speech only a reference in the 8th century

¹⁴⁶ Or. 11,144c.

¹⁴⁷ Mentioned merely en passant as something obvious and well known: Or. 11,143cd.

¹⁴⁸ Or. 11,148d–149a.

¹⁴⁹ Or. 11,151a–152c.

¹⁵⁰ He died in Cappadocian Caesarea, where Valens will probably have passed through both in 370 and in 371: Sokr. H. E. 4.26.21–24.

¹⁵¹ Or. 11,153d: παραστήσεις δὲ αὐτῷ καὶ παῖδας συνάροντας ἤδη ἐγγενεῖς καὶ αὐτοῦς ἀμφιθαλεῖς, ἀμφιδεξίους, θρέμματα ἐσόμενα Πλάτωνος καὶ Ἀριστοτέλους, πατρῶα παραδείγματα ἔξοντας εὐθείας καὶ εὐμενείας.

¹⁵² Or. 13.

¹⁵³ Ἐλέχθη ἐν Ῥώμῃ (sic).

Παραστάσεις σύντομοι χρονικά under the title *περὶ θαυμάτων* registers a visit of Gratian to Rome, sometime after his marriage, and the accompanying erection of silver statues of Gratian and Constantia. This might well be merely a late inference from knowledge of the statues, which did not need the personal presence of Gratian and Constantia to be erected.¹⁵⁴ Suggested solutions to the problems raised by the circumstances of the speech include: it was a speech held in Rome before the Senate in Gratian's absence, but at a time when a visit was imminently expected,¹⁵⁵ perhaps at an *adventus* ceremony, perhaps in connection with the *decennalia*.¹⁵⁶ But none of these ideas will do. As PORTMANN has recently pointed out, in the early part of the speech – in all except the last couple of pages of the text – Themistius addresses Gratian personally in the second person singular¹⁵⁷ (the fact that he occasionally also uses the third person is not significant, being merely a rhetorical *variatio* which he also uses elsewhere when the nominal addressee is present).¹⁵⁸ PORTMANN then speculates that the speech may have been delivered twice, once in Trier before Gratian, once in Gratian's absence in Rome, but there with the addition of the sections suggesting Gratian's imminent presence in Rome; and this is the version which survived.¹⁵⁹ This, however, does not adequately cover his own valid objection that the main part of the speech is and remains, even after a previous performance, wholly unsuitable for delivery in Gratian's absence. What, in this case, would be the point of such recycling?

We must return to the extremely few concrete indications which the speech itself offers the interpreter and try to fit these into the circumstances of the

¹⁵⁴ Π.σ.χ. 50 (PREGER). Only chapters 49 and 50 of this odd work (on which see A. CAMERON – J. HERRIN [eds.], *Constantinople in the Early Eighth Century. The Parastaseis Syntomoi Chronikai*, Leiden 1984), offer information on Rome, and since chapter 49 has Julian as Augustus visiting Rome and dedicating statues, which is clearly a false inference from the existence of statues, the same could well apply to Gratian. T. D. BARNES, *Constans and Gratian in Rome*, HSPh 79, 1975, 328f. argues for acceptance, but does not note the directly parallel false information on Julian.

¹⁵⁵ So e.g. DOWNEY in Teubner Themistius vol. 1, 232; BARNES (as n. 154) 329. But this implies that Themistius travelled all the way from Constantinople, if not from Antioch, to Rome on an imperial mission to meet and address Gratian, and then could not be bothered to wait the few days or weeks for his imminent arrival. Not a likely scenario.

¹⁵⁶ So SEECK, RE 7,2, 1912, s.v. Gratianus 3, 1835, who, however, thought Gratian himself was present at Rome, which is contradicted by the text and so rules out an *adventus*. The speech itself shows no sign of being designed for such a splendid imperial ceremonial occasion as the celebration of *decennalia*.

¹⁵⁷ LEPPIN – PORTMANN (as n. 11) 214.

¹⁵⁸ Already noted by SCHOLZE (as n. 31) 47. BARNES (as n. 154) 329 thinks the use of the third person means that Gratian was not present; but we have no evidence that Themistius used the second person singular when the person nominally addressed was not present, whereas the opposite case is frequent enough.

¹⁵⁹ LEPPIN – PORTMANN (as n. 11) 216.

time of the speech. Three questions are important: What is the date of the speech? What was the purpose of Themistius' journey? What was the purpose of the speech? The date is most easily established. 376 seems certain: Themistius speaks of general peace and victories on all fronts, which after the Goths had crossed the Danube in the later part of 376 and caused severe troubles in Thrace could not reasonably be asserted.¹⁶⁰ Questions two and three are interlinked. Although the speech is a panegyric of Gratian, and Themistius forecasts the joy Gratian will bring when he should come to Rome,¹⁶¹ when he formulates his concrete «request» on this in the epilogue, it transpires that Gratian is not to come alone, for Themistius' «wish» is directed equally to both emperors.¹⁶² This observation is critical for establishing the purpose of the speech.

The question of Themistius' function in the West, apart from delivering the speech, was raised by SEECK, who correctly saw that he had an official purpose, being sent by Valens to Gratian in Gaul.¹⁶³ A few years later, after Valens' death, Themistius could represent Gratian as being proud of being responsible for his visit to Rome.¹⁶⁴ The mission therefore had something to do with both emperors and with Rome and with Gaul. One further almost contemporary event is relevant here. In November 375 the emperor Valentinian had died at Brigetio and a few days later a military caucus had «elected» the child Valentinian II as Augustus in his place, whom, after some delay, Gratian accepted.¹⁶⁵ Themistius' speech can only be a few months after these events,

¹⁶⁰ Or. 13,179c. The dating argument comes from H. F. BOUCHERY, *Contribution à l'étude de la chronologie des discours de Thémistius*, AC 5, 1934, 198.

¹⁶¹ Or. 13,179b.

¹⁶² Or. 13,179c–180a, esp.: δεῦρ' ἵτε οὖν, ὃ φέριστοι, παρακαλέσωμεν τοὺς νεανίας ἐπιδημεῖν ποτε ἤδη καὶ ἐπιφοιτῆσαι ἐκ τῶν σκηνῶν καὶ ἐκ τῶν χαράκων τῇ πόλει τῆς βασιλείας. Ῥήνος δὲ οὐ κωλύσει, οὐδὲ Τίγρις οὐδὲ Εὐφράτης, ἀλλὰ πέμψουσιν ἐπανιόντας ὡς τὴν μητέρα στεφανώσαντας καὶ ταινιώσαντας.

¹⁶³ As n. 23,303: «Mit einem Auftrage, den wir nicht kennen». SEECK relied especially on 163c «δόμος ἰσόδομος σχεδὸν τῷ ἡλίῳ» ἀπὸ Τίγρητος εἰς Ὠκεανόν, 165c οὐ ἔνεκα ἐκ περάτων εἰς πέρατα γῆς ἐπορεύθην, 171b ἐγὼ δὲ ἐκ περάτων εἰς πέρατα γῆς ὁμηθεῖς and a few other less precise phrases, which taken together can only reasonably mean that Themistius travelled to Gaul. For Valens' instruction to Themistius we have not only 168c ἀλλ' ἐπιτίθησιν εὐθύς ὁ τῆς ἔω προστάτης ἰδίαν ἀνάγκην μὴ ἀμβλυώττειν πρὸς τὴν ἐσπέραν which PORTMANN (as n. 11) 215, following BOUCHERY (as n. 160) 199, regards as too vague to prove an imperial commission – but what else could it mean in the context? – but also 165c ἀλλ' ἐχρήν, ὡς ἔοικε, τὸν μυσταγωγόν μοι γενέσθαι τῆς ἐρωτικῆς τελετῆς, οὐ πόρρωθεν τῶν παιδικῶν οὐδὲ ὀθνεῖον, ἀλλ' ἐγγύθεν καὶ ἀφ' ἐστίας, where by the μυσταγωγός Valens is meant and by τῶν παιδικῶν Gratian. SEECK was clearly right.

¹⁶⁴ Or. 31,314d: ἱκανός μοι Γρατιανός, σεμνυνόμενος πρὸς Ῥωμαίους ὡς αἴτιος αὐτοῖς γεγωνός τῆς ἐμῆς ἐπιδημίας.

¹⁶⁵ Amm. Marc. 30.10.4–6, cf. R. M. ERRINGTON, *The accession of Theodosius I*, Klio 78, 1996, 440f.

but he still speaks of two emperors only, even using the dual form for the imperial pair Valens and Gratian.¹⁶⁶ Under the circumstances this in itself was a highly political statement about the delicate current and future status of the political structure of the Empire. At the time of the speech Valentinian II was not yet accepted. This is surely not an assertion which Themistius could have dared to make in public in the West merely on his own initiative and responsibility.

The circumstances of the time, when combined with the hints in Themistius' text, begin to offer the outlines of a reconstruction which will satisfy the phenomena at least better than those currently on offer. Themistius, as we have seen and as he himself emphasises again in the speech,¹⁶⁷ was not merely a philosopher at court under Valens, but had i.a. been present in person in 370 at the critical negotiations on the Danube with Athanaric and had recently even advised Valens on the ecclesiastical problems of Antioch and the East. If Valens sent him more than half-way across the Empire to visit Gratian, it was certainly not just to deliver a rather tepid public panegyric; but since we have only the remains of the public performance, detail will remain obscure. I suggest that Themistius was sent to organise a meeting at Rome between Valens and Gratian to discuss the crisis of the Empire created by the death of Valentinian and the coup of the generals in Pannonia, who had raised Valentinian II without asking anybody. Themistius travelled from Valens in Antioch via Rome, where he will have prepared the ground by testing opinion and raised a delegation of Roman senators to accompany him to the court at Trier; there he delivered his speech after successfully completing the diplomatic negotiations. His forecast in the epilogue that Gratian will come to Rome is thus the public announcement of his diplomatic success, that Gratian had agreed to meet Valens in Rome. No more than that. The audience for the speech was therefore not primarily the Roman Senate, as the scholiast to the codex Ambrosianus inferred from the last section of the speech, but the court at Trier, at which, however, Roman senators as part of Themistius' delegation were also present; and if Themistius flagrantly omits Valentinian II (who cannot yet have reached Trier), praises Gratian's first measures in favour of those who had suffered under Valentinian,¹⁶⁸ and, speaking on behalf of Rome (and the senatorial delegation accompanying him), expresses the expectation that both emperors may soon visit the city, then he was, for those with ears to hear, announcing a crisis meeting to discuss the future of the Empire.

¹⁶⁶ Or. 13,179cd.

¹⁶⁷ Or. 13,165bc; 166a-c.

¹⁶⁸ BARNES (as n. 154) 329-30 suggests that the political crisis subsequent to the death of the elder Theodosius and Maximinus' activities were the reason for Gratian's assumed visit to Rome. But this would not have involved Valens.

The meeting never took place. It is doubtful whether even Gratian went to Rome; if so he certainly did not meet his uncle there, even though his advisers had agreed to it.¹⁶⁹ The crisis in Thrace which broke out in the autumn and the perhaps too hopeful assessment of the status of the eastern frontier – Themistius asserts that the Persians had been frightened off¹⁷⁰ – prevented Valens from leaving the East. Within two years Eastern crisis-management had proved so heavy-handed that the Goths provoked the battle of Adrianople, which robbed Themistius of his imperial patron and plunged the Empire into crisis. Our Vicar of Bray, however, survived to rise briefly to new heights under Valens' successor Theodosius.

V. *Theodosius*

When the news of Theodosius' appointment as emperor in Sirmium on 19th January 379 reached Constantinople, a senatorial delegation travelled to meet and congratulate him, either at Sirmium or at Thessalonica, as had been done in 363 for Jovian at Antioch. Themistius, now over sixty-years-old, did not go with them, as he had not gone to Antioch in 363, later claiming an indisposition.¹⁷¹ Whether or not this was true, later in 379 Themistius travelled to Thessalonica, where the new emperor had alarmingly made his first base, and apologised for not being part of the first delegation. The short speech he delivered there, in contrast to his highly political speech for Jovian's first consulate, was not a major ceremonial piece showing the orator as a speaker for official imperial policy but, as its title *Presbēntikos* suggests, Themistius' introduction to the new emperor and his new court, to whom he delivered cautiously formulated praise but also some real requests on behalf of Constantinople. I have characterised the speech and the situation of Themistius at this time in more detail elsewhere,¹⁷² and do not need to repeat the argument in full here: it seems clear that the Constantinopolitans, and Themistius with them, were concerned about their future, since in 379 Theodosius had taken up residence in Thessalonica, was conducting the war and governing the Empire from there, and showed no signs of imminently changing his residence and coming to Constantinople. The initiative for the embassy to Theodosius will thus have lain with Themistius himself and the Senate in Constantinople, not (as in the case of Jovian) with the emperor's advisers.

¹⁶⁹ The fact that the record of Gratian's legislation (cf. SEECK, *Regesten*, ad ann.) leaves him a three month period in summer 376 when his whereabouts are unknown is insufficient evidence in itself for a visit to Rome. There were enough other things for him to do.

¹⁷⁰ Or. 13,179c.

¹⁷¹ Or. 14,180c.

¹⁷² Theodosius and the Goths, *Chiron* 26, 1996, 8ff., where the evidence for what follows here is cited in full. See also *Chiron* 27, 1997, esp. 22ff.

It was eighteen months later, on 24th November 380, that Theodosius entered Constantinople for the first time, but once there he adapted to the existing local political structure. If he was going to reside in Constantinople and rule the Empire from there he needed the co-operation of the Senate, and after the recent period of uncertainty about the future status of the city Themistius was more than willing to fulfil the same role of contact person between court and Senate which he had played for Valens. Two extant speeches, Or. 15 und Or. 16 belong to different phases of the Gothic war. Here it will suffice to say that in Or. 15, which celebrated Theodosius' *dies imperii* on 19th January 380 he indicated that the Gothic war would go on until the Goths were driven back to the Danube, though the previously unsuspected arrival of Athanaric as exile in Constantinople a mere week before the delivery of the speech caused the insertion of some hints, in co-ordination with official hopes, that negotiations might after all be possible.¹⁷³ Or. 16, delivered on 1st January 383 and celebrating the consulship of Themistius' old patron Fl. Saturninus, who had been mainly responsible for the successful peace negotiations with the Goths the previous year, is, in the form of a panegyric, an official attempt to «sell» the less than satisfactory peace deal to the assembled leaders of opinion in Constantinople.¹⁷⁴

Themistius was clearly in some sense once again part of the government publicity machine, and it is perhaps no surprise that he finally capitulated to pressure from the emperor to demonstrate this publicly by taking on the post of *praefectus urbi* in Constantinople, it seems, in the latter part of this same year.¹⁷⁵ The post brought with it the need for Themistius to make a series of speeches, a brief one

¹⁷³ For details see ERRINGTON, *Chiron* 26, 1996, 9–13.

¹⁷⁴ *Ibid.*, 14–15.

¹⁷⁵ The date is much disputed cf. the most recent discussions by VANDERSPOEL (as n. 11) 208ff.; LEPPIN, in: LEPPIN – PORTMANN (as n. 11) 288–89, with earlier literature. The date preferred here (so in principle also VANDERSPOEL and LEPPIN, though without stating the case fully) involves changing the date of a law issued to Themistius' predecessor Clearchus, CTh 6.2.14. The Ms Parisinus 9643 (R), the sole evidence for books 6, 7, and most of book 8 of CTh, had by MOMMSEN's time so badly deteriorated since the sixteenth century edition of Cuiacius that MOMMSEN prints significant sections in square brackets, meaning «read by Cuiacius but no longer legible». CTh 6.2.14 thus reads in the prescript: [IDEM AAA CLEARCH]O PV and the date [... SEPT. CONS]TANTINOP: RICHOMERE ET CLEARCHO CONSS., which if correct would give a date for Clearchus as PV of between 14th August and 14th September 384. But Them. Or. 18, which was delivered either during or after Themistius' prefecture, does not mention Honorius where he would certainly be expected, if he were already born – an event of 9th September 384 (Cons. Const. ad ann.) – and Themistius certainly served as Prefect after Clearchus. In a further law of Clearchus dated to III KAL. IAN. (29th December 383) (CTh 6.5.1) the reading of the date could be *im.* rather than *ian.*, which would give a date of 29th May 383, thereby leaving no difficulty with fitting Themistius into the *Fasti* of the PV in the period between autumn 383 and early summer 384 apart from CTh 6.2.14, for as Themistius himself says (Or. 34,11) he

thanking the emperor,¹⁷⁶ with no further political content, and two of a semi-private nature, in which he defends himself against attackers, who for various reasons found his acceptance of the Prefecture, which he held in the end only for a few months, unacceptable.¹⁷⁷ These speeches, however, belong rather to Themistius' private activities, by definition are concerned with the past, with the defence of his own past activities, and therefore are not related to immediate imperial affairs. It certainly cannot be claimed that he represents the government here.

This is, however, not the case with his remaining two Theodosian speeches, Or. 18 and Or. 19, both of which are public speeches delivered in the presence of emperor and court, and both of which must belong to the period of his Prefecture, though perhaps Or. 19 could be dated shortly after it. For both the death of Gratian on 25th August 383 is *terminus post quem*.¹⁷⁸ In Or. 18 Themistius twice mentions the expedition planned against Magnus Maximus dating to autumn or early winter 383, which never took place. The event must have been quite recent for it to deserve mention and defence in this formal ceremonial speech. Since this was delivered during the winter,¹⁷⁹ the cancellation of the expedition will have been recent enough for mention to be appropriate. Moreover, since Themistius draws explicit attention to the fact that he is speaking in Theodosius' sixth regnal year¹⁸⁰ – an unusual precision without immediate function in the context – it would be only reasonable to accept this indication that the traditional anniversary celebrations of the *dies imperii* on 19th January 384 were the specific occasion for the speech.¹⁸¹ Its general em-

served only for a few months. Moreover Or. 18 seems to have been delivered during the winter (so LEPPIN, *ib.* with reference to 221bc), and in the speech Themistius twice refers to Theodosius' planned but not implemented expedition against Magnus Maximus, which, if it were to make political sense, must have been in the planning phase by autumn-winter 383/84 at the latest (Sokr. H. E. 5.12.1); this would hardly have been worth talking about a whole year later. The short Or. 31 was certainly delivered during the prefecture, in the «holy month», (352b) which seems most likely to be Lent (so SEECK [as n. 23] 306), thus also indicating a late winter or early spring date for the prefecture. Taken together the evidence suggests that either Cuiacius misread the recipient of CTh 6.2.14 (he is, perhaps suspiciously, the same man as the consul) or the date, or that something more fundamental is wrong with the text. Therefore Themistius can have been PV after 29th December 383 (or, by reading *iun.* for *ian.* in CTh 6.5.1) already sometime after 29th May 383.

¹⁷⁶ Or. 17.

¹⁷⁷ Or. 31, dating from Lent 384 and Or. 34 dating immediately after his resigning the prefecture, also in 384.

¹⁷⁸ Or. 18,220d; Or. 19,227c.

¹⁷⁹ Or. 18,221bc.

¹⁸⁰ Or. 18,217d: ... καὶ ὁ μεταχειρίζεται ἤδη ἔκτον ἔτος ...

¹⁸¹ This rules out the reconstruction of events by N. B. McLynn, *Ambrose of Milan*, Berkeley – Los Angeles – London 1994, 163f., who places an appeal by Valentinian II to Theodosius in early 384, after Ambrose's return to Milan from negotiating with Max-

phasis is, inevitably, on Theodosius' remarkable qualities as emperor, but in particular two concrete points emerge in addition to Themistius' defending the cancellation of the expedition against Magnus Maximus: Theodosius' investment in and encouragement of the growth of Constantinople,¹⁸² and the role played by Arcadius (who dominates the important epilogue) as guarantor of the continuation of the dynasty.¹⁸³

The political function of the speech, which thus seems to emerge, is certainly to defend Theodosius for not immediately attacking Magnus Maximus in 383/84 – doubtless against those, particularly we might suspect, in his Western entourage, who felt he ought to have done so and who had presumably initiated the preparations for the expedition. Defence was not particularly easy, and Themistius does not dwell on the embarrassment, but nevertheless addresses the main points of possible objection: everybody had seen that no action had actually been taken, but the idea of taking some kind of action was truly worthy of an emperor, to avenge the founder of his own imperial status and save the remains of that dynasty;¹⁸⁴ anybody who might think that that was trivial should ponder the fact that the idea of it, the impulse, the plan alone had been sufficient to calm Western arrogance.¹⁸⁵ So much for the defence of non-action: it had, Themistius claims, achieved its ends. The main defence of Theodosius, however is indirect, and emphasises two visible and – in Constantinople – popular aspects of the developed Theodosian policy: the building out of Constantinople to new magnificence and the establishment of the dynasty as an Eastern dynasty resident in the city, for not only is the child Arcadius praised – the recycled rhetoric is reminiscent of the similar intentions articulated by Themistius for Valentinian Galates in Or. 8 and Or. 9 – but he is to be raised there by an Eastern educator (Themistius himself). The message for those who still

imus. He follows here J.F. MATTHEWS, *Western Aristocracies and Imperial Court, AD 364–485*, Oxford 1975, 178, who interpreted Themistius to mean that an expedition had actually left for the West in summer 384; McLYNN opines that the Constantinopolitan public will have been «probably bemused» at this: it would have every right to be, if his and MATTHEWS' dating and interpretation were correct.

¹⁸² Or. 18,222b–223b.

¹⁸³ Or. 18,224b–225b.

¹⁸⁴ There is no need with McLYNN (as n. 181) to think that Themistius might be echoing the terms of a Western appeal here; there were enough Westerners in Constantinople for Themistius to regard these phrases of dynastic loyalty as winning points for Theodosius among his hearers.

¹⁸⁵ Or. 18,220d–221a: πολλάκις γὰρ τὸ μὲν ἔργον οὐ λίαν μέγα, ἡ γνώμη δὲ μεγάλη καὶ ἀξίεπαινος· οἷα που καὶ ἡ πρώτη ἦν ἐκστρατεία τε καὶ ὁρμὴ ἐπὶ τὸν Ῥῆνον· ἔργον μὲν αὐτῇ οὐκ ἠκολούθησεν ἐμφανὲς τοῖς πολλοῖς, ἡ διάνοια δὲ ὑπερήφανος καὶ βασιλική, τιμωρῆσαι τῷ ἀρχηγέτῃ πρὸ ὥρας ἀνηρπασμένῳ καὶ τὸ λείψανον ἐκείνης περιῶσαι τῆς γενεᾶς. Καὶ ὅτῳ τοῦτο μικρὸν δοκεῖ, ἐνθυμηθῆτω ὅτι αὐτῇ ἡ γνώμη μόνη καὶ ἡ ὁρμὴ καὶ ἡ ἐμβολὴ τὴν τόλμαν ἔστησε τῆς ἐσπέρας ἤδη σφοδρώσεως ...

hoped to see Theodosius merely as a Westerner temporarily governing the East from Constantinople was clear: as of January 384 he was there to stay.

Or. 19, spoken in the Senate,¹⁸⁶ is less easy to place and date. The acceptance of peace in the East is mentioned *en passant*,¹⁸⁷ but the main subject, buried in a mass of recycled rhetoric, is one or perhaps a series of decisions taken by Theodosius as judge of appeal not to allow severe penalties imposed by a lower court to be carried out. The matter remains obscure, but in view of the fact that Honorius, born on 9th September 384, is not mentioned in a context where the rest of the family is listed,¹⁸⁸ it must have been delivered before this date and therefore cannot refer to the alleged treason trials of 385, which TILLEMONT constructed out of a conflation of CTh 16.10.9 (May 385) with this speech, which he then dated to 386 for the purpose.¹⁸⁹ It is therefore impossible to be more precise than to say that Themistius is here addressing a matter which had, at the least, raised eyebrows in Constantinople, and was trying to smooth troubled waters by depicting Theodosius' action as evidence for his *philanthropia*.¹⁹⁰ The argument was not new, he had used it already in his Or. 1 for Constantius more than thirty years before, and we cannot tell whether Themistius convinced anybody this time. That he shortly afterwards disappeared from public life and that this was the last of his «political» speeches for an emperor which he deemed worthy of publication may perhaps speak for itself.

Appendix I

Some recent ideas on Themistius and Julian

It is exceedingly difficult to believe that the oddly constructed string of platitudes known as the *Risālât*, transmitted in two manuscripts of an Arabic translation from a lost Syriac text and purporting to be a communication (*epistula*) of Themistius to Julian, can have been the panegyric which Themistius wrote for Julian mentioned by Libanios.¹⁹¹ For the *Risālât* in the form in which we

¹⁸⁶ Or. 19,225c.

¹⁸⁷ Or. 19,227c: ... δι' ὃν ὑποκύπτει μὲν Ῥωμαίοις ἡ ἔως, ἀτρεμίζει δὲ ἡ ἐσπέρα ...

¹⁸⁸ Or. 19,231a: βασιλεὺς δὲ ἀνάγκην οὐχ ἦττω ἀπαραιτήτου δικαστηρίου διαλύει ἀμεταμέλῃτως, συμνήφου τῆς ὁμοζύγου οὐσης αὐτῷ καὶ αἰεὶ βουλευούσης εἰς μίαν, ἐπομένον δὲ ἀμφοῖν καὶ τοῦ παιδὸς τοῦ ἀγαπητοῦ ...

¹⁸⁹ 5,741,24; so also A. LIPPOLD, RE Suppl. 13, 1973, s.v. Theodosius I, 869.

¹⁹⁰ Libanios addresses the question of applying the full weight of the law (which he himself favours) in three speeches of the Theodosian period: Or. 45,28; Or. 51,2–3; Or. 52,1–3. It was clearly an ongoing problem.

¹⁹¹ The Arabic text and a Latin translation by IRFAN SHAHID can be found in vol. 3 of the Teubner Themistius. See also VANDERSPOEL (as n. 11) 130, who thinks it is the panegyric mentioned by Libanios Ep. 1430. See also his App. 3 and 4, where he asserts that the main problem of interpretation is the identity of the addressee (244). HEATHER (as n. 11) 140 n. 49 also thinks the *Risālât* might be Themistius' panegyric.

have it is decidedly not a panegyric praising an emperor – as Libanios expresses it, «a good speech about a good man»¹⁹² – but a scarcely coordinated string of largely banal or trivial pieces of advice directed, it seems, to someone recently come to sole rule.¹⁹³ Completely missing from the *Risâlât* as we have it are the standard classical allusions and quotations, or echoes, supporting the argument (from Homer, Herodotus, Plato, the poets etc.) which are part and parcel of every extant panegyric of Themistius (and not only of Themistius) and which cannot have been absent in an authentic speech addressed to the «philosopher» Julian which also gained the approval of the learned Libanios. Nor are the pieces of practical advice offered by the *Risâlât* of such a nature as might reasonably have been given in real life under any imaginable circumstances by an eminent civilian to any of the ruling emperors who – as sole ruler in Themistius' lifetime – technically come into question as recipient (Constantius, Julian, Jovian, and – for a few weeks only – Valentinian I),¹⁹⁴ for by the time Themistius might have addressed them in person all were experienced military men and would have laughed the archetypal civilian Themistius out of court if he had possessed the temerity to advise them i.e. to guard the frontiers with suitable troops, to make sure the enemy did not anticipate planned attacks, or to take precautions with deserters in case they were enemy spies! This type of insultingly trivial advice, and other thoughts which betray a similar intellectual level, mean, it seems to me, that – even allowing for considerable «loss of flavour» in the transmission of the *Risâlât* from Greek via Syriac into Arabic – it nevertheless cannot be an authentic speech held before a living ruling emperor. It is rather a theoretical exercise drafted in the form of a speech, perhaps for use in (fairly junior!) educational activity.

This being the case there is no pressing need to reject the information given by one of the Arabic manuscripts, that the text as it stands was formally directed to Julian (like some of Libanios' «speeches», which never left his study, certainly not his lecture-room).¹⁹⁵ We might then even stick with the attribution to Themistius, which there is no real advantage in doubting, once it is clear that its function was educative and not intended for consumption by an adult ruling emperor. Preferable, however, is perhaps the assumption that a later theoretician of small abilities and little practical experience used the dramatic situation of Julian's accession to the throne to imaginatively reconstruct

¹⁹² Ep. 1430: ἔλαβόν σου τὸν λόγον, καλὸν ὑπὲρ ἀνδρὸς καλοῦ, συγχωρήσεις δὲ καλὸν εἶναι τὸν κοσμηθέντα τῷ λόγῳ. VANDERSPOEL (as n. 11) 130 fails to address the critical problem of the missing ἔπαινος, to which Libanios here refers.

¹⁹³ *Risâlât*, p. 99: ... *imperium penes unum esse – id quod tibi, o rex felicissime, accidit.*

¹⁹⁴ Theodosius, favoured by SHAHID (p. 79), was never sole ruler and must be excluded from consideration (see also VANDERSPOEL [as n. 11] 244–45).

¹⁹⁵ Cf. P. PETIT, *Recherches sur la publication et la diffusion des discours de Libanios*, *Historia* 5, 1956, 479–509.

e.g. Themistius' lost *Protreptikos* to Julian and had the insensitivity to envisage that the educator of an imperial prince might well have used such banal ideas to induce the conventional qualities required by educators of a ruler. But whoever wrote the original (which might conceivably have been more sophisticated than what has been preserved, though no argument has ever been produced for thinking this) it is time to forget the *Risalât* as a serious attempt to advise a ruling emperor – still less to praise him.

It has recently been argued¹⁹⁶ that the fact that one of the Arabic manuscripts of the *Risalât* calls Themistius «vizir» of Julian supports the statement of the *Souda* that Themistius was made «Prefect of Constantinople» by Julian.¹⁹⁷ BRAUCH has made a valiant attempt to find confirmatory evidence in contemporary sources, but has failed to provide an adequate explanation for Themistius' own later statements in two passages, in which he defends himself against attacks for accepting the post of *praefectus urbi* at Constantinople under Theodosius, which he had previously refused to take. The first is the prooimion of Or. 17, a speech thanking the emperor for granting him the office, where Themistius asserts that for the first time for a long time this emperor again really honours philosophy by calling it into government – he means his post as *praefectus urbi* – whereas recent emperors had honoured it [Themistius] only for its speaking ability, leaving its practical functions restricted to service on embassies and in the homeland.¹⁹⁸ BRAUCH argues (while rather misrepresenting what Themistius says)¹⁹⁹ that this was «historically incorrect», since Constantius II had honoured Themistius explicitly for his philosophy. He therefore concludes that Themistius was not interested in historical facts here, «but is adopting for his purposes the traditional rhetorical device of establishing the superiority of the current ruler by a favourable comparison to his predecessors.»²⁰⁰ He is, of course, in a sense doing this, and in thanking Theodosius for his post ignoring the fact that he had previously refused to accept it (see below). But given that Themistius uses the word «philosophy» as code for himself, and that the context of his assertion is

¹⁹⁶ T. BRAUCH, *The Prefect of Constantinople for 362 A.D.: Themistius*, Byzantion 63, 1993, 37–78.

¹⁹⁷ S. v. Θεμιστίσιος ... ὑφ' οὗ καὶ ὑπαρχος προεβλήθη Κωνσταντινουπόλεως.

¹⁹⁸ Or. 17, 213cd: Ἐπανήγαγεν αὐτὴς διὰ μακροῦ χρόνου φιλοσοφίαν ὁ θεοειδέστατος αὐτοκράτωρ εἰς τὴν τῶν κοινῶν ἐπιμέλειαν, ἐνδηλότερον τῶν ἑναγχοῦ βεβασιλευκότων· οἱ μὲν γὰρ ἐτίμων μόνον ἐπὶ τοῖς λόγοις, εἰς δὲ τὰ ἔργα προελόμενοι [προελομένην HANSEN] πολλὰ κατελθεῖν οὐκ ἐδυσώπησαν, ἀλλ' ἄχρι τῶν πρεσβειῶν τῶς ἐπολιτεύετο καὶ ἐλειτούργει τῇ κοινῇ πατρίδι.

¹⁹⁹ BRAUCH (as n. 196), 39: the sentence «although he had often been called to various magistracies by previous rulers he had refused their offers because they had honoured him only for his oratory and not for his philosophical accomplishments» bears little relation to the text which it claims to be paraphrasing. Themistius nowhere says he had often been called to various magistracies. The discussion concerns only the *praefectura urbi*.

²⁰⁰ As n. 196, 40.

the holding of the *praefectura*, it is historically correct that, as far as we know, he had held no further office since his proconsulate. So there is no reason why Themistius should be suspected of deliberate falsification here. His αὐθις διὰ μακροῦ χρόνου can perfectly well mean in the context «since Constantius II», and will doubtless have been so understood by those listeners who knew his career.

The other passage is the famous one from Or. 34 where Themistius claims that he had often been pressed by an unnamed former emperor to take on the office of Prefect of Constantinople, but had refused.²⁰¹ This emperor he characterises as «by no means easy»,²⁰² but a little later adds that he had been accepted by him as assessor in philosophical cloak and table- and travelling-companion.²⁰³ Since we know explicitly that Constantius had granted Themistius κοινωνία τραπέζης,²⁰⁴ and could perhaps envisage his having been a travelling companion, at least from Ankara, and perhaps beyond, in 350/351,²⁰⁵ it seems possible to identify the emperor whose offer of the *praefectura urbi* Themistius refused as Constantius II.²⁰⁶ If so this will doubtless be the very first *praefectura urbi*, as an immediate continuation of his period as proconsul in 359, which

²⁰¹ Or. 34,13: παρακλήσεις δὲ ἐπὶ τὴν ἀρχὴν ταύτην οὐχ ἅπαξ οὐδὲ δις ἀλλὰ πολλάκις.

²⁰² Or. 34,13: καὶ παρὰ ἀνδρὸς ἥμισυ εὐμαροῦς.

²⁰³ Or. 34,14: ἀλλὰ καὶ σύνεδρον πολλάκις ἐποίησατο ἐν τῷ τριβωνίῳ καὶ συντράπεζον καὶ συνοδοιπόρον.

²⁰⁴ Libanios Ep. 66.

²⁰⁵ At Or. 3,45c Themistius addresses Constantius with the words εἶδον, βασιλεῦ, καὶ τὸ βῆμα ἐφ' οὗ δημηγορῶν αἰχμάλωτον εἶλες τὸν παραληρησάντα εἰς τὴν ἀλουργίδα. Εἶδον τὸ σὸν τρόπαιον ἀτεχνῶς, ὃ μήτε ὀπλίτης συνανέστησε μήτε ἵππεὺς μήτε τοξότης, ὧ μάρτυρες ἦσαν οὐ συναγωνισταὶ οἱ στρατιῶται. Εἶδον in Themistius seems always to mean physical sight, and is not used figuratively. One could perhaps press the verbiage narrowly and understand that Themistius had seen merely the physical tribunal on a later visit to Naissus. In this case we must envisage a permanent structure for the tribunal, but also for the τρόπαιον, which here should be merely figurative, standing for the victory, which was not fought, so that this can hardly be a physical victory monument or a triumphal procession. It therefore seems possible that Themistius might have been present at court on the campaign at least as far as Naissus, which would also explain the unusually vivid and precise description of the confrontation between Vetranio and Constantius in Or. 2,37a–c, and why this seems to be the only incident of which he betrays good knowledge for the whole of the civil war.

²⁰⁶ So DAGRON (as n. 18) 55–57, who however thinks that the office which Themistius refused was the proconsulate (see esp. 213ff.). This cannot be right, since as DALY (as n. 57) has convincingly shown, Themistius was proconsul in Constantinople. The office he refused was that which he later accepted under Theodosius, here explicitly τὴν ἀρχὴν ταύτην. VANDERSPOEL (as n. 11) 106, fails to see the cogency of DALY's arguments and goes back to DAGRON's exploded view that Themistius was never proconsul of Constantinople. His treatment of CTh 6.4.12 concerning the choice of members of a selection committee to appoint praetors at Constantinople (see DALY, 179) is subjective and inadequate, and makes no attempt to meet DALY's convincing interpretation. In particular his assertion that *dignitas* in the phrase *cuius auget scientia dignitatem* «more naturally means «eminence» here» is simply wrong. The short text contains the word *dignitas*

comes into question for Themistius' refusal. BRAUCH argues at length for Valens, who also certainly comes into question;²⁰⁷ but he then goes on to argue that in this case Themistius has simply failed to mention an earlier office, which therefore means that an office under Julian is not excluded.²⁰⁸ This is a hypersophistical argument, since the whole of the passage (13) is a mere listing of his honours: why should Themistius be proud to boast of invitations to *this office* which he had refused and ignore the fact that he had actually held it, if this were the case?²⁰⁹ Those present could not have forgotten such an important event (if there was one) and will hardly have been convinced by such rhetorical sleight of hand. The conclusion is clear: either Themistius was trying to convince his critical listeners that he had good reason for his change of attitude, therefore was honourable; or he was not.

We must also consider the point of view of those attacking him. How could they conceivably attack him for inconsistency in holding the *praefectura urbi* now, if he had already held it twenty or more years before? He would, perhaps, indeed by the idealist standards of the time no longer be a true philosopher – but in this sense, on BRAUCH's view, he had already lost his philosophical virginity twenty years earlier, and could hardly now be charged with inconsistency. Thus accepting the notice in the Souda implies not only that Themistius himself was disingenuous, but that his opponents were also and that he did not take his chance to answer them.²¹⁰ It seems far easier to assume that the pub-

four times, in each of the other three it means «office». So it must also be here. Themistius is the only individual named in the law (which is not, as VANDERSPOEL calls it here, a rescript) because he was personally particularly well-qualified, not just because of his experience in office but because of his *scientia*. Of the other office-holders any nine would do to complete the selection committee.

²⁰⁷ As n. 196,48f. So also, without argument, HEATHER (as n. 11) 131.

²⁰⁸ As n. 196,41: «He does not state how many times he accepted the post, but this statement raises the possibility that Themistius took the office more than once.» Themistius neither says nor implies nor leaves open the possibility that he had already occupied the *praefectura urbi*.

²⁰⁹ It might be argued that Themistius does not mention his proconsulate here. But since he seems to have been the last proconsul of Constantinople, appointed soon if not immediately after his return from Rome in 357, and since he dates his *prostasia* from the time of the embassy, it seems possible that his continual pre-eminence subsequent to the embassy to Rome will simply have included the proconsulship, which at the time of Or. 34 had already been abolished for a quarter of a century, and by then no longer gave him any claim to eminence. He cites instead his concrete and enduring success in this office, the massive new recruitment to the Senate.

²¹⁰ There is nothing to be said in favour of VANDERSPOEL's interpretation of the Souda passage (as n. 11) 11, following MAI, that Themistius was designated but resigned before assuming office. The case would be unique, and there is no reason for assuming that the Souda might indicate such a sophistical distinction by the use of *προεβλήθη*, which regularly means «appointed» (vgl. LIDDELL and SCOTT, LAMPE s.v. *προβάλλω*).

lic existence of Julian's letter to Themistius caused a less than scrupulous biographer to assume that Themistius' *praefectura urbi* was under Julian, or indeed to conclude from inadequate knowledge of Or. 17, where the emperor addressed is, as usual, not named, that in view of the emphasis on «real» philosophy Themistius was addressing Julian and not Theodosius, as was in fact the case.

Appendix II

The Date of Valens' Peace with Athanaric

A date before winter 369/70 seems impossible, since Ammianus²¹¹ places the beginning of negotiations after the army's return to winter quarters in Marcianopolis after the third campaign. Moreover a law was issued to *CRP* Fortunatianus on 31st January 370 from Marcianopolis, which demands the imperial presence there on that date;²¹² Fortunatianus' predecessor as *CRP* Alexandria-nus received his last law, also at Marcianopolis, on 11th December 369.²¹³ The *fasti* of both *PPO* and *PVConst.* now impinge: according to Zosimos²¹⁴ Domitius Modestus became *PPO* on the death of his predecessor (Auxonius) after Valens' return to Constantinople after the war and before his departure (in April) for Antioch. He had previously been *PVConst.* Auxonius' last law²¹⁵ is dated 29th December 369, which SEECK (and, following him, implicitly or explicitly, all modern accounts including PLRE I s.v. Auxonius 1) changed to 29th December 368, because for reasons connected with his general theory of corruption in CTh he thought Modestus had to be already *PPO* by December 369.²¹⁶ But Auxonius' law was issued from Constantinople, and we know that on 1st January 369, three days later, Valens was in Marcianopolis 400 km away celebrating the consulship of his son and being entertained by Themistius' Or. 9. So SEECK's changes will not do. This makes it unnecessary to survey all other modern versions in detail which rely on them.

Moreover, if we let Modestus' period as *PPO* begin in 369 we must attribute a grave mistake to Cons. Const. ad ann. 369, though the text is explicit that he was *PVConst. iterum*, and the job he is commemorated as doing, finishing off building a cistern, falls into the competence of the *PV* (*his cons.* [*Valentiniano nob. et Victore*] *opus magnificum cisternae Constantinopolitanae completum est a Domitio Modesto v. c. iterum praefecto urbis, quod in prima inchoaverat praefectura*), and no other candidate for *PVConst.* is known between 366 (Phronimus) and 372

²¹¹ 27.5.6–10.

²¹² CTh 7.13.2.

²¹³ CTh 10.10.11.

²¹⁴ 4.11.4.

²¹⁵ CTh 5.1.2.

²¹⁶ Regesten 34; 71.

(Clearchus 1). There is thus not only no need to place Modestus' accession as *PPO* and Auxonius' death, which made it possible, as early as 369; doing so causes grave damage to the sources. The revised *fasti* will therefore run as follows:

<i>PPO</i> Auxonius	until after 29 th December 369
<i>PPO</i> Modestus	from before Valens' departure for Antioch (April 370)
<i>PVConst.</i> Modestus II	after 366 until death of <i>PPO</i> Auxonius after 29 th December 369, whose job he then takes over
<i>CRP</i> Alexandrianus	until after 11 th December 369
<i>CRP</i> Fortunatianus	from before 31 st January 370.

Two minor objections might be made to this reconstruction. A law addressed to *PPO* Modestus on 1st August 370²¹⁷ was, according to the manuscripts, issued from Marcianopolis. Although both the consuls and the office of Modestus fit the date 370, SEECK changed the consuls according to his theory that they were the item most likely to be wrong, and dated the law to 369; this in turn caused his need to change Auxonius' last law²¹⁸ from 29th December 369 to 29th December 368 (which, however, as we have seen, produces a physically impossible itinerary for Valens), and to declare the perfectly satisfactory entry in Cons. Const. on Modestus having been *praefectus urbi iterum* in 369 mistaken. It is altogether less disturbing to the evidence as a whole merely to assume a spontaneous error in the record of the place-name in CTh 11.30.35 and to leave all the other transmitted dates and offices unaltered. The second possible objection is that Them.Or. 10,134a implies that the peace was made while the sun was hot (ἐφ' ἡλίῳ στάς ἐπὶ τῆς νεῶς, ἡνίκα μάλιστα ἑαυτοῦ φλογωδέστερος ἦν), which does not seem to suit February. This assertion seemed so compelling to SEECK²¹⁹ and STEIN²²⁰ that they used it explicitly to support SEECK's massive «correction» of the evidence from the laws and his ignoring the fact that Themistius is explicitly contradicted by Ammianus, who says that Valens was in winter quarters – *ad hiemem agendam*: 27.5.6 – when the negotiations began. Themistius' phrase will not bear this weight of counter-evidence. The orator seems rather to have been carried away by his rhetorical fantasy. His chosen point of contrast is the battle of Salamis and Xerxes' famous observation tent there, sheltering him from the sun. In this comparative context the heat of the sun is borrowed from Salamis and is merely a means of drawing the rhetorically required contrast between the non-participant softy Xerxes sheltering in his tent and the tough action-man Valens who stood out in the open air. It cannot be a historical fact.

²¹⁷ CTh 11.30.35.

²¹⁸ CTh 5.1.2.

²¹⁹ Geschichte des Untergangs der antiken Welt, Stuttgart 1920, vol. 5, 448.

²²⁰ Geschichte des spätrömischen Reiches, Stuttgart 1928, 287.

The implications of this argument for the date of the peace with the Goths are: Valens did not finally withdraw from Marcianopolis to Constantinople until at the earliest February 370 (after the law of 31st January); if he left immediately after concluding the peace, then it too can be no earlier than the end of January. However, by restoring the proper dates of the laws we have also rediscovered an otherwise unattested visit of Valens to Constantinople in late December 369, where he issued CTh 5.1.2 to Auxonius and doubtless consulted with him and other influential men in the city about the war and the impending peace. Moreover, since on 1st January 370 he entered on his third consulship, it is more than probable that he celebrated this event in Constantinople, no doubt i. a. with a speech by Themistius in the Senate. Now Or. 10 is not this speech, but in Or. 10 (February/March) Themistius apologises coquettishly to his audience for having to address them yet again (129ab). This would fit admirably if a major new event – the long awaited peace with the Goths – had caused the renewed imperial presence in Constantinople and consequently made another Themistian speech unavoidable, and that comparatively briefly after the consular celebrations. We can therefore place the peace in ca. February, Themistius' Or. 10 in ca. February/March and Valens' renewed departure for the East in April. He was already in Antioch by 30th April.²²¹ Since Themistius was personally present at the final negotiations with Athanaric, he will presumably have accompanied Valens back to Marcianopolis shortly after the consular celebrations of 1st January 370.²²²

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²²¹ CTh 10.19.5.

²²² I wish to thank H.-U. WIEMER for intensive discussion of an earlier version of this article.