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GAVIN KELLY

## The Political Crisis of AD 375–376

On 17 November 375, in the town of Brigetio (now Szöny in western Hungary), the emperor Valentinian I received a legation from the Quadi, the neighbouring barbarian people whose raids had brought him to Illyricum from Gaul. The trembling legates were subjected to one of the emperor's infamous rages. As he seemed to calm down, he suffered a seizure. He was taken first to a bedroom for privacy; then the chamberlains packed the room with witnesses to dispel any suspicion of foul play. Medical attention was in vain, and the emperor was unable to speak or give instructions before he died.<sup>1</sup>

Any emperor's death might lead to a political crisis. In May 337 Constantine had left the empire with four Caesars ready to take up regional control, but the fourth Caesar, Constantine's nephew Dalmatius, and many other potential rivals were killed off before the three sons of Constantine became Augusti in September of the same year.<sup>2</sup> In November 361 Constantine's last surviving son, Constantius, prudently confirmed his rival Julian as his heir on his death bed, and ended the incipient civil war.<sup>3</sup> Julian's death from wounds in 363, and his successor Jovian's death from asphyxiation (or whatever might have been responsible), occurred at times when all the civil and military leaders were on hand, and in each case a successor was chosen whose legitimacy could be agreed. When Valentinian was acclaimed emperor in 364, the troops at the ceremony demanded a second Augustus, and a month later Valentinian obliged, appointing his brother Valens as a co-Augustus. Three years on, in August 367, Valentinian also elevated his young son Gratian to the rank of Augustus. But although

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Most of this article was written when I held the Robert F. and Margaret S. Goheen Fellowship at the National Humanities Center, North Carolina, in 2010–2011. Earlier stimuli came from conversation with ADRIAN MURDOCH and an invitation from BRUCE GIBSON and ROGER REES to speak on Symmachus at a St Andrews conference on Pliny the Younger in Late Antiquity. Audiences at the Center for Late Ancient Studies at Duke University and the Shifting Frontiers Conference at Penn State asked useful questions. I am grateful to TIMOTHY BARNES, KEVIN UHALDE, and the editors and external referee for their valuable comments and improvements.

<sup>1</sup> The scene is memorably described by Ammianus Marcellinus, 30.6.

<sup>2</sup> Brilliantly elucidated in BURGESS 2008.

<sup>3</sup> Amm. 21.15.2, 5. Ammianus casts the story as a rumour, but it is likely to be true. Beyond Constantius' wish to avoid civil war, his gift to Julian of full legitimacy protected his own posthumous reputation, and his wife Faustina's unborn child.

the succession was established, the other emperors were far away when Valentinian suddenly died. Valens was at Antioch, and Gratian, now sixteen, was at Trier. The standard account of what happened next, to summarize briefly, is that elements in Valentinian's military and civil administration took the decision to appoint a new emperor, his four-year old son, also named Valentinian, and this decision was in due course endorsed by Valens and Gratian.

The picture looks rather different if one does not summarize briefly or take what happened in due course for granted. The aim of this article is to reexamine and reinterpret the immediate consequences of Valentinian I's death by close analysis of the textual evidence and the chronology which that evidence implies. I shall argue that there was indeed a political crisis, and will reflect on what this tells us both about the texts which describe the period and about the functioning and structure of politics in the fourth-century state. There has been abundant scholarship on this narrow period; but the political crisis has been downplayed. This is partly because the Gothic migrations in Thrace later in 376 gave rise to a much more serious and longer-lasting crisis, but mainly because the scholarship has tended to be fractured, and focused on three separate narratives. These narratives should be considered as closely linked to each other. Though in recent years some scholars have made increasingly successful attempts to join the dots (among them R. M. ERRINGTON, ALTAY COŞKUN, and KLAUS GIRARDET<sup>4</sup>), most have kept these various narratives separate, which has the effect of clouding the extent and nature of the political crisis.

The first narrative is the decision by elements in the army and civil administration at Brigetio to elevate the younger Valentinian to Augustus, without reference to either of the living Augusti.<sup>5</sup> The second is Gratian's rebuilding of relationships with the Roman senate, damaged in Valentinian's reign by the magic and adultery trials that had claimed many victims among Roman senatorial families. This reconciliation is often linked to the political rise of Gratian's old tutor Ausonius. It manifested itself in many ways: pardons and restitutions of property; legislation and appointments favourable to the senatorial aristocracy; the fall from power and subsequent execution of the praetorian prefect of Gaul, Maximinus, alongside others seen as instigators of the trials; and, in the view of some scholars, a visit to Rome by Gratian later in 376.<sup>6</sup> The third and most obscure narrative is the execution in Carthage of Valentinian's most successful general, Count Theodosius, in early 376. Evidence in some manuscripts of Jerome's chronicle seems to tie this execution to Maximinus (and so this third nar-

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<sup>4</sup> ERRINGTON 1996; COŞKUN 2002; GIRARDET 2004.

<sup>5</sup> See Ammianus 30.10; Epit. 45.10; Zosimus 4.19 and PASCHOUD 1979 ad loc. SEECK 1920–22, 5.36–40; SZIDAT 1989; MCLYNN 1994, 84–85; POTTER 2004, 541–545.

<sup>6</sup> See Symmachus Or. 4, 5 and various letters, with the editions of SEECK 1883a and CALLU 2009a; also CALLU 2009b; Themistius Or. 13, ed. and tr. MAISANO 1995, with VANDERSPOEL 1995, 179–185, ERRINGTON 2000, 889–893; GIRARDET 2004.

rative is linked to the second), but there is no scholarly consensus at all about who may have ordered it or why.<sup>7</sup>

The fact that these three narratives are too often treated separately in modern scholarship is a direct reflection of their treatment in the contemporary sources. Ammianus Marcellinus' history, which dominates scholarly understanding of the period, ends its thirtieth book and its full narrative of western events with the death of Valentinian I and the accession of Valentinian II: book 31 is focused on the eastern emperor Valens' war with the Goths. Ammianus gives us occasional glimpses into the future in books 26–30 and into the west in book 31, from which we can get some idea of western events after Valentinian I's death; but there is no continuous narrative.<sup>8</sup> Ammianus' selectiveness about referring to western events after this terminus is well known. For example, although he has accounts of Count Theodosius' campaigns in Britain and Africa, the last in great detail (27.8, 28.3, 29.5), he omits any open reference to his execution soon afterwards.<sup>9</sup> This is presumably because Ammianus was writing when Theodosius' son was emperor; indeed it is often assumed that this execution was the reason for his ending his history of the west three years before his narrative of events in the east.<sup>10</sup> Ammianus' work also encourages modern scholars to compartmentalize their narratives in a somewhat less obvious way: his history of the reigns of Valentinian and Valens explicitly eschews a year-by-year account (26.5.15) and offers larger blocs of diachronic narrative arranged by region and theme.<sup>11</sup> So, for example, the magic and adultery trials under Maximinus form a distinct bloc at the start of book 28, beginning with events of ca. 369, and ending with reference to the punishment of the guilty under Gratian in 376 (28.1). Later in the same book, Ammianus offers a narrative of two urban prefects without further reference to the trials, although he has already shown them as in office during them (28.4.1–5, cf. 28.1.8–9, 22).<sup>12</sup> So it is not only the fact that most events that concern us here are beyond his narrative terminus, but also the related problem of a reluctance to discuss certain issues and a tendency to narrate events in discrete blocs in a way which almost certainly obscures connections between them. So with Ammianus providing only scattered information, various other sources come to the fore, all of which have their own prob-

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<sup>7</sup> Jerome Chron. 228<sup>c</sup> (s. a. 376), gloss in mss X and C, quoted by HELM 1984 at xviii. See e.g. THOMPSON 1947, DEMANDT 1969, ERRINGTON 1996, TREADGOLD 2005.

<sup>8</sup> Relevant are Amm. 28.1.57; 28.6.25–28; 31.10.6–19.

<sup>9</sup> At 29.5.4 Theodosius is compared to Domitius Corbulo and Lusius Quietus, two successful generals of the early empire. The fact that both were condemned to death by ungrateful emperors is not mentioned, but presumably the main point of the comparison.

<sup>10</sup> E.g. THOMPSON 1947, ch. 6, esp. 93–94; BARNES 1998, 184.

<sup>11</sup> Thanks to Ammianus' influence, this sort of structure is used for the reigns of Valentinian and Valens by later accounts, including GIBBON 1776–88 (see KELLY 2009b, 354–355), by SEECK 1920–22, and by CURRAN 1998 (in the CAH).

<sup>12</sup> On this problem see e.g. DEN BOEFT et al. 2011, ix–x. Cf. PASCHOUD 2006, 329–330, for the suggestion that the *Res Gestae* lacks the author's final touch.

lems of interpretation: Symmachus' letters, which are oblique, and his speeches, which are fragmentary; Themistius Or. 13, a panegyric of Gratian, which has provoked fundamental disagreements about its context; legislation, which survives only partially and the dating of which often causes problems.<sup>13</sup> It is from Symmachus, Themistius, and Gratian's legislation that we gain our understanding of the relationship of Gratian and the senate.

This article attempts to establish a chronology and then to use narrative as a heuristic device with which to infer motives and causes. Far more than in the immediately preceding period, resort to conjecture is inevitable; I have tried to clear away some inherited assumptions, and to avoid resting theories on other theories. In what follows I shall look successively at the three narratives which I have identified – Valentinian II's accession, Gratian's rapprochement with the senate, and the death of Count Theodosius. On the way I shall attempt to cast light on the interpretation of Ammianus, Symmachus, and Themistius, on legislation in the Theodosian code, and incidentally on the careers of individuals. The conclusion will also reflect on some of the broader political implications for our understanding of the period.

### I. *The Accession of Valentinian II*

The most detailed surviving account of the events following Valentinian I's death, and the basis of most modern accounts, is that of Ammianus, though it is less detailed than his graphic narrative of the death itself. As elsewhere, the extent of Ammianus' manipulation of events has been underestimated, though many scholars, including COSTER, MCLYNN, ERRINGTON, and POTTER, have rightly seen through it; if they had known GIRARDET's demonstration of the time taken for Valentinian II to be recognized, they might well have taken their arguments further.<sup>14</sup> But let us begin by looking at Ammianus (30.10):<sup>15</sup>

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<sup>13</sup> See SCHMIDT-HOFNER 2008a and especially 2008b for a recent treatment of these problems – unfortunately for present purposes, focused on imperial legislation for the period of Valentinian I's reign only.

<sup>14</sup> COSTER 1935; MCLYNN 1994; ERRINGTON 1996; POTTER 2004. ERRINGTON 2006 had read, but perhaps not had time to take full account of, GIRARDET 2004.

<sup>15</sup> *Post conclamata imperatoris suprema/ corpusque curatum ad sepulturam,/ ut missum Constantinopolim/ inter diuorum reliquias humaretur,/ suspenso instante procinctu/ anceps rei timebatur euentus/ cohortibus Gallicanis./ quae non semper dicatae legitimorum principum fidei/ uelut imperiorum arbitrae,/ ausurae nouum quoddam in tempore sperabantur,/ hoc temptandae nouitatis spes acuate/ quod gestorum ignarus etiamtum Gratianus agebat tum apud Treueros,/ ubi profecturus eum morari dispuerat pater./ 2. cum negotium in his esset angustiis/ et tamquam in eadem nauis futuri/ periculorum,/ si accidissent, participes/ omnes eadem formidarent,/ sedit summatum consilio,/ auulso ponte,/ quem compagnarat ante necessitas,/ inuadens terras hostiles,/ ut superstitis Valentiniani mandato/ Merobaudes protinus acciretur./ 3. hocque ille ut erat sollertis ingenii,/ quod euenerat ratus,/ aut forte doctus ab eo,/ per quem uocabatur,/ rupturum concordiae iura/ Gallicanum militem suspicatus,/ missam ad se tesseram finxit/ redeundi cum eo/ ad obseruan-*



After the final call was made on the dead emperor, and his corpse was prepared for burial, so that it could be sent to Constantinople and entombed among the remains of the deified emperors, the looming campaign was suspended: there were fears of an uncertain outcome of the situation thanks to the Gallic cohorts. They were not always devotedly faithful to legitimate princes, as though they were the judges of imperial rule, and there was an expectation that they would be audacious in taking the opportunity for imposing something new; and a fact that added to the expectation of attempted revolution was that Gratian was still unaware of what was happening, then residing at Trier, where his father before leaving had ordered him to stay. 2. Since matters had reached this narrow pass, and since they would be, as it were, in the same boat as participants in dangers, if they happened, and everybody feared the same things, it was agreed by the plan of the leading men that the bridge which their need to cross into enemy lands had assembled should be torn apart, and that by the command of the living Valentinian, Merobaudes should be summoned at once. 3. And as he was of a cunning disposition, he deduced what had happened, or perhaps learned it from the messenger by whom he had been summoned, and suspected that the Gallic soldiery would break their oath to keep the peace, so he pretended that a command had been sent him to return with the messenger to guard the banks of the Rhine,<sup>16</sup> as though barbarian fury was worsening; and as had been secretly ordered, he sent Sebastianus far away, still ignorant of the prince's demise – a calm and peaceful man, it is true, but elevated in the soldiers' esteem, so to be treated with the greatest caution at such a time. 4. So when Merobaudes had returned it was arranged with especial care that, in a hurried plan, the boy Valentinian, the dead man's then four-year-old son, should be summoned to be elected to empire: he was at the hundredth milestone from there, staying with his mother Justina in a villa called Murocincta. 5. And

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*das Rheni ripas quasi furore barbarico crudescente:/ utque erat secreta mandatum,/ Sebastianum principis adhuc ignorantem excessum/ longius amendauit,/ quietum quidem uirum et placidum/ sed militari fauore sublatum,/ ideo maxime tunc cauendum./ 4. reuerso itaque Merobaude,/ altiore cura prospectum,/ <ut> expedito consilio/ Valentinianus puer defuncti filius tum quadrimus,/ uocaretur in imperium cooptandus,/ centesimo lapide disparatus/ degensque cum Iustina matre in uilla,/ quam Murocinctam appellant./ 5. hocque concinenti omnium sententia confirmato/ Cerealis auunculus eius/ ocius missus/ eundem puerum lectica inpositum/ duxit in castra/ sextoque die post parentis obitum imperator legitime declaratus/ Augustus nuncupatur more sollemni./ 6. et licet cum haec agerentur,/ Gratianum indigne laturum existimantes/ absque sui permissu/ principem alium institutum,/ postea tamen sollicitudine discussa/ uixere securius,/ quod ille, ut erat beniuolus et <apertus,/ consanguineum pietate nimia dilexit et educauit./*

The text of the section is not good; the readings of V, more than usually fallible at this point, are no longer improved by the readings taken by GELENIUS from the Hersfeldensis (running out at the end of 30.9); I diverge slightly from SEYFARTH in clausulation and in some minor readings. At 30.10.6, <apertus is SABBAAH's simple correction of *pertus*; the application of *apertus* to persons is not otherwise in Ammianus but see e.g. Cicero Rep. 3.26, Off. 1.109. SEYFARTH prints BENTLEY's suggestion *pius*, which BENTLEY himself cancelled: rightly, as it is unrhythmical and ruled out by the presence of *pietate* a few words later. See also the next note.

<sup>16</sup> *Rheni*, E's correction of V's *Renis*, does not seem certain. If the barbarian danger were spreading you can see why Merobaudes might go to defend the Rhine, several hundred miles away. But does this follow from returning with the messenger who has just come from the emperor on the banks of the Danube? Here it is interesting to compare the testimony of Zosimus, who says that the fear of an attack from the tribes beyond the *Danube* was justification for the elevation of Valentinian (4.19.1). Could Ammianus have written *Rheni* by mistake for *Istri* or *Danubii*? Or is *Rheni* the wrong emendation? Note that one might expect a regular clausula ending at *ripas*, with the following ablative absolute as an independent clause.

when this was agreed in the concordant view of all present, Cerealis his uncle was sent quickly, put the said child in a sedan chair, and brought him to the camp; and five days after his father's death he was legitimately declared Commander and named Augustus in the customary fashion. 6. And although when this was done they thought that Gratian would take umbrage that another prince had been established without the consent of himself, afterwards their anxiety was dispelled and they lived more easily, because he, being good-hearted and open, loved and brought up his kinsman with excessive kindness.

Despite the detail of the account, there is much that is not said; moreover, some of what Ammianus says is actually contradicted by other sources or seems implausible. Among the omissions we might note that although Ammianus tells us that the young Valentinian was taken *ad castra*, he does not explain that this was not Brigetio, but the army's main winter quarters at Aquincum (Budapest), about 40 miles from Brigetio:<sup>17</sup> presumably the ceremony could be witnessed and confirmed by a larger body of troops there. More importantly, while the *magister peditum* Merobaudes is given a central role, we are not told who the people were that collectively decided to summon him (*omnes*, 2) and agreed with him about promoting the younger Valentinian (*omnium*, 5). (The decision to summon him must, incidentally, have been taken at very high speed, given the distances that Merobaudes, Cerealis, and the young Valentinian had to travel<sup>18</sup>). The names of some of the relevant individuals can in fact be supplied from other sources, and they are, exactly as one would expect, the highest military and civilian officials in Illyricum: Equitius, the *magister equitum*, is named alongside Merobaudes as having responsibility in Zosimus and the *Epitome de Caesaribus*, while Petronius Probus, the praetorian prefect of Illyricum, Italy, and Africa, is implicated by Rufinus, HE 11.12.<sup>19</sup> The fragments of Philostorgius suggest a role for the empress Justina (9.16). The additional involvement of Equitius and Probus alongside Merobaudes seems overwhelmingly likely simply because of their offices, but there is room for scepticism about Justina's involvement. Justina had a motive to promote her son after her husband's death, since sole authority in the west would otherwise transfer to her stepson, Gratian; but her direct involvement seems to be ruled out if one accepts Ammianus' information that she was a hundred miles away at Murocincta.<sup>20</sup> Moreover, there are reasons why a later Arian historian like Philostorgius

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<sup>17</sup> This information is recorded in the *Descriptio Consulium*, the *Fasti* also known as *Consularia Constantinopolitana* and *Fasti Hydatiani*, from a version of which it reached the church historian Socrates (4.31.6). Scholars have sometimes been misled by the fact that the chapter headings printed in texts of Ammianus locate the event in Brigetio, an understandable mistake by their author, ADRIEN DE VALOIS (see KELLY 2009a, 235–236).

<sup>18</sup> See POTTER 2004, 543: 'Given that it would have taken several days to retrieve Valentinian, the decision to make him emperor must have been reached within twenty-four hours of his father's death, and on that timetable, it looks as if Ammianus has left out some very significant facts.'

<sup>19</sup> On Probus' involvement see NOVAK 1980, 136–137.

<sup>20</sup> Ammianus had already informed his readers that Justina was not with Valentinian when he died (30.5.18). One might of course think that the mention of Cerealis implies his involvement on his sister's behalf, but his role is restricted to that of messenger. My thoughts on Justina, and

might want to magnify the role of Justina, who as a dominant figure at Valentinian II's court in the 380s was to become a leading anti-Nicene figurehead.

In other ways, Ammianus' account clashes with the indications of other sources. He attributes the elevation of Valentinian II to the threat of a usurpation organized by the Gallic cohorts. This refers to troops brought from Gaul by Valentinian earlier in the year,<sup>21</sup> and presents a stereotype of Gallic unruliness that is found elsewhere in Ammianus' work.<sup>22</sup> This possibility of usurpation is emphasized as the shared fear not only of all the unspecified courtiers, but also independently of Merobaudes. While the breaking of the bridge of boats across the Danube is ascribed to the unnamed courtiers, the removal of Sebastianus from the scene is ascribed both to their instructions and to Merobaudes' compliance with them. This explanation for the child's elevation, though not incredible in itself, is not found elsewhere, and Zosimus (whose account, 4.19.1, is based on Eunapius' histories) asserts that the reason was the military threat from the barbarians – which sits uneasily with Ammianus' claim that the campaign was cancelled. We shall come to other potential motivations, which will confirm the impression that what is being peddled here is an 'official story'.<sup>23</sup>

Ammianus emphasizes the legitimacy of Valentinian II's acclamation (and much of the scholarship on this passage has focused on whether the acclamation should be considered legitimate).<sup>24</sup> He achieves this both through the language used to describe the decision (*hocque concinenti omnium sententia confirmato*, 30.10.5, might remind us of the elevation of Valentinian *nulla discordante sententia*, 26.1.5) and through the explicit statements used to describe the ceremony (*imperator legitime declaratus/ Augustus nuncupatur more sollempni*, 30.10.5). But whereas it is clear that Valentinian II's acclamation fulfilled the ceremonial norms, it was certainly usual in the fourth century that, when there was a senior emperor, his presence would be required to create further Augusti:<sup>25</sup> this is implicit in the fears of those who created the young Valentinian emperor that his half-brother Gratian would take it ill, attested by Ammianus in the next sentence; Eunapius alleges that the senior emperor, Valens, was resentful that the decision had not been referred to him (fr. 42); Philostorgius says the same of Gratian, who allegedly punished some of those involved (9.16); Socrates and Sozomen both attest that Valens and Gratian recognized the new emperor, but only after a delay and with annoyance at the presumption of those who elevated him (HE 4.31.8–9 and HE 6.36.5).

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the exaggeration of her political role, have been shaped by BELINDA WASHINGTON'S MSc Thesis, 'The Empress Justina' (University of Edinburgh, 2010). Murocincta has sometimes been identified as the villa at Parndorf, just over 60 (modern) miles from Brigetio and just over 100 miles from Aquincum, as the crow flies: see MOCZY 1970.

<sup>21</sup> SIVAN 1993, 208 n. 13, cites 29.6.16.

<sup>22</sup> 19.5.2, 6.3–4, 22.12.6: see SABBAAH ad loc.

<sup>23</sup> MCLYNN 1994, 84 n. 20; cf. also POTTER 2004, 543, cited above n. 18.

<sup>24</sup> E.g. STRAUB 1964, 18–20; SZIDAT 1989; PABST 1997, 13.

<sup>25</sup> See BARNES 2011, 49–51.

In fact, whereas there is no doubt that Valentinian II was accepted as Augustus, and that Gratian oversaw his upbringing, GIRARDET has recently proved using a range of indications that this recognition did not happen for several months.<sup>26</sup> As for the suggestion that those who raised Valentinian II to power did not have to fear anything from Gratian, the evidence is debatable (as we have seen, Philostorgius says that some were punished by him, and other church historians point to Valens' anger). Merobaudes became a dominant figure in Gratian's regime, but the story is different for those not mentioned by Ammianus: Probus left office soon afterwards, after a seven or eight year stint as praetorian prefect;<sup>27</sup> and Equitius is simply never heard of again, despite the fact that the Gothic crisis meant that experienced generals were strongly in demand. And this leads into a larger problem: we know from other scattered and often obscure evidence (much of it, in fact, elsewhere in Ammianus) that a significant number of high officials, both civil and military, were executed or left office abruptly in the early months of Gratian's reign, and it seems unlikely that this was wholly unconnected with the political troubles of the court. Those executed included the *magister equitum* Theodosius, one of the highest ranking military officers of the west; Maximinus, who lost his office as praetorian prefect of Gaul before being put on trial; Simplicius and Doryphorianus, two former *vicarii* of Rome and allies of Maximinus. Those besides Probus and Equitius who returned to private life (or at least leave the record) include Sebastianus, the general allegedly feared as a potential usurper,<sup>28</sup> the *magister officiorum* Leo,<sup>29</sup> and Theodosius' homonymous son, then *dux Moesiae*, who returned to his family estates in Spain.<sup>30</sup>

It may be worth reflecting briefly on these problems in the context of the interpretation of Ammianus. Among the elements in his narrative problematic to modern historians, there is the marked focus on Merobaudes, matched by the reluctance to name other individuals involved; there is the heavily emphasized but questionable story of the threatened usurpation; there is the summary account of Valentinian II's recognition which, while not necessarily untrue, certainly smoothes over the problems and covers up the extended nature of the process; there is the disregard of the severe political disruption in the aftermath (which, however, came after the formal endpoint of Ammianus' western narrative). All this accords with the challenges that Ammianus poses for historians elsewhere in his work. A reluctance to name groups or individuals involved can be found strikingly, for example, at the accession of Jovian.<sup>31</sup>

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<sup>26</sup> GIRARDET 2004. This evidence will be discussed in more detail below: while not all of it is equally strong, collectively it is inarguable.

<sup>27</sup> On Probus' tenure of the praetorian prefecture, see now SCHMIDT-HOFNER 2008b, 505–509.

<sup>28</sup> ERRINGTON 1996, 441, has acutely noticed that Sebastianus appears to have been recalled to office in 378 from private life (Amm. 31.11.1).

<sup>29</sup> See below nn. 125, 143.

<sup>30</sup> ERRINGTON 1996, esp. 438–441.

<sup>31</sup> See LENSKI 2000.

Chronological contraction is a device with which Ammianus has confused modern historians in a number of other places.<sup>32</sup> Selectiveness about recording events at a point of closure, with tendentious effect, has also been identified at the end of book 31.<sup>33</sup> The consistent effect of Ammianus' *Tendenz* here is to support the necessity and legitimacy of Valentinian II's acclamation. This points to the likelihood that he was writing when Valentinian II was still alive, that is before May 392, which fits well with the growing consensus that puts the publication of his work in around 390.<sup>34</sup> The younger Valentinian of course remained a puppet till the end, when, by the likeliest reconstruction of events, his inability to impose his will on his officials drove him to suicide.<sup>35</sup> But up to that point there was still a motivation for Ammianus to be tactful about a reigning emperor and his accession, and tact about the dynastic situation in fact explains much else about the account. For example, he may act deliberately in pointing out Justina's non-involvement: he not only emphasizes that she was a hundred miles away in 30.10.4, but had also mentioned her absence earlier in the book on the eve of Valentinian's death (30.5.18). This emphasis implicitly rejects any suggestion of a coup by Justina against her stepson Gratian (and perhaps also rejects the impression, which might have spread by the time that Ammianus wrote, of Valentinian as his mother's puppet).<sup>36</sup> Ammianus also arguably avoids showing Gratian as weak or too young: the description of him as bringing up his kinsman (and indeed, the use of *consanguineus* rather than the more specific *frater*) distracts attention from the fact that Gratian himself was only sixteen. This is wholly consonant with Ammianus' generally favourable treatment of Gratian throughout the work.<sup>37</sup> All in all, he avoids suggesting that the elevation of Valentinian II was forced on his half-brother.

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<sup>32</sup> For example, Ammianus' account of the reign of Jovian implies his reckless haste to get to the west to establish his rule, though close inspection shows that he did not hurry unduly (KELLY 2008, 246, and DEN BOEFT et al. 2005 on Amm. 25); the account of the movement of the Goths from their traditional territories gives the impression of events that may belong over a couple of generations happening within a few years (KULIKOWSKI 2008, 63–64, developing KULIKOWSKI 2007, 124–128).

<sup>33</sup> The dating of Julius' massacre of Goths in Asia Minor is deliberately vague, giving the impression that it occurred in 378 rather than 379 (ZUCKERMAN 1991 and KELLY 2007, esp. 238).

<sup>34</sup> A view expressed by STRAUB 1939, 19, 220 n. 122 (though unfortunately later withdrawn); CAMERON 1971, 259–262, and 2012; LENSKI 2002, 357 n. 199; KELLY 2008, 8 and n. 17. For an argument for publication *after* Valentinian's death, see PASCHOUD 2005; another supporter of a late date for Ammianus' last books is SABBAAH 1997. On the last books see now KULIKOWSKI 2012.

<sup>35</sup> CROKE 1976.

<sup>36</sup> I owe this insight to CAMERON 2012, 350–351.

<sup>37</sup> Ammianus' favourable attitude to Gratian is little remarked on, but see for instance the coverage of his accession at 27.6 and DEN BOEFT et al. 2009 ad loc. Within that passage are poignant hints at the desertion of Gratian by the Gallic army in 383 (Gratian growing up among the soldiers' children, 27.6.8; the final request to the soldiers to protect him, 13). It is not impossible that a similar awareness of Gratian's fate colours the emphasis in 30.10.1 on the fear of usurpation from the Gallic legions.

In understanding what was going on, the distances between the centres of power are absolutely fundamental. Travel times in the ancient world are debated, but let us assume that the news of Valentinian I's death at Brigetio, and then of Valentinian II's elevation at Aquincum, might have taken two weeks to reach Gratian in Trier and the senate in Rome, and four weeks to reach Valens in Antioch. Any epistolary response would have taken twice as long, and for Valens and Gratian to exchange letters might have taken as much as three months.<sup>38</sup>

Although as senior Augustus Valens had ultimate authority in accepting Valentinian II's legitimacy, distance and situation meant that the creation of Valentinian II as Augustus had a much more powerful effect on Gratian. He was sixteen years old, so neither obviously a child nor a grown man, though he had married Constantia, the posthumous daughter of Constantius II, the previous year (see Amm. 29.6.7). And he was in Trier, an established imperial capital and the seat of the Gallic prefecture. Whether he had what could be defined as a court of his own is not clear.<sup>39</sup> His status up to his father's death has usually been defined as that of an Augustus without territory, an *Auguste sans terre*, without further discussion.<sup>40</sup> The term is useful but inauthentic, and may have pitfalls. It may be that Valentinian I intended to leave Gratian as the acting ruler of the Gallic prefecture when he left for Illyricum in spring 375.<sup>41</sup> By this I do not mean that Gratian was not expected to be subordinate to his father or to follow the guidance of the high officials resident in Trier. The previous generations supply obvious comparanda: the sons of Constantine were set up in their father's lifetime with courts in Trier, Antioch, and Sirmium or Milan, each with a praetorian prefect and other officials.<sup>42</sup> Likewise Constantius II's Caesars Gallus and Julian were established in Oriens and Gaul respectively with territorial responsibility, considerable practical independence, and the regular senior officials of an emperor (prefect, quaestor, and so on), although these were appointed by and answerable to Constantius.<sup>43</sup> Gratian was an Augustus, not a Caesar, and by the very act of leaving him behind, his father may well have bestowed on him some degree of territorial responsibility for Gaul; there was certainly a prefect resident in Trier, and Gratian may already have had Ausonius as his

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<sup>38</sup> For varying estimates see COŞKUN 2002, 191 nn. 17–18 (news from Aquincum to Trier 12 days; a senior official perhaps twice as long; message from Trier to Rome, in dire need, perhaps 10–14 days); GIRARDET 2004, 122 and n. 80 (if anything more pessimistic than me), TREADGOLD 2005, 780 n. 63 (markedly more optimistic). All these estimates ultimately rely on the tables presented in KOLB 2000, 308–332, though the interpretations vary. The fact that this was winter should not be ignored. See also nn. 81, 136, 182.

<sup>39</sup> COŞKUN 2002, 186, argues not.

<sup>40</sup> COSTER 1935 is an honorable exception.

<sup>41</sup> This is not a standard view; but it is, more or less, that expressed by SEECK 1920–22, 5.38.

<sup>42</sup> See most recently BARNES 2011, 158–163.

<sup>43</sup> See n. 137 below.

quaestor by this stage.<sup>44</sup> We do not know whether the arrangement was intended to be permanent.<sup>45</sup>

At any rate, it is clear that on his father's death the existing military and civil hierarchy based in Trier would come formally under Gratian's control (if it had not been before), and that the praetorian prefect would become (if he had not been before) his praetorian prefect. Of course, given his age, there was always going to be an issue of whether he commanded or was controlled by the prefect, particularly when that prefect was as thrusting a politician as Maximinus, with a long track record of interfering in areas outside his purview.<sup>46</sup> Some evidence suggests that Maximinus had indeed tried to control the young emperor: in celebrating the prefect's execution, Symmachus refers to Gratian as having endured his abuse of power (*impotentiam passus es*, Or. 4.10<sup>47</sup>), remarks that, though *dominus*, Gratian had almost experienced a *tyrannus* in Maximinus, and concludes that Maximinus 'imposed with novel haughtiness on the royal patience and thought it a waste of his prefecture if anything was allowed to imperial command' (Or. 4.11).<sup>48</sup> Ammianus confirms this impression in the anticipatory description of his death (28.1.57): 'The same Maximinus, aggrandizing himself immoderately under Gratian, was killed by condemning steel.'<sup>49</sup>

Everything they knew about Maximinus would have persuaded Valentinian I's high command in Illyricum that he was likely to use his proximity to Gratian and probable control over the levers of power to advance his own interests and to act against theirs – if Gratian was left as the sole emperor in the two western prefectures which his father had controlled. Maximinus had already used his influence with Valentinian to have his son Marcellianus appointed as *dux per Valeriam* in order to undermine Equitius, whom he had accused of sloth (Amm. 29.6.3–4). Maximinus also had a history with Probus: as *praefectus annonae*, he had insulted Probus, even though Probus ranked far above him; when Aginatus, then *vicarius* of Rome, wrote furiously to Probus about Maximinus' arrogance, Probus allegedly passed Aginatus' letter to Maximinus out of

<sup>44</sup> On Ausonius, see Section II d below.

<sup>45</sup> At 16, Gratian was older than Arcadius would be when left in the east by Theodosius in 388 (11), younger than Gallus and Julian had been when established in independent courts in 351 and 355 (respectively 24 and 23), and around the same age as the sons of Constantine when they had first been established in their courts (Constantine I at Trier in 331, aged 15, Constantius II at Antioch in 335, aged 18, Constans probably at Milan in 335 aged 12 or 15). See BARNES 1982, 84–87.

<sup>46</sup> A well-attested parallel case is that of Arcadius, like Gratian appointed Augustus by his father when a small boy (aged about 6 in 383), and around the same age as him at the time of his father's death (about 18 in 395). The government of the east was perceived to remain in the hands of the prefect Rufinus, and other controlling figures thereafter.

<sup>47</sup> *Impotentia* is mistranslated by both PABST 1989 and CALLU 2009a as referring to Gratian's lack of power rather than Maximinus' abuse of it.

<sup>48</sup> *urgebat enim novo fastu patientiam regiam et praefecturae suae putabat esse dispendium si quid licuisset imperio.*

<sup>49</sup> *idem Maximinus sub Gratiano intoleranter se efferens/ damnatorio iugulatus est ferro.*

fear of his wickedness and influence with the emperor (28.1.31–33); Maximinus' ally Leo later had designs on Probus' prefecture (30.5.10).<sup>50</sup> These two pieces of evidence suggest two conclusions: first, the claim that Merobaudes and the rest were appointing a new emperor in loyalty to Gratian seems even likelier to be specious; rather, as several scholars in recent years have suggested, it was a coup intended to secure their own position, in Gratian's name, against Gratian's courtiers.<sup>51</sup> The eventual fate of Maximinus suggests that their coup was a qualified success. Secondly, Ammianus' wish to dismiss the suggestion of a coup, whether from tact or loyalty, led him to keep silence about the involvement of Probus and Equitius, two individuals whose enmity to Maximinus – and thus motivation for a coup – he had explained in his previous narrative. Or one could argue more simply that he wished to conceal the involvement of two major villains of his narrative in an event he wished to portray as legitimate.<sup>52</sup>

For the eastern emperor Valens, his brother's death and Valentinian II's accession did not have the same potential to destabilize his regime as these events had for Gratian. The administration of east and west was in practice almost wholly separate under Valentinian and Valens. We are told by Eunapius that Valens had resented his nephews dividing the west between them (fr. 42). As Valentinian had controlled two prefectures to his brother's one, perhaps Valens might, on acquiring the role of senior Augustus, have wanted to take over part or all of the central prefecture of Italy, Illyricum, and Africa. Valens had been consistently portrayed in the shadow of his brother; his role after his brother's death as the senior emperor, *maximus Augustus*, is taken seriously by coins and inscriptions from the east (and indeed across the empire). But if there was any such wish for territorial expansion on Valens' part, Valentinian II's accession clearly made it less practical.<sup>53</sup>

Sources are vague and divided on whether Valens' approval was sought, but from precedents, it seems likely that as senior Augustus, he would have been asked, and his answer would have mattered: compare how Constantine in 306 requested Galerius' legitimization of his acclamation as Augustus, and was granted and accepted the title of

<sup>50</sup> See MCLYNN 1994, 84 and n. 20.

<sup>51</sup> MCLYNN 1994, 84, calls Ammianus' account (the official version) and continues: 'The proclamation, ostensibly made in [Gratian's] interest, was nothing less than a coup against the ministers currently entrenched around him.' Cf. ERRINGTON 2006, 25–26; POTTER 2004, 543–544); and now MCEVOY 2010, 156 and n. 25. Illegitimate their actions may have been, but not impolitic: I shall suggest below (Section III) that Maximinus probably did act against Count Theodosius, and he might well been expected to act with similar ruthlessness against others.

<sup>52</sup> What Ammianus thought of Merobaudes, by contrast, is far from evident: he receives no formal introduction in the work. The question is complicated by the general uncertainty about Merobaudes' actions and death in the 380s: more specifically whether he betrayed Gratian and defected to Maximus in 383 and whether he lived to hold a third consulate in 388. See e.g. RODGERS 1981, BARNES 1975b, 159–160.

<sup>53</sup> LENSKI 2002, 358, 361–362. A few years later eastern Illyricum was put temporarily under Theodosius' authority for the duration of the Gothic war, though it reverted after a few years; after Theodosius' death in 395, eastern Illyricum was attached permanently to the east.



Caesar, or how Julian in 360 requested Constantius' recognition of his elevation from Caesar to Augustus.<sup>54</sup> But while it is an exaggeration to say that Valens had no influence on what would happen in the west,<sup>55</sup> his room for manoeuvre was severely limited. Any overly threatening rejection of his nephew's claims might simply lead to a real usurper who was not a member of the family. Valens could not in practice come west in person to resolve the situation, as he was entangled by problems on the eastern frontier, with the Persians, the Isaurians, and later the Arabs: when a serious situation arose on the Danube in 376, he was not in a position to leave the east until the spring of 378.<sup>56</sup> It was also inevitable that any response would take time. News of his brother's death and of his nephew's promotion a few days afterwards might have taken as much as a month to reach him in Antioch;<sup>57</sup> and messages back from him presumably took as long or longer, as winter weather in Anatolia and the Balkans is likely to have grown in severity. Consultation purely by letter would have been risky, as he would be reacting to the situation in the west several months late; moreover, there was a potential need for consultation not only with Valentinian II's court, but also with Gratian in Trier and the senate in Rome. In fact we know that an embassy which included the philosopher and Constantinopolitan senator Themistius was sent by Valens to Gratian in Trier, perhaps arriving around the beginning of March, and went from there to Rome; it also appears that this embassy included Roman senators. I assume, following GIRARDET, that this embassy was occupied with the question of the new college of Augusti.<sup>58</sup>

The time has come to look more closely at the evidence for Valentinian II's recognition as Augustus, and at the related question of his recognition as consul, which is not likely to predate his recognition as Augustus.<sup>59</sup> I have already mentioned GIRARDET'S

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<sup>54</sup> Lactantius DMP 25; Ammianus 20.8.2–19. These precedents could perhaps be evaded by assuming that concepts of the constitutional norm had completely changed with Valentinian and Valens' division of the empire. It is certainly true that just over seven years later, Theodosius elevated his son Arcadius (and simultaneously made his wife Aelia Flaccilla an Augusta) without consulting the senior Augustus Gratian. But this is usually seen as having been done in defiance of Gratian, and by then, there was the precedent of Valentinian II.

<sup>55</sup> This is inferred by POTTER 2004, 541, from Eunapius' statement of his resentment (fr. 42).

<sup>56</sup> LENSKI 2002, 356; see his ch. 4 on events on the eastern frontier.

<sup>57</sup> GIRARDET 2004, 110 and elsewhere, speculates that Valens could have been in Constantinople rather than Antioch. While this is not impossible (there is a sufficient gap in legislation issued from Antioch for Valens to have travelled to Constantinople at the end of 375), it breaks the general pattern of his wintering in Antioch, and seems to be contradicted by Themistius' claim in Or. 13.163c to have travelled 'from Tigris to Oceanus', which seems a more pardonable exaggeration for a journey from Antioch to Trier than one merely from Constantinople. Most likely the senate of Constantinople sent Themistius to Antioch in honour of Valens' consulship and his new status as senior Augustus.

<sup>58</sup> GIRARDET 2004, 120.

<sup>59</sup> It is sometimes argued (e.g. ERRINGTON 2006, 34 and 269 n. 34) that Valentinian II had been designated consul before his father's death. This is certainly wrong. The pattern of consulates under Valentinian and Valens entailed the two of them only holding office with each other (in 365, 368, 370, and 373); and as Valentinian was Valens' senior, it is inconceivable that a scheme

collection of evidence demonstrating that recognition of Valentinian II's status was not immediate.<sup>60</sup> Much of his argument is based from careful consideration of Themistius' movements. Beyond that, he identifies two inscriptions (and a possible third) which offer Valens and Gratian as the only two emperors (CIL 5.8008 = ILS 777 [Ferrara],<sup>61</sup> ILS 5592 [Rome],<sup>62</sup> and perhaps AE 1965, 15b [Pisidia]); he points to numismatic evidence from the east showing Valens as sole consul, probably in early 376 (RIC 9.276, 17). On one detailed point there is room for reservations on his methodology. He notices that the name of Valentinian II is absent from the heading (though not from the consular date) in one of the two mss of a law of 11 February 376 (CTh 9.1.13). But since the headings of the Theodosian Code were standardized by the compilers in the 430s, the absence of Valentinian II in one ms heading here (or indeed his presence in the headings of later legislation), does not necessarily reflect on what the original text of the law said – though the compilers did occasionally miss such corrections.<sup>63</sup> This is not, therefore, an entirely safe *terminus post quem*. The *terminus ante quem* for his recognition as both Augustus and consul is a Roman inscription of 8 April, CIL 6.751 = ILS 4268. This coheres well with the earliest documentary recognition of him as Augustus in the east in May or June.<sup>64</sup>

It is certain that there was a delay in recognition; but reconstruction of the precise sequence of events during that delay must be conjectural. To my mind the best interpretation of the evidence is the following (also set out in table 1 below). It seems likely that Valens' recognition was sought and eventually given, but that (as GIRARDET argues) this only happened after consultation with Gratian's court.<sup>65</sup> Surprising as it may seem, Valens may effectively have given the embassy conditional permission to convey his consent after discussion with Gratian, in a manner that would best ensure that crisis was averted. That is certainly what is implied by the timing. It is unlikely that any embassy from Valens could have been sent before the New Year or could have

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could have been agreed by which Valens would have held more consulships than his brother. See GIRARDET 2004, 123 and n. 86, and *ibid.* 127 for evidence that Valens was considered sole consul in the early months of 376; see also n. 64 below.

<sup>60</sup> GIRARDET 2004, 124–127.

<sup>61</sup> *dd. nn. imp. / Flavio Valenti et / Fl. Gratiano Caess. / victor. ac tri/ump. semp. Augg.*

<sup>62</sup> (...) *Valens et Gratianus pii felices ac triumphatores semper Augg. porticus areasque (...) [ma]cello Liviae ad ornatum urbis suae addi dedicari(ue) iusserunt* (i.e. the crucial evidence is the termination of *Augg.*). On this inscription see GIRARDET 2004, 124–125

<sup>63</sup> I am grateful to TIMOTHY BARNES for discussion on this point.

<sup>64</sup> See CLRE s.a. 376; GIRARDET 2004, 129, citing P.Flor. 1.95.29 (21 June) and 53 (May or June). (I ignore the consulate recorded in the heading of CTh 6.4.24, 30 May 376, for the same reason as above). This is unusually late documentary confirmation for this period. I should express one note of marginal caution on the inscription of 8 April, which commemorates an event that occurred on that day: the actual inscription, and therefore the *terminus ante quem* for Valentinian's recognition, might belong slightly later. This does not substantially affect the arguments to follow.

<sup>65</sup> GIRARDET 2004, 121–127.

reached Gratian before mid-February, or still later: there would not have been time for a further exchange of messages to the east before Valentinian's recognition was known in Rome in April. To allow conditional recognition of the younger Valentinian to be announced at Gratian's court would have made it appear in both east and west that recognition was coming from Gratian, rather than Valens. This also explains why eastern sources like Eunapius (fr. 42) show Valens as angry and impotent. In other words, Valens gave his consent to the elevation of the only spare male heir in the dynasty – which was probably his only option – in the way best suited to help Gratian and the stability of the west in general; he nobly took a hit in appearing powerless to intervene, and as if he had been forced to accept something that he had originally rejected, for the sake of the dynasty. Valens' sensible and decent behaviour need not mean that he was not resentful. He might, perhaps, have had the option of recongnizing Valentinian II as a Caesar rather than an Augustus: in the event he and Gratian seem to have agreed on treating him essentially as if he were a Caesar. One aspect which suggests Valens' willingness to help Gratian, and which was perhaps part of the negotiations, is the fact that both of the consuls of the following year (377) were western (Gratian and Merobaudes in the end, though Avianius Symmachus was nominated in the first instance): it was an obvious way for Valens to help his nephew control the situation by giving him increased powers of patronage. Moreover, although pairs of consuls from one part of the empire had been common under Valentinian I and Valens, presumably as a way of playing down the practical divide between east and west,<sup>66</sup> it was actually the east's turn.<sup>67</sup>

The hypothesis that Valens helped achieve a reconciliation of the two western courts is surprising in some ways, because it goes against a belief that Valens' relationship with Gratian's court was rocky. But this poor relationship can only really be attested at a later stage, when western reinforcements in the Gothic war were slow and meagre.<sup>68</sup> The evidence that has been adduced early on is that of coinage; but the role of Valens as Maximus Augustus can be attested across the empire. And the virtual disappearance of rulers other than Valens from the bronze coinage of Antioch is the continuation of a process that had begun years before.<sup>69</sup>

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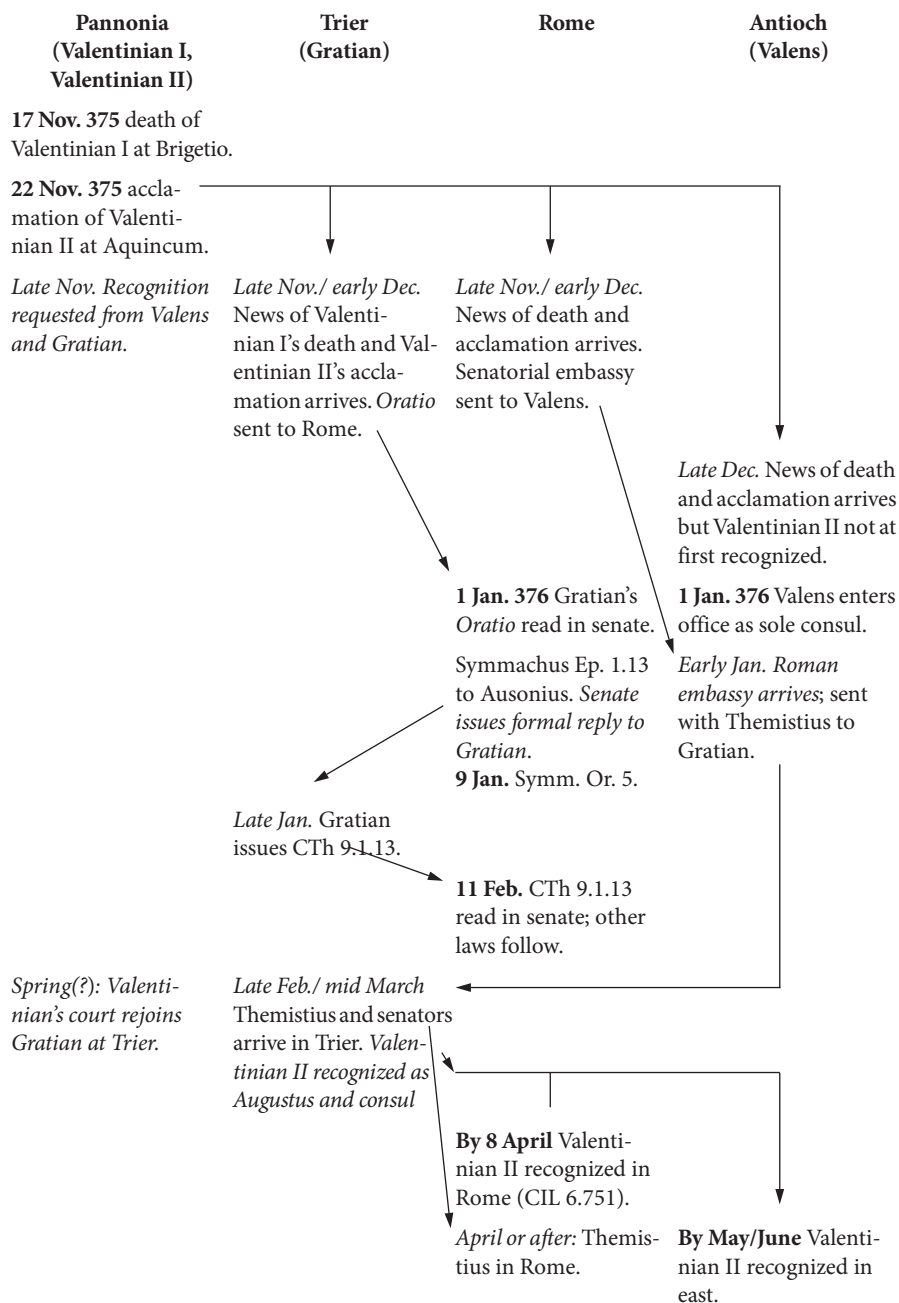
<sup>66</sup> The practice contrasts with that which prevailed in the post-395 division of the empire, when each court nominated one consul without consulting the other – and frequently refused to recognize the other court's nominees.

<sup>67</sup> Previous consuls appointed by Valentinian and Valens are as follows: 365 Valentinian and Valens I (W, E), 366 Gratian and Dagalaifus (W, W), 367 Lupicinus and Iovinus (E, W), 368 Valentinian and Valens (W, E), 369 Valentinianus Galates and Victor (E, E), 370 Valentinian and Valens (W, E), 371 Gratian and Probus (W, W), 372 Modestus and Arinthaeus (E, E), 373 Valentinian and Valens (W, E), 374 Gratian and Equitius (W, W), 375 no consuls, 376 Valens [and eventually Valentinian *iunior*] (E, W). See LENSKI 2002, 34–35, n. 117; BIRLEY 2007, esp. 18 (focusing on the absence of consuls in 375, and conjecturally attributing it to a disagreement between Valentinian and Valens over the appointment of the elder Theodosius).

<sup>68</sup> LENSKI 2002, 356–357.

<sup>69</sup> PEARCE, RIC 9.xviii and 264–265; LENSKI 2002, 358.

*Chronology of the Recognition of Valentinian II (November 375 to May/June 376)*



(Certain dates in **bold**, conjectural dates and events in *italics*; arrows for journeys, messages, or news)

Table 1.

The end result of the coup was that Valentinian II was, after a while, accepted as Augustus and consul – but marginalized.<sup>70</sup> Zosimus tells us that Valentinian was allocated Italy, Illyricum, and Africa, while Gratian was allocated Gaul, Spain, and Britain (4.19.2): that is to say, the western and central prefectures which Valentinian I had governed were split between his sons. He also insists that both were too young to be *κύριοι*. Zosimus' evidence usually derives, though sometimes in garbled form, from Eunapius, a contemporary, and in this case comparison to a fragment of Eunapius confirms that he is indeed the source (fr. 42). This has led to the assumption in some scholarship that Gratian and Valentinian had separate courts after 375.<sup>71</sup> In fact, if there was a division, which is questionable, it must have been purely notional, and the assumption of separate courts is certainly wrong. The government of the central prefecture was under Gratian's authority until his death, except when Theodosius was given temporary control of part of Illyricum. There is abundant evidence for this. Gratian moved his base through both prefectures; legislation to governors in both prefectures came from wherever Gratian was; Symmachus treats letters to Rome (which were presumably written in the name of the imperial college) as being from Gratian; Ausonius and his son Hesperius were appointed joint praetorian prefects over an area including Italy and Africa as well as Gaul, Spain and Britain. As for Valentinian II, the statement of Ammianus that Gratian brought him up (30.10.6) must mean that he accompanied the *comitatus* of his dead father to Gratian at Trier, and that he came under his half-brother's control.<sup>72</sup> The propaganda of Gratian's reign certainly emphasizes Valentinian II's inferiority: Ausonius' panegyric of Gratian (late 379) described how he had summoned his half-brother to empire, like a son (*instar filii*, 2.7; cf. 10.48); Themistius addresses Gratian ὦ παῖ πάτερ (Or. 13.165d), without ever mentioning the name of Valentinian but implying his status as ward; Symmachus does not even refer to the young emperor during his brother's lifetime, but pointedly

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<sup>70</sup> Another contemporary source for this viewpoint is Jerome Chron. 247<sup>b</sup>, s.a. 375: *post quem Gratianus adsumpto in imperium Valentiniano cum patruo Valente regnat*.

<sup>71</sup> The notion that Valentinian II had authority in Illyricum, Italy, and Africa between 375 and 383 has had a long life. It is accepted for example by SEECK 1920–1922, 5.39–40; ALFÖLDI 1952, 18; DEMANDT 1989, 115 (modified at DEMANDT 2007, 144). PIGANIOL 1947, 202–203 (= 1972, 223–224), thought that Valentinian II might have had authority simply in Illyricum. This idea is also accepted by POTTER 2004 (544, cf. 546 and 574), in an otherwise acute discussion. LENSKI 2002, 358–359, accepts the division but as a purely theoretical construct, with Gratian in charge. PASCHOUD 1979 ad Zos. 4.19.2 (p. 370–371, n. 140) deserves credit for expressing scepticism about this arrangement. For other critics of this view, see next n.

<sup>72</sup> As argued by MCLYNN 1994, 85, and ERRINGTON 1996, 441–442, esp. n. 24. Attempts to argue for a court of Valentinian II at Sirmium are based on (1) accepting Zosimus at face value and (2) the information in Paulinus' Life of Ambrose 3 that Justina was in Sirmium at some point in the late 370s. The latter point can be explained in several ways: either Justina was kept apart from Gratian and her son (MCLYNN 1994, 85 and n. 23), or she was there with Gratian's court (BARNES 1999, 169–170).

calls Gratian *paterni imperii successor* (Or. 4.10, cf. Themistius Or. 13.169a).<sup>73</sup> The description *iunior* was attached to Valentinian II's name in public documents.<sup>74</sup> The legends on his coins were almost all unbroken. It was only after Gratian's murder in 383 that Valentinian II, with his court at Milan, was established in control of the prefecture of Illyricum, Italy and Africa, while the usurper Maximus took the Gallic prefecture.

The best working hypothesis is to discount the evidence of Eunapius / Zosimus on the division of the west as simply erroneous. Perhaps it was based on the status quo after 383, or (less likely) the similar division under the sons of Constantine in 337–340. But one *might* attempt to rescue Eunapius' credibility by seeing the elevation of Valentinian II as happening in a situation where Valentinian I had officially or effectively made the Gallic prefecture over to Gratian, and the acclamation of Valentinian II was therefore taking advantage of a perceived vacancy in the central prefecture – and some support for such a perception might be found in the historical sources: Rufinus speaks of how Valentinian II was appointed to stop individuals from seeking the apparent vacancy in imperial rule (*tamquam vacuum imperii locum*, HE 11.12).

It seems to have been agreed between the two western courts, probably with the help of Valens' emissaries, that Valentinian II would be recognized, but that he would be brought up by his brother. There may well have been other terms in the agreement. At some point – perhaps simultaneously with the recognition of Valentinian, perhaps some weeks later – Maximinus retired as prefect of Gaul; we do not know exactly when Maximinus' enemies Probus and Equitius stood down from office, but (as we shall see in greater detail in Section IIc below) there is a good chance that this too was part of the deal. This sort of departure from office satisfactorily accounts for the rival views of Gratian's reaction: Ammianus' claim that he was not angry with those who had elevated Valentinian, and Philostorgius' claim that he was angry and punished them.

In this Section I have aimed to show, following several previous scholars, the problems in accepting Ammianus' account of the elevation of Valentinian II. The elevation of Valentinian was not an honest response to crisis, not a legitimate promotion, and not straightforwardly accepted by Valens and Gratian. It was instead a coup by Valentinian I's courtiers in Illyricum, designed to defend themselves against the possibility of Gratian being wholly dominated by their enemy Maximinus. In the end, we can infer, a deal was done between Gratian's and Valentinian II's courtiers, probably with the encouragement of Valens. In Section II, I shall examine what has often been wrongly treated as a completely different story: the development of Gratian's court and its relationship with the city of Rome.

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<sup>73</sup> Comparison made by GIRARDET 2004, 133. The idea of Gratian as being *in loco patris* for his brother was an enduring one: see not only Ammianus, but also Philostorgius 9.16.

<sup>74</sup> Note also a poem of Ausonius (Epigram 5), which might plausibly be dated to 378/379. In MCLYNN's summary (1994, 85), «he was a mere shadow, dependent upon his brother's prowess and generosity even for the gilding of his statues.»

## II. The Reaction of Gratian's Court

The beginning of Gratian's rule in the western empire after his father's death has normally been interpreted through his relationship with the city of Rome and its senate, and not through how he (or his court)<sup>75</sup> dealt with the acclamation of his brother as emperor. This is an understandable result of the bias in surviving evidence towards Gratian's interactions with Rome. Most of Gratian's extant legislation from the period is directed at Rome; we have a speech given by Themistius to the Roman senate after seeing Gratian in Trier; and above all we have the evidence of various letters and speeches of Symmachus, himself based in Rome. It has also long been suggested (but recently increasingly doubted) that Gratian actually visited Rome in the summer or autumn of 376. Certainly there will have been many other communications which do not survive between the major centres of power, but the importance of Rome in what does survive is not coincidental. A detailed list of all Gratian's known legislation, communication, and other interaction with Rome in the year 376 is gathered in the Appendix to this article.

The conciliation of the senate belongs in the context of the prosecution of various members of the senate on charges mainly of magic and adultery in a period running from perhaps 369 until about 374.<sup>76</sup> These trials were seen as having been whipped up

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<sup>75</sup> The question of what degree of control a sixteen-year-old had over the levers of power is obviously hard to answer; when I speak of Gratian, readers should accept this as shorthand for Gratian or Gratian's court. For thoughts on this problem and further references see MCEVOY 2010, esp. 159–162. I regret that the same author's *Child Emperor Rule in the Late Roman West, AD 367–455*, 2013, has not appeared in time for me to take it into consideration.

<sup>76</sup> The dating of the trials is controversial; in my view the problems are solved by BARNES 1998, 243–246. Their beginning should not be placed as early as some have inferred from a probable corruption in the text of Ammianus (28.1.1, cf. BARNES 1998, 234, 243–244); and Maximinus' promotion to praetorian prefect need not be placed as early as 371 (BARNES 1998, 241–242). Ammianus describes the final trials and executions, those of Aginatus and Anepsia, as happening at the start of Doryphorianus' vicariate (28.1.53–56). It has sometimes been suggested – against the clear implication of Ammianus – that Doryphorianus did not take office until Gratian's reign. A letter of Gratian from 378/379 refers to an earlier letter by 'our clemency' *ad v.c. Simplicium quondam vicarium* (Collectio Avellana 13.3), and some have assumed that this earlier letter must postdate Valentinian I's death, and so too, therefore, must Doryphorianus' appointment (e.g. PLRE 1, s. v. Doryphorianus, Simplicius 7). However, as BARNES 1998, 245 n. 12, points out, Gratian 'means no more than that his name stood in the heading of a letter written by his father as if he were one of its authors, just as that of Valentinian II stands in the heading of his own.' The point is also made by COŞKUN 2000, 78–80 (who at 77–78 adds a further reason to date the last trials to 374 by suggesting that CTh 9.29.1, posted 23 March 374, refers to the case of Anepsia).

This conclusion has recently been challenged by DEN BOEFT et al.'s commentary on Ammianus book 28 (2011, 104, acknowledging TOMLIN 1973, 338 n. 82): 'when citing constitutions issued when he was a minor member of the imperial college, [Gratian] attributed these explicitly to his father.' They cite three examples: CTh 16.7.3 (21 May 383), CTh 1.6.8 (22 November 382), and CTh 16.6.2 (17 October 377). The first speaks of the penalty for Manichaeism prescribed

by the low-born Maximinus as *praefectus annonae* and then *vicarius urbis Romae*, after which he had been rewarded by the emperor by promotion to prefect of Gaul and trials on similar charges had continued under his successors.<sup>77</sup> Because scholars tend to absorb the attitudes of their sources, authors like Ammianus and Symmachus, the new attitude of Gratian's court has often seemed like a natural and understandable reaction to a cruel policy – and it may indeed have been. It is certainly true that any new regime would naturally take advantage of its very newness to rebuild good political relationships with the Roman aristocracy, and that a regime headed by a sixteen-year-old could not rely as his father's had done on a reputation for military talent or personal ferocity (culture, good advisors, heredity, generosity, and general promise were stressed instead). The change in policy is also seen in the context of a power struggle between Maximinus and his allies on the one hand, and the likes of Gratian's tutor and quaestor Ausonius on the other, who was shortly to advance to the highest offices of state bringing many family members with him; these parties are seen as respectively hostile and friendly to the senate.<sup>78</sup> This may be true, but the fact that Ausonius and his family filled the vacuum left by Maximinus' fall does not mean that they necessarily caused it. I shall suggest that the wooing of the senate is best

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both by «our father Valentinian of sainted judgment» (*divalis arbitrii genitor Valentinianus*) and «our own decrees». Valentinian's decree is 16.5.3; Gratian's other decrees on the subject are lost. The second refers to an unidentified and presumably lost constitution of Constantine and actions permitted *a patre nostro*. The third refers to «laws of our fathers Constantine, Constantius and Valentinian.» (For the correction of the transmitted place of issue, see SEBECK 1919, 109–110). Undoubtedly, then, Gratian's legislation sometimes referred to earlier laws as being his father's, even if, after 24 August 367, he had himself been listed as Augustus in the heading. In these three cases, however, this attribution serves the rhetorical function of referring to a historical list of laws that are now being reinforced. More importantly, it is possible to find laws of Gratian referring to himself as author of legislation which must predate his father's death. CTh 10.19.8 (1 March 376) refers to quarrying rights already granted (*iam pridem ... permisimus*) before offering more generous rights to senators; CTh 16.5.4 (22 April 376) appears to deal with Donatists (and so the transmitted date stands, with the addressee Hesperius' office emended from praetorian prefect to proconsul of Africa) and refers to previous confiscations of property: *olim ... iussimus ... publicari loca omnia*, etc. These are two of the first constitutions of the reign. The previous (now lost) law dealing with quarrying in Illyricum could conceivably have been issued in the previous two months, but is clearly likely to be older; it is virtually impossible that *olim ... iussimus* refers to legislation of the last few months. So Gratian was willing to claim joint authorship of laws written when he was a junior member of the imperial college. Ammianus is therefore neither mistaken nor misleading, and Doryphorianus' entry to office, and the trials of Aginatus and Anepsia, can be dated after 23 March 374, when his predecessor Simplicius is last attested in office, but before Valentinian I's death on 17 November 375.

<sup>77</sup> The bibliography on these trials is extensive: more recent items include MARIÉ 1992, COŞKUN 2000, LIZZI TESTA 2004, esp. 11–51, 209–305 *passim*.

<sup>78</sup> So ALFÖLDI 1952, 82–94; not so different COŞKUN 2002, 186–199. Of course, as the external reviewer points out to me, many senators might in time have felt resentful of Ausonius for blocking so many high offices with his relatives – though I shall argue below that Ausonius' ascendancy is for the most part a later development: see II d below.



explained, at least initially, as a way of obviating the threat of an additional imperial court in the west. It may have continued once that threat had abated on the momentum of the policy's success. A further aim of this Section is to see what sort of chronology can be established, and to correct some erroneous interpretations.

The first sight of the new approach seems to have come in a message from Gratian read to the senate on 1 January 376. For this we have the evidence of a well-known letter by Symmachus, Ep. 1.13, addressed to Ausonius, who as Gratian's quaestor was presumably the author of the imperial message.<sup>79</sup> I begin with this first response to events by Symmachus and other senators (IIa), and in the various subsections that follow, I proceed through the year looking at events and the implications of various sources: it is not always possible to preserve exact chronological order, as some events and processes overlap chronologically or are uncertain in dating. Next comes discussion of Themistius' panegyric on Gratian (IIb), and of the fall and later execution of Maximinus, for which the evidence is again dominated by Symmachus (IIc). This is the best point, despite the topic not being specifically concerned with the evidence from Rome, to discuss the role of Ausonius and other officials who dominated the court after Maximinus' fall (IIId). Finally I discuss the elevation to the consulship of a distinguished Roman senator, Avianius Symmachus (IIe), and Gratian's alleged visit to Rome (IIIf).

#### *a) The beginning of the year*

A well-known letter of Symmachus describes the reaction of the senate to the message received from Gratian's court on 1 January 376. Considering winter travel times, this was not far off the earliest possible time that the senate could have expected to hear from Gratian after his father's death on 17 November.<sup>80</sup> The news might have reached him in Trier around the end of November, and perhaps reached the Senate around the same time. The news of the younger Valentinian's acclamation will have come about five days later. The journey time from Trier to Rome must have been in the region of three weeks.<sup>81</sup> This means that Gratian's message is very unlikely to have been responding to any prior message from the senate – which tallies with the description of the exhausted courier. The other significant fact about the date is of course that the new consuls entered office on 1 January – and one of the intended consuls, Valentinian I, was dead. 376 came to be listed in the *Fasti* as the fifth consulship of Valens

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<sup>79</sup> SEECK 1920–22, 5.49; ALFÖLDI 1952, 87 (Ausonius was the 'spiritual author'); SIVAN 1993, 126 (but the question about what the senators thought of it was not literally asked by Ausonius, who had not written to Symmachus, but was put into his mouth by Symmachus).

<sup>80</sup> The point was observed long ago by SEECK 1883a, lxxxii, and by ALFÖLDI 1952, 85. But in line with the tendency to take Ammianus at face value on the accession of Valentinian II, they considered only the death of Valentinian I as important.

<sup>81</sup> GIRARDET 2004, 122 and n. 80, is a bit more conservative in estimating how quickly news would travel. Cf. n. 38 above.

and the first of Valentinian the younger, but there is evidence to suggest that Valentinian II was not universally accepted as consul, at least initially.<sup>82</sup> We do not know whether Valentinian II's backers had proposed that he substitute for his father as consul, and perhaps Gratian's court did not know this either. This could have been a significant issue. The relevant section of the letter reads as follows (Ep. 1.13.2–4):<sup>83</sup>

Janus was opening the first Kalends of the year. We had come, a full senate, into the curia that morning, before clear day could undo the dark of night. By chance a rumour had been brought, that the words of a longed-for prince had arrived far into the night. And it was true, for a courier stood there exhausted from his sleepless nights. We rush together when the sky was not yet white: with the lamps lit, the destinies of the new age are recited. Need I say more? We welcomed the light which we were still awaiting. 3. 'Tell me' you'll say – for this is important to hear – 'what did the Fathers feel about that speech?' May Nature herself reply with what votes of support longed-for piety is heard. We know to embrace our blessings. If you can believe it, even now I suffer a certain indigestion of that joy of mine. Good Nerva, toiling Trajan, guiltless Pius, Marcus abounding in responsibility were helped by the times, which then did not know other morals: it is the nature of the prince that is a matter of praise now, then it was the gift of living in olden times. Why should we reverse the order and think the latter examples of outstanding traits and the former the survival of an earlier age? 4. May Fortune preserve her blessing, and desire at least to save for the Roman name this beloved! Let the public joy be bitten by no witchcraft! You have heard everything – but only the very first tiny effusions from my lips. The records of our curia will communicate more fully with you. Then, when you find many things written to you, think how much more eloquent are the thoughts of one man's mind than all our outpourings of applause. Farewell.

It has often been the tendency to take this letter very much at face value, as an expression of pure joy. It has also been the tendency to take the heavenly speech, the *caelestis oratio*, as marking the beginning of the reaction to Maximinus and the trials.<sup>84</sup> Now this is an understandable assumption, but it should be pointed out that Symmachus is startlingly unspecific. We have no positive evidence for what the message

<sup>82</sup> GIRARDET 2004, 127; and see n. 59 and n. 64 above.

<sup>83</sup> *primores Kalendas Ianus anni aperibat. frequens senatus mature in curiam ueneramus, priusquam manifestus dies creperum noctis absolueret. forte rumor adlatus est sermonem desiderati principis multa nocte uenisse. et erat uerum; nam tabellarius uigiliarum fessus adstabat. nondum caelo albente concurritur; luminibus accensis noui saeculi fata recitantur. quid multa? lucem, quam adhuc opperiebamur, accepimus. 3. dic mihi, inquires – nam id praestat audire – quid nostri patres super ea oratione senserunt? rerum tibi natura respondeat quibus suffragiis exoptata pietas audiatur. nouimus bona nostra complecti. si credis, etiamnum illius gaudii mei quandam patior cruditatem. bonus Nerua, Traianus strenuus, Pius innocens, Marcus plenus officii temporibus adiuti sunt, quae tunc mores alios nesciebant: hic in laude est natura principis, ibi priscae munus aetatis. cur uerso ordine ista optimarum artium putemus exempla et illa de saeculo priore uestigia? 4. beneficium suum fortuna tutetur et has saltem Romano nomini uelit seruare delicias! nullo fascino felicitas publica mordeatur! audisti omnia, sed summo tenus ore libata; monumenta curiae nostrae plenius tecum loquentur. ubi cum plura scripta reppereris, aestima quanto uberiora unius mens optauerit, quam plausus effuderit. uale.*

<sup>84</sup> So for example BRUGGISSER 1987, COŞKUN 2002, 196–197, and (cautiously) SOGNO 2006, 24–25.

might have said. Otto Seeck argued that four surviving constitutions, three from the Theodosian code and one from the Justinianic code (CTh 9.1.13 [11 February], 10.19.8 [13 August], and 15.1.19 [undated], as well as CJ 3.24.2 [1 March]), were actually part of Gratian's *caelestis oratio* of 1 January 376.<sup>85</sup> Seeck inferred from the content and the heading (*lecta in senatu* for CTh, *ad senatum* for CJ) that these dates are false additions by the editors, added to an undated law because all laws in the Code needed to have dates. This is dubious.<sup>86</sup> Although these laws can be seen as increasing the senate's rights, this does not mean that they had to be delivered on one and the same day in that year, and the list of communications between Gratian and Rome in the Appendix below demonstrates both that legislation favouring the senate was given at other times, and also that many communications with the senate did not survive to form part of the law-codes: for example, the message about the execution of Maximinus, or the various laws attested by Symm. Ep. 10.2.4. Laws read in the senate are not such a rarity in the Codes that those from the same year need to be assumed to be one and the same, and there should be no need to look for the speech of 1 January in laws of other dates. There is in fact a good case to be made that the laws that SEECK identified as having been read to the senate on 1 January are in fact unlikely to have been read then. One would expect legislation on subjects like building works to be responses to petitions from the senate; but to reach the senate by 1 January, these petitions must have been sent not to Gratian, but rather to Valentinian I, and it is questionable that they would have reached Gratian's court.<sup>87</sup>

In other words, Gratian's court was speaking to the senate without knowing its position, or necessarily what position was taken by (what might well be) a rival court that had appeared in the past few weeks. Gratian's status as Augustus was undoubted, unlike his brother's, but the rival court might have seemed to have several obvious advantages: its emperor had the same father as Gratian, and a higher-born mother;<sup>88</sup> most of the western field army supported it; the praetorian prefect was Probus, one of the leading men of the senate, as opposed to Maximinus, an arriviste resented by the Roman aristocracy. Moreover – a fact which had not mattered when Valentinian I ruled both the western prefectures – Rome was within, if juridically in some ways distinct from, the central prefecture of Illyricum, Italy, and Africa, whose military and civil hierarchy claimed the younger Valentinian as their emperor. The senate could have accepted Valentinian II's sovereignty on a local level. It was vital for Gratian's

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<sup>85</sup> SEECK 1919, 105; MOMMSEN had earlier suggested that the undated law could originally be part of that of 13 August.

<sup>86</sup> Questioned as early as COSTER 1935, n. 93 (71–73) and ALFÖLDI 1952, 87 n. 1, and rejected by most scholars since.

<sup>87</sup> Though, if, as Valentinian's quaestor, Ausonius travelled immediately to Gratian's court on his father's death, as is possible (see below at n. 136), he could have brought with him relevant imperial correspondence.

<sup>88</sup> On Justina's Constantinian ancestry see e.g. ROUGÉ 1958 and 1974; CHAUSSON 2007, 104–105, 160–173; WOODS 2004.

court to assert its effective control over the central prefecture. This should be seen as the context of Symmachus' letter, and the reason for the urgency of tone.

Symmachus' description of the letter is inexplicit: I have argued elsewhere that, as a practised panegyrist, he found in Pliny's panegyric of Trajan a source of inspiration for his splendidly vague coverage of the New Age, the *novum saeculum*, of Gratian – indeed perhaps the idea of a New Age.<sup>89</sup> Certainly there was no obvious repudiation of either his father's reign or of his ministers, who had, one presumes, endorsed the message; Symmachus compares the light of Gratian's age to the dawn of New Year's day, but does not detail the nature of the darkness that had preceded it.<sup>90</sup> The platitudeousness of Symmachus may reflect that of Gratian's message (though Ausonius was a more talented writer than Symmachus); but there must have been concrete concessions. It is possible that the message conveyed included the recall of exiles, the return of confiscated property, and the liberation of those in chains (i.e. the condemned), attested by Themistius a few months later.<sup>91</sup> These were cheap and immediate measures, and required no prior petitioning. Less cheap, but equally immediate, might have been the announcement of cancellation of old tax debts, attested in Ausonius.<sup>92</sup> Political appointments may also have been made (those accepting a political appointment would have accepted the authority of the emperor making it), and certainly a speech of Symmachus from 9 January seems to refer to appointments (Or. 5.3). Two Roman aristocrats are known to have served successively as prefect of the city, in this period, though we do not know the date at which the first, Aradius Rufinus, entered office.<sup>93</sup> Another appointment which may belong to around this time is that of Hesperius, the son of Ausonius, to become proconsul of Africa: a prestigious and strategically important role within the central prefecture, given not to an aristocrat but to somebody whose loyalty to Gratian's court was beyond doubt.<sup>94</sup> As for

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<sup>89</sup> KELLY 2013, 274–286.

<sup>90</sup> PABST 1989, 267, points out the same lack of specifics in Or. 5 (to be discussed below).

<sup>91</sup> Themistius Or. 13 *passim*. The exiles recalled might have included Hymetius, a former proconsul of Africa, who had been exiled to Boae in Dalmatia (Amm. 28.1.19–23), but honoured by statues in Carthage and Rome in 376 (or less likely 378): see CIL 6.1736 = ILS 1256; PLRE 1, s. v. Hymetius.

<sup>92</sup> Ausonius Grat. Act. 73–74.

<sup>93</sup> There is no direct evidence for the prefects of 375 or the first half or 376; Aradius Rufinus is attested in office on 13 July 376 (see n. 154 below) and Gracchus on 1 December 376 and 4 January 377. The latter is usually identified as Furius Maecius Gracchus, and as the son of Cethegus, a victim of Maximinus: see Chastagnol 1962, 198–200; PLRE 1, s. v. Gracchus 1 and 3. However, LIZZI TESTA 2004, 276–277, suggests that Gracchus and Cethegus were brothers, sons of Furius Maecius Gracchus. Another aristocratic prefect perhaps appointed around this time was Tarracius Bassus, who had been charged but acquitted in the trials earlier in the decade. See CHASTAGNOL 1962, 195–196; MATTHEWS 1975, 65–66. The dating is, however, conjectural and his prefecture could belong much later.

<sup>94</sup> This is not wholly certain. Hesperius is first attested in the role in a law of 10 March 376 (CTh 15.7.3) and last attested in it on 8 July 377, but COŞKUN 2002, 136–147, esp. 146, argues

Valentinian II, it is tempting to guess that Gratian promised to look after his brother and bring him up; since Valentinian was not recognized immediately, was the problem of his status ignored, or deferred to Valens as the senior emperor? Finally, it is also likely that some policy options were offered to the senate. An *oratio* from an emperor to the senate was a form which invited the senate's reply, as JILL HARRIES has shown.<sup>95</sup> This is confirmed in this case by Symmachus' letter, which assures Ausonius that the senate's formal reply to the *oratio* will reach him in any case. Following Harries' model, one may suggest that the legislation of 11 February was a development of the senate's response (this would be about the earliest that Rome's reply could itself receive a response from Trier).

We need not assume that whatever measures were included were indicative of a power struggle against Maximinus within Gratian's court, or that this was the outcome of a long-established plot by his enemies – though Maximinus' position was certainly far weaker after the coup in Illyricum.<sup>96</sup> Nor that there was any radical revisionism from the court's side about the last few years' events. There certainly does not seem to have been scope for Symmachus to criticize the previous regime here or in his speech of 9 January (though that speech is, admittedly, fragmentary). The new regime whose favour he was seeking was still probably thought to be under the control of Maximinus.

Symmachus had the advantage over many in the senate of having visited Valentinian I's court in Trier as an ambassador and having been appointed an imperial *comes* (third class).<sup>97</sup> He knew Ausonius from then. He had given two panegyrics of Valentinian, one probably for the beginning of his quinquennialia year on 25 February 368,<sup>98</sup> and one for his third consulship on 1 January 370. He had also given a panegyric

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that his appointment belongs in 375, and that he was appointed praetorian prefect by mid-376, arguing against various emendations to the evidence of the codes. Appointment as proconsul in 375 is possible (less so if BARNES 1983, 256, is right to argue that appointments normally began in the spring; BARNES 1985, 151 suggests that CTh 15.7.3 was probably issued before Hesperius went to the province). The antedating of his prefecture I reject. Several attributions of laws as addressed to Hesperius as prefect should be emended, as they seem to be addressed to a proconsul of Africa: CTh 16.5.4 (22 April 376; see n. 76 above), CTh 8.5.34 (27 February 377). The existence of four extant inscriptions in Africa naming Hesperius as proconsul under Valens, Gratian and Valentinian also suggests that COŞKUN is wrong. See DEMANDT 1969, 600–601, who supports the thesis that Hesperius was appointed in spring. Hesperius seems to have held the office for well over the usual period of a year (as later did Ausonius' son-in-law Thalassius; see SIVAN 1993, 132).

<sup>95</sup> HARRIES 1988, 165.

<sup>96</sup> See e.g. ALFÖLDI 1952, 85: 'This new policy of friendship to the Senate, so solemnly announced by Gratian, reveals the threads of a plot that must have been spun before.'

<sup>97</sup> For Symmachus' willingness to use these connections to portray himself as intermediary between court and senate earlier in the 370s, see e.g. Ep. 1.89 to Antonius, and SOGNO 2006, 22.

<sup>98</sup> 26 February by the modern calendar, given that 368 was a leap year, and the intercalary day fell before 25 February. This date is probable rather than certain (PABST 1989, 137, CALLU 2009a, x, xxii); SEECK 1883a placed it on 25 February 369. In biographical terms, the implication

on Gratian in the same period,<sup>99</sup> whose language he alluded to in his letter to Ausonius.<sup>100</sup> In this letter he establishes his credentials as a particular supporter of Gratian's regime.

This aim was reinforced in public a few days after the New Year, on 9 January. Symmachus made a speech in the senate, supposedly on behalf his colleague Trygetius, whose young son was being nominated to hold the praetorship in ten years time. He used the occasion to speak on two other matters. The first was the return of his father, L. Aurelius Avianus Symmachus, to Rome (Or. 5.1–2): a former urban prefect, he had been forced to leave Rome after a casual remark so offended the plebs that they rioted and burnt down his house in Trastevere (see Amm. 27.3.4); the senate had honoured him with ambassadors to request his return, and his first reappearance in the senate happened, fortuitously, on 1 January.<sup>101</sup> The other was the accession of Gratian (Or. 5.3):

To you too, revered emperor, the totality of this praise should be offered: he keeps the state free, under whom something enviable is in the senate's grant. This is why you are great, this is why you are outstanding, because you prefer to be first than to be alone. All the achievements of good men are to the benefit of your age. Many once dragged ... [lacuna] ... sighs, and, as though being loved were permitted only to emperors, trod down the merits of private citizens. But to me he seems truly the father of the fatherland, under whom the best man is not afraid to be praised. That too is the freedom from care of your time, that nobody thinks himself lessened in the prince's eyes should he prefer a second person to himself. For what room is there for envy, since all are loved by you in their rightful rank?<sup>102</sup>

He then got to the point of speaking for Trygetius (Or. 5.4); whether or not he returned to his praises of the regime is not clear, as the text soon breaks off.

What does seem clear is that he was keen for the speech to be better known: he sent a copy to his friend Praetextatus, with a covering letter (Ep. 1.44) which hinted at the senate's strong appreciation. A second letter thanked Praetextatus for his own approbation (1.52), and it is a tempting, though not a certain, conclusion that the same

of the new dating is either that Symmachus made two journeys to Trier, or more probably that he was there for two years.

<sup>99</sup> Or. 3; dated conjecturally by SEECK 1883a to 25 February 369, by DEL CHICCA 1987 to 3 January 370, by SHANZER 1997 to 370, by CALLU 2009a to 18 April 369 (Gratian's tenth birthday).

<sup>100</sup> See KELLY 2013, 277.

<sup>101</sup> This recall on 1 January is often confused with Avianus' nomination for the consulship later in the year (for example by CALLU 2009a and 2009b). There is no justification for this, and chronology (as well as the non-official nature of his absence) implies that the recall can have had nothing to do with Gratian (pace SOGNO 2006, 23), even if Or. 5 seems to give him credit. Better COŞKUN 2002, 197 n. 36.

<sup>102</sup> *ad te etiam, venerabilis imperator, laudis istius summa referenda est. is enim rem publicam liberam tenet, sub quo aliquid invidendum in potestate senatus. ideo magnus, ideo praeclarus es, quia primum te mavis esse quam solum. quidquid adipiscuntur boni saeculo tuo proficit. traxerunt olim plerique [...] suspiria et, quasi amari imperatoribus tantum liceret, privatorum merita presserunt. mihi autem vere pater patriae videtur, sub quo laudari vir optimus non timet. est etiam securitas temporis tui quod nemo se apud principem minorem fieri putat, si ipse alterum sibi praeferat. quis enim est invidiae locus, cum omnes a te iusto ordine diligentur?*

speech is referred to in the small number of other, very similar letters in the collection written as cover for a speech given in the senate with much applause.<sup>103</sup> These letters are addressed to the future consul and praetorian prefect Syagrius (1.105, 1.96), who may well have been holding public office when Symmachus wrote to him;<sup>104</sup> to Rusticus Iulianus, who certainly was in office, though we do not know which (3.7);<sup>105</sup> to Neoterius, probably high in the ranks of the *notarii* at this stage (5.43). We also possess a reply to Ausonius' son Hesperius, appointed around this time as proconsul of Africa (1.78), thanking him for his letter of appreciation.<sup>106</sup> Symmachus was evidently keen to have his support for the regime made particularly clear to high officials. But his support for the court looks as if it comes of his own initiative, and though it relied on established connections, it did not rely on any pre-planning.<sup>107</sup>

Symmachus' campaign was successful in its own terms. He found recognition later in the year when he was chosen to read to the senate the letter announcing the execution of Maximinus (and the honour of reading an imperial message was to be repeated a few years later<sup>108</sup>); his family was favoured by the rare honour of a consulship conferred on his father for the year 377. And when Symmachus came to publish a selection of his letters (what is now book 1), probably at some point in the 380s, he placed the letters to Ausonius in second position, immediately after those to his father, and he opened them with 1.13 and the description of the first Kalends of January under Gratian.<sup>109</sup> Symmachus' full-throated support of Gratian's court was a political calculation, which was not necessarily a result of pro-senatorial rhetoric or policies – rather he decided that support in a time of weakness might well go rewarded with office or recognition.<sup>110</sup>

#### b) *The speech of Themistius*

Themistius' Or. 13, the *Erōtikos*, is the most debated piece of evidence for the early months of 376, doubtless because of the characteristic opacity of the author's philosophical Greek. Was Gratian present? Was the speech given in Trier or Rome? If in one

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<sup>103</sup> See also SOGNO 2006, 24. MATTHEWS 1975, 68 and n. 4, argues that most of these letters refer to the later Or. 4, *Pro patre*, which is not impossible.

<sup>104</sup> I infer this from Symmachus' reference to his own *otium* at the start of Ep. 1.105. If this is the Syagrius who had been dismissed as a *notarius* by Valentinian in around 369, he had evidently returned to office by this point.

<sup>105</sup> *si quid a re publica vacas*, 'if you have any leisure from government.'

<sup>106</sup> On the date of his appointment see n. 94 above.

<sup>107</sup> PABST 1989, 266, refers to Symmachus as a Roman outpost of the court helping Ausonius' coup on the spot – an overstatement of the role of both. See further Section II d below.

<sup>108</sup> In late 379 or early 380: see Ep. 1.95 and 3.18.

<sup>109</sup> On the separate publication of book 1 see CALLU 1972, 18; CAMERON 2011, 368–370; SALZMAN – ROBERTS 2011, liv–lviii. My own view is that a date early in the 380s is likeliest.

<sup>110</sup> This view of Symmachus is consonant with SOGNO 2006's persuasive new interpretation of him as a practical politician.

city, had Themistius been to the other? Did Gratian ever visit Rome, as promised in the speech? And if so, was the speech given during the visit? VANDERSPOEL places it in spring 376 in Rome shortly before Gratian arrived there;<sup>111</sup> PORTMANN assumes that the speech was given before Gratian in Trier, and then again before Gratian, with a section added at the end, in Rome;<sup>112</sup> ERRINGTON holds that Themistius travelled first to Rome and then, with a group of Roman senators, to Trier, where the speech was given before Gratian.<sup>113</sup> In my view the situation has been more or less settled by GIRARDET: Themistius travelled in midwinter on an embassy from Valens in Antioch to Gratian in Trier, and then travelled to Rome on Gratian's orders (attested at Or. 31.354d). He gave a panegyric of the absent Gratian in the senate, following which the senate issued a *senatus consultum* in praise of Themistius addressed to Valens and Gratian (attested at Or. 34.29).<sup>114</sup> The only points on which GIRARDET may be questioned are the date of the speech (which could be somewhat later than his proposed date of the beginning of May) and the assumption that Gratian did eventually visit Rome (discussed below in Section II f). As GIRARDET has argued, Themistius' travel to the west in midwinter was not purely for the purpose of giving a panegyric of Gratian at a time which was not that of an anniversary or other significant event (the speech presumably belongs well before his decennalia on 24 August 376, as the anniversary is not mentioned<sup>115</sup>). Themistius was surely sent as a political envoy on Valens' behalf. The question of Themistius' political independence is one which has been a matter of some debate.<sup>116</sup> In this instance, as we have seen (Section I), there is a good circumstantial case that he and those with him had brought Valens' permission for Valentinian II's acceptance as Augustus and consul, though in such a way as to help Gratian to control the situation. The date of the speech is likely to be after early April, since (as will be shown below) it seems to refer to Maximinus as if out of office: he is last attested as in office on 15 March, and we must allow a few weeks for news to reach Rome. As an inscription of 8 April recognizes Valentinian II as Augustus, it is altogether very likely that the speech belongs after Valentinian II's recognition. Those who place it beforehand are probably mistaken – but if it is a mistake, it is a wholly understandable one.<sup>117</sup>

In going to Rome, Themistius was serving the interests both of Valens and of Gratian, but the paradox of the speech is that despite there being a third emperor, Valentinian II is never mentioned – except in that Gratian is addressed as 'child and father', παῖ πάτερ (165d), presumably alluding to Gratian's status *in loco parentis* for Valentinian. The speech indeed makes the risky decision to announce that most boy emper-

<sup>111</sup> VANDERSPOEL 1995, 179–185.

<sup>112</sup> LEPPIN – PORTMANN 1998, 214–216.

<sup>113</sup> ERRINGTON 2000, 889–892.

<sup>114</sup> GIRARDET 2004, 114–121.

<sup>115</sup> COŞKUN 2002, 197 n. 36, proposes this precise date, 24 August 376. But there is no hint in the speech that Themistius is speaking for a decennalia celebration.

<sup>116</sup> Contrast, for example VANDERSPOEL 1995 and HEATHER – MONCUR 2001.

<sup>117</sup> E.g. ERRINGTON 2000, 892.



ors were hated (170c): Gratian was obviously the exception. A number of other statements suggest that if Valentinian was recognized at this point, it was acceptable even in this sort of official context to marginalize him to a surprising degree:<sup>118</sup> the empire is divided into the parts ruled by Gratian and those he rules jointly with Valens (169b); Themistius has a great love for the two emperors (δυοῖν βασιλέοιν, 177b), who will surely soon come to Rome (and throughout Themistius is promoting both rulers). Meanwhile the points in favour of Gratian are rehearsed from the senate's point of view: he has restored individuals to their fatherland, given somebody back his father's house, freed another from chains (171c); he has given back money from the treasury (174b); every day he asks himself 'whose sentence of death should I revoke, whom should I pardon, whom should I permit to keep their ancestral home?' The torture chambers are closed (175c). Gratian's triumph in Rome will be swollen by the presence of those who have been freed (179b). Still, the very fact of Themistius' journey to Rome is indicative of the need (or the wish) to promote Gratian's court and trail his presence there.

### c) *The Fall of Maximinus*

Discussion of the fall of Maximinus is in fact concerned with two separate events, which may be further apart in time than they first seem: the first is Maximinus' retirement as praetorian prefect of Gaul; the second, his later trial and execution. There are various pieces of evidence attesting his retirement and execution: Ammianus' brief flash-forward does not differentiate between the two (acting haughtily under Gratian, he was executed, 28.1.57<sup>119</sup>); Themistius Or. 13 seems to allude to Maximinus under the guise of Hector (174a), whose rage Gratian had ended, and whose victims he had taken care of, but there is no direct implication that Maximinus was dead;<sup>120</sup> Symmachus, meanwhile, speaks twice of his execution, once because he was given the honour of reading the imperial *oratio* announcing it (Ep. 10.2), and once in his speech celebrating his father's nomination to the consulate (Or. 4).

The last laws addressed to Maximinus are CTh 9.6.1 and 9.6.2, respectively posted and given on 15 March 376, but judging by their similar subject matter originally a single constitution,<sup>121</sup> and CTh 9.19.4, posted at Rome on 16 April but presumably

<sup>118</sup> Cf. Section I above.

<sup>119</sup> Above n. 49.

<sup>120</sup> Naturally the *exemplum* of Hector could be interpreted in several ways: after all, Hector was killed by Achilles in battle, so this could have been written after Maximinus' death. But the language used by Themistius is of Hector being stopped, and the very use of a coded *exemplum* implies a situation that is not necessarily yet resolved. My strong inclination is therefore to place Or. 13 after news of Maximinus' departure from office had reached Rome, and after senatorial complaints against him had started to surface there, but before anything else was known.

<sup>121</sup> See Section IId below.

given earlier.<sup>122</sup> Maximinus' successor Antonius is attested in office on 23 May (CTh 13.3.11). The retirement must belong between 15 March and 23 May.

A central, and oddly neglected, passage for understanding the process comes from Symmachus' speech for his father's consulship, delivered not long after Maximinus' execution. It is clear from the *Pro patre* that Maximinus did not retire in disgrace, nor did the trial and execution follow immediately. Symmachus is at pains to excuse Gratian for the length of time taken before Maximinus' departure from office (Or. 4.11–12):<sup>123</sup>

Meanwhile we were holding back for the principate to avenge such things of its own accord, you were waiting for the senate to complain. 12. Still I think that Fortune engineered these delays in support of the public case, so that when you, venerable Gratian, undertook to judge our grief, you brought the testimony of your own – although it befits me to assert all the more that our embassy pressed our complaints so that you too would seem to be avenged among the rest. For before the senate's case was joined with yours, you thought that you had got satisfaction for yourself that this power-plotter had left office by the example of innocent men. But after it had become a matter of shared complaints, you showed the sort of severe judgment that other emperors displayed only in matters of treason. Most clement emperor, the matter of your own injury would have been closed, had not the nobility been hurt.

This is an important passage, with three major consequences. In the first place (to develop a point touched on in Section I), it suggests that Maximinus' departure from power happened at the same time as others (*exemplo innocentium*, 12).<sup>124</sup> If we are looking for those who might be able to set an example for a praetorian prefect to resign it is tempting to look for those of equivalent rank. Given what we know about other offices, the obvious if inevitably conjectural inference is that a deal was done, whereby Maximinus and his principal enemies, Probus, the prefect of Illyricum, and

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<sup>122</sup> The posting of a Gallic law in Rome is anomalous, as noted by HARRIES 1988, 166–169, who discusses this law at length; see also HONORÉ 1986, 208–209; COŞKUN 2002, 188–189 n. 7). The date of posting tells us nothing about the date on which the law was given and is not a *terminus post quem* for Maximinus' departure from office, a mistake often made (e.g. PALANQUE 1933, 49; ALFÖLDI 1952, 92; MATTHEWS 1975, 65; NAUDÉ 1987, 388; SIVAN 1993, 128; TREADGOLD 2005, 778 n. 56; SOGNO 2006, 104 n. 147); corrected by e.g. BARNES 1998, 246, n. 13. The law might be the same as one addressed to Maximinus at Trier on 15 March, CTh 9.6.1, 9.6.2, on accusations by slaves and freedmen, or might indeed be a still earlier one.

<sup>123</sup> *interea nos opperiebamur ut principatus ultro uindicaret, uos expectabatis ut senatus argueret. 12. credo tamen has moras ad suffragium publicae causae parasse Fortunam, ut suscepturus, Gratiane uenerabilis, iudicium doloris nostri adferres testimonium tui. etsi illud magis confirmare me conuenit nostram legationem nostras egisse querimonias, ut uidereris tu quoque inter ceteros uindicari. nam priusquam senatus causa iungeretur tuae, satisfactum tibi putabas, quod insidiator regni exemplo innocentium potestate decesserat. postquam ventum est ad communes querellas, adhibuisti seueritatem qualem reliqui principes maiestatis tantum negotiis exhibebant. actum erat, clementissime imperator, de iniuria tua, nisi nobilitas fuisset offensa.*

<sup>124</sup> PABST translates *exemplo innocentium* without the implication of imitation of a specific model (wie ein Beamter, der sein Amt ohne Fehl geführt hat). This use of *exemplo* as a synonym of *more* is acceptable Latin, but does not match Symmachus' usage elsewhere.

Equitius, the *magister equitum* of Illyricum, left office at the same time – since all would have been reluctant to leave their rival(s) in power. The retirement of Maximinus' ally Leo as *magister officiorum* could also have been part of the arrangement.<sup>125</sup> It is in fact possible that Merobaudes survived in office and became the dominant military figure of Gratian's court because he was *not* known to have a rivalry with Maximinus.<sup>126</sup> The resignations would probably have occurred after Valentinian II and his father's *comitatus* had joined Gratian in Trier.<sup>127</sup> The passage gives us the best hint we have of the negotiations by which the impasse was evaded. It might be tempting to assume that this resignation of office happened at the time when Valentinian II was recognized at Trier: as this fact was known in Rome by 8 April, it would give us a fairly precise date for the retirement between about 15 and 25 March. But Maximinus' retirement could have happened some time after Valentinian II was recognized, even if it was agreed at an earlier stage.

The second important fact to which the passage points is that the senate made no complaint against Maximinus personally until he had left office. This supports the conjecture that political pressure from the promoters of Valentinian II might have been more important in his removal than any pressure from Rome. This is not to deny that resentment had been bubbling and the senate had been pushing back against Maximinus' policies, as some of the legislation from early in the year suggests. But the involvement of Symmachus, as suggested above, may have begun as currying favour with a court still assumed to be under Maximinus' control; and at Trier, Ausonius' involvement in a faction striving to remove Maximinus should not be taken for granted, though it could certainly be true (this will be more closely examined in the next Section).

Thirdly, the passage shows that it took some time after Maximinus left office for the wheels to turn and his trial and execution to follow. After his retirement, we need to allow time for news to reach Rome, for the senate to decide to complain and its legation to reach Trier, and for Gratian to act. This could not have taken much less than two months and could easily have taken longer. Maximinus retired between 15 March and 23 May, and given the fact that Symmachus in *Pro patre* emphasizes and excuses the length of time before his dismissal, it could well be at the latter end of that period. As table 2 illustrates, the execution of Maximinus is unlikely to have happened before the middle of May, and could belong as late as August. The possibility that Gratian's law on the Roman corn-supply to which Symmachus referred at Ep. 10.2.4 is identical

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<sup>125</sup> The implication of Ammianus 30.5.10 (*ut a celsiore scopulo caderet*) is that Leo left office abruptly (to say the least).

<sup>126</sup> As we shall see (Section III) the idea sometimes found in scholarship that Maximinus and Merobaudes were allies is unfounded.

<sup>127</sup> This possibility could be supported by Symmachus' use of the second person plural in addressing Gratian at Or. 4.11 *quem ipsi rerum domini tyrannum paene estis experti* (whom you yourselves, the masters of all, almost experienced as a tyrant). This might refer to both Gratian and Valentinian II, though in context Gratian and his father are more likely meant.

with CTh 1.6.7 of 13 July 376 increases the likelihood of a relatively late date. Finally, COŞKUN thinks that this letter was read on 13 August, when a fragment of an imperial *oratio* read in the senate survives (CTh 10.19.8).<sup>128</sup> (One might add that 13 August 376 is the date of two surviving dedications to the *di magni* by Roman senators, CIL 6.504, 510 = ILS 4153, 4152). All in all, the common assumption that the execution took place in the spring is probably incorrect.<sup>129</sup> Symmachus' Ep. 10.2 and Or. 4 will belong at least two weeks after the execution, probably more – and while Ep. 10.2 must be a more or less instantaneous response, Or. 4 could belong still later.<sup>130</sup> The various chronological possibilities are laid out in table 2 opposite.

As for the charges, it seems that, while for Symmachus the resentment of false accusations against senators was of the essence (Or. 4.9–14 passim, esp. 13), his actions with respect to Gratian were at least equally important at the trial. Symmachus emphasizes that Gratian had endured Maximinus' abuse of power (10), that he had experienced him almost as a tyrant (11), a word with the contemporary association of usurper, that he had been an *insidiator regni* (12). This chimes with Ammianus' description of Maximinus as *intoleranter se efferens* under Gratian (28.1.57). As Gratian had successfully removed Maximinus from office (perhaps helped by the insistence of the military and civil leadership of Illyricum), there must be a reason for focusing on a charge which might reflect his own weakness. As we shall see below (Section III), one possibility is that this enabled Gratian to deny responsibility for actions carried out in his name, such as the execution of Count Theodosius.

#### d) *«The Two Nestors»*

With Maximinus retired, Gratian's court came under new control. Merobaudes was obviously a dominant figure, as the events of the following years would show.<sup>131</sup> But for Roman consumption, Themistius referred to «the two Nestors» (τῶ Νέστορε, 173a) whose counsels the young prince follows. The obvious identifications of these are as the new praetorian prefect of Gaul, Antonius, and the quaestor, Ausonius.

It is the holder of the lesser office, Ausonius, who dominates modern consideration of Gratian's early reign, perhaps because his literary output so unashamedly draws attention to his own rise to praetorian prefect and consul, and the concomitant rise of his family (his son Hesperius, proconsul of Africa by early 376, held praetorian prefectures both jointly with Ausonius and alone; his almost nonagenarian father Julius Ausonius was appointed prefect of Illyricum; his son-in-law Thalassius became vica-

<sup>128</sup> COŞKUN 2002, 197.

<sup>129</sup> E.g. PIGANIOL 1947, 204 (= 1972, 225); KOHNS 1961, 151; BRUGGISSER 1987, 135; BARNES 1998, 41 n. 19; SOGNO 2006, 104 n. 147; DEN BOEFT et al. 2011, xix and 114.

<sup>130</sup> COŞKUN 2002, 197 n. 36, suggests that it was a few weeks later.

<sup>131</sup> Note Merobaudes' consulship in 377 as Gratian's colleague (though this was not the first plan: see Section IIe below); his subversion of plans to send Gallic troops to the Balkans (Amm. 31.7.9); his second consulship of 383; on his later career see n. 52 above.

*Possible Chronologies of the Fall of Maximinus and Gratian's Communications with Rome*

Early chronology	Minimum interval	Events	Longer interval	Later chronology
16 March	2 weeks	Maximinus leaves office	3 weeks	22 May
30 March	?4 weeks	News of Maximinus' retirement reaches Rome	6 weeks	5 June
27 April	?2 weeks	Senatorial embassy is formed and sent to Trier to complain at his abuse of office	3 weeks	17 July
11 May	2 weeks	Maximinus is put on trial and executed	3 weeks	7 August
25 May	<i>simultaneous</i>	News of the execution reaches Rome and is read to the senate by Symmachus, who writes to thank Gratian (Ep. 10.2)	1 month	28 August
25 May		Avianius Symmachus appointed consul; Symmachus Or. 4.		28 September

Events are laid out in the centre; on the left and right are estimated chronologies, with the left hand column giving a chronology that assumes the quickest succession of events in all cases, and the right hand column showing the same events unfolding over a more but not unreasonably extended relative chronology. All dates are estimates and for illustrative purposes: the only certain dates are that Maximinus left office between 15 March and 23 May and that Avianius Symmachus died before taking office as consul in 377 and is not named on any Fasti. The main aim is to demonstrate that the fall of Maximinus was probably a more drawn-out process than most scholars assume. Given the range of over two months for when the sequence of events might have begun, I see no realistic prospect of fixing a firm chronology on the present evidence. Accordingly I have not taken into account issues like the dates of senate meetings, as does COŞKUN 2002, 192, nor have I worked on his assumption that consuls would be designated by 1 September (although I think that designation of consuls in the early autumn may argue for a chronology closer to that of the right-hand column than the left).

Table 2.

rius of Macedonia and proconsul of Africa; his nephew Arborius became *comes sacrarum largitionum* and prefect of Rome). Since Ausonius eventually came to hold the prefecture Maximinus had held (and since his own writings make Ausonius a familiar and sympathetic figure, and the writings of others unanimously make Maximinus a brutal villain), it has been tempting to see them as enemies. Ausonius himself, when looking back at the start of Gratian's reign, referred to the palace *quod tu cum terribile acceperis amabile praestitisti*, 'which, though you received it full of terror, you have rendered full of love' (Grat. Act. 3). It may indeed be that Ausonius helped to cause the fall of Maximinus, as well as stepping into the power vacuum created by it; but this is not a necessary assumption.

Ausonius was appointed quaestor by Valentinian, and continued to hold the office under Gratian.<sup>132</sup> There has been much discussion of precisely when that appointment might have begun, largely on the basis of the style of surviving constitutions.<sup>133</sup> One issue which most scholars have oddly left out is that of Ausonius' movements. The quaestor was the public voice of the emperor, responsible for drafting his public statements. But as COŞKUN has rightly observed, the assumption should then be that he travelled with Valentinian when the emperor left Gaul for Illyricum (and indeed one of the laws assumed to be written by Ausonius was given at Carnuntum on 12 August 375<sup>134</sup>). This clashes with, and probably means we should abandon, another long-standing assumption, that Ausonius never left Gaul.<sup>135</sup> It is a plausible though unprovable assumption that Ausonius was with Valentinian I at the time of his death, and then travelled immediately and at high speed with other members of the court to Gratian at Trier, in time to write the New Year's message to the senate.<sup>136</sup> But there is a possible alternative theory, not considered by COŞKUN: that when Valentinian left Gratian in Trier, he left Ausonius there specifically as Gratian's quaestor. This is not impossible: Gallus Caesar had had quaestors in Antioch, as did Julian Caesar in

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<sup>132</sup> Liber Protrepticus ad Nepotem 90.

<sup>133</sup> The approach, pioneered by HONORÉ (see in particular HONORÉ 1986, 147–150), is potentially subjective, but in the case of Ausonius we do also have other surviving prose against which to extrapolate his prose-style (SIVAN 1993, 124). See also HARRIES 1988, GREEN 1991, App. A (texts of laws attributed to Ausonius), SIVAN 1993, 115–118 and 123–131, and COŞKUN 2002, 52–62.

<sup>134</sup> 375 is a certain emendation for 374: Valentinian was at Carnuntum in summer 375 (Amm. 30.5.2) but not 374, and as there were no consuls in 375, only the letters *p.c.* (*post consulatum*) would be different in the consular date. COŞKUN 2002, 190, makes this conjectural trip to Illyricum the context for Symm. Ep. 1.42; he also asserts that the law's style is Ausonian.

<sup>135</sup> See SEECK 1883a, lxxix; SIVAN 1993, 123; SHANZER 1997, 285. The point made here is already in COŞKUN 2002, 191–192; for another objection see CALLU 1972, 100 n. 1.

<sup>136</sup> COŞKUN 2002, 191–192 (my own estimates allow Ausonius to travel rather more quickly and the dispatch rider(s) carrying the letter to the senate to travel rather more slowly). Cf. n. 38.

Paris.<sup>137</sup> The question relates to one touched on above (Section I), whether Gratian's establishment in Trier was intended to be a permanent court.

COŞKUN assumes that the answer to this question is no. In his scenario, the period in which Maximinus most imposed himself on Gratian was that (of three weeks at the most) before the arrival of Ausonius and other of Valentinian's courtiers from Illyricum; the letter read to the senate on 1 January already marked the impact of Ausonius' influence against Maximinus'. Thereafter COŞKUN allows time for the formation of a coalition against Maximinus, though the individuals he names as involved do not include the promoters of Valentinian II. Step by step, he argues, Ausonius and Antonius moved against Maximinus.<sup>138</sup>

The legislation sent to the senate in the early months of the year has often been assumed to contain traces of the political struggle at court, as the relevant laws were drafted by Ausonius and covers issues that seem likely to arise out of the trials of the early 370s. CTh 9.1.13 (read in the senate on 11 February) deals with trials of senators on capital matters, requiring provincial judges to examine them and then send them to higher authorities, and in Rome that they be judged by the prefect with a panel of five senior senators chosen by lot. CTh 9.6.1 and 2 (15 March, both addressed to Maximinus, presumably originally from the same text) prohibit denunciations of masters by slaves and freedmen respectively. CTh 9.19.4 (addressed to Maximinus but oddly posted in Rome on 16 April, presumably some time after it was actually given<sup>139</sup>) considers how courts should deal with forgeries. It is extremely tempting to relate the first two to grievances from the previous reign, and to see in these laws emanations from the ongoing power-struggle (to the point that the exception in 9.6.2 whereby freedmen can still denounce masters for treason can be viewed as the enduring influence of the cruel courtiers of Valentinian).<sup>140</sup> It is certainly reasonable to infer from these laws that these had been identified to the court as problem areas, and that the reason for this was resentment of Maximinus and the perception that his position was weak. But we do not have to assume that Ausonius was undermining Maximinus – though it may very well have been the case. Maximinus may have been in no position to do anything other than concede to complaints while attempting to hold on to his position. And in fact close study of the relevant legislation by legal specialists has led to diverse conclusions. JILL HARRIES, for example, sees CTh 9.19.4 as a case where the law is in fact to the advantage of prosecutors, and where Ausonius was either duped by or doing the bidding of Maximinus.<sup>141</sup>

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<sup>137</sup> Gallus' quaestors were Montius Magnus and Fl. Leontius; Julian's Nebridius (possibly preceded by Saturninius Salutius Secundus).

<sup>138</sup> E.g. COŞKUN 2002, 189–192.

<sup>139</sup> See n. 122 above.

<sup>140</sup> COŞKUN 2002, 196–199.

<sup>141</sup> HARRIES 1988, 166–169; cf. also HONORÉ 1986, 208.

It is also important to remember that despite the fact that Ausonius was in a highly significant role, given both his quaestorship and his prior relationship with Gratian, it is not certain that he was the central figure that he was later to become when he, his father, and his son all held praetorian prefectures. It is true that his son Hesperius already held the significant role of proconsul of Africa in March 376 – though that appointment *could* have been made before Valentinian I's death.<sup>142</sup> Ausonius' influence might also be detected in the promotion of his fellow Bordelais Siburius to a high office, perhaps *magister officiorum* in succession to Leo;<sup>143</sup> and the Catafronius who was apparently vicarius of Italy in 376/377 might have been a relative promoted thanks to Ausonius.<sup>144</sup> But the real growth of Ausonius' power, with the appointments of his father and other relatives like Thalassius and Arborius, belongs later.

It was Antonius and not Ausonius who was appointed to a praetorian prefecture in the spring of 376. What is striking about Antonius is his status as connection of the recently executed *magister militum* Theodosius.<sup>145</sup> This is of course even more striking in hindsight, after the younger Theodosius' accession less than three years later, and much has been written about appointments of this period to explain Theodosius' accession. An even closer relative of the late general, his brother Eucherius, was *comes sacrarum largitionum* by 377 (both Antonius and Eucherius later became consul). Promotions of the sort passed on by Ausonius to other members of his family were not unusual in the later fourth century.<sup>146</sup> If the contemporary gloss on Jerome which attributed the execution of count Theodosius to the faction of Maximinus is correct (and in Section III we shall see that it probably is), then the appointment of Antonius was an ominous sign for Maximinus despite his honorable retirement, showing a quite different attitude at court. But there is still no firm reason to assume that Ausonius was an enemy of Maximinus, though it is certainly possible that he was; nor yet that Antonius, or a coalition of Antonius and Ausonius, or a 'senatorial party' supported by them, forced Maximinus from office, though they might have contributed to such an effort. The conciliation of the senate in early 376 may have been as much the product of Maximinus' own strategic back-paddling as of the influence of new powers behind the throne. As for his removal and that of his allies, various parties might have queued up to wield the knife, or claimed to have done so, beside high officials in Trier. It could be put down to the assertiveness of the child emperor Gratian himself or of his family (and an aside of Ammianus sees the influence of the emperor's mother in the manner of Doryphorianus' death, 28.1.57); a Roman senator like Sym-

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<sup>142</sup> See n. 94 above.

<sup>143</sup> See Symm. Ep. 3.43; PLRE 1, s. v. Siburius 1, 839.

<sup>144</sup> The name Cataphronia is attested for an aunt of Ausonius, so this *vicarius* (on whom see also n. 159) might be a relative (SIVAN 1993, 126–127). For a sceptical view, however, see COŞKUN 2002, 178–179.

<sup>145</sup> Cf. MARTINDALE 1967; SALZMAN – ROBERTS 2011, 161–162.

<sup>146</sup> See MATTHEWS 1975, Ch. 3 and 4, on the circles of Ausonius and Theodosius respectively.



machus foregrounded the complaints of Roman senators, unconvincingly, as we have seen (Or. 4.10, discussed above Section IIc). The group whose influence on the fall of Maximinus seems to me likeliest to have been decisive (though this influence is unattested) is the mainly military backers of Valentinian II. The new civilian administrators may or may not have claimed or possessed some responsibility in how things turned out, but equally they may have been more the beneficiaries than the participants in the power struggle. The precise details of power struggles in the distant court of a child emperor may well have eluded contemporaries, and it is hardly surprising if they elude us too.<sup>147</sup>

e) *The consulship of Avianius Symmachus*

A highlight of Gratian's conciliation of the senate was the offer of the consulship to a senator. At this point senatorial support seems to have coalesced around Avianius Symmachus.<sup>148</sup> Throughout the whole of the reigns of Valentinian and Valens, there had only been two civilian, senatorial consuls, Probus in 371, and Modestus in 372 – and both had been serving praetorian prefects, close to the imperial courts. The formal announcement was responded to by Symmachus in his *Pro patre*. The speech evidently followed the death of Maximinus, but need not have followed it immediately.<sup>149</sup> Judging by the chronology established above (Section IIc, and see table 2) for the execution of Maximinus, a date between June and September seems likely, probably towards the end of that period. But although this announcement shows the markedly altered attitude towards Rome and the senate continuing into the second half of the year, it is equally worth noting that when Avianius died before being able to take office, he was not replaced as consul by another senator: rather the emperor himself held the office with the leading military figure of the court, the *magister peditum* Merobaudes.

f) *Gratian's visit to Rome*

The ultimate symbol of a rapprochement between the new emperor and the senate would have been for Gratian to visit Rome. It is quite certain that this was announced as his intention, as Themistius Or. 13 shows (though that speech also looks forward to a visit by Valens that certainly never took place). Indeed, the speech has often been read as a panegyric actually given before Gratian in Rome,<sup>150</sup> on which basis the visit has been treated as definitively attested by standard handbooks, and thus canonized. Above all, the opinion of OTTO SEECK, in his Pauly-Wissowa article on Gratian and

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<sup>147</sup> See further Conclusions below.

<sup>148</sup> Symmachus Or. 4.1 seems to imply that the consulship was requested for Avianius by the senate, which suggests that the senate was invited to nominate a candidate. The grounds on which he was picked are not clear.

<sup>149</sup> See also n. 101 above.

<sup>150</sup> See Section IIb above.

in his Regesten, has been influential. Even when it is conceded that Themistius' speech was given in the emperor's absence, the assumption that the prospective visit happened tends to endure.<sup>151</sup> If scholars cannot prove that Gratian arrived in Rome at the likeliest possible time for a visit, for the celebration of his decennalia on 24 August 376, they try to find some other time. I shall try here to state the case against Gratian having visited Rome more firmly than has previously been attempted.

One or two sources have sometimes been seen as attesting a visit to Rome by Gratian. TIMOTHY BARNES noted that the eighth-century *Parastaseis Syntomoi Chronikai* (50) remarks that Gratian came to Rome after his marriage and presented silver statues of himself and his wife. But the problem is, as BARNES himself later pointed out, that this is a notoriously unreliable and inaccurate source with scattered and garbled notes on different subjects, many of them fictional inferences from Constantinopolitan monuments<sup>152</sup> (in any case, Gratian seems to have married Constantia in 374, somewhat earlier). So in the previous chapter of the work we hear of Julian's visit to Rome, which never happened. And Ambrose's *De Officiis*, written in the later 380s, refers to a prefect of Rome of the recent past, a *sanctissimus senex*, who had ridden the crisis of a food-shortage and raised funds from senators instead of dishonourably and counterproductively throwing foreigners out of Rome (3.48): 'here was a man who truly proved himself great: he could truly tell the emperor, showing him the people of his entire province: «All these I have preserved for you; these people live thanks to the kindness of your senate; these are the ones your assembly rescued from death.»'<sup>153</sup> The old man has been identified since PALANQUE in 1931 with Aradius Rufinus, attested as prefect in July 376.<sup>154</sup> But the argument and the identification are alike insecure. In

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<sup>151</sup> SEECK 1912, 1836; 1919, 248 (previously argued in SEECK 1906, 303). The visit is taken for granted in e.g. COSTER 1935, 22; PIGANIOL 1947, 204–205 (= 1972, 225); ALFÖLDI 1952, 90 (cf. also 93); PLRE 1, s. v. Themistius, 889–894, at 891; VERA 1981, 453; NAUDÉ 1987, 391; DEMANDT 1989, 116 and 376 n. 7 (= 2007, 144 and 424 n. 12); BRUGGISSER 1989, 191; VANDERSPOEL 1995, 180–182 (cautiously). For many authors this visit was a sign of Gratian's rapprochement with the pagan nobility; for CHASTAGNOL 1969, 50, his supposed meeting with pope Damasus in Rome set him on the path to cutting off the funding of pagan cults a few years later. BARNES 1975a argued for the strong possibility of a visit, but BARNES 1999, 168–169, n. 17, has retracted the suggestion, since there is no room in Gratian's itineraries. GIRARDET 2004, after providing solid arguments that Gratian never visited, at the last moment admits some weak evidence to let Gratian visit in autumn 376 (see below). For earlier scepticism see MCLYNN 1994, 88 n. 37.

<sup>152</sup> On this work see CAMERON – HERRIN 1984.

<sup>153</sup> *hic magnus vere probatus qui vere potuit imperatori dicere, demonstrans provinciae totius populum: «Hos tibi omnes reservavi, hi vivunt beneficio tui senatus, hos tua curia morti abstulit»* (translation adapted from DAVIDSON 2001).

<sup>154</sup> CTh 1.6.7: Rufinus is praetorian prefect in the mss, but SEECK 1919 rightly emends to prefect of the city of Rome. For the identification see PALANQUE 1931, 349, accepted by KOHNS 1961, 149–153, RUGGINI 1961, 118 (‘probabilmente’), FAURÉ 1965, 127, TESTARD 1984, 45, and 1992, 210 n. 4, DAVIDSON 2001, 842–843 (‘very probably’). CHASTAGNOL 1962, 198, calls the proposal ‘séduisante’, without unequivocally accepting it.

the first place, *hic ... potuit imperatori dicere* could mean either ‘he was able to say to the emperor’ or ‘he could have said to the emperor’, and even the former meaning could refer to communication by letter rather than in person.<sup>155</sup> The main reason that PALANQUE thought the prefect was Aradius Rufinus was that he interpreted these words as betokening a prefect speaking to an emperor in person: the authority of SEECK then led him to think that Gratian’s visit was securely attested. Moreover, the identification of Aradius Rufinus as Ambrose’s *sanctissimus senex* is not helped by the fact that he is attested a few years before as a pagan.<sup>156</sup> Finally, there are other prefects from the decades before Ambrose wrote who may have been Christian and sufficiently elderly (Bappo, Principius, Eupraxius, Gracchus, and there may be others who are unattested);<sup>157</sup> and, though both are certainly possible, there is no good evidence either that there was a food shortage in 376 or that Aradius Rufinus was a Christian convert.<sup>158</sup>

When we look at contemporary evidence for Gratian’s movements in the places of issue of western legislation, there is nothing which has him anywhere else than at Trier or its vicinity (Mainz, or Koblenz) in the first two years of his reign. He is shown at Trier by laws on 10 March, 22 April, 17 May, and 17 September 376; additionally a law given there seems very likely to date from 15 August.<sup>159</sup> If that is accepted, Gratian cannot have been in Rome for his decennalia on 24 August; the only times available

<sup>155</sup> RUGGINI 1961, 118 n. 316.

<sup>156</sup> See Libanius Ep. 1374.

<sup>157</sup> Gracchus, who is on record as having destroyed a Mithraeum in his prefecture (Jerome Ep. 107.2), was identified as the *senex* by Baronius. Bappo and Eupraxius were prefects of Rome in the first half of the 370s (much less certainly Principius: see BARNES 1998, 238); we know very little of these prefectures or whether there were food shortages, though they were probably once described where there is now a lacuna in book 29 of Ammianus (SEECK 1883b, 291; BARNES 1998, 237–240).

<sup>158</sup> For the latter point see VON HAEHLING 1977, 382–384; SALZMAN 2002, 95 and n. 152 (300), and 251. I should answer two other points that have been made in favour of the identification of Rufinus as the *senex*: (1) PALANQUE 1931, 349, explains the law of 13 July 376 (CTh 1.6.7) shifting responsibility for aspects of bread distribution to the prefect of the city from the prefect of the *annona* as following a conflict. This may be right, but I would suggest that the likely context is the dominant role that the now disgraced Maximinus had taken as prefect of the *annona* six to eight years before. (2) KOHNS 1961, 151–152, cites Symmachus Ep. 10.2.4, which refers to the care taken by the emperor over the *annona*; but this can be explained as simply meaning that the emperor had legislated (cf. CTh 1.6.7, 13 July 376, as suggested in IIc above and the Appendix below), rather than that there was necessarily a crisis.

<sup>159</sup> CTh 8.5.31 and 11.10.2 are addressed from Trier to a *vicarius* of Italy called Catafronius, on 15 August *Valentiniano et Valente Augusto iii cons* (i.e. 370). Valentinian is attested elsewhere on that date by another law. There are often confusions between imperial consulships, and another law addressed to Catafronius (which omits his office or place of issue) is extant from 5 March 377, so *Valente et Valentiniano consule* (i.e. 376 or 378) is an attractive alternative. For August 378 Gratian is attested as being in or near Sirmium, so SEECK 1919, 248, was probably right to place Gratian at Trier on 15 August 376.

for travel to Rome and back in the first two years of his reign are between 17 May and 15 August 376, between 17 September 376 and 4 January 377, and between 29 March and 8 July 377. There are other reasons to find Gratian's travelling to Rome in the spring and summer of 376 extremely unlikely: as we have seen (Section IIc and table 2), the retirement, trial, and execution of Maximinus probably occupied Gratian's court at a later period than has usually been accepted, quite possibly into the late summer, and throughout emperor and senate corresponded by letter. After one of Maximinus' accomplices, Doryphorianus, was arrested in Rome and imprisoned in the Tullianum, he was sent home to Gaul, presumably not because it was his home but because that was where the court was (Amm. 28.1.57).

It is possible to conjecture that Gratian might have gone to Rome later in the year – that is to say, there is a sufficient gap between items of legislation given at Trier. GIRARDET attempts to argue this when he picks up a detail in Ammianus, who implies that the court was at Milan when Count Romanus appealed against the findings against him in the case of the province of Tripolitania (this is yet another event referred to by Ammianus in a flash-forward, at 28.6.29–30).<sup>160</sup> Even if Gratian had visited Milan in 376, this would not have required that there was also a visit to Rome. But in fact, the sequence of events described by Ammianus seems too extended to allow this appeal to be as early as autumn 376,<sup>161</sup> and the only other evidence for a visit to Milan that then remains is the belief that Gratian had visited Rome!

There is in fact a powerful argument to be made against Gratian's visit on the basis of the silence of the sources. Arguments from silence are entitled to be treated with suspicion, but official imperial visits to Rome were very rare in the century after Con-

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<sup>160</sup> See GIRARDET 2004, 140–141.

<sup>161</sup> It was not until Gratian's reign that Hesperius, as proconsul of Africa, and Nicomachus Flavianus, as *vicarius*, were asked to investigate, and produced a report which was the last word (Amm. 28.6.28). But this need not be in (early) 376, as often assumed (see also DEMANDT 1969, 600). Hesperius is attested as proconsul between 10 March 376 and 8 July 377 (n. 94 above); the only apparent datable attestation of Flavianus in office is on 17 October 377. Two inscriptions in Lepcis Magna thanking them for accepting the town's case (IRT 526 and 475) refer to Hesperius as ex-proconsul and Flavianus as *vicarius*: if they are simultaneous, their presumed date must be late 377. All this makes it likelier that the enquiry was concluded in 377. Ammianus then implies a chronological break (28.6.29), before as a final postlude Romanus set off to court (it is not specified where) to accuse the investigators of bias and was given a favourable welcome by Merobaudes, and permitted to subpoena witnesses. The witnesses came to Milan (which does not require that the court had been at Milan previously) but showed that there was no good reason for their presence and were allowed to leave. This seems likelier to belong to a time when the court is actually attested in Milan for an extended period, or when the court was on the move but expected to pass through Milan; at any rate, later than the autumn of 376. It is tempting to wonder whether Romanus might not have waited until after Hesperius had left office as praetorian prefect in 379 or 380, which coincides with the long-term presence of the court in Milan, and would cohere with Ammianus' presentation of these events as happening as a postlude. DEN BOEFT et al. 2011, xxvi–xxvii, have independently reached more or less the same conclusions on the chronology. For a different view see COŞKUN 2004, 304–306.

stantine's triumph over Maxentius, major ceremonial events which did not pass unnoticed. Constantine's triumphant visit of 312–313 is attested by countless sources, two panegyrics, chronicles, and histories, by the visual record of the arch of Constantine, and by four imperial laws; his decennalia visit of 315, the least well attested, is still apparent from five laws in the Theodosian code; his vicennalia visit of 326 is attested by historical works and chronicles, and one law in the code;<sup>162</sup> Constantius' visit in 357 was famously described by Ammianus, and a host of other historical writers, was the occasion of a panegyric of Themistius, and there are laws and several inscriptions including the one on the Lateran obelisk, donated to the city by the emperor in commemoration of his visit; Theodosius' triumph over Maximus in 389 is commemorated in chronicles, panegyrics by Pacatus and Claudian, eight laws, and several inscriptions. But no respectable contemporary source or inscription or piece of legislation attests Gratian's presence in Rome, even though this is an altogether better attested period than, say, the reign of Constantine. This is an unusually strong argument from silence.

What we have to explain, it seems, is why an imperial visit was promised but did not happen. I once thought that the severe food shortage assumed by various modern works for the year 376 might have been a good reason for the imperial court not to risk a visit.<sup>163</sup> It is certainly unlikely that an emperor would bring the court, and its thousands of mouths, to Rome in one of its regular and notorious food shortages, and risk the embarrassment of having the visit spoiled by famine or violence,<sup>164</sup> but as I argue above, the evidence for a food shortage in 376 is based on the assumption that Gratian did visit. A rather simpler reason suggests itself: that the court would not risk the emperor's presence if it did not have to, because in the spring and summer of 376 Gratian was only sixteen, turning seventeen, and the fragility of the regime was best not seen at first hand in a centre as great as Rome. The point is rather that the promise of a visit was made early in the year, at a time when the need to conciliate the senate was more pressing. By the later part of 376, the policy of conciliation had succeeded and played its course: Valentinian II was under the control of Gratian's court, various overmighty officials were safely out of office, and the senate was presumably well-disposed towards the court. We may compare the fact that, although Avianius Symmachus was the first choice consul, when he died, Gratian himself and Merobaudes served as consuls instead: either no senatorial candidate stood out among the competition, or the need to conciliate senators was less pressing.<sup>165</sup>

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<sup>162</sup> If we did not have the evidence of the laws in 315 it would still be possible to infer that Constantine visited Rome three times, two of them for anniversary celebrations, from the *Chronograph* of 354.

<sup>163</sup> See at nn. 153, 157.

<sup>164</sup> This may be why most of the attested visits are in the middle of the year (Constantine in 315 and 326, Constantius in 357, and Theodosius in 389).

<sup>165</sup> See Section IIe above.

### III. *The Execution of Theodosius the Elder*

After re-examining the evidence for the accession of Valentinian II and its close connection to the policies of Gratian's court, I turn to the third and most shadowy of the narratives on which scholarship has focused: the execution of the elder Theodosius. It is a subject only distantly hinted at by Ammianus, and unmentioned in various other authors: nothing in Claudian's panegyrics, for example, though Count Theodosius appears as a character in the *In Gildonem*. The death is the first item of the year 376 in Jerome's chronicle (228<sup>c</sup>): *Theodosius, Theodosii postea imperatoris pater, et plurimi nobilium occisi* ('Theodosius, the father of the Theodosius who was later emperor, and many nobles were killed'). In place of Jerome's original text, two manuscripts offer: *Theodosius, Theodosii postea imperatoris pater, multorum per orbem bellorum victoriis nobilis in Africa factione eorum perit, qui et ipsi mox caesi sunt, id est Maximinus ex praefecto et ceteri* ('Theodosius, father of the later emperor Theodosius, and noble for his many victories throughout the world, perished in Africa by the faction of those who were themselves soon also slaughtered, that is, the former prefect Maximinus and the rest').<sup>166</sup> We learn from Ambrose that the same individuals that were responsible for his father's death were thought to have plotted against the younger Theodosius (Ambrose, *De Obitu Theodosii* 53), and from Orosius that the general was permitted baptism before his execution, which occurred at Carthage (Orosius *Hist.* 7.33.7).

This is more or less all, and not much to go on. There is no direct indication which emperor commanded his arrest, on what grounds, or whether there was any form of trial. Past scholarship covered this event in abundant and speculative detail, although (or because) little is known about it, and reached pretty much all possible conclusions. There is no point in an exhaustive review of the previous scholarship.<sup>167</sup> Much of it is based on false assumptions. For example, scholars before the early twentieth century relied on editions of Jerome that placed the execution in 375, which made them to assume that it took place on Valentinian I's orders, and the assumption lingered among twentieth-century scholars, even when they knew that Jerome meant to place it in 376.<sup>168</sup> (This is not an impossible conclusion and a high proportion of Jerome's dates in the *Chronicle* are wrong: in RICHARD BURGESS' expert view, even for an event like this, only half a decade before the work was composed, Jerome might still be a year or so out either way.<sup>169</sup>)

<sup>166</sup> X and C, cited in HELM 1984, xviii (cf. also *Chron. Min.* 1.631).

<sup>167</sup> DEMANDT 1969 offers full coverage of scholarship up to 1969, and I have been particularly selective with references from before that date. See also COŞKUN 2002, 187–188 n. 5, who reaches a similar conclusion to mine.

<sup>168</sup> See for example SEECK 1883a, ccxi. SEECK 1920–22, 5.31–32, 436–437 is aware that Jerome dates the event to 376, and suggests that Valentinian's orders were carried out after his death; COSTER 1935, 19 and n. 85 follows SEECK, as do THOMPSON 1947, 93, hesitating between 375 and 376, and ALFÖLDI 1952, 91. LIPPOLD 1972 also favours Valentinian's involvement.

<sup>169</sup> BURGESS 2011, Supplementary Notes p. 4, qualifying BURGESS 2005, 181.

However, Jerome and the glossator of Jerome quoted above are the best evidence that we have to go on. Jerome speaks of the death of Count Theodosius and many nobles: we know of many nobles executed in the 370s, but none specifically in 376 (Maximinus and his henchmen would probably not have been described as *nobiles*).<sup>170</sup> The obvious cause for associating them is that the execution of Theodosius is seen as a continuation of the executions of nobles in Rome in the earlier 370s, and one reason for that would be if Maximinus were held responsible. The glossator explicitly confirms this interpretation (though note that he suppresses the other *nobiles* in Jerome's text, perhaps because the magic and adultery trials had already been mentioned a few years earlier in the Chronicle).<sup>171</sup> The fact that he panegyricizes Count Theodosius and is well informed (accurately calling Maximinus an ex-prefect, for example) indicates that the glossator is contemporary. Not only that, but this evidence makes sense in the light of a state of crisis between two western courts. The fact that Theodosius had just finished a prolonged conflict against the African prince Firmus meant that he probably had more mobile troops than any other commander in the west apart from those in and around Aquincum.<sup>172</sup> If Maximinus felt that Theodosius was opposed to his interests, and was a potential ally for the promoters of Valentinian II, it is easy to see why, in a difficult situation, he might have acted preemptively against him, whether that involved a trial or not. Nor should it be passed over that Theodosius had been responsible for the arrest of Valentinus, Maximinus' brother-in-law, for planned rebellion in the 360s (Amm. 28.3.4–5).

The orders would have been in Gratian's name. This must be a partial explanation for why Symmachus was willing to imply openly that Maximinus had all but usurped the emperor's privileges (Or. 4.11): not only was it probably true, but the court was eager to excuse itself for the execution of its most successful general. Some have argued that the orders could not have come formally from Gratian, since otherwise he would never have promoted Theodosius to empire three years later.<sup>173</sup> This argument is doubly flawed: when Maximinus was tried, it would have been asserted that Count Theodosius' execution happened without Gratian's knowledge through the outrageous behaviour of the praetorian prefect; and in any case Gratian may well not have promoted the younger Theodosius willingly.<sup>174</sup> The likelihood of such a situation is increased by some of Gratian's appointments in the immediate aftermath of Maximinus' retirement: Antonius, a relative of the Theodosii and a former quaestor, became praetorian prefect of Gaul in Maximinus' place; Eucherius, who seems to have been Count Theodosius' brother, was *comes sacrarum largitionum* by early 377, perhaps

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<sup>170</sup> The only way to achieve this would be to date the execution of Aginatius to 376, but this seems at odds with Ammianus' text (see also n. 76 above).

<sup>171</sup> Chron. 246<sup>b</sup>, s.a. 371.

<sup>172</sup> This chronology is sometimes questioned: see e.g. BIRLEY 2007, 22.

<sup>173</sup> E.g. SEECK 1920–22, 5.437, THOMPSON 1947, TREADGOLD 2005.

<sup>174</sup> See SIVAN 1996, and especially MCLYNN 2005, 90–94.

earlier. Even the idea that the younger Theodosius was in retirement in Spain until after Adrianople has now been exploded by ERRINGTON; he may well have been recalled to service by 377.<sup>175</sup>

Other explanations that have been made for the execution of Theodosius suffer from implausibility or lack of evidence. It has been common, for example, to see the execution as the result of collusion between Maximinus and Merobaudes.<sup>176</sup> This is of course wholly inconsistent with the picture presented in this study of Merobaudes, who went along with Maximinus' enemies Probus and Equitius in establishing Valentinian II as emperor: the collusion story works on the false assumption that his elevation was uncontroversial and speedily agreed. Such collusion is also wholly unattested. The argument is based on two facts: first that Theodosius had arrested the *comes Africae* Romanus in 373; secondly that some years later, when Romanus appealed against the finding of Hesperius and Flavianus in favour of the province of Tripolitania and against himself, he was warmly welcomed at court by Merobaudes (which did not, however, lead to the enquiry's findings being set aside).<sup>177</sup> Merobaudes' enmity to Theodosius and friendship with Maximinus is therefore inferred on the assumption that the villains of Ammianus' narrative should naturally all be allies – a point of view whose explicit expression highlights its absurdity.<sup>178</sup> To assume Merobaudes' involvement helps in one way only, in offering a simpler explanation of the fact that the younger Theodosius was also relieved of his office and returned to Spain at this time, allegedly being plotted against by those who had killed his father (... *insidiabantur eius saluti, qui patrem eius triumphatorem occiderant*, Ambrose, De Obitu Theodosii 53): Merobaudes and Equitius in Illyricum were better positioned to remove a *dux Moesiae* than Maximinus in Gaul. But it seems reasonable that the younger Theodosius would have obeyed a direct order from Gratian to relinquish his office, or that he might have been removed by a different group and then have been under threat from Maximinus once he returned to Spain and learned of his father's death, or that Ambrose was freely confabulating in order to make clear the elder Theodosius' victim status.

A second alternative explanation is to see the involvement of Valens. This has been best argued in a bracingly heterodox article by WARREN TREADGOLD. In the winter of 371/372 a group of administrators in Antioch using an ancient predecessor of the

<sup>175</sup> ERRINGTON 1996.

<sup>176</sup> E.g. THOMPSON 1947, 99 (‘Maximinus’ friend Merobaudes’); DEMANDT 1969, 618–622 (adding the names of Romanus and Probus); LIPPOLD 1972, 199; ERRINGTON 1996, 444–446, finds reasons to suspect both Merobaudes and Maximinus; WILLIAMS – FRIELL 1994, 24, are vague but imply the involvement of the ‘Pannonian faction’. LEPPIN 2003, 32, sees Theodosius’ presumed disapproval of the elevation of Valentinian II as key. RODGERS 1981, 82–89, and NAUDÉ 1987 offer salutary scepticism on links between Merobaudes and Maximinus.

<sup>177</sup> Amm. 29.5.7, 28.6.29.

<sup>178</sup> By way of counter-example, note the recorded hostility of Maximinus to Remigius, an ally of Romanus (Amm. 30.2.10–11).



Ouija board had achieved the prophecy that Valens' successor's name would begin with THEOD. The conspiracy was uncovered with bloody results. TREADGOLD argues that contemporaries would have taken this prophecy far more seriously than modern political historians of antiquity are willing to, and that this was responsible for Valens killing the elder Theodosius and for Gratian promoting the younger one.<sup>179</sup> The conspirators in 372 assumed that the prophecy was applicable to the notary Theodorus; after his and their trial and execution, Valens is said by Socrates to have executed other men whose name began with Theod-, including a noble Spaniard called Theodosiolus.<sup>180</sup> The Theodosian family were of course Spanish, but although this 'looks very much like the distinguished and well-born general Theodosius the Elder', the name is significantly different and the lack of specifics would be odd if it really had been the famous Theodosius.<sup>181</sup> Besides, those who argue for Valens' involvement still assume that he colluded with Maximinus. This, it must be said, would necessitate news and messages travelling very fast, at the height of winter.<sup>182</sup> TREADGOLD's argument that oracles were taken seriously is an important one: it is likely that the famous oracle might have influenced the younger Theodosius' promotion; it is possible that Valens might have desired the death of the elder Theodosius. But this is a situation where lack of evidence enjoins caution: the only remotely clear evidence implicates Maximinus, who had a motive to take action independently, as well as the time and the means – and whose 'faction' was soon overthrown.

#### IV. Conclusions

Covering and uniting the three separate narratives that I discerned in previous explanations of events after the death of Valentinian I has required a lengthy exposition; and while on countless points of detail I rely on and respond to the considerable body of previous scholarship, the largest advances have come from treating holistically events usually treated separately. The starting point (Section I) was GIRARDET's demonstration that Valentinian II's acceptance as emperor was neither uncontroversial nor quickly achieved. His irregular acclamation was motivated by the distrust of his father's courtiers in Illyricum towards Maximinus, praetorian prefect of Gaul, and their fear that he would use Gratian's authority against them. The threat they posed was that of a second western imperial court based in the prefecture of Illyricum, Italy,

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<sup>179</sup> TREADGOLD 2005, esp. 776–781; GASPARINI 1972, BIRLEY 2007, esp. 26, 28, and MARAVALL 2009, 30–31, similarly see Maximinus colluding with Valens. GASPARINI makes much of the evidence of Jordanes, *Romana* 312, who attributes Theodosius' execution to Valens' madness; it is wiser to ignore this, as it is clearly Jordanes' mistaken inference from Jerome's *Chronicle* (DEMANDT 1969, 602).

<sup>180</sup> Socrates 4.19.6, John of Antioch fr. 184.2 (MÜLLER).

<sup>181</sup> TREADGOLD 2005, 776.

<sup>182</sup> TREADGOLD 2005's calculations of travel distances at 780 n. 64, are based on the fastest attested travel over shorter distances, and surely over-optimistic. Cf. n. 38.

and Africa, headed by a four-year-old child under their control. A negotiated solution came about, according to the hypothesis urged here (following GIRARDET, but with some corrections and addenda), with selfless diplomatic help from Valens in the east, and a deal between the two western courts: Valentinian II would be accepted, but would come under his brother's control (the young boy was almost completely marginalized in official discourse thereafter), and the senior officials whose mutual hostility had provoked the crisis would all leave office.

GIRARDET's demonstration of the delay in Valentinian II's recognition is a necessary prerequisite for my interpretation of the process of reconciliation between Gratian's court at Trier and the Roman senate in early 376 (Section II), a process mostly attested by quite different sources and usually treated as more or less unconnected. In the light of the threat of a rival court in Illyricum with possible dominance of Italy and Africa, I interpret this multifaceted reconciliation as a situation wherein Gratian's court had a much harder hand to play than has been appreciated, and played it well. The sequence of events leading to Maximinus' execution was more extended than has normally been appreciated, probably continuing well into the summer. Pictures emerge in passing of Symmachus (Sections IIa, IIc) an able politician seizing the moment to ingratiate himself with a weak régime,<sup>183</sup> and of Ausonius (Section II d), whose rise is here largely decoupled from Maximinus' fall. There is no need to assume an internal power struggle at Gratian's court; the initial pressure on Maximinus came from the coup in Illyricum, and any conciliation of the senate could come from the retreating Maximinus as much as from a rival party at court. Finally (Section III), the best and only evidence about Count Theodosius' execution (though the best is still pretty poor) implies that Maximinus was seen as responsible, and the overall picture I have painted in Sections I and II supports this theory and rules out most of the alternatives.

The difficulty of understanding the period is partly historiographical: it is not only that Ammianus Marcellinus chose not to provide a continuous narrative after Valentinian II's acclamation on 22 November 375, but also that when Ammianus wrote, as implied by this endpoint, Valentinian II was still alive and a reigning, albeit impotent, emperor. Sensitivity about his accession seems to have led Ammianus to deploy selectivity and chronological contraction to smooth over events that had actually been much more complicated: a phenomenon that has been observed elsewhere in his work.<sup>184</sup> But equally problematic for detailed understanding is the nature of the government that was inaugurated when Valentinian I died. The two western emperors were sixteen and four years old. Most obvious outlets for imperial power were closed to them, and there was no advantage to being seen by a wide range of their subjects. If Gratian made a few steps away from the condition of a *princeps clausus*, by going on campaign, for example, it is not clear that Valentinian II ever did. For the next 75 years,

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<sup>183</sup> A portrayal reminiscent of SOGNO 2006: like her, I find limited room for the conventional image of Symmachus as pagan hero.

<sup>184</sup> See n. 32.

with a few exceptions including Theodosius, the emperors would be those who had taken over as children, a start that it was hard to escape from when fully grown. What was actually happening at court and who was actually in control was more than usually obscure to contemporaries, as well as to us.<sup>185</sup> In this context I think it is most unlikely that Gratian would have visited Rome unless absolutely necessary (and in Section II f I have made a more detailed case than previously attempted to show that he never did).

As for the particular circumstances that allowed Valentinian II's elevation at the age of four, the most significant is certainly the precedent of the eight-year-old Gratian's promotion by his father eight years previously.<sup>186</sup> There had been child emperors before, including in the fourth century (the sons of Constantine, for example). Gratian, however, had not been made Caesar, but promoted straight to Augustus. An expedient designed to help Gratian's assumption of power when the time came also created the precedent by which it could be extended to his half-brother. But an answer must also be sought in the nature of Valentinian and Valens' régimes. As recent scholarship has emphasized, after the regimes of authoritative rulers like Constantius and Julian who controlled and shuffled their generals (Constantius never «exalted the horns of the military», as Ammianus put it, 21.16.1), Valentinian was appointed by the military high command from a comparatively junior position. For all his military talent, his imposing figure, and his rages, he could be seen as in hock to the high command:<sup>187</sup> the tenures of the *magistri militum* under Valentinian and Valens tended to be long and uninterrupted. The same goes for their praetorian prefects. Equitius had been *magister militum* in Illyricum for ten years when he helped engineer the promotion of the younger Valentinian, while Probus had been praetorian prefect, with a notorious degree of control over the levers of power and patronage, for seven years. For all but the last few months before November 375, both had been uninhibited by the presence of an emperor in their territory.

This leads me to reflect, finally, on an important administrative change. The development of the praetorian prefecture from the role of an immediate deputy to an emperor into an officer with territorial jurisdiction, who might or might not be connected with an emperor, is one of the most notable developments of the mid-fourth-century state<sup>188</sup> (though overshadowed by the linked issue of the growing separation between

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<sup>185</sup> This observation was made on Gratian's regime by Eunapius (fr. 57 MÜLLER = fr. 50 BLOCKLEY, cf. Zosimus 4.19.2).

<sup>186</sup> Rightly emphasized by McEvoy 2010, 154–155.

<sup>187</sup> POTTER 2004, ERRINGTON 2006.

<sup>188</sup> See e.g. BARNES 1987, 1992; MIGL 1995; ERRINGTON 2006, 80–87. In the last years of Constantine the transitional arrangements included prefects with de facto regional responsibility attached to Caesars, and the short-lived experiment of a prefect of Africa. Constantine first appointed prefects to control parts of his territory in the early 340s, but in the twenty years thereafter some prefects were still *praesentales*. It is only after 363 that the prefecture seems entirely regional.

east and west). I have conjectured above (Section I) that by leaving Gratian in Trier, Valentinian may have been establishing him as in some sense the ruler of the Gallic prefecture, and that this helped Merobaudes, Probus, and Equitius in what they attempted to do with the elevation of Valentinian II: to create and control, or pose the threat of controlling, an emperor and a prefecture. It would be a nice irony if the new form of regional prefecture inspired the creation of regional emperors.

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#### *Appendix:*

##### *Communication from Gratian to Rome, 1 January 376 to 4 January 377*

1 January 376. An *oratio* from Gratian was read to the senate, attested by Symmachus, Ep. 1.13.

##### *Extant legislation addressed to Rome:*

- 11 February 376. A message from Gratian concerning criminal trials of senators was read in the senate (CTh 9.1.13), presumably sent from Trier some weeks before. This law established a practice of senators being tried by five of their peers headed by the urban prefect (see COSTER 1935 on the *iudicium quinquevirale*).
- 1 March. Gratian, presumably in Trier (though no place of issue is recorded), addressed a law to the senate (CJ 3.24.2) on financial cases involving senators.
- 16 April. A law on the conduct of trials was addressed to Maximinus, praetorian prefect of Gaul, was posted in Rome (CTh 9.19.4). (On the anomaly of the posting of a Gallic law in Rome, see n. 122).
- 13 July. A law was addressed to Aradius Rufinus, prefect of Rome, on the corn supply and the relative status of prefect of Rome and prefect of the *annona* (CTh 1.6.7; see n. 158).
- 13 August. A law on building works by senators was read in the senate (CTh 10.19.8).
- 1 December. A law was addressed to Gracchus, prefect of Rome (CTh 2.2.1).
- 4 January 377. A law was addressed to Gracchus forbidding the torture of senators (CTh 9.35.3).
- At an unknown date in 376, a law on building works was read to the senate (CTh 15.1.19).

##### *Other attested imperial communications and actions (not precisely dateable):*

- Recall of exiles, restitution of confiscated properties, freedom of the imprisoned is attested by Themistius Or. 13, 171c, 175ac.
- Cancellation of tax debts is attested by Ausonius, *Gratiarum Actio* 73–74.
- An inscription in the names of Valens and Gratian (ILS 5592) announces improvements to the *Macellum Liviae* by imperial command. The inscription evidently belongs to a period before Valentinian II was generally recognized, and it is a likely though not an absolutely neces-

sary inference that the command came from Gratian (see GIRARDET 2004, 124–5, and for the text of the inscription n. 62).

- Themistius pronounced a panegyric in the senate in praise of Gratian (Or. 13), given after he had been sent to Rome by Gratian (see Or. 31.354d). In response the senate issued a decree addressed to the two emperors, Valens and Gratian, in praise of Themistius (Or. 34.29). (See GIRARDET 2004, 117 and Section IIb).
- An *oratio* of Gratian which was read out by Symmachus himself and announced the execution of Maximinus is attested in Symmachus' letter to Gratian, Ep. 10.2. The trial and execution followed a complaint by the senate (Symm. Or. 4.11–12). (See Section IIc).
- Other former *vicarii* of Rome, allies of Maximinus, Simplicius and Doryphorianus, were also executed, the latter after earlier imprisonment in the Tullianum in Rome (Amm. 28.1.57).
- Laws of Gratian, now lost, had either been communicated to Rome or had become known to Symmachus, and are referred to in his letter to Gratian (Ep. 10.2.4): on the corn supply, possibly but not necessarily identical with CTh 1.6.7 of 13 July; on tax-collecting; on provincial weights and measures.
- A letter of Gratian announcing that Symmachus' father Avianius would hold the consulship of 377 is attested by Symmachus Or. 4; Avianius must have died before he could assume the consulship. (See Section IIe)
- Two successive urban prefects were appointed from the Roman aristocracy, Aradius Rufinus and Gracchus. Whether Rufinus was appointed by Gratian or his father is not known. Another aristocratic prefect perhaps appointed around this time was Tarracius Bassus (see n. 93)
- Finally, it is often, but unjustifiably, asserted that Gratian visited Rome either for his decennialia on 24 August (the tenth anniversary of his proclamation as Augustus in 367) or later in the year (see Section II f, esp. n. 151)

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