

LATIN PANEGYRICS USED FOR IMPERIAL PROPAGANDA AS EXEMPLIFIED BY CONSTANTINE THE GREAT

Irena Ljubomirović

University of Niš, Faculty of Philosophy, Department of History, Niš, Serbia

irena.ljubomirovic@filfak.ni.ac.rs

5 Abstract

This paper is a brief review of the development of Latin prose panegyrics in the fourth century AD. It focuses on the value of panegyrics, which were one of the most important instruments of emperor's propaganda. I analyzed two panegyrics from 310 and 311, of Constantine the Great, delivered in Trier. With the two examples I showed whether and to what extent the official imperial policy influenced the writing of panegyrics.

INTRODUCTION

In the era of the late Empire, a festive oratory was developed as a special kind of the classical Greek oratory, whose aim was to present the achievements and the emperor himself in the best possible light in front of his subjects to whom a speech was read out. Eleven panegyrics were saved in Latin, modeled on Pliny's speech to emperor Trajan, which were used to praise Roman emperors in the period from 289 to 389 AD (Nixon and Rodgers, 1994). The emperor used encomiasts as a means of his political propaganda, so the panegyrists wrote them with the intention to be read publicly, usually during the commemorations of imperial jubilees (Nixon and Rodgers, 1994, p. 334, sq. IV) or after the emperor's victory over the enemy (Nixon and Rodgers, 1994, p. 289, sq. IX). Late Roman panegyrics were created seriously and were slowly becoming outdated. They were directed to the contemporaries, specifically to that group of residents who were able to hear them (Mac Cormack, 1976, p. 55). If historians should try to use panegyrics as a source of historical events, they would find themselves facing serious problems. Namely, panegyrists would often omit names of the enemies, avoid stating names of the cities, or follow chronology, since the aim of a panegyric was rather to praise the emperor than to describe events and present certain evidence. That is the difference between the late Roman and Pliny's panegyrics, which were meaningful, considerably more neutral, and impartial when presenting facts. In the late Roman panegyrics, events were often not shown in detail; a panegyrist would sometimes not specify them, which left room for the description of the emperor's achievements. The events were presented in a manner in which the monarch wanted them to be seen (Liebeschuetz, 1979, pp. 237-238). A panegyric was one of the instruments of propaganda which was considered to be an accurate reflection of the state policy and the emperor to whom it was dedicated. Constantine was dedicated five sermons that are an integral part of the proceedings "Latin panegyrics" (Panegyrici Latini) created during the fourth century (Nixon and Rodgers, 1994, p. 178, sq. VII; p. 212, sq. V; p. 289, sq. XII). This paper will discuss two panegyrics addressed to Constantine and given in Trier. The first sermon carrying the number VI was held in the summer of 310 AD and contains a special message expressed through the report on Constantine's vision in the Temple of Apollo (Rodgers, 1980, pp. 371-384; Warmington, 1974, pp. 371-384). The other panegyric was created in 313 AD, and it is interesting because a panegyrist was met with a new situation that had to be included - the emperor had radically changed his religious orientation. The problem lay in how to present the emperor's Christian conversion and not disappoint the audience, which also consisted of pagans (Odahl, 1990, pp. 45-63).

THE AGE OF TETRARCHS

In the years preceding the creation of the panegyrics (310 and 313 AD), the Tetrarchic system was in crisis. The territories of the Roman Empire were divided among the four rulers: Galerius controlling Illyria, Maximinus Daia controlling Asia Minor and Egypt, Maxentius holding Italy and Africa, while Constantine controlled provinces in Gaul and Germania (Mirković, 2014, pp. 152-153). Although the meeting in Carnuntum held on November 11, 308 AD was supposed to resolve the issues about the division of power, none of the actors were satisfied with the decisions of the meeting.

It was agreed that the East would still remain in control of Augustus Galerius and Caesar Maximinus Daia. In the West, Constantine was to gain the title of Caesar instead of the position of Augustus. Licinianus Licinius was proclaimed Augustus instead of Flavius Severus. Both Maximinus Daia and Constantine were dissatisfied with the titles of Caesars (SAN XII, 2008, pp. 91-93; Barnes, 1981, pp. 34-35; Leadbetter, 2009, pp. 200-205). Although Maximinus, Constantine's father-in-law, who swore an oath to be faithful to his son-in-law, he soon turned against Constantine (Pan. Lat. VI 15,6).

The Rhine limes was threatened by the Franks, so Constantine had to go to war against the barbarians. Lactantius stated that Maximinus managed to convince his son-in-law to march with a smaller number of troops, while, with the help of the remaining army, he would try to take power (Lact. De mort. pers. 29,4.). This data is confirmed by the panegyrist from 310 AD, who stated that Constantine surrendered part of his army to Maximinus (Pan. Lat. VI 14,6). However, Constantine did not do that because he trusted his father-in-law but because there was a threat from Maxentius. It was necessary to defend the southern areas of Gaul from possible attacks from Italy, which forced Maximinus to have the army under his command (Barnes, 1981, p. 34). Yet, Maximinus used this situation to proclaim himself the emperor for the third time in Arles (Pan. Lat. VI, 14-20). The panegyrist stated that the troops remained loyal to Constantine, but since the part of the army remained under the command of Maximinus, he probably managed to gain upon those who wavered presenting them with rich gifts (Pan. Lat. VI 16,2 to 17,4). As soon as Constantine learned of his father-in-law's proclamation, he rushed to Arelate. The army was partly moving on land, in order to come down the river Arar (now the Saône) by ships to its confluence into the Rhodanus (now the Rhône) in Lugdunum.

Lactantius and a panegyrist from 310 AD wrote about the great speed with which Constantine and the army were moving towards Arelate. The army was so eager to deal with Maximinus that they themselves were rowing down the slow river of Arar (Lact. De mort. pers. 29,6; Pan. Lat. VI 18).

Maximinus transferred from Arelate to Massilia (present Marseille), since there he could defend himself easier because the city was better fortified. Constantine's attempt to take over Massilia ended without success. The panegyrist even here tried to justify Constantine, pointing out that the emperor could have taken over Massilia, but that he wanted to prevent his soldiers, eager to get revenge, to ransack the city (Pan. Lat. VI 19, 1-20,1).

The panegyrist's partiality, lack of objectivity, and attempt to present the emperor's weakness and failure as his gentleness and good intention to spare his enemies were obvious. The emperor's failure had to be covered in every way and the panegyrist did it by offering misleading information. The truth was that Constantine could not take the town with an onslaught, and he wanted to avoid the long siege of the city at all costs, so he entered into negotiations with his father-in-law. The negotiations were unsuccessful, but in the meantime, the army in the town turned against Maximinus and handed him over to Constantine, who spared his life (Lact. De mort. pers. 29,6; Pan. Lat. VI 20, 2-3). However, it must have been clear to Constantine that as long as Maximinus was alive, he would pose a threat to his power in the western provinces. This was likely the reason why he decided to put him to death. The sources tried to justify Constantine's decision and Lactantius stated that Maximinus conspired against Constantine and persuaded his daughter Fausta to kill her husband. Having caught Maximinus in the conspiracy, Constantine allowed him to choose how to die, and the former chose to be hanged (Lact. De mort. pers. 30).

After his death, Maximinus was sentenced to *damnatio memoriae* as well, and erasure of the memory of him was conducted both in the western and eastern provinces. Since the founder of Maximinus's family was Hercules, whom Constantine also accepted after becoming related to Maximinus, after his father-in-law's execution the ties with the lineage of Hercules were severed. That was why a new origin was to be found for Constantine. It was the emperor's visit to the Temple of Apollo in today's Grand in the Vosges that the panegyrist used to associate Constantine to the new patron - god Apollo, but also to the 'new' emperor's ancestor - Claudius II Gothic. In an anonymous panegyric given in the summer of 310 in the city of Trier, Constantine's vision of Apollo was described. In modern historical science there was a controversy over two issues: whether Constantine really had a vision and, if so, what he saw or what he thought he saw (Ferj ančić, 2014, pp. 415-423 with earlier literature).

Therefore, at this point we will not deal with these issues, but focus on the question: in what way was Constantine's vision presented in the panegyric supposed to serve the purpose of propaganda of the emperor's politics? The vision of Apollo had to come from Constantine himself, because it was the only way for it to be learned, and that is why it is assumed that it was the emperor himself who ordered the panegyric in which the vision should be described and introduced to the audience in Gaul. The anonymous panegyrist said at the beginning that after Maximinus' defeat and death, Constantine was on his way to Trier when he learned that the Franks, in the absence of the emperor, became restless. After learning that the barbarians calmed down, Constantine decided to turn off the road and visit the temple of Apollo in Grand in order to make a sacrifice as a sign of gratitude for the victory over Maximinus and the becalming of the Franks. The orator further alleged that in the temple Constantine saw Apollo in the company of the Goddess of Victory and then got laurel wreaths, which carried a prediction about the long rule and lifetime longer than the one the fabulous Nestor enjoyed (Pan. Lat. VI 21, 4-7).

135 Presenting emperors as being closely associated with some of the deities was nothing
out of the ordinary in the fourth century, because they were prominent figures
believed (or also popularly believed) to be able to have direct contact with the
deity (Bremmer, 2006, pp. 57-79). Such performance of the emperor was supposed to
strengthen his position even more and provoke admiration among his subjects. Bearing
140 in mind that it was not common for the orator to contrive such details, it is
therefore assumed that Constantine himself requested to be presented in a close
encounter with Apollo, a deity often identified with the Unconquered Sun (Sol
Invictus), to which the emperor would turn after 310 AD, and, as evidenced by the
emission of money with a presentation of this deity and the legend of the Unconquered
145 Sun, a companion (Soli Invicto comiti) (Sutherland, 1967, pp. 102-116).

THE LATIN PANEGYRIC FROM 310 AD

In modern historical science there are researchers who state that the panegyric from
310 AD was actually created with the aim to win the favor of Gallic aristocracy
(Bremmer, 2006, p. 16). However, if we bear in mind that Apollo revealed to
150 Constantine that he was the emperor predestined to rule the whole world and who was
solely meant to rule (teque in illius specie recognovisti, cui totius mundi regna
deberi vatum carmina divina cecinerunt) (Pan. Lat. VI 21, 5-6), it is clear that the
panegyric was also to be used to spread the reigning ideology. The first time the
orator spoke of Constantine as the new God created for the people, he linked him to
155 gods Bacchus and Mercury (Di boni, quid hoc est quod semper ex aliquo supremo fine
mundi nova deum numina universo orbi colenda descendunt? Sic Mercurius a Nilo, cuius
fluminis origo nescitur, sic Liber ab Indis prope cosciis solis orientis deos se
gentibus ostendere praesentes) (Pan. Lat. VI 9.4). When introducing Apollo, who
appeared to Constantine, into the panegyric, he did not equate them and used the
160 possessive pronoun 'tuus' (your) Apollo, not 'tu, Apollo'
(Vidisti enim, credo, Constantine, Apollinem tuum....) (Pan. Lat. VI 21.4).
This is precisely the reason why Barbara Saylor Rodgers made the assumption that in
the temple of Apollo Constantine did not see himself in the image of the divinity
itself, but in the image of the first Roman emperor Octavian Augustus (Rodgers, 1980,
165 p. 270). Constantine was represented as young, cheerful, and handsome, and health-
bringing, and he was foretold to rule the entire world, which could also apply to
Octavian Augustus.
Constantine was foretold by the gods in his vision that he would rule the whole
world, while in the case of Octavian the foretelling was delivered by poets, first
170 and foremost the poet Virgil, who, in his poem "Aeneid", announced Augustus' reign as
the beginning of the Golden Age. It is less important whether Constantine saw himself
in the image of Apollo or Octavian Augustus. It is the moment in which the panegyric
was created that is important (after Maximinus' execution) as well as the emperor's
turn towards Apollo, often identified with the Unconquered Sun, which would become the
175 new protector of the emperor.
The orator had two tasks before him - first, to justify Maximinus' execution and then
to associate Constantine with some prominent emperor because he broke up the relation
to the Herculan family. It was hard to prove the facts of Constantine's non-
involvement with Maximinus' death, hence the orator only presented the story of
180 Maximinus' conspiracy and spoke of his death in a direct way (Pan. Lat. VII 20, 3-4).
In 307 AD, Constantine was Maximinus' son-in-law, associating himself with the
Herculians, which was supposed to strengthen and secure his position in the empire
and to ensure his authority in the provinces that he inherited from his father
(Jones, 1964, p. 38; Barnes, 1981, p. 11). At first, father- and son-in-law acted in
185 unity as imperatores semper Herculi (Pan. Lat. VII 2, 5), but after Constantine
discovered Maximinus' alleged plot and after which Maximinus killed himself,
Constantine rejected protectors of the Tetrarchy, Hercules and Mars, so it became
necessary for him to establish a 'relationship' with a former real emperor.
Constantine decided that this should be Claudius II Gothic (268-270), a ruler who
190 gained great fame and reputation by his victory over the Goths near Naissus. Emperor
Claudius II Gothic was close enough to Constantine, speaking in terms of time, and
the kinship between them could have had a real basis, but at the same time the
emperor was far enough from Constantine's contemporaries in order for them to know
the details of this kinship (Krsmanović-Radošević, 2004, p. 73). The anonymous
195 panegyrist was the first to introduce this piece of information into the history and
point out to the right of Constantine to rule due to his origin (Pan. Lat. VI 2-3,
2). The panegyrist said that when the emperor entered the court in Trier, destined to
rule, there "ancestral lares" had already been waiting for him (Sacrum istud palatium
non candidatus imperii sed designatus intrasti, confestimque te illi paterni lares
200 successorem videre legitimum) (Pan. Lat. VI 4, 1).
By introducing Claudius II Gothic, as a descendent ruler, Constantine established the
principle of dynastic succession of power, thus rejecting the tetrarchic rule of

205 adoption of the heir to the throne. It is clear that, since Constantine wanted to secure the throne for his sons, he had to get rid of his co-rulers and independently rule the empire. Another step towards this goal was the introduction of a new patron god, and the decision was made for it to be Apollo, most often identified with the Unconquered Sun (Alföldi, 1948, 5-6). In the second half of the third century, it was believed that the Sun was the supreme deity above all others. Since the Unconquered Sun was the protector both of Claudius Gothic and Constantius, Constantine's father, 210 it is no surprise that this deity was chosen. It is possible that the Emperor had a deep commitment to the Unconquered Sun with whom he was born and raised, so the deity was the most acceptable from the whole pantheon of the Roman gods (Ljubomirović, Stamenković- Šaranac, 2014, p. 542). Standing close to the cult of this deity which had strong monotheistic elements, Constantine sought to openly express his aspiration 215 for an independent ruling.

The panegyric from 310 AD was created in Gaul where the Emperor lived, with short interruptions, from 307 AD and the wedding to Fausta up to 316 AD (Barnes, 1982, pp. 67-73). The panegyrist was the court orator, spending time at the court of the emperor, and had contact with court officials. His most important role was to compose 220 a speech that would promote imperial policy. One of the most common themes of panegyrics written in the first half of the fourth century was the imperial success in the war, that it was the emperor of practice and his military power (Mac Cormack, 1976, p. 64). Historical background of panegyrics in the age of Tetrarchy was militant and pagan and therefore panegyrics stressed precisely this side of the 225 emperor's personality. Personal religion of the emperor at the beginning of Constantine's reign had not yet been the subject of panegyrics. Not until many years later would Eusebius make the religious orientation of the emperor officially relevant, since the emperor's religion affected the whole empire: it was no longer only his personal matter, but a means of his victory over all opponents. Eusebius 230 pointed to a strong connection between the emperor and God, and that his attitudes had to be a part of the official cult of the emperor is also confirmed by the iconography of the official imperial art (Radošević, 1994, p. 10).

Nevertheless, Constantine's biographer wrote many years later, when Constantine had already sufficiently declared himself as a Christian. At the same time, Eusebius 235 himself was a Christian. From Eusebius' panegyrics it is clear that he was aware of the importance of the emperor's religious policies, but he included it into his work only after it had become a part of the official imperial cult. Therefore, panegyrists from the beginning of Constantine's reign, when paganism was still the official religion of the empire, believed that Constantine's conversion to Christianity was 240 still only his personal matter and was therefore not suitable to enter into the official panegyric. The fact is that the main issue in the panegyrics was still Constantine's defense of the Rhine border and his victory over the Germans. Panegyrists believed that the defense of the Rhine was vital and Constantine was given all the credit for maintaining stability along the Rhine border (Nixon and 245 Rodgers, 1994, pp. 30-35).

THE PANEGYRIC FROM 313 AD - AN EXPRESSION OF NEW RELIGION ORIENTATION OF EMPEROR CONSTANTINE

Another panegyric, carrying the number XII, was apparently ordered in August, in the summer of 313 in Trier (Nixon and Rodgers, 1994, p. 289, sq. XII). After the victory 250 Constantine took over Maxentius in the battle of the Milvian Bridge on October 28, 312 AD, the emperor entered Rome, where he was welcomed as a liberator. Constantine behaved as such, repealing all the exiled usurper's opponents to return to Rome, while he showed great mercy to the supporters of his opponent (Pan. IX 5.6; 12.1). The victory over Maxentius brought Constantine control over Italy and Africa, thus 255 these provinces were returned to the legitimate imperial ruler. Constantine's position was additionally secured thanks to the honors received from the Senate, which declared him the first Augustus (Lact. De mort. pers. 44.11). The ruler spent about two months in Rome, after which he headed towards Mediolanum, where, in the beginning of February, he met with Licinius. The meeting of the two co-rulers 260 resulted in a politics of religious tolerance - the issuing of the Edict of Milan (Lact. De mort. pers. 48; Euseb. Hist. Eccl. X 5.1-14).

The document provided religious tolerance and freedom of creed for all religions as well as for the thus far prohibited Christianity. All gods, including the Christian God, were supposed to protect the emperor and his subjects in order to establish 265 peace and prosperity in the empire. By the policy of religious tolerance, the two rulers, Constantine and Licinius, secured support of the ever increasing number of Christian communities, which greatly strengthened their power (Barnes, 1981, pp. 64-68). After the meeting in Mediolanum, Constantine had to face the danger that threatened the empire from the Germanic tribes on the Rhine. Namely, the Franks and 270 the Alemanni, who lived in the area between the Rhine and the Elbe, attacked the

Roman territory in Lower Germania. Constantine went straight from Mediolanum to the Rhine limes where he attacked the Alemanni and the Franks, and not only did he drive them away from the Lower Germania but he also razed the area in which they lived (Pan. Lat. IX 21, 5-23; Barnes, 1982, p. 71).

- 275 After the victory over the barbarians, the emperor went to Trier, where he was met with ceremonies celebrating all his successes, while the subjects enjoyed the emperor's arrival (*adventus*) (Pan. Lat. IX 18.3-20; Mac Cormack, 1981, pp. 17-89). He was honored a triumphal procession, and circuses and gladiatorial shows were held for several days as well as games during which the beasts fought against barbarians
- 280 captured during the previous battles along the Rhine (Pan. Lat. IX 23). On such an occasion only a panegyric was missing, to be publicly read and unite everyone in expressing strong praise of the emperor, which would draw the ceremony to its climax (Liebeschuetz, 1979, p. 237). Given that the panegyric was to be created as soon as possible, the task was entrusted to the experienced and famous panegyrist who
- 285 celebrated Constantine in one or more previous speeches (Nixon and Rodgers, 1994, p. 288). He was probably trained in one of the famous rhetorical schools in Oton or Trier, using the style of Cicero, quoting Virgil's poetry and bringing occasional comparisons with generally known rulers and officials from the classical period, glorifying their virtues (bravery, power) and *res gestae* (heroic deeds) (Mac
- 290 Cormack, 1976, p. 61). It is possible that the members of the imperial court advised the orator, kept him informed about the emperor's acts, and guided him towards topics that needed to be emphasized. The common motifs in all the panegyrics were propagation and praise of all the emperor's deeds and successes achieved in the previous period (Mac Cormack, 1981, pp. 1-14).
- 295 Since the orator had previously written praises to Constantine, he gained some experience and practice in presenting events from the emperor's past. Yet, this time the panegyrist was met with a big problem – the emperor had radically changed his religious orientation and converted into a Christian (Mullen, 1968, pp. 81-96).
- 300 Although the first reports of Christian writers Eusebius and Lactantius on Constantine's conversion were written a few years later, the panegyrist must have heard at the court about the emperor's new protector – Christ (Odahl, 1990, p. 47). The news that Constantine used the cross as a Christian symbol on the weapons of his soldiers in the battle against Maxentius at the Milvian Bridge strongly echoed in the
- 305 East, so it must have reached the West as well (Odahl, 1981, pp. 15-28). At the same time, the panegyrist also took into consideration the fact that in the Edict of Milan, which Constantine and Licinius issued in February 313, the protector of Christians was called by the general term *summa Divinitas* (Lact. *De Mort. Pers.* 44). Spending time at the court, the panegyrist had to be well informed about all the
- 310 important events from the emperor's life. Although the emperor's Christian orientation during those years was not part of the official imperial cult yet, the orator might not have been allowed to completely ignore the fact of the Christian God as the emperor's patron without previously receiving the approval of the emperor himself. Sources do not mention a direct meeting between the panegyrist and the
- 315 emperor, but the monarch could have suggested to the orator through court officials how he was to handle specific topics.
- Description and praise of the emperor's courage during military actions could have comprised the major part of the panegyric, but even in this case the orator faced a difficult and delicate task – how to describe the divine inspiration and power that helped Constantine plan and wage the victorious wars. The panegyrist could show the
- 320 new emperor's religious orientation, which would please the Christians at the court, but it would betray his longtime personal beliefs and would betray the expectations of the pagans. And while in the panegyrics written in the period of Tetrarchic policy the emperor's deeds always had a religious background, inclusion of religion in
- 325 imperial politics after Constantine's conversion became impossible (Mac Cormack, 1976, p. 62). Analysis of the panegyric from 313 AD might shed some light on whether the panegyrist managed to respond to the difficult task that was set before him. The speech was divided into five parts: in the introductory section (*exordium*), the orator stated his observations of the emperor (Pan. Lat. IX 1); several chapters were
- 330 dedicated to his previous military campaigns in Italy (Pan. Lat. IX 2-5.3); then followed the central part of the speech in which Constantine's victory in Italy and his brief stay in Rome were described (Pan. Lat. IX 5.4-21.4); several chapters were dedicated to his return to Gaul and conflict with barbarians on the Rhine (Pan. Lat. IX 21.5-23); finally, in the epilogue (*peroratio*), the importance of Constantine's
- 335 victory and the importance of the prayer dedicated to "the highest deity" were highlighted (Pan. Lat. IX 24-26). Aware of the difficult task set before him, already in the introductory part of the speech the orator distanced himself, expressing his fear that he might not be able to properly praise the emperor's great deeds, but that he was still taking on this task because even that was better than not to speak about

340 them at all (Pan. Lat. IX 1.1-3).
 In the second part, the orator associated Constantine's name to the adjective
 constantia, which reflected the emperor's persistence and perseverance during the
 Italian expedition (Ac primum illud adripiam quod credo adhuc neminem ausum fuisse,
 345 ut ante de constantia expeditionis tuae dicam quam de laude uictoriae) (Pan. Lat. IX
 2.1). Constantine marched against the enemy whose army was larger and decided to
 attack first because he followed the "divine command" (divina praecepta), while
 Maxentius remained faithful to the "dangerous superstition" (superstitiosa maleficia)
 (Pan. Lat. IX 4.4). Constantine entered the fight expecting a "divine promise of
 350 victory" (promissam divinitus victoriam) (Pan. Lat. IX 3.3). Supported by his own
 courage and great promise by God, the emperor dared to start a war bigger than the
 one waged by Alexander the Great (Pan. Lat. IX 4.4). Constantine's conquest of
 fortified cities in northern Italy was shown in detail, as well as the march on Rome
 and the Battle of the Milvian Bridge, after which the victor triumphantly entered
 Rome; the panegyric then showed the celebrations held in honor of Constantine.
 355 Describing Constantine's military exploits in detail, the orator skillfully avoided
 sensitive religious topics. Constantine's ability and skills in commanding the army,
 attacking a dangerous enemy while outnumbered, and treating the defeated soldiers
 humanely were all praised in a school-like manner (Pan. Lat. IX 6. 1-2; 15.3-6; 20.3-
 4).

360 When describing the Battle of the Milvian Bridge, the panegyrist indicated that
 Maxentius could have stayed in Rome within Aurelius' walls providing resistance, as
 he had done a few years before against Severus and Galerius (Pan. Lat. IX 16.2; Lact.
 De mort. pers. 26- 27). But "the great God" (Deus summus) and "divine thought" (mens
 divina) gave Constantine "divine advice" (divinum consilium) and "divine stimulus"
 365 (divinus instinctus), and at the same time took them away from Maxentius (Sandys,
 1974, p. 127). The orator ended the central part of speech with a brief description
 of Constantine's triumphal entry into Rome, his speech in front of the Senate and the
 pardoning of the surviving enemy soldiers (Pan. Lat. IX 19.1-21.4).
 The panegyrist showed a scene in which the emperor was giving gifts to Roman citizens
 370 in front of the pillars that the Senate raised in 303 AD in honor of vicennalia of
 Diocletian and Maximinus and decennalia of Constantius and Galerius (Pan. Lat. IX
 7,6). The choice of the location was supposed to represent Constantine as the real
 successor of the Tetrarchy.

375 In the fourth part of the panegyric, preceding the conclusion, the orator briefly,
 without any details, described the return of Constantine to Gaul and his fight
 against rebellious barbarians on the Rhine (Pan. Lat. IX 21.5-23). The speech was to
 be ended with a sublime tone, which the speaker did. He compared the victory of
 Constantine over Maxentius' Romans and warlike Franks with Alexander's victories over
 380 the timid Greeks and weak Easterners and pointed out that the emperor was the most
 responsible for the spread of the famous achievements of his father, Constantius, in
 the western part of the empire (Pan. Lat. IX 24.1-3; Pan. Lat. IX 24.4-25.3).
 Constantine's power and his piety were the main reasons to erect a number of statues,
 shields, and crowns that the people of Rome and the Senate dedicated to the emperor
 (Pan. Lat. IX 25.4). However, in the conclusion of the final chapter the orator had a
 385 duty to make a plea to a "supreme deity", thus facing a difficult dilemma. He decided
 it was the least painful not to name the deity and to address it as "the greatest
 creator of the Universe" (summe rerum sator), so he addressed him as follows: "... Your
 reliable power and divine thought that inspired the entire world and mingled with all
 the elements" (tutem quidem vis mensque divina...quae toto infusa mundo), or he
 390 referred to him as "a force above all the heavens, which looks down from above from a
 higher natural refuge" (aliqua supra caelum potestas...quae...ex altiore naturae arce
 despicias) (Pan. Lat. IX 26.1). Therefore, the panegyrist addressed the deity to whom
 both himself and the audience were speaking and made him a plea that concerned
 Constantine. Constantine was the best of all the rulers and the greatest blessing
 395 that the deity has ever bestowed upon the human race. The deity, which possessed the
 greatest kindness and power in itself (summa bonitas et potestas), enabled
 Constantine to perform all these good deeds (Pan. Lat. IX 26.2-5).
 The panegyric from 313 AD did not mention the name of the traditional pagan gods or
 give any information about Constantine dedicating war trophies to pagan temples
 400 (Jones, 1949, pp. 82-83; Barnes, 1981, pp. 44-46). In the previous panegyrics
 dedicated to Constantine (from 307, 310, and 311) Jupiter, Hercules, Apollo, and Sol
 were mentioned, while their omission in the panegyric from 313 could mean that the
 emperor had already completely separated himself from pagan gods. However, the
 speaker did not mention the name of Christ anywhere, or indicate that the emperor's
 405 conversion occurred and that Constantine had used Christian symbols on the weapons
 and victory statues, which Christian writers would later write about. The panegyrist
 decided to adopt a neutral stance and rely neither on traditional paganism nor
 Christianity. He himself was a pagan, as were many in the audience, so his

terminology had to be as vague as possible in order not to offend the Christian emperor (Barnes, 1981, pp. 44-46). With a neutral position, he still managed to present Constantine's imperial position as divinely founded by associating the emperor with the supreme God, whom he referred to using vague terminology - the "supreme creator of the universe", "the divine thought that inspires the world", "leader and supreme power in the sky above" and "source of ultimate goodness and strength" (MacMullen, 1968, pp. 110-112; Liebeschuetz, 1979, pp. 252-291). The Triumphal arch built to honor Constantine was also raised with "God's inspiration" (Instinctu Divinitatis), which, even though it had a monotheistic connotation, once more expressed a neutral attitude in terms of the emperor's divine patron. Constantine favorably viewed the manner in which the orator presented the deity. Even though Constantine could have already sided with the Christian God, he was still ruling all of his subjects, among whom there were a large number of pagans, so he had a duty to publicly protect all religious cults (Ullmann, 1976, p. 2). In the Edict of Milan, Constantine and Licinius referred to the deity with a vague and general term *summa Divinitas*. In the letters from the period from 312 to 315, which Constantine sent to provincial regents or Christian bishops, he used phrases such as "the highest God" or "the highest deity" (*Deus summus* or *summa Divinitas*) (Odahl, 1990, p. 52). Constantine's inclination towards Christianity was confirmed by a number of laws that he passed after the publication of the Edict of Milan in 313 AD. Among other things, the emperor issued legislation that Christian clergy was dispensed from all duties of public service and all individual and property taxes and duties (CTh 16.2.2; Eusebius, *Hist. Eccl.* 10.7.1-2). All confiscated property was to be returned to the Church. Still, the monarch retained the title *Pontifex Maximus* and allowed the pagans to worship in the temples of Roman gods, but he had most of these imageries removed from the money. He allowed only the God of the Sun, *Sol*, to remain on the coins a few years longer as a kind of syncretic bridge between his Christian and pagan subjects (Alföldi, 1948, pp. 54-59). The Church, for its part, has long used the comparison of Christ with the Sun as "the Sun of Truth", "the resurrected Sun", or "the Sun of deliverance", by which it has tacitly acknowledged the influence of the cult of the Sun. Constantine's sympathy towards the God of the Sun can be interpreted as the emperor's profound commitment to the deity with which he was born and raised, but he also showed respect and consideration to the Sun because of his pagan subjects. The ruler needed the support of the pagans, because after the victory over Maxentius it was necessary to secure the favor of the Senate, which at that moment was the only body that could recognize Constantine as the first Augustus. Bearing in mind that the Senate and the Roman aristocracy did not renounce paganism, it was not in the emperor's interest to immediately sever ties with all the pagan cults (Ljubomirović, 2013, pp. 862-863).

In the years that followed, the emperor would move further away from the Unconquered Sun and openly express his allegiance to the Christian God. However, from everything stated above, it is clear that immediately after his conversion Constantine allowed the remnants of paganism to be mixed with elements of the new faith. We saw that in public letters and edicts he used neutral and ambiguous terminology to refer to God, thus not offending either pagan or Christian subjects. Since Constantine himself used such terminology, it is likely that he allowed and encouraged orators to do so as well, especially when the speeches were to be read at public ceremonies attended by both religious groups (Odahl, 1990, p. 53). The experienced orator was up to the task. Although he used the words and images of the pagan poetry and philosophy, they were sufficiently general and ambiguous to allow a Christian interpretation (Pan. Lat. IX 26.1). The speech was written in the spirit of the emperor's official announcements, while the emperor apparently liked the idea that the deity was addressed as *summa Divinitas* or *Deus summus*, for which the speaker said was ruling the whole world from the heavenly fortress. In the "Letter to Catholic Bishops in Arles" from 314 AD, Constantine addressed the deity precisely in this way, so it is believed that he was satisfied with the orator's religious notices and public performance of the panegyric from 313.

CONCLUSION

From all of the above, it can be concluded that the imperial speeches of the fourth century were a kind of political manifesto of the time in which they were written. The idea of different forms of imperial ideology were expressed through panegyrics, precisely in the panegyrics dedicated to Constantine, where the ruler was to be presented as the God's chosen, foretold to rule on Earth as his representative. Given the fact that, at the time these panegyrics were created, Constantine was still not an independent ruler and there were occasional clashes with the co-rulers, the panegyrics that belonged primarily to the propaganda genre were supposed to justify these actions and present them in a special manner. In the panegyric from 310 AD, the anonymous orator accomplished his goal: Constantine was not associated with

Maximinus' death, so he spoke only of his conspiracy, while his death occurred under unclear circumstances (Pan. Lat. VII 20.3-4). The emperor's vision in the temple of Apollo brought him closer to the cult of the Unconquered Sun most often equated with Apollo. In this way, Constantine was not separated from the pagan cults, which showed support for the pagans, but which was also an acceptable solution for the Christians because of the monotheistic properties of the cult of the Sun. With the death of Maximinus, Constantine severed his ties with the Hercules, and for the first time he derived his lineage from Claudius II Gothic in the panegyric from 310 AD and chose the Unconquered Sun to be his protector, a deity with the most monotheistic qualities. Thus, the emperor revealed the dynastic principle of heritage to the throne and for the first time publicly expressed his aspiration towards monotheistic rule.

The panegyric from 313 AD given in Trier was to celebrate Constantine's victory over Maxentius, whom the orator presented as a usurper. Constantine was to be praised and his successes were to be celebrated, because not only did he free Rome from Maxentius' oppression, but he also defended the Roman border on the Rhine. Hence, there were enough reasons for the creation of a panegyric. Using ambiguous terminology to refer to the deity, the orator was able to satisfy both the pagans and the Christians, but also the emperor himself, whose personal religious beliefs at the time could not be the subject of a publicly read panegyric. Constantine also agreed with this, because otherwise the orator could not deliver such a speech. The orators wrote for the emperor currently in power and read their panegyrics before him. Therefore, they were writing them with propagandist aims, celebrating and praising the emperor, highlighting his positive qualities and good deeds, and withholding anything that was negative.

REFERENCES

- Alföldi, A. (1948). *The Conversion of Constantine and Pagan Rome*. London: Oxford University Press.
- Barnes, T.D. (1981). *Constantine and Eusebius*. Cambridge, Massachusetts, and London, England: Harvard University Press.
- Barnes, T.D. (1982). *The new Empire of Diocletian and Constantine*. Cambridge, Massachusetts, and London, England: Harvard University Press.
- Bremmer, J.N. (2006). The vision of Constantine. *Land of Dreams, Greek and Latin Studies in Honor of A.H.M. Kessels*, 57-79. Leiden-Boston, Brill.
- Bomman, A., Garnsey, P. & Cameron, A. (Eds.) (2008). *The Cambridge ancient history vol. XII. The Crisis of Empire AD 193-337*. New York: Cambridge University Press.
- Ferjančić, S. (2014). Konstantinova paganska vizija u savremenoj historiografiji 20. Veka [Constantine's pagan vision in modern historiography of the twentieth century]. *Zbornik radova Antika i savremeni svet: tumačenje antike [Antiquity and Modern World: Interpretation of antiquity]*, (pp. 415-423). Belgrade: Bukefal E.O.N. Jones, A.H.M. (1949). *Constantine and the Conversion of Europe*. London: Oxford University Press.
- Jones, A.H.M. (1964). *The Later Roman Empire*. Oxford: Basil Blackwell.
- Krsmanović, B., Radošević, N. (2004). *Legendarne genealogije vizantijskih careva i njihovih prodica [Legendary genealogies of Byzantine emperors and their families]*. ZRVI XLI, 71-96.
- Leadbetter, B. (2009). *Galerius and the will of Diocletian*. London and New York: Routledge Taylor&Francis Group Lieu, S., Monteserrat, D. (1996). *From Constantine to Julian: Pagan and Byzantine Views. A Source History*. London-New York: Routledge.
- Liebeschuetz, J.H.W.G. (1979). *Continuity and Change in Roman Religion*. Oxford: Oxford University Press.
- Ljubomirovic, I., & Saranac-Stamenkovic, J. (2014). Odnos Konstantina Velikog prema paganstvu u pisanim izvorima poznorimske epohe [Constantine the Great's attitude towards paganism in written sources of the late Roman era]. *Nis and Byzantion, XII*, (537-543). Niš: Grad Niš, Niški kulturni centar.
- Ljubomirovic, I. (2013). *Prilog proučavanju Konstantinovog preobraćenja [An appendix to the study of Constantine's conversion]*. *Zbornik radova 1700 godina Milanskog edikta* (pp. 857-866). Niš: Pravni fakultet u Nišu.
- Mac Cormack, V. S. (1976). *Latin prose Panegyrics. Tradition and Discontinuity in the Late Roman Empire*. *Revue des études Augustiniennes*, 22, 1-2, 29-77.
- Mac Cormack, V. S. (1981). *The World of the Panegyrists. Art and Ceremoni in Late Antiquity*, 1-14.
- Mirković, M. (2014). *Dioklecijan [Diokletian]*. Beograd. Službeni glasnik.
- MacMullen, R.M. (1968). *Constantine and The Miraculous: Greek. Roman and Byzantine studies*, 9, 81-96. Cambridge, Massachusetts: Cambridge University Press.
- Nixon, C.E.V., Rodgers Saylor, B. (1994). *In Praise of Later Roman Emperors. The Panegyrici Latini. Introduction, Translation and Historical Commentary with the Latin Text of R.A.B. Mynors*. Berkeley-Los Angeles-Oxford.
- Nock, A.D. (1947). *The Emperor's Divine Comes*. *JRS* 37, 1-2, 102-116. Society for the Promotion of Roman Studies.
- Odahl, C. (1981). *The Celestial Sign on Constantine's Shields at the Battle of the Mulvian Bridge*. *Journal of the Rocky Mountain Medieval and Renaissance Association*, II, 15-28.
- Odahl, C. (1990). *A Pagan's Reaction to Constantine's Conversion-Religious References in the Trier Panegyric of A.D. 313*. *The Ancient world*, 21, 45-63., Chicago: Ares Publishers.

- 550 Radošević, N. (1994). Konstantin Veliki u vizantijskim carskim govorima [Constantine the Great in Byzantine Panegyrics], ZRVI XXXVIII, 7-18.
 Rodgers Saylor, B. (1980). Constantine's pagan vision. *Byzantion*, 50, 259-278.
 Sandys, J.E. (1974). *Latin epigraphy*. Chicago: Ares Publishers.
 Sutherland, C.H.V., & Carson, R.A.G. (Eds.). (1967). *Roman Imperial Coinage VI. From Diocletian's reform (294 AD) to the death of Maximinus (313 AD)*. London: Spink and Son.
- 555 Ullmann, W. (1976). The Constitutional Significance of Constantine the Great's Settlement. *Journal of Ecclesiastical History*, 27, 1-16.
 Warmington, B.H. (1974). Aspects of Constantinian Propaganda in the *Panegyrici Latini*. *TAPhA*, 104, 371-384.

560 PUBLISHED SOURCES

Codex Theodosianus libri XVI, ed. Mommsen-Meyer, Berolini 1905.
 Eusebius Caesariensis, *Historia Ecclesiastica*, *Ecclesiastical History*, translated by E. Schwartz, Leipzig 1908.
 Lucii Caecilii de Mortibus persecutorum liber vulgo Lactantio tributus, ed. J.L. Creed

565 **"The Augusti and Caesars Say":****Imperial Communication in a Collegiate Monarchy**

1. Introduction: the typology of the texts and the sources Roman emperors wrote or had written in their names a great many letters. An examination of imperial epistolography, however, faces a number of problems. First, emperors issued a range of pronouncements whose format and function cannot always be neatly demarcated. In particular, in the period I wish to discuss, the era of Diocletian and Constantine (284-337), the distinction between letters and edicts tends to become blurred and remains so throughout the late empire. It is not necessarily helpful, therefore, to consider only texts narrowly defined as epistolary. However, in a purely formal sense, letters are distinguished by containing a greeting to the recipient and a closing farewell, the latter usually in the emperor's own hand. Further, letters, when addressed to office-holders, often contain within them instructions regarding the dissemination of their contents, where appropriate. Edicts are general pronouncements directed at all under the authority of an office-holder (whether emperor or governor) and have an opening formula of the type, "the emperor says" (imperator dicit). Finally, private rescripts, that is replies to petitions from ordinary subjects (in contrast to replies to letters from office-holders), although addressed to the petitioner, lack formal greeting or farewell, and the emperor simply signs under it "I have replied" (rescripti). Approaches to the emperor on similar subjects might in different circumstances generate replies in different formats, since most citizens would be lucky to get a rescript (in Latin, even if they had petitioned in Greek), whereas cities or those of high rank would get a letter (in Greek, if they had written in Greek). Further, even on a single matter, the emperor might issue or there might be subsequently disseminated a range of interrelated documents of overlapping content in different formats.
- 570 The second key feature is the question of how texts are preserved. Much of the earlier Near Eastern material examined in this volume survives as original documents or even in original archives. From the Roman imperial period, letters and copy-books of lower administrators sometimes survive, as with the well-known Panopolis papyri from the reign of Diocletian, which represent archival copy-books of outgoing (September 298) and incoming (January-February 300) correspondence of the strategos of the Panopolite nome.
- 585 But we have no equivalent sources for the Roman emperors. Only one original imperial letter, with the emperor's hand-written valediction (of Theodosius II), survives from antiquity.
- 590 Thus, although there exists a mass of imperial letters and pronouncements of the tetrarchic and Constantinian periods, this is at several removes from the originals, since the emperors' words have been repeatedly recycled and re-edited through legal collections and the manuscript tradition. Even so, such collections are undoubtedly still of the greatest importance, the two most significant being the Codex Theodosianus (437) and Codex Iustinianus (534). Both these provide versions, edited to greater or lesser degrees, of numerous letters to officials (Dossier no. 2), while the latter contains in addition a great many private rescripts, also variously redacted, that are addressed to petitioners (Dossier no. 4). Other important material survives because collected for use as part of Christian debate and polemic (Dossier no. 3), often by contemporaries, as for instance by Eusebius, Bishop of Caesarea (d. 339) in his *Ecclesiastical History* and *Life of Constantine*.
- 605 As a result, in these types of Christian works a great deal of such material, where it was originally in Latin, survives generally only in Greek translation. However, the closest to imperial originals that we have are probably contemporary copies of
- 615

imperial letters and other texts surviving on inscriptions (Dossier no. 1), more rarely on papyrus. These can often be seen as part of a process of promulgation, although that does not necessarily mean that such texts are unmediated, and the epigraphic format and content are likely to reflect agendas other than, or in addition to, that of the emperor. Nonetheless, although not numerous, these inscriptions are of the highest importance for examining one of the most complex aspects of the epistolography of the tetrarchic period: namely imperial collegiality, where documents, in practice emanating from one ruler, are formally issued in the joint names of several.

When we consider the nature of the exercise of government by the emperors of the tetrarchic period we must recognize the key features of the Roman emperor's position that were already well established, but continued to be relevant from Principate to Dominate. Of the first importance is the fact that the emperor's power was absolute. Almost anything the emperor said or wrote in any context or manner had come to be regarded as having the force of law. Other forms of primary legislation fell into desuetude during the course of the Principate: first formal laws (*leges*) passed by the popular assemblies, which cannot be traced beyond the reign of Nerva (AD 96-98); then the Praetor's Edict, which ossified into a fixed form under Hadrian (traditionally AD 131); finally decrees of the Senate (*senatus consulta*), which ceased to be legally significant from the time of the Severans.

The emperor's overriding power made them all redundant. As enunciated by the classical jurists, this meant that authoritative imperial constitutions came in a wide variety of formats.

There were edicts, which were general declarations aimed not at specific persons but at provinces or even the whole empire. There were speeches to the Senate, which had in essence replaced *leges* and *senatus consulta*. Then there were *mandata* issued to governors as standing instructions. There were letters of many types, most often addressed to office-holders or cities, but also to individuals of high rank, usually in response to other letters or embassies received from them. There were decrees and judgements issued for various types of hearings or public occasions. Finally, there were *subscripts* or private *rescripts*, issued in response to petitions from individuals, often people of no particular rank or status.

2. The responsive ruler and his *rescripts*

This brief summary highlights a second key feature. The most formal of the above types, those closest to deliberate acts of primary legislation, such as edicts and orations to the senate, seem to have been relatively rare. Instead, the manner of government can to a very great extent be characterized as one of "petition and response." Emperors most often issued pronouncements because they were asked to do so. Thus there were officials charged with processing the incoming material and creating the outgoing replies, namely the Masters of Letters, of Greek Letters, and of Petitions (*magistri epistularum*, *epistularum Graecarum*, *libellorum*). There is no official known to have been specifically in charge of edicts, unless perhaps it was the Master of Memory (*magister memoriae*).

This responsive style of government had both virtues and vices. An ideology of beneficence meant that petitioners expected favours to be granted and victory in legal cases to be assured. Certainly our typical epigraphic evidence from cities under the Principate is one of favour bestowed and continually renewed. However, emperors do indeed turn people down, though the disappointed are unlikely to advertise the fact.

Yet too often the emperor granted an exceptional favour. Of course, any legal system needs a certain degree of flexibility, allowing for occasional derogation or dispensation from the law.

But this was where the emperor's enormous constitutional power became a problem, threatening to undermine legal stability by creating permanent, if unintended, modifications. Once the emperor's words were out there, they turned into a loose cannon. It is important to remember that the citizens of a state should not be regarded as simply passive consumers of law, people upon whom law is imposed. For many people, a legal text was an opportunity, and a text with the emperor's authority behind it was best of all.

Private *rescripts* were not sent to individual petitioners, but were usually posted in batches outside the emperor's residence. The recipient or someone on their behalf would take an authenticated copy and then make what use of it they could. The most famous example is that of the villagers of Scaptopara in Thrace, who set up a monument to their legal struggle against improper exactions, a prominent feature of which was the *rescript* addressed to them by Gordian III dating to December 238. This bland document said little, and that little was somewhat unhelpful: Imp(erator) Caesar M(arcus) Antonius Gordianus Pius Felix Aug(ustus) uikanis per Pyrrum mil(item)

conpossessore[m]. Id genus qu[a]erellae praecibus intentum an ue[rum sit deb]et
 685 iustitia praesidis potius super his quae adlegabuntur instructa discingere quam
 rescripto principali certam formam reportare debeas.
 The emperor Marcus Antonius Gordianus, dutiful, fortunate, Augustus to the villagers
 through Pyrrhus, soldier and fellow-owner: With this kind of complaint submitted in a
 petition, the governor's sense of justice, being informed about what will be alleged,
 690 should decide whether it is true, rather than that you should take home a specific
 decision embodied in an imperial rescript.
 However, the simple fact that their Praetorian fellow villager had successfully
 impetrated the rescript from the emperor on their behalf was enough for them (or even
 him) to wish to emphasize it. Thus they not only erected a monument, but utilized the
 physical layout of the inscription upon it, so that the details of the rescript and
 695 its authenticated text were in larger Latin script at the top and bottom, framing the
 intervening Greek.

3. Recycling rescripts

However, it was not only the intended recipient who could copy a rescript. Anyone
 interested might do so. For this reason, it is this type of imperial pronouncement
 700 which caused the most worry to jurists and emperors. Although favours were being
 continually granted, and the pressure to do so was very great, the view taken was
 that a rescript was intended to apply only in the case for which it was issued. It
 was not supposed to provide a precedent.
 This, however, was difficult to control. Diocletian even ruled that rescripts
 705 containing exceptional derogations needed to be accompanied by a second imperial
 document, an adnotatio, certifying the grant (Cod. Iust. 8, 47, 5). Yet the case for
 which he made this ruling, in which he allowed a woman as solace for losing her own
 children to adopt her step-son, which was supposed to be legally impossible (as the
 rescript itself stated), did in fact set a precedent.
 710 The text was included in subsequent legal collections, and, although it still
 required an imperial grant, this became accepted procedure.
 A single documented exception thus allowed the creation of a precedent, albeit
 somewhat bounded. Emperors, in wishing to exercise beneficence, were caught between
 the need to ensure the stability and predictability of legal rules on the one hand
 715 and their unlimited constitutional power with its potential for law-distorting
 flexibility on the other. There were continual attempts, therefore, to make sure both
 that rescripts and adnotationes were not corruptly issued and that they applied only
 for the individual case in question. Yet rescripts were imaginatively recycled, and
 not necessarily for the purposes for which they had been granted. A famous example is
 720 Constantine's rescript on prescription of long time (praescriptio longi temporis),
 issued to a decurion called Agrippinus in the late 320s or early 330s, although it is
 only known in a Greek translation quoted in later court proceedings:

Our masters Constantine Augustus and Constantine and Constantius most noble Caesars
 to the decurion Agrippinus: It is our pleasure that consideration be taken also of
 725 the length of the possession to the extent that, if it is established by inquiry from
 them that the property(?) with which the investigation is concerned has been held for
 forty years, not even the grounds of the possession be investigated. It is our
 pleasure moreover that, since legal grounds of possession are necessary(?) only for
 prescription after ten or twenty years, the present holder be awarded the protection
 730 of the court (...)
 This enunciates the rule that possession of property would be unchallengeably secure
 after forty years.
 Although we do not know the details of the case or whether Agrippinus was the
 property holder in question, it seems to have been intended to protect possession.
 735 But in 339 it was used in a court hearing to force two long-time possessors to keep
 some land and its associated tax burdens. Thus it acted to the possessors' detriment.
 What is perhaps surprising is that no-one in the court challenges the authenticity of
 the rescript. It is accepted without demur.
 In the third century, at least, rescripts remained highly desirable and indeed
 740 collectable.
 They tended to be short and to the point, and so served to clarify and reinforce what
 the legal rules were supposed to be or what exceptions were possible.
 One never knew when an imperial rescript might come in handy.
 All the more so as Caracalla's universal grant of citizenship in 212 had made almost
 745 all free persons in the empire into Roman citizens, subject in theory to Roman law,
 about which most will have been largely ignorant. However, they were perhaps willing
 to be informed, especially if it might be to their advantage.
 Thus the desire for rescripts reached its apogee under Diocletian in the 290s with
 the compilation of the Gregorian and Hermogenian Codes. Neither work survives today

- 750 and only recently have even fragments of a manuscript of the Gregorian Code been identified.
Assumptions about them are thus based mainly on their reuse in later legal works. As far as we can tell, both codes consisted primarily of imperial rescripts arranged under thematic titles. Hermogenian was Diocletian's Master of Petitions and, later, 755 praetorian prefect, and his code seems to have consisted almost entirely of private rescripts which he had him-self composed for Diocletian in the years 293 and 294. It was published in a single book in 295 or not long thereafter.
Despite Hermogenian's closeness to the imperial court, it is far from clear that his code was in any formal sense official. After all, it is named after himself as a 760 jurist, even though containing nothing but rescripts of the emperors. It is even less clear with the Gregorian Code, published also in the mid-to-late 290s. The scope of the Gregorian Code was much greater than that of the Hermogenian, as it contained material from Hadrian down to the 290s and was arranged over at least thirteen books, perhaps fifteen. Its shadowy author may have been operating outside the court and so 765 perhaps had to rely to a considerable extent, at least for his contemporary material, upon rescripts and occasionally letters and edicts that had been publicly posted and copied. However, it has been proposed that he too served as Master of Petitions and even enjoyed access to older archives in Rome.
What is remarkable is that texts originally issued by emperors to individuals at 770 their own request and for their use alone ended up having the equivalent of a mass (re)promulgation, and without this apparently being formal imperial policy.
4. Imperial collegiality under the First Tetrarchy
The timing of the Hermogenian Code, however, is fortuitous, if not suspicious. Consisting as it did solely of rescripts of the emperors in the newly formed imperial 775 college of the First Tetrarchy (inaugurated on 1st March 293), it furnished a legal collection that was, as I have noted on previous occasions, "wall-to-wall" tetrarchs. This brings us to another key feature of the tetrarchic period and the manner in which imperial texts were communicated: namely imperial collegiality. There was already a long tradition of emperors sharing some or all of their powers and titles. 780 Augustus had shared the tribunician power, and full co-emperors went back as far as Marcus Aurelius and Lucius Verus (161-169). When Diocletian established himself as sole emperor in 285, he appointed a close companion, Maximian, as first Caesar, then Augustus. Later, in the face of military overstretch, two Caesars were appointed in 293, forming what we call the First Tetrarchy. The immediate purpose was to allow the 785 imperial presence in four places at once, and the 290s saw simultaneous military crises being managed concurrently and successfully. The imperial succession was also assured. Since neither Augustus had an adult son, it was their sons-in-law who were the new Caesars, thereby designated as successors in advance, ready to be promoted from Caesar to Augustus when circumstances dictated.
790 The effects of such collegiality on imperial communication are in one sense absolutely clear. Formal pronouncements were made in the names of all members of the imperial college.
This was already standard practice and continued to be so throughout later Roman and indeed Byzantine history.
- 795 One of the best physical manifestations of this under the First Tetrarchy is the heading to the Egyptian copy of the Prices Edict of 301, which, despite being incomplete, lists all four members of the imperial college with their full titles.
(1) [Imp(erator) Caesar C. Aurel(ius) Val(erius) Diocletianus p(ius) f(elix) inu(ictus) Aug(ustus) po]nt(ifex) max(imus)
800 Germ(anicus) max. VI Sarm(aticus) max. IIII Persic(us) max. II Britt(annicus) max. Carpic(us) max. Armen(icus) max. Med-ic(us) max. Adiabenic(us) max. trib(unicia) p(otestate) XVIII co(n)ss(ul) VII imp. XVIII p(ater) p(atriciae) proco(n)ss(ul). ♦ et
Imp. Caesa[r] M. Aurel. Val. Maximianus p.f. inu. Aug. pont. max. Germ. max. V Sarm.
805 [max. IIII Persic. max. II]
(2) [Britt. max. Carpic. max. Armen. max. Medic. max. Adiabenic. max. tri]b. p. XVII coss. VI imp. XVII p.p. procoss. ♦ et
Fla(uius) Val. Constantius Germ. max. II Sarm. max. II Persic. max. II Britt. max. Armenic. max. Medic. max. Adiabenic.
810 max. trib. p. VIIII coss. III nobil(issimus) Caes(ar) ♦ et G(alerius) Val. Maximianus Germ. max. II Sarm. [max. II Persic. max. II]
(3) [Britt. max. Carpic. max. Armenic. max. Medic. max. Adia]b. max. trib. p. VIIII coss. III nobil. Caes. DICVNT Fortunam rei publicae (...)
- 815 The complete lines would have been very long (300 letters) and there is a large lacuna before the edictal DICVNT, with another somewhat less large lacuna after it. In particular, victory titles are shared between the princes. A victory won by any

member of the college added to the titulature of each of his colleagues. This feature appears to have reached its highpoint at precisely this moment, since such complete collegiality of titulature does not seem to have lasted beyond 305. Not all documents were necessarily prefaced by such extensive titles, but collegiality was always maintained. References in the papyri and even martyr acts refer routinely to the orders of the Augusti and Caesars. Governors and other officials seem to have been fairly scrupulous in observing these formalities. Thus, since in theory official acts and pronouncements were not those of one ruler, but of four acting in harmonious concert, the manner in which they were issued, circulated, and displayed consistently reflects this collegiality. Indeed, even the physical display of sets of milestones or groups of statues, for instance as incorporated into monumental tetrapyla, could be used to emphasize the nature of fourfold rulership.

The constitutional details behind this façade are more difficult to reconstruct. It is not clear that each member of the college had the same authority to issue pronouncements on behalf of the entire college. Of course, like any governor, they should have been able to issue edicts, write letters, and reply to petitions. Indeed, there was little point in having four rulers, if each could not provide a focus wherever he happened to be in residence. But whether each document issued was imperially authoritative and always bore the names of the four tetrarchs is uncertain. An Augustus probably could and did issue all types of pronouncement. There is some rather limited evidence for Caesars issuing rescripts and writing letters.

Tim Barnes has argued, although he is not the first to do so, that Caesars could not issue collegiate edicts, and he has suggested that the famous Damascus incest edict of May 295, which on logistical grounds ought to have been issued by Galerius as Caesar, was in fact issued by Diocletian from Demessus near the Danube frontier. A further point is that Caesars did not at this time have praetorian prefects, the most important officials after the members of the imperial college, but what practical effect this had on a Caesar's administration is unknown. Yet the prefects mirrored the emperors and themselves acted as a college, something which continued down even to the sixth century.

What is clear is that Diocletian, as the senior member of the college, had an overriding authority and issued measures designed to apply empire-wide. Further he did on occasion deal with governors or petitioners from areas under the immediate supervision of Maximian, suggesting that people in these territories did not always approach Maximian automatically.

Thus most famously Diocletian issued a letter from Alexandria in reply to a query from the proconsul of Africa about the Manichees, in 297 or 302. But to say that the senior emperor had an overriding authority does not clarify what authority his colleagues had, at least in their immediate areas. It is notable that both the Gregorian and Hermogenian Codes contained some limited material which must have emanated from courts other than that of Diocletian.

Before the abdication in 305, Diocletian's prestige enabled him to exercise considerable control over his new tetrarchic creation. Even here, however, it is not obvious that the measures he promulgated as senior ruler were consistently enforced. The effects of the first persecution edict against the Christians, issued at Nicomedia in February 303, can be seen rippling out to Palestine and then Africa. Yet it seems to have been applied only minimally in the territory of the Caesar Constantius in Gaul.

The fourth edict (304) does not appear to have been enforced in the west at all, as may also have been the case with the earlier Prices Edict (301).

5. Collegiality after Diocletian

Since this was the case even under Diocletian, the position after his abdication was much more fluid. I have myself recently argued, on the basis of a new interpretation of complex epigraphic evidence, that Galerius issued a series of important measures to rein in fiscal and other abuses in the summer of 305 shortly after his accession as Augustus, even though he was not the senior member of the college.

It seems clear that Galerius himself hoped to manage the college and the empire as had Diocletian and was anticipating that situation. Yet after the death of Constantius, the theoretical senior, in July 306, Galerius quickly lost control of events. Thus different rulers in different parts of the empire took rather different views of who were their colleagues and what were their relative ranks.

This is most elegantly expressed in an inscription from Heraclea Sintica in Macedonia first published in 2002:

Imp. Caes. Galerius Valerius Maximianus Pius Felix Augustos (sic) pont. max. Germ. m. VI Sarm. m. V Pers. m. II Brt. m. Carp. m. V Arm. m. Med. m. Adiab. m. trib. p. XVII imp. IIII p.p. proc. et Galerius Valerius Maximinus Sarmaticus nobilissimus Caesar.

- 885 salutem dicunt IIIIuiris et decc(urionibus) Heracleotarum.
In this letter, datable to the first months of 308, Galerius as Augustus and Maximinus as Caesar address the town council, granting the community proper city status. The formal heading, which lists Galerius's full titles, with something more attenuated for Maximinus, shows that at this point, as a result of usurpation
- 890 (Maxentius and Maximian), defection (Constantine) and death (Severus), Galerius no longer recognized any rulers from the western portion of the empire as legitimate members of the imperial college.
Such collegiate tensions continued until Constantine's victory over Licinius in 324, and can be further illustrated by the fate of Licinius's letter on military privilege
- 895 in the copy known from Brigetio, issued in June 311.
This bronze copy was originally prefaced only with the phrase Exempl(um) Sacra(rum) Litterarum, as in the Durostorum copy, which latter carries just the abbreviation E S L and otherwise lacks all other diplomatic elements.
The Brigetio letter carries a greeting to Dalmatius, the commander or other official
- 900 to whom the original of this copy had been addressed: Haue Dalmati, carissime nobis. The letter concludes with the imperial signature, marked in the epigraphic text thus: Et manu diuina:
Vale Dalmati, carissime nobis.
This is followed by the date: Diuo Maximiano VIII et [[et d(omino) n(ostro) Maximino
- 905 Aug. II.]] coss.
IIII Idus Iunias Serdica [10th June, 311, at Sofia].
- In theory, Licinius, the issuer of the letter, whose "divine hand" wrote the farewell, would have been third in the collegiate line-up after Maximinus and Constantine. Following the death of Galerius in late April or early May 311,
- 910 Maximinus, who had been in the imperial college the longest (since 1st May 305), should have become the new senior emperor.
Licinius himself, who had been appointed by Galerius straight to the rank of Augustus in November 308, when Maximinus was still only Caesar, had been at that time second in the college. Subsequently, the elevation of all members of the college to the full
- 915 rank of Augustus in 310 (Lactant. De mort. pers. 32) meant that Licinius, being the newest arrival, was after a short delay demoted to last place.
However, the Brigetio tablet carries no titulature to reveal the collegiate line-up or to demonstrate Licinius's view of himself and his colleagues at that precise point in June 311. The letter was widely circulated to officials both military and civil
- 920 only in Licinius's Balkan territories, with orders for public display, the two copies which survive coming from Danube fortresses. After the defeat and death of Maximinus in 313, his name was erased from the consular date (indicated by the double brackets above). A heading showing the new imperial college of Constantine and Licinius was added thus:
- 925 Imp. Caes. Fla. Val. Constantinus p. f. in. Aug. p. m. tri. p. VII imp. VI cos. p.p. p.coss. et Imp. Caes. Val. [[Lici. Licinius]] p. f. in. Aug. p. m. tri. p. IIII imp. III cos. p.p. p.coss.
After Licinius's fall, his name too was erased. Despite the annulment of his acts by Constantine, this text remained valid and on display.
- 930 After all, it was still prefaced with the name of Constantine, even if he had not in fact issued it. Collegiality and conflict had some strange consequences.
6. Collegiality viewed from below
How did this affect practical administration and what did those in receipt of collegiate missives make of them? First, if documents were issued in the names of all
- 935 co-rulers, was it obvious who had actually issued them? Emperors had traditionally used the first person singular of themselves, as had their Republican predecessors as holders of imperium, which contrasts with the practice of Hellenistic kings. Although there is some sign of the majestic plural in the earlier third century, it seems to have been the almost continuous existence of imperial colleges thereafter which made
- 940 the plural normal, so that there was no reversion to the singular even in sole reigns, and the majestic plural became standard.
However, occasionally an emperor with colleagues will slip into the singular to emphasize his personal involvement, perhaps to indicate that it is his court to which matters must be referred.
- 945 The most remarkable case of this personal emphasis is in the letter of toleration for Christians and others issued by Licinius and posted up at Nicomedia in June 313.
This opens not only with the standard talk of the emperors claiming to exercise their providentia for the advantage and safety of their subjects, but with the emperors naming themselves quite explicitly:
- 950 Cum feliciter tam ego Constantinus Augustus quam etiam ego Licinius Augustus apud Mediolanum conuenissemus atque uniuersa quae ad commoda et securitatem publicam

pertinenter, in tractatu haberemus (...)

When with good fortune both I, Constantine Augustus, and I, Licinius Augustus, met at Milan, and gave consideration to all affairs that pertained to the public benefit and security (...)

This statement is of course very pointed, for Licinius' letter was issued precisely for the territories he had seized from the defeated but not yet dead Maximinus. At the time of the Milan meeting (February 313), Maximinus was at best barely a legitimate colleague, nor was he of course present. Further, his previous claim to senior status in the college had been voided, as the Senate, in probably its last constitutionally significant act, had voted the first place to Constantine shortly after the defeat of Maxentius in October 312.

Indeed, if any letters or edicts were issued at Milan, it is hard to imagine Maximinus' name being included in their headings at all. The Nicomedia letter thus emphasises both the facts of the past meeting and the present constitutional order. Of course, someone who petitioned or wrote to the emperor will have known with which ruler he was dealing, even though any documents presented should have been addressed to the entire college, at least as the petitioner understood it to be constituted. Similarly, any reply will have come in the names of all in the college as currently recognized by the individual prince who had been approached. However, the recipient need not, other than in a purely formal sense, attribute it to the college as a whole. Ammon of Panopolis talks optimistically of the power of a letter of Diocletian to trump all other claims in a dispute over a priesthood.

No colleagues are mentioned. Everyone in Panopolis will have remembered Diocletian's visit in 298, since an imperial visit was extremely rare, and that of Diocletian may have been the last.

No-one could have been in any doubt that it was Diocletian who had been petitioned by the conflicting interested parties and who had issued the letter in reply during his stay.

7. Proactive pronouncements

I have talked about "petition and response," a pattern still clear in the tetrarchic evidence. Yet the period seems to show a more proactive side to government, with fairly aggressive promulgation of imperial initiatives. There are several features of this which can be briefly delineated.

First, long Latin texts are circulated around Greek-speaking areas, probably a sign of Latin-speaking courts permanently resident in the Greek east for the first time, and of the fact that Roman law was now the law of everyone.

In fact previously emperors had tended to correspond with eastern cities in Greek and such aggressive Latin promulgation is a relatively short-lived phenomenon.

Even during this period, however, governors might publish an imperial Latin text with an explanatory edict of their own in Greek, or even commission a translation.

In the longer term, of course, Greek percolated into the higher echelons of the administration and eventually superseded Latin, although that is quite another story. Secondly, a highly rhetorical and moralizing style becomes prominent in edicts and letters. The style of imperial texts had always varied with both format and the personal idiosyncrasies of the officials writing them, so that even private rescripts, the most spare in nature, could be tinged with a particular official's rhetoric.

But, especially outside private rescripts, floridity now becomes the order of the day, as witness the Prices Edict preamble, the Damascus/Demessus incest edict (Collatio 6, 4), and indeed the rescript on the Manichees (Collatio 15, 3). Thirdly, the distinction of format between edicts and letters becomes blurred.

An imperial enactment could generate dozens of interrelated documents in both edictal and epistolary formats, often with overlapping or even identical content.

Unfortunately, we seldom have an imperial text in more than one form to test this, even if we know that it must have existed in others. One example is the dossier on the civic status of Orcistus.

Of the four items carved on their monument by the Orcistans, three interrelated items (petition, imperial adnotatio, imperial letter) date to 324/6. We can see how Constantine's letter to Ablabius as vicar of Asiana essentially marries the adnotatio to the Orcistans with details mirrored from the Orcistans' own petition.

Another more complex example is my proposed Caesariani dossier, issued by Galerius in the summer of 305.

There were three distinct texts. First there was a letter (the 1st Caesariani decree) directing officials how to act both now and in the future.

Copies of this, presumably largely identical, were sent to the praetorian prefects (that is of each Augustus, at least in theory), the financial officials (apparently just of the issuing Augustus, in this case Galerius) and the provincial governors. Then there were also issued at the same time two edicts, one restoring confiscated

- 1020 goods (the 2nd Caesariani decree) and one repressing accusations (the edictum de accusationibus).
This last edict is quite clear about the documents produced and their interrelationship as described in its concluding passage:
- 1025 Super his itaque omnibus tam ad praefectos nostros quam etiam ad praesides et rationalem et magistrum priuatae scripta direximus, quorum exempla alio edicto nostro subdita cuiusmodi legem statutumque contineat plenissime declaratur.
And therefore on all these matters we have sent letters (sc. the 1st Caesariani decree) both to our prefects as also to the governors, rationalis, and magister privatae, copies of which subjoined to our other edict (sc. the 2nd Caesariani
- 1030 decree) give the fullest exposition of what sort of law and statute it contains.
The inscribed copies of these various texts all come from territory under the control of Galerius (Achaëa, Asia, Crete, Epirus, Lycia, Paphlagonia). However, these cannot be narrowly interpreted as defining the only places where promulgation actually took place, as opposed to where governors or cities were motivated, perhaps out of self
- 1035 interest, to erect permanent copies. The Prices Edict, of course, is famous for being the imperial text known from the most epigraphic copies, more than forty.
However, here also the spread of find-spots shows that only a small number of provinces inscribed the text (Achaëa, Crete/Cyrene and Phrygia/Caria account for all but four fragments), and even then they did not always finish it (as was the case at
- 1040 Stratonicea, which expires in the middle of chapter 23).
Thus we may be seeing the limits of aggressive promulgation. After all, the uneven persecution of the Christians shows how much depended not on the senior emperor's will, but on the variable enthusiasms of his colleagues, of the local authorities, and even of would-be martyrs.
- 1045 Yet we also know that census decrees issued from the top to provincial governors could be enforced down to village level, as witness the work of the Syrian boundary commissioners (censitores), most of whose inscriptions are set up acknowledging the orders of the Augusti and the Caesars.
8. Epilogue
- 1050 Thus the tetrarchic period shows four important features of communication: first, the pattern of petition and response, which is crucial in the generation of imperial letters and other documents; second, the overlapping form and function of documents, which cannot always be neatly demarcated, as is especially true of intertwined dossiers; third, the limitations of proactive legislation and promulgation; and
- 1055 finally, the complexity and ambiguity caused by texts issued jointly by multiple co-rulers. This is perhaps the most notable feature in this period of ever-shifting patterns of cooperation and conflict between emperors.
I should like to end, therefore, with a strange, even whimsical, tale of collegiality reflected in the heading to yet another epigraphic letter.
- 1060 E(xemplum) S(acri) R(escripti)
Imp. Caes. Fl. Constantinus
max. Germ. Sarm. Got. uictor
triump. Aug. et Fl. Constantinus
et Fl. Iul. Constantius et Fl.
- 1065 Constans.
This is from the rescript issued to the city of Hispellum, allowing the Umbrians the right to celebrate their own festival without trekking to the regional capital, Volsinii, every year and also permitting the establishment of a temple to the Flavian gens. The rescript is most often dated to 333-335, and attributed to Constantine, with his three sons as colleagues. However, this is not the only possible dating of the rescript and its heading. An alternative, although not entirely new, interpretation has recently been advocated with typical forcefulness by Tim Barnes. According to Eusebius, there was a hiatus after Constantine's death on 22nd May 337, when the government carried on as if he were still alive, while the Caesars, with no
- 1075 Augustus left in the imperial college to promote them, yet not trusting each other's ambitions, waited and plotted. A massacre carried out in Constantinople before the end of June removed Constantine's half-brothers and most of their male relatives, including the Caesar Dalmatius. The three sons of Constantine finally met in Pannonia, where they were jointly proclaimed Augusti on 9th September.
- 1080 Thus the rescript can be viewed as issued by Constans, who names the city Flavia Constans after himself, while the text studiously avoids giving the three sons any title, so that they are neither Caesar nor Augustus. The only Augustus is Constantine, apparently writing a letter some weeks or even months after he was dead. I am not certain that this interpretation is correct. However, should it be so, then
- 1085 this is surely one of the more bizarre epistolographic consequences of imperial collegiality.

9. Dossier of documents

This dossier is designed to illustrate with full texts and English translations something of the nature of imperial communication in the third and fourth centuries. I provide examples of each of the four principal formats of pronouncement: a private letter, an official letter, an edict, and a private rescript. Further, each illustrates different aspects of the source material. Document 1 is from a contemporary inscription (not tetrarchic, but dating only a quarter of a century before Diocletian), in a partial Latin and a complete Greek version. Document 3, relating to the persecution of the Christians, is preserved in two contemporary Christian writers, one giving the original Latin, the other a Greek translation. Documents 2 and 4 are taken from the law codes, each having been first edited into an earlier code (the Theodosian and Gregorian respectively), before ending up re-edited into the Justinian Code more than two hundred years after their original issue. Documents 1 and 4, although technically different in format, are in fact very similar in subject matter and content, both reflecting individuals' attempts to avoid the heavy burdens or duties demanded of citizens. The edict, by contrast, reflects not only the rhetorical style typical of late antiquity, and the tendency to apologia surrounding confessional matters, but also the ambiguities in format that were eliding the distinctions of edict and letter.

1 An epigraphic letter: the rescript of Valerian to Apellas (May 258) [Feissel 2004a = AE 2004, 1402; this replaces older editions such as Petzl 1987:no. 604.]

I Latin text

[- - -] CAOON [- - -] KA [- - -]
 [Pr]op{p}<t>er quod magistratus harum ciuitatum
 in quibus te suggeris possidere agere curam
 [deben]t u<t> quod optime placuisse perspicitur perpetua
 obseruatione teneatur. Vale Apel<l>a carissime nobis.
 Data V Kal. Iun. Antiochi(ae).

II Greek text

...

Translation (composite):

Good fortune!

The emperor Caesar Publius Licinius Valerianus dutiful fortunate Augustus and the emperor Caesar Publius Licinius Gallienus dutiful fortunate Augustus and Licinius Cornelius Valerianus most noble Caesar to their Julius Apellas, greeting!

It is not in doubt that established rules are also in this matter to be observed, in that there is to be no compulsion upon the houses of senators to be troubled by the need to provide billets. Therefore the magistrates of those cities, in which you say you have property, are to see to it that what is known to be a very fine decision is kept with continual observance. Farewell, Apellas, most dear to us!

Given at Antioch, on the fifth day before the Kalends of June (28th May 258).

This text from Smyrna is typical in both form and substance, but reflects also the needs of the recipient. Apellas is a senator seeking to affirm his immunity from compulsory billeting. A famous rescript of Severus and Caracalla on this matter dating to 204 is known from numerous epigraphic copies in Greek and Latin. Here likewise, the original letter was most likely in Latin, with Apellas inscribing it also in Greek to make sure the message was clear in the predominant literate language of his home territory.

However, it appears that the penultimate line of the Greek with its brief lacuna does not have enough space to convey the full sense of the Latin original.

Someone of lesser rank than Apellas, like the Scaptopareni villagers mentioned earlier (or Neo in example 4 below), would petition and, if fortunate, get a private rescript in reply, posted in the city where the emperor happened to be in residence. But Apellas, as a senator, can write directly to the emperors and receive a rescript that is epistolary. Whether he personally visited the imperial court at Antioch, or was able to use official channels (e.g. via the proconsul of Asia) is unknown. The reply is fully collegiate, being in the names of all members of the imperial college (Valerian, Gallienus, and Valerian junior), even though in fact it represents the decision of Valerian alone. It is brief and to the point.

2 An official letter from the codes: Constantine to Eusebius, governor of Lycia and Pamphylia (June 313 [311 or 312]) [Cod. Theod. 13, 10, 2 = Cod. Iust. 11, 49, 1] Idem (Imp. Constantinus, in Cod. Iust.)

A. ad Eusebium u(irum) p(erfectissimum), praesidem Lyciae et Pamfyliae. Plebs urbana, sicut in Orientalibus quoque prouinciis obseruatur, minime in censibus pro capitatione sua conueniatur, sed iuxta hanc iussionem nostram immunis habeatur (Cod. Iust. ends here), sicuti etiam sub domino et parente nostro Diocletiano seniore

A(ugusto) eadem plebs urbana immunis fuerat. Dat. Kal. Iun. Constantino A. III et Licinio III Conss.

1155 The same Augustus to Eusebius, vir perfectissimus, governor of Lycia and Pamphylia. The urban plebs, as is also the rule in the provinces of Oriens, is not to be liable for its poll-tax in the census, but is to be considered exempt in accordance with this our command, just as the same urban plebs was also exempt under our lord and parent Diocletian, the retired Augustus. Given on the Kalends of June, in the
1160 consulship of Constantine Augustus for the third time and Licinius for the third time (1 June 313).

No text in the Theodosian Code records Constantine with a fellow Augustus as a colleague, and few mention his sons as Caesars, even though Constantine always had at least one colleague throughout his reign. Even as consul Licinius loses his title of
1165 Augustus, as in the subscript here. The Constantinian texts effectively conceal not just collegiality, but on occasion also the fact that a ruler other than Constantine was responsible for a measure. Several code constitutions were in reality issued by Licinius.

This measure, too, might appear to be Licinian, as an early act of beneficence after his occupation of Asia Minor following the defeat of Maximinus. However, the
1170 reference to Oriens and the fact that Diocletian is mentioned as still alive (he died c. December 312), makes Maximinus a far more probable issuer, either in June 311 (beneficence on occupying Asia Minor after the death of Galerius, to coincide with that year's census) or June 312 (a reward for petitions presented against the
1175 Christians).

The Justinian Code version is almost identical to the Theodosian version, but with the unnecessary clause about Diocletian removed.

3 An edict from Christian literary sources: Galerius' "palinode" (April 311)
1180 [Lactant. De mort. pers. 34, 1-35, 1 (Latin original); Euseb. Hist. eccl. 8, 17, 3-10 (Greek translation); cf. Rufinus, Historia ecclesiastica 8, 17, 3-10 (Latin retrotranslation from Eusebius' Greek). The Latin heading (omitted by Lactantius) is here recreated on the basis of Eusebius's Greek, with my own restoration of the missing Maximinus.]

1185 Imp(erator) Caes(ar) Galerius Valerius Maximianus <p(ater) felix> inuictus Augustus, pont(ificis) max(imus), Germanicus max. <VII>, Aegyptiacus max., Thebaicus max., Sarmaticus max. V, Persicus max. <III>, Britannicus max. II, Carpicus max. VI, Armenicus max., Medicus max., Adiabenicus max., trib(unicia) pot(estate) XX, imp(erator) XVIIIII, consul VIII, p(ater) p(atriciae), proc(onsul) <et Imp. Caes. Galerius Valerius Maximinus p(ater) felix inuictus Augustus, pont. max., trib. pot. VII, imp. VI, consul, p. p., proc.> et Imp. Caes. Flavius Valerius Constantinus p(ater) felix inuictus Augustus, pont. max., trib. pot. <VI>, imp. V, consul, p. p., proc. et Imp. Caes. Valerius Licinianus Licinius p(ater) felix inuictus Augustus, pont. max., trib. pot. IV, imp. III, consul, p. p., proc. {provincialibus suis salutem} dicunt: Inter cetera quae pro rei publicae semper commodis atque utilitate disponimus, nos quidem
1195 uolueramus antehac iuxta leges ueteres et publicam disciplinam Romanorum cuncta corrigere atque id prouidere, ut etiam Christiani, qui parentum suorum reliquerant sectam, ad bonas mentes redirent, siquidem quadam ratione tanta eosdem Christianos uoluntas inuasisset et tanta stultitia occupasset, ut non illa ueterum instituta sequerentur, quae forsitan primum parentes eorundem constituerant, sed pro arbitrio
1200 suo atque ut isdem erat libitum, ita sibimet leges facerent quas obseruarent, et per diuersa uarios populos congregarent. denique cum eiusmodi nostra iussio extitisset, ut ad ueterum se instituta conferrent, multi periculo subiugati, multi etiam deturbati sunt <et uariis mortibus affecti> (added from Eusebius). atque cum plurimi in proposito perseuerarent ac uideremus nec diis eosdem cultum ac religionem debitam
1205 exhibere nec Christianorum deum obseruare, contemplatione mitissimae nostrae clementiae intuentes et consuetudinem sempiternam, qua solemus cunctis hominibus ueniam indulgere, promptissimam in his quoque indulgentiam nostram credidimus porrigendam, ut denuo sint Christiani et conuenticula sua componant, ita ut ne quid contra disciplinam agant. per aliam autem epistolam iudicibus significaturi sumus
1210 quid debeant obseruare. unde iuxta hanc indulgentiam nostram debebunt deum suum orare pro salute nostra et rei publicae ac sua, ut undique uersum res publica praestetur incolumis et securi uiuere in sedibus suis possint.

Hoc edictum proponitur Nicomediae pridie kalendas Maias ipso (sc. Maximiano) octies et Maximino iterum consulibus.

1215 The emperor Caesar Galerius Valerius Maximianus, dutiful, fortunate, unconquered Augustus, Chief Priest, mightiest German victor 7 times, mightiest Egyptian victor, mightiest Thebaic victor, mightiest Sarmatian victor 5 times, mightiest Persian victor thrice, mightiest British victor twice, mightiest Carpic victor 6 times, mightiest Armenian victor, mightiest Median victor, mightiest Adiabenican victor,
1220 holding the tribunician power for the 20th time, imperator for the 19th

time, consul for the 8th time, Father of his Country, proconsul; and the emperor Caesar Galerius Valerius Maximinus, dutiful, fortunate, unconquered, Augustus, Chief Priest, holding the tribunician power for the 7th time, emperor for the 6th time, consul, Father of his Country, proconsul; and the emperor Caesar Flavius Valerius Constantinus, dutiful, fortunate, unconquered, Augustus, Chief Priest, holding the tribunician power for the 6th time, emperor for the 5th time, consul, Father of his Country, proconsul; and the emperor Caesar Valerius Licinianus Licinius, dutiful, fortunate, unconquered, Augustus, Chief Priest, holding the tribunician power for the 4th time, emperor for the 3rd time, consul, Father of his Country, proconsul

1225
1230 DECLARE:

Among all the other arrangements which we are always making for the advantage and benefit of the state, we had earlier sought to set everything right in accordance with the ancient laws and public discipline of the Romans and to ensure that the Christians too, who had abandoned the way of life of their ancestors, should return

1235 to a sound frame of mind; for in some way such self-will had come upon these same Christians, such folly had taken hold of them, that they no longer followed those usages of the ancients which their own ancestors perhaps had first instituted, but, simply following their own judgement and pleasure, they were making up for themselves the laws which they were to observe and were gathering various groups of people

1240 together in different places. When finally our order was published that they should betake themselves to the practices of the ancients, many were subjected to danger, many too were struck down. Very many, however, persisted in their determination and we saw that these same people were neither offering worship and due religious observance to the gods nor practising the worship of the god of the Christians.

1245 Bearing in mind therefore our own most gentle clemency and our perpetual habit of showing indulgent pardon to all men, we have taken the view that in the case of these people too we should extend our speediest indulgence, so that once more they may be Christians and put together their meeting-places, provided they do nothing to disturb good order. We are moreover about to indicate in another letter to governors what

1250 conditions they ought to observe. Consequently, in accordance with this indulgence of ours, it will be their duty to pray to their god for our safety and for that of the state and themselves, so that from every side the state may be kept unharmed and they may be able to live free of care in their own homes.

1255 (Lactantius' comment) This edict was published at Nicomedia on the day before the Kalends of May, during his (sc. Galerius's) eighth consulship and the second consulship of Maximinus (30 April 311])

This text shows several features typical of edicts of this period, especially the moralizing rhetoric and the need for imperial self-justification, the latter a particular feature of texts relating to the persecution and other Christian matters.

1260 It is, however, rather shorter than other examples, such as the Prices Edict preamble or the longer letters sent by Constantine. The imperial titulature, however, is given in full form, although as preserved by Eusebius it suffers from both deliberate omission and error in transmission. The most serious loss is the absence of Maximinus, who will have been damned by the time Eusebius wrote. It is notable that

1265 only four manuscripts include Licinius, as he too was damned and later editions of the Ecclesiastical History reflect his diminished status.

Unlike the Prices Edict heading quoted earlier, victory titles are only attributed to the senior emperor (Galerius). The Lactantian text should have derived from the original edict posted up at Nicomedia. However, Maximinus did not promulgate the

1270 edict in Oriens.

Therefore, unlike Licinius's letter ending the persecution in the East, which was initially promulgated at Nicomedia with another version later displayed at Caesarea, Eusebius's text of the edict must have been obtained by some other route.

1275 Although the text appears to be an edict, the heading in Eusebius, unless it represents mistranslation of the Latin, suggests an epistolary form greeting the provincials, typical also of Constantinian missives, and indeed the text itself refers to "another letter." This shows the confusing convergence of format at this period between edicts and letters.

A rescript from the Gregorian(?) and Justinian Codes: The tetrarchs to Neo (undated, but probably 293 or 294) [Cod. Iust. 7, 62, 7 with overlap in bold from the Fragmenta Londiniensia Anteiustiniana (Cod. Greg. 10, 11, ??)]

1280 Idem (sc. Imp. Diocletianus et Maximianus) AA. et CC. Neoni. <Hi>qui ad ciuilia munera {uel decurionatum uel honores} deuocantur, licet uacationem a principibus acceperint, si appellationis auxilio non utantur, consensu suo nominationem

1285 confirmant. Cum igitur ad munus uocatus appellaueris, apud praesidem prouinciae iuste appellasse ostende. [The subscript with the dating clause is lost]

The same Augusti and Caesars to Neo. Those who are summoned to civic obligations or to the decurionate or to magistracies confirm their nomination by acquiescence, if

- 1290 they do not invoke the assistance of an appeal, even though they have been granted exemption by the emperors. Since, therefore, you have been called to an obligation and you have appealed, show before the provincial governor that your appeal is well-grounded.
- 1295 This is a typical private rescript on a typical topic. It both states the law and indicates how this relates to the petitioner's circumstances. The petitioner's next step is suggested, but the rescript does not decide the issue one way or the other. The rescript survives principally through the version in the second edition (534) of the Justinian Code, and so is at least three removes from the original. The imperial titles of the First Tetrarchy are attenuated in the code format. A subscript date would have been present, but has been lost in transmission, nor is there any trace of it in the surviving London fragments. If the London fragments indeed derive from a copy of the Gregorian Code, this shows that the text was, in an earlier incarnation, present in that Code rather than the Hermogenian Code, which, comprising solely rescripts of 293 and 294, would otherwise have been the default option as the source for this rescript.
- 1300
- 1305 Comparing the overlapping text between the Justinian Code and the London fragments, the gap between the various fragments does not seem long enough to include the phrase "uel decurionatum uel honores," which most probably, therefore, is a Justinianic interpolation into the first edition of 529. It would have been designed to make the rescript more general and apply to a wider range of positions and duties than the
- 1310 civilia munera, which must have been the focus of the original petition and rescript.

See [\(PDF\) "The Augusti and Caesars say": Imperial communication in a collegiate monarchy](#)

The Value of the Stability of the Law.

A Perspective on the Role of the Emperor in Political Crises

- 1315 1 Emperors and Usurpers in Conflict in Late Antiquity
- The great Church father Augustine, speaking from the pulpit of the Tricilarum Basilica around 413, offered a comment on the Apostle Paul's passage Non regnet peccatum in vestro mortali corpore.□ The bishop of Hippo urged the people not to be overcome by the lust of the flesh, describing this situation as a civil war of the
- 1320 fifth century. Christians faced the conflict between flesh and spirit just as citizens of the empire faced the choice between a usurper, or tyrannus, and an emperor:
- Languor iste tyrannus est. Si vis te tyranni esse victorem, Christum invoca imperatorem.
- 1325 This disease is like a tyrant. If you want to defeat this tyrant, you shall invoke Christ the real emperor.
- Augustine's speech, in its imagery, had a direct connection with the daily life of Christian believers. The bishop's audience had experienced such a clash between a usurper and the emperor; for in that very same year, Heraclianus, comes Africae, had
- 1330 been declared hostis publicus.
- Usurpation was very frequent in the Late Empire, as depicted by the historical sources. Beside the list of triginta tyranni in the Historia Augusta,® Orosius mentions a catalogus tyrannorum in his Historiae adversus paganos when describing the usurpers Constans, Maximus, and Jovinus in the year 409. Furthermore, in Polemius
- 1335 Silvius' annotated Julian calendar in honor of Eucherius (Bishop of Lyon) of December 448, we find a copy of an enumeratio principum cum tyrannis, a list of Roman emperors and usurpers from Julius Caesar to Theodosius II and Valentinian III.
- Usurpation in Late Antiquity took diverse forms, ranging from emperors being declared enemies of the state to rebellious generals. Nonetheless, usurpation constituted a
- 1340 political problem, not only a military one, because the claimant wanted to be recognized as a legitimate ruler and acted as such.
- The opposition between an emperor and his rival for the title of Augustus had been a political matter since its genesis. Once such usurpers were suppressed, the legitimate emperors continued a propaganda war against their defeated opponents.□□
- 1345 Late imperial coinage celebrated the successes over the usurpers through depictions of the goddess Victoria promoting the triumph of the emperor.□ Monuments were another medium of representation for a legitimate ruler. The Senate built an arch at the foot of the Palatine to commemorate Constantine's victory against Maxentius at the Milvian Bridge; Theodosius I decided to erect an obelisk on the central spina of the
- 1350 hippodrome at Constantinople in order to celebrate his victory against the usurper Magnus Maximus.□ Finally, public ceremonies indicated the return of peace after the usurper's defeat.□ A triumph of Honorius in Rome in 416, for instance, symbolically ended the political crises caused by attempted usurpations in Gaul.

- 1355 In view of these various "imperial" manifestations, sharing an intent to reaffirm the emperor's legitimacy, a question arises: what did the law say? The war of a legitimate emperor against a usurper continued on an administrative and legal level. A usurper used the same legal forms as a legitimate ruler, because he usurparet imperium.□ For example, Eugenius appointed consuls and sent his officials to Africa, and he provided grain supplies as well.□ Usurpers typically also enacted a number of
- 1360 statutes and/or grants of beneficia and privilegia. Consequently, usurpation created a fracture in the legal order because emperors, after defeating their rivals, removed the effects that the usurpations had produced. The condemnation of a usurpation to oblivion was carried out with legal instruments. For the period that runs from Constantine to Theodosius II, imperial constitutions
- 1365 are the most vital witnesses of the actions taken by the emperors. On the one side, in public law, emperors professed to be restoring the status quo ante; in particular, they tended to order that enactments issued under the usurper should be nullified (rescissio actorum).□ On the other side, they tended to confirm all private legal acts which had been enacted during the time of "tyranny", because the danger of
- 1370 collapse in social and economic relationships had to be avoided. Even if different points of view emerge from public and from private law, imperial statutes show a consistent image of what constituted a legitimate ruler. As words of the emperor himself, constitutions are part of the ideological system centred on the figure of the emperor and made up of many different elements, for example rhetorical
- 1375 texts as Panegyrics or images on coins. All these objects and texts played a role in the representation and promotion of imperial power to the population of the Roman empire. By examining several constitutions from the Theodosian Code, I argue in this paper that the imperial statutes promote the emperor who has vanquished a usurper as the person who re-established order and protected the stability of the law.
- 1380 2 Annulling a Usurper's Legislation: Between Commands and Political Communication
Removal of a rival generally forced emperors and their administration to review the enactments that the usurper had issued. The question is not simple, as in some cases a usurper may have exercised power for a long period and over an extensive area. Constantine, to use an important example, had to solve such a situation after
- 1385 defeating Licinius, who had been Augustus for more than fifteen years. Constantine branded him a tyrannus—a term which defines a political enemy but also a usurper—in order to recast his own conquest of the East as a restoration of liberty and the rule of law. Constantine addressed an epistula to the praetorian prefect Constantius, ordering that all inhabitants should obey only his constitutions and the *vetus ius*
- 1390 because the constitutions and the *leges* of Licinius had been declared void, probably by an edictum previously issued:
Imp. Constantinus a. ad Constantium praefectum praetorio. Remotis Licini tyranni constitutionibus et legibus omnes sciant veteris iuris et statutorum nostrorum observari debere sanctionem. Proposita XVII kal. iun. Crispo III et Constantino III
- 1395 caess. conss.
Emperor Constantine Augustus to Constantius, Praetorian Prefect. All men shall know that the constitutions and laws of the tyrant Licinius are abolished and that the sanctions of ancient law and of Our statutes must be observed. Posted on the seventeenth day before the kalends of June in the year of the third consulship of
- 1400 Crispus and Constantine Caesars – May (December) 16, 324
The words used in the constitution are extremely clear. They communicate the point of view of the winner, who wants to show strength and authority. The existing body of law from then on included ancient law followed by the enactments of Constantine, while the constitutions of the usurper completely lost their power.
- 1405 The vacuum that was potentially created by the deletion of Licinius' laws was filled by the constitutions of Constantine, who connected his own legislation to the ancient law (*ius vetus*), thus creating a continuation of the legal order. The constitution, however, was less effective in practice, since the historical record has preserved many traces of Licinius the legislator. Moreover, coeval Christian sources confirm
- 1410 that Constantine abrogated only the enactments against the church. The proclaimed complete annulment of Licinius' legislation seems rather part of the political message of the Constantinian regime,❖□ absorbed in manipulating the past and celebrating a new vision of government.
The link between the emperor and ancient law (*vetus ius*), stressed in CTh. 15.14.1,
- 1415 was already expressed in an earlier constitution that Constantine issued in an analogous situation in 313, namely the overthrow of Maxentius. The arrival of Constantine in Rome was followed by a widespread promotion of his person, which had to counteract the city's preference for his rival. Constantine characterized his opponent as a tyrant, providing, at the same time, a revealing self-portrait in the
- 1420 role of liberator urbis.❖□ In this context of vilifying Maxentius, Constantine dealt with his enactments:

Idem a. Antiocho praefecto vigilum. Quae tyrannus contra ius rescripsit non valere praecipimus, legitimis eius rescriptis minime impugnandis.

Dat. VIII id. iul. Romae Constantino a. VII et Constantio caes. conss.

1425 The same Augustus to Antiochus, Prefect of the City Guard. We direct that if the tyrant issued any rescripts contrary to law, they shall have no validity, but his lawful rescripts shall not be impugned. Given on the eighth day before the ides of July at Rome in the year of the seventh consulship of Constantine Augustus and the consulship of Constantius Caesar. – July 8, 326; January 6, 313.

1430 In CTh. 15.14.1, Constantine referred to the “tyrant” Licinius’s enactments, *leges* and *constitutiones*. In the statute about Maxentius, the same oblivion was imposed on the imperial rescripts, i.e. the answers to petitions, that the usurper had pronounced “against the law” (*contra ius*).

1435 However, the acts of Maxentius were not abolished in their entirety, for Constantine ordered that the lawful rescripts were not to be challenged. It is important to focus on this decision, because the lawful rescripts received their validity not only because they complied with the *ius vetus*, but also because Constantine forbade opposition against them. The constitution thus points to an implied evaluation of what valid law is. Even if the usurper as illegitimate legislator has no competence
1440 to make law, and his acts must therefore be abolished, some of his rescripts may be granted existence because the legitimate emperor gives them a new life in the world of the law. The criterion that allows these rescripts to retain their validity is their adherence to the *ius vetus*. In other words, the non-existence of the usurper’s acts can be overcome by the connection between the *ius vetus* and the legitimate
1445 emperor; the former exists independently, the latter is the guarantor of the body of law in its entirety.

The sources show that the discourse linking the emperor and the *ius* found expression in various ways, even though in terms of semantics and ideology the range was quite narrow. The virtue of justice in the legitimate ruler is more intensely denoted as
1450 opposed to the iniquity of the usurper. For instance, in October 388, Theodosius I condemned every law and verdict that Magnus Maximus❖ had conceived during his usurpation:

[Imp. Valentinianus et Theodosius et Arcadius] aaa. Trifolio praefecto praetorio. Omne iudicium, quod vafra mente conceptum iniuriam, non iura reddendo Maximus
1455 infandissimus tyrannorum credidit promulgandum, damnabimus. Nullus igitur sibi lege eius, nullus iudicio blandiatur.

Dat. VI Id. Octob. Mediolano Theodosio a. II et Cynegio conss.

Emperors Valentinian, Theodosius, and Arcadius Augustuses to Trifolius, Praetorian Prefect. We condemn every decision which Maximus, the most nefarious of tyrants,
1460 conceived in his crafty mind and supposed that he should promulgate, thus rendering injustice instead of justice. Therefore, no man shall boast about any law or decision of the tyrant. Given on the sixth day before the ides of October at Milan in the year of the second consulship of Theodosius Augustus and the consulship of Cynegius – October 10, 388.

1465 Maximus was described as the most nefarious and the most monstrous of the usurpers.❖ He devised laws and judgments with a wily mind, and he supposed that he should promulgate them. In reality, according to Theodosius, he was not a legitimate lawgiver, he was a source of injustice: he did wrong, rather than making law (*non iura reddendo*). The strong language of the constitution made the abstract idea of
1470 justice appear in the figure of Theodosius. The emperor was the personification of this principle, and his authority took away all the effects of the usurper’s legal actions, in order that no-one could take advantage of any law or decision of Maximus. We can thus say that the usurper is the living sign of *iniuria*, i.e. the absence of the law, while the emperor is the source of the justice. The same characterization is
1475 adopted by the rhetor Pacatus. His panegyric dedicated to Theodosius has the usurper’s suppression as its major theme and shows a shared back-ground with the text of the constitution. While the usurper Magnus Maximus carries with him *perfidia*, *nefas*, and *iniuria*, the legitimate emperor is the one who gives *fides*, *fas* and *ius*:

1480 *Tecum fidem, secum perfidiam; tecum fas, secum nefas; tecum ius, secum iniuriam; tecum clementiam pudicitiam religionem, secum impietatem libidinem crudelitatem et omnium scelerum potremorumque vitiorum.*

On your side there was loyalty, on his, treachery; you had right on your side; he, wrong; you had justice, he injustice; you had clemency, modesty, religious scruple, he impiety, lust, cruelty and a whole company of the worst crimes and vices.

1485 Despite the technical legal contents of the laws, the style of the constitutions emulates the panegyrics and their persuasive purpose; the broad circulation of the edicts allowed the emperors to build a common and loyal consent to imperial authority among the population of the empire.□ The need for approval became more pressing when emperors had to support their legitimacy at the end of a political crisis, and the
1490 emphatic formulation of the enactments conveyed the idea of reinstating justice:

Omnia penitus amputentur, quae tyrannicum tempus poterat habere tristissima; universos ergo praecipimus esse securos.

All the most unhappy circumstances which the time of the tyrant could afford shall be abolished entirely. Therefore We command that everyone shall be secure.

1495 3 Safeguarding the Daily Life of the Empire's Inhabitants Erasing the usurper's actions in terms of public law, such as by abolishing constitutions or rescripts and removing officials who had collaborated with the tyrant, was bound to have severe repercussions. At the same time, however, emperors chose to confirm the validity of transactions by private citizens during the period of usurpation. During the reign of
1500 a usurper, people evidently concluded contracts, manumitted slaves, and litigated in the courts. In order to avoid the chaos resulting from cancelling all legal actions, emperors tried to mitigate the consequences of the *damnatio memoriae* by preserving the stability of the law.

1505 In November 352, Constantius II issued an edict to the population of the Roman provinces and to the people of Rome, after defeating Magnentius with his troops in the Battle of Mursa Major and forcing him to retreat back to Gaul. Even though the usurper was still alive at this time, the emperor wanted to reassure the inhabitants of the empire:

1510 Imp. Constantius A. et Constans C. ad universos provinciales et populum. Quae tyrannus vel eius iudices contra ius statuerunt, infirmari iubemus reddita possessione expulsis, ut qui vult ab initio agat. Emancipationes autem et manumissiones et pacta sub eo facta et transactiones valere oportet. Dat. III non. Nov. Mediolano Constantio A. V et Constante cons.

1515 Emperor Constantius Augustus and Constans Caesar to all the Provincials and the People. We order that all the regulations established by the tyrant and his judges contrary to law shall be invalidated. Possession shall be restored to those persons who were evicted, so that any person who wishes may litigate as from the beginning. But emancipations, manumissions, pacts, and compromises made under the tyrant, must remain valid.

1520 Given on the third day before the nones of November at Milan in the year of the fifth consulship of Constantius Augustus and the consulship of Constans – November 3, 352. At the opening of the constitution, the emperor ordered the invalidation of the regulations that Magnentius and his judges had established contrary to the law (contra ius). The emperor also decreed that possessions should be restored to the
1525 people who had been evicted. Next, however, he ordered that emancipations, manumissions, pacts and compromises that were made under the tyrannus were to remain valid.

1530 Valentinian decided to preserve the effects of the same legal acts, after commanding that any declaration of law and any decisions taken by judges appointed by the usurper Magnus Maximus should be cancelled:

[Imp. Valentinianus, Theodosius et Arcadius] aaa. Constantiano praefecto praetorio Galliarum ... Exceptis his tantum negotiis adque in sui integra firmitate mansuris, quae conventionibus pactisque finita sunt, si dolo metue caruerunt: his quoque pariter exceptis, quae donatio transtulit, emancipatio liberavit, contulit manumissio praemia merita servitutis, quia in his omnibus voluisse sat iuris est. Dat. XVIII kal. feb. Mediolano Timasio et Promoto vv. cc. cons.

1540 Emperors Valentinian, Theodosius, and Arcadius Augustuses to Constantianus, Praetorian Prefect of Gaul ... Only those suits shall be excepted and remain in their complete effectiveness which were terminated by agreements and pacts, provided that fraud and fear were absent. Those legal acts are likewise excepted whereby a gift was transferred, freedom was conferred by emancipation, or the reward of manumission was bestowed upon meritorious slaves, because in all such matters the intention is a sufficient law. Given on the nineteenth day before the kalends of February at Milan in the year of the consulship of the Most Noble Timasius and Promotus. – January 14,
1545 389.

Pacts and agreements, such as gifts, emancipations, and manumissions, were to be excepted from the sanction of invalidation, unless all these private agreements were the consequence of fraud and fear. Valentinian considered that these acts were effective because they were based on the will of the person who had concluded them.
1550 Sat iuris esse means that, even in a period where there had been no law because of the illegality of the usurper's reign, the citizens of the empire had preserved the respect for the rules, which were now protected by the emperor. The emperor, in this way, recognized that the people had continued to be free in regulating on their own their economic and domestic affairs.

1555 The opposite decision was taken when a usurper participated directly in the legal acts. Honorius, after suppressing the usurpation of Heraclianus and commanding his *damnatio memoriae*, ordered that grants of freedom were revoked and had to be redone because the usurper had influenced directly the will of the masters:

- 1560 Impp. Honorius et Theodosius aa. Hadriano praefecto praetorio ... Libertates quoque, quoniam certum est scelere eius sollemnitate consulatus esse pollutam, in melius revocamus, sciatque dominorum voluntas iterandum esse, quod illo auctore advertit stare non posse; semel tamen mutatae condicionis beneficium implendum esse praecipimus et ita repeti manumissionum consuetudines nunc iubemus, ut nullus sub hac occasione incipiat nolle quod voluit. Dat. III non. aug. Ravennae post cons. Honorii
- 1565 VIII et Theodosii v. aa.
Emperors Honorius and Theodosius Augustuses to Hadrianus, pretorian prefect, we also revoke for the better all grants of freedom, since it is certain that the legal formalities of the consulship were polluted by his criminality, and masters shall know that they must repeat their action, expressing their will, which they observe
- 1570 cannot be valid under his sponsorship. We direct, however, that the benefit of the changed condition of slaves must be fulfilled when the change is once made, and We now order that the customary rites of manumission shall be so repeated that no man under such pretext shall begin to unwilling that which he once willed. Given on the third day before the nones of August at Ravenna in the year after the ninth
- 1575 consulship of Honorius Augustus and the fifth consulship of Theodosius Augustus. – August 3, 413.
The manumissions that Heraclianus promoted personally or that were celebrated solemnly in front of him as consul were not the free and independent desire of the masters of the freed slaves, but were polluted by the criminality of the usurper.
- 1580 Heraclianus' presence during the ceremony undoubtedly affected the masters' behaviour. The usurper might also have leveraged the masters' fear to induce them to manumit their slaves, perhaps in order to conscribe them for his own troops. Honorius renewed the decision of his predecessor Valentinian (CTh. 15.14.8), and accepted that the intention of releasing someone from slavery was legally sufficient if it was
- 1585 independent from the negative and illegal authority of a tyrannus. When, on the contrary, manumissions were affected by the pernicious influence of the usurper, he ordered that the masters had to repeat the acts.
The respect of people's liberty in performing legal acts comes to light in another constitution of Honorius, dated about eighteen years before CTh. 15.14.13 to 21 April
- 1590 395:
Impp. Arcadius et Honorius aa. Andromacho praefecto Urbi. Valeat omnis emancipatio tyrannicis facta temporibus; valeat a dominis concessa libertas; valeat celebrata et actis quibuslibet inserta donatio; valeat deficientium omne iudicium; valeat universa venditio; valeant sententiae iudicum privatorum convelli enim iudicium non oportet—
- 1595 quos partium elegit adsensus et compromissi poena constituit; valeant conceptae sollemniter pactiones; valeant scripturae, quibus aut fides rerum aut ratio probatur aut debitum; valeant apud quemlibet habitae spontaneae professiones; valeat deposita super instituenda lite testatio; valeat impetratio iuris communium liberorum; valeat procuratio scaevae mandata temporibus; datus tutor vel curator optineat firmitatem;
- 1600 valeat in sponsam perfecta largitio; doli ac vis et metus inchoata actio in tempus legitimum perseveret; bonorum admissa possessio et adfectus adeundae hereditatis obtineat et interdicti beneficium non amittat; valeat in integrum restitutionis petitum auxilium; valeat vindictio ... identidem desiderata tribuatur; locatio et conductio inviolabilem obtineant firmitatem; interdicti beneficia tempora infausta
- 1605 non mutentur; postulata inofficiosi actio et inmodicarum donationum rescissio petita servetur; beneficia transacta non titubent; sacramento terminata permaneant; pignoris adque fiduciae obligatio perseveret. Stent denique omnia, quae in placitum sunt deducta privatum, nisi aut circumscriptio subveniet aut vis aut terror ostenditur. Funestorum tantum consulum nomina iubemus aboleri, ita ut his reverentia in lectione
- 1610 recitantium tribuatur, qui tunc in Oriente annuos magistratus victuris perpetuo sunt fascibus auspicati; tempus vero ipsum, ac si non fuerit, aestimetur, si quidem tunc temporis omnia aliqua praescriptio taciturnitatis etiam de illis, quae confirmavimus, non possit obponi.
Dat. XI kal. mai. Mediolano Olybrio et Probino cons.
- 1615 Emperors Arcadius and Honorius Augustuses to Andromachus, Prefect of the City. Every emancipation made in the times of the tyrant shall remain valid; all grants of freedom by masters shall remain valid; all gifts made and registered in any records shall remain valid; every will of deceased persons shall remain valid; every sale shall remain valid; the decisions of private judges, chosen by the assent of the
- 1620 parties and appointed under penalty of a mutual promise to abide by the award, shall remain valid, since judgments once rendered must not be disturbed; pacts that were formally made shall remain valid; written documents by which the trustworthiness of transactions or the reason there for or debts are proved shall remain valid; declarations voluntarily made before any person shall remain valid; attestations
- 1625 filed for the institution of suits shall remain valid; impetrations of special privileges that accrue to parents on account of their common children shall remain

- valid; procurator ships entrusted during the untoward times shall remain valid; the appointments of tutors and curators shall retain their validity; a completed gift to a betrothed woman shall remain valid; an action for fraud or one on account of violence and intimidation, when once instituted, shall remain effective during the statutory time limits; a grant of the possession of the goods of an inheritance and the expressed will to enter on an inheritance shall prevail, and shall not lose the benefit of the interdict; the aid sought for restoration to the original condition shall remain valid; vindications shall remain valid, and any such action often requested shall be granted; letting and hiring shall retain inviolable effectiveness; the inauspicious times shall not mutilate the benefits of an interdict; requested actions against inofficiosity and the petitioned rescission of immoderate gifts shall be preserved; completed benefits shall not waver; transactions terminated by an oath shall remain valid; the obligation of a pledge or a trust shall persist. Finally, every transaction shall stand firm which was embodied in a private pact, unless either circumvention entered therein or duress or intimidation is shown. We order that the names of the calamitous consuls only shall be abolished, but reverence shall be paid in the public recital of readers to those persons who at that time in the Orient administered the annual magistracies under Our ever victorious fasces. The very time of the tyranny shall be considered as though it had not been, since any prescription of silence omitted at that time cannot be brought, even in regard to those matters which We have confirmed. Given on the eleventh day before the kalends of May at Milan in the year of the consulship of Olybrius and Probinus. – April 21, 395.
- Addressed to Andromachus, praefectus urbis, this imperial enactment concerns the usurper Eugenius. Honorius preserved the effects of the legal acts performed by citizens during the usurpation. The emperor tried to cover all private law, and the constitution implied a very good knowledge of the praetorian edict, as the references of many of its institutions show. For contracts, both formal and informal, he listed e.g. sale, hire, agency, pledge and fiducia; for the law of succession, he cited the acquisitions of inheritance, the bonorum possessio, as well as the remedies of the heir; for the law of procedure, he remembered the litis contestatio and the in integrum restitutio; he did not forget the law of family, quoting emancipation, guardianship and gifts for marriage. The long list of legal acts ends with a general provision. The emperor recognized the validity of all acts that had not been indicated in the list and that were embodied in a private agreement (omnia, quae in placitum sunt deducta privatum), provided that they had not been concluded dolo or vi.
- The constitution then resolved the problem of the formality of the acts that was the result of deleting in the documents the names of the consuls appointed by the tyrannus. The nomen consulis was a necessary requirement for an act to be legally valid, and its importance is clearly evoked by John Chrysostom.® Yet, in the present case, the emperor decreed that the omission of the consuls' names did not invalidate the contracts and all the other private regulations. Using a fictio, he denied that the praescriptio was able to invalidate these agreements, which the authority of the legislator confirmed.
- From a political and ideological point of view, the constitution clearly states that there was a time of the usurper (tyrannicis temporibus / scaevius temporibus / tempora infausta), but that now the time of justice is back. Honorius wanted to erase the time of usurpation, tempus vero ipsum, ac si non fuerit, aestimetur: the time of usurpation must be considered as having never existed, as if no usurpation had ever occurred. However, asserting that the time of the usurpation had never existed threatened the certainty and the stability of relations between the individuals. For this, the emperor gave effect to all private acts, and he based this solution on his power, which was legitimately exercised. The emperor presents himself as the only one able to guarantee the existence and effectiveness of all the actions taken by the citizens during the time of usurpation. The repetition of the verb valeat stresses that the emperor assures the serenity and the prosperity of the empire and safeguards peace among the citizens.
- The idea that power is now legitimately exercised after the usurper's fall also emerges in the decision to ensure reverentiam in lectione recitantium only for legitimate consuls. In the courts of the empire, only the emperor's time would resound, while oblivion fell on the usurper's period. The same emperor emphasized this thought in CTh. 9.38.12, in which he released an act of grace for those awaiting trial and for the convicted. By celebrating the defeat of the usurper Priscus Attalus in 410, he affirmed that the state had been freed from tyrannidis iniuria, i.e. a period of no law (in-ius).
- Honorius' validation of private acts answers to the need to secure the trust of his subjects in imperial power and to strengthen the period of peace after the conflict with the usurper. By doing this, he protects the principle of legal certainty,

because the law is certain when the subjects can predict the consequences of their conduct and see the effects of their legal action maintained over time. This principle of law, adopted in the Roman legal system, is a constant in the political programme of all the emperors. For example, Marcianus, in a lex of 4 April 454, stated that he wanted to remove obscuritas and bring certainty to the laws: Si quid vero in iisdem legibus latum fortassis obscurius fuerit, oportet id imperatoria interpretatione patefieri, ut omnis sanctionis removeatur ambiguum et in suam partem iuris dubia derivare litigatorum contentio alterna non possit. If any regulation issued in the aforesaid laws should perhaps be rather obscure, it must be clarified by the interpretation of the Emperor. Thus the ambiguity of every sanction shall be removed, and the alternate contention of litigants cannot divert doubtful points of law to their own advantage.

4 The Emperor is also νόμος ἐμψυχος during Political Crises

This brief survey of texts has demonstrated how constitutions function as vehicles for the public advertisement of emperors' legitimacy after political crises caused by usurpation. Constantine and Theodosius emphasized that they restored the law, while the usurper was turned into the personification of the absence of any kind of order and justice. In addition, Valentinian and Honorius claimed that they were guardians of the stability of the rules by recognizing the validity of the legal acts of private citizens while they were subject to the power of the tyrannus. This account traced the connection between emperors and law, which characterized all legal experience in Late Antiquity. The power of issuing enactments was not simply a prerogative of the emperor, but became one of the essential features of his persona. In Late Antique imperial ideology the emperor was not only the source of the law but the law itself.® Libanius defines the emperor as master of the law, an expression which evokes the phrase τοῦ κόσμου κύριος, used by Antoninus Pius in answering the petition of Eudemone. Themistius, in his encomium, displays Theodosius as living law and superior to all the written rules.

The ideological system that the emperors manipulated to obtain the subjects' consensus survived also during usurpations, a period where rival claims of succession in the imperial power shook the routine of the empire's life. After the removal of the defeated enemy, the language of power, through imperial constitutions, aimed to convince all inhabitants of the empire that the triumph of the emperor restored the rule of law, which had been lost under the "tyranny" of the opponent. Legislation, connected to the communicative framework of the imperial regime, promoted in a very effective way the image of an emperor as legum dominus Romanorum, iustitiae aequitatis rector.

See [\(PDF\) The Value of the Stability of the Law. A Perspective on the Role of the Emperor in Political Crises](#), in O. HEKSTER-K. VERBOVEN, *The Impact of Justice on the Roman Empire*, Brill 2019, pp. 68-85