

The Code of Justinian

Book I

Concerning the Composition of a New Code

Emperor Justinian Augustus to the Senate:

We have determined, with the help of God, now to make a present, for the common good, of what appeared to many past emperors to require improvement, but which none of them, in the meantime, ventured to put into effect, and to make lawsuits less prolix by abbreviating the many constitutions, contained in the three Codes, the Gregorian, the Hermogenian and the Theodosian, as well as those which, after these Codes, were issued by Theodosius of blessed memory and other emperors after him, as well as those issued by Our Clemency, and by compiling, under our auspicious name, one Code, collecting in it the constitutions of the three aforesaid Codes, as well as the new constitutions subsequently issued.

1. And in order to do this great work, aimed at upholding the very state itself, we have chosen men equal to such tremendous work and so much care, namely, the excellent Johannes, ex-quaestor of our imperial palace, consular and patrician; Leontius, sublime master of the soldiers, consular and patrician; Basilides, excellent ex-praetorian prefect of the Orient, and patrician; Thomas, glorious quaestor of our imperial palace and ex-consul; the magnificent Tribonianus, decorated with the dignity of Master of Offices in active service; Constantinus, illustrious count of the imperial exchequer in active service, and master of the bureau of petitions and appeals; Theophilus, the honorable count of our imperial council and teacher of law in this noble city; Dioscurus and Praesentinus, learned lawyers in the court of the praetorian prefect.

2. We have given them special permission to cut out superfluous prefaces, so far as consistent with completeness of the laws, and all repetitions unless of aid in making divisions in the laws, and all contradictions and whatever has fallen out of use; to compose definite and briefly expressed laws out of the three codes, and the new constitutions, and put them under proper titles; adding and striking out, even changing words where the advantage of the subject matter requires it; to collect into one sanction provisions scattered through various constitutions, and to clarify the meaning. Provided that the order of the times of these constitutions shall clearly appear not only by adding the days and consuls, but also in their compilation itself, the older constitutions being put first, followed by later ones. And if there are any constitutions without day or consul, in the ancient codes or in those in which the new constitutions are collected, they shall be inserted in that manner and no doubt as to their general force shall arise from that fact, just as it is clear that rescripts¹ written to individuals or originally addressed as a pragmatic sanction² have the force of a general constitution and are included in the New Code on account of their usefulness.

3. We hasten, therefore, to bring these matters to your attention, so that you may know, how great is our daily solicitude for the common benefit, desiring that the constitutions shall in the future be certain, undoubted and collected in one code, which

¹ [Blume] Answers to letters or inquires.

² [Blume] An imperial decree or order or constitution addressed to a community, guild, municipality or other body of men concerning their public affairs.

shall be called by our auspicious name, and which only, in order to expedite decisions, shall be used in citing constitutions in any trial.
Given at Constantinople February 13(529).

Concerning the Confirmation of the Justinian Code

Emperor Justinian, the pious, fortunate, renowned victor and triumpher, ever Augustus, to Mena, the illustrious praetorian prefect, the second time, ex-prefect of this noble city and patrician. The supreme protection of the state resting upon two props, arms and the laws, and insuring its vitality through these sources, the fortunate Roman race has brought it about that it is preeminent above all nations and that it has dominated all in the past, as, with the aid of a propitious God, it will do in the future. Arms and laws have always flourished by the reciprocal help of each other; military affairs are safeguarded by the laws, as the laws themselves are maintained by the protection of the arms. We have, therefore justly turned our thought and labor to the primary props of the common welfare, and have in many ways and with much forethought improved military affairs, not only by re-establishing, but bettering, ancient methods in a short time, but also by inventing new ones and establishing them properly by provisions of our majesty, and that without additional public expense. The protection to our subjects by the laws has been made firmer, first by maintaining those already enacted, and second, by enacting new ones.

1. But since it is necessary, by abbreviating the multitude of constitutions brought down to us in the three ancient codes as well as those which were added in later times subsequent to the completion of these codes to lift the obscurity which hinders the decisions of judges, we have been earnestly bent on conferring, under God's leadership, a benefit on the state, and have entrusted this great labor, under certain fixed conditions, to chosen men of glorious rank, learned in the theory of the law, experienced in affairs, and with indefatigable and worthy purpose zealous on behalf of the state, by which labor we have directed the constitutions of the three ancient codes, the Gregorian, Hermogenian and Theodosian, and many other laws enacted after (the compilation of) these codes by Theodosius, of blessed memory, and by other past emperors after him, and by our clemency, to be collected into one Code, which is to bear our auspicious name, leaving out introductory statements which lend no force to the laws and contradictory constitutions annulled by a subsequent enactment, and repetitions, except those which, though enacting nearly the same thing, make some division in the law, in virtue of which, by dividing what is ancient, something new may seem to be introduced. Many other things, which pertain to the proper compilation of this Code, have by our majesty been entrusted to these learned men.

2. And the omnipotent God has given His help to our zeal for the welfare of the State. For this labor and for the completion of such great work were chosen the excellent Johannes, ex-quaestor of our imperial palace, consular and patrician; Leontius, sublime ex-praetorian prefect, consular and patrician; and Phocas, the eminent master of the soldiers, consular and patrician; and Basilides, the excellent ex-praetorian prefect of the Orient, patrician and now praetorian prefect of Illyria; and Thomas, the glorious quaestor of our imperial palace and ex-consul, and, indeed, Tribonianus, the magnificent,

decorated with the dignity of Master of Offices, in the active service; and Constantinus, the illustrious count of the imperial exchequer, in active service, and master of the bureaus of petitions and appeals; and Theophilus, the illustrious ex-master and teacher of laws in this noble city; and Dioscurus and Praesentinus, learned lawyers of the powerful forum of you Sublimity. They, with God's help, have, with sedulous and ever-watchful care and wise consideration, brought all things entrusted to them to a happy ending, and have delivered this new Justinian Code to us, composed in a manner so as to be of public advantage and worthy of our reign.

3. We have taken care that this Code, to last forever, should come to your knowledge, so that all litigants and learned lawyers may know that they will not be hereafter permitted, in lawsuits, to cite the constitutions of the three ancient codes, of which mention has already been made, or the hitherto so-called new constitutions, but it is only necessary to cite the constitutions inserted in our New Code. Persons who venture to violate these provisions shall be subject to prosecution for deceit (*falsi*), since a citation of these constitutions of our code, together with the labors of the interpreters of the ancient laws,³ suffices to settle all lawsuits, and no doubt can arise by reason of the fact that some of these constitutions are without day or consul, or that they are written to certain persons, since all of them have, without question, the force of a general constitution. Even if some of the constitutions are composed by subtracting, adding or changing certain words, which we specially permitted the aforesaid excellent men to do, we permit no one to cite them out of the books of the interpreters of the former law, differing from ours, but only the opinion of the interpreter of the law may be commended, and shall prevail only to the extent that it does not contradict the constitutions of our Code.

4. If any pragmatic sanctions have, perchance, been issued to cities, guilds, schools, bureaus, offices, or any person, which are not embraced in this our Code, they shall remain in force if they grant any privilege as a special favor, but if issued on certain (other) subjects, they shall only be valid if not contrary as to any constitution of our Code; and if any records (*regesta*)⁴ are found in the court of Your Highness, or in other civil or military courts or in the headquarters of the army, relating to public expenses or to any other state matters, these, too, shall remain in force, as the public advantage may demand.

5. Your illustrious and magnificent Authority will, therefore, in accordance with your inborn zeal for carrying out our orders, make the said Code known to all the people by customary edicts, and you will take care that the text of the Code, with our imperial signature, is sent into every province under our sway, so that the constitutions of our Code may thereby become known to all; and the recitation of the constitutions in our Code shall be made during the coming holidays, that is to say, from the 16th day of April on, of the present, seventh indiction, in the consulship of Decius (529).
Given at Constantinople April 7 (529).

³ [Blume] Reference is made to the Digest, sometimes called Pandects.

⁴ [Blume] These were the records of an official, according to Gothofredus, *Comm. on C. Th.* 9.28.14. The records here mentioned, were doubtless those that were made up from orders directed to the official, relating to expenses and other similar matters, and were more in the nature of orders rather than laws.

General Note

The law ordering the compilation of the various imperial constitutions was directed in 528 A.D. as seen by the first preface of the Code. A little over a year later, the compilation was completed, as noted from the date of the instant law. That was the first edition of the Code. Soon thereafter, the so-called Institutes and the so-called Digest or Pandects were being prepared, and were completed in 553 A.D. The preface to the Digest is also contained in this Code, as C.1.17, and should be read in connection with the instant law, and the next law. In the meantime Justinian made 50 new decisions and issued other constitutions, and he therefore directed the making of a second edition of the Justinian Code, which was completed in 534 A.D. as noticed by the next law, which relates to that edition.

It may be said here, that, as indicated in the foregoing laws, the term 'constitution' was given to any order or statement of the emperors which related to public matters and had the force of law. They frequently consisted of what are called rescripts, which were answers to letters or requests of private individuals or public officials. For a fuller discussion as to the various terms given to laws made by the emperor see headnote C.1.14.

Concerning the correction of the Justinian Code and the second edition thereof.

In the name of our Lord Jesus Christ, the emperor, Caesar, Flavius, Justinian, Alamannicus, Gothicus, Francicus, Germanicus, Anticus, Alanicus, Vandalicus, Africanus, pious, fortunate, renowned victor, triumpher, ever Augustus, to the senate of the city of Constantinople.

We have at heart, conscript fathers, to always have our thoughts earnestly intent on everything, so that nothing commenced by us shall be left imperfect. We proposed in the beginning of our reign to collect in one volume, and to purge of every fault, the imperial constitutions which were scattered through various volumes and which, through repetitions and contradictions, constituted a body of uncertain law. This collection was completed by eminent and learned men, and was thereafter confirmed by us, as our two preceding constitutions will show.

1. But after we came to consider the ancient law, we made fifty decisions and also promulgated many other constitutions for the betterment of the proposed work, and by which the greater part of the ancient laws was corrected and simplified; and all of the ancient law, freed from prolixity and difficulty, was put into our Institutes and Pandects.

2. But when our new decisions and constitutions, which were made after the completion of our Code, were found outside of the collection thereof, our care and consideration seemed to be demanded anew, especially since some of the laws, by reason of facts arising later, and after fuller deliberation, required some change and correction, and it appeared necessary to us to abbreviate them, distribute them into chapters, put them in the proper titles for completeness, and add them to the former constitutions, by Tribonianus, the excellent master, ex-quaestor, ex-consul, promoter of our legal work,

and Dorotheus, the magnificent quaestor and teacher of law at Berytus, and Mena, Constantinus and Johannes, the eloquent lawyers of the high court.

3. We have permitted the aforesaid magnificent and learned men to do all this, and if any correction should be necessary, to make it unhesitatingly, and in reliance on our authority; to omit, and discard from the collection of the former Code, superfluous constitutions, or those repealed by subsequent ones, or those similar to, or contradictory of, others; to complete imperfect ones; to clarify by the light of elucidation those which were enwrapped by obscurity, in order that not only the institutes and digests might be clear and intelligible, but that the light also of the constitutions of our Code might shine brightly for all, leaving no repetition, no contradiction and nothing obsolete, since it cannot be doubted that whatever has received the approval upon a second treatment (revision), must be considered sufficiently valid and suitable. We find of ancient books, not only first, but also second editions—called a “second reading” by the ancients—as the inquirer may readily learn in the books of the learned Ulpian on Sabinus.

4. When all these things were, therefore, completed according to our wish, and the aforesaid Justinian Code was, by the aforesaid glorious and eloquent men, delivered to us, purged and fair, they having omitted, added, filled in and recast provisions, according to our order, we ordered it to be rewritten, not according to the first composition, but according to its revision, and, it alone, so far as imperial constitutions are concerned, shall, pursuant to the authority of our Majesty, be consulted in all courts from the 29th day of December in our fourth fortunate consulship and in the consulship of the Honorable Paulinus, and no constitution outside of the collection of this Code shall be read, unless changing conditions should thereafter create new requirements, demanding our sanction. For if, of course, anything better is found in the future, which should be put in a constitution, such constitution will be issued and will be embodied in another collection to be designated by the name of New Constitutions (Novels).

5. We therefore repeat the order, that we permit no one hereafter to cite anything out of our decisions or constitutions made by us previously, or out of the first edition of the Justinian Code; but the contents of the present purged and revised Code, shall alone be in force and cited in all matters and in all courts. We have ordered that, as in the case of our Institutes and Pandects, all unintelligible signs shall be avoided, so that everything composed by us may be clear and plain in the writing therefore as well as in the enactment itself, although the size of this Code has thereby been greatly increased.

6. In order, therefore, holy and excellent fathers, that our labors may become known to you, and be effective for all time, we have thought it best to lay this law before your full assembly.

Given at Constantinople November 16 (534).