

## Introduction to Justinian's Novels

In 529 A.D., in order to harmonize and simplify centuries of Roman law, Emperor Justinian ordered the codification that became known as the *Codex Iustinianus*—the Code of Justinian. However, in the next few years he created many additional laws, and in 534 he incorporated these into a second edition of his Code that superseded the first. Only this second edition survives.

After 534, throughout the remaining years of his long reign (527-565), Justinian continued issuing laws to meet changing circumstances. These new “constitutions”—*Novellae constitutiones*, or Novels—never were compiled officially. Private manuscript collections were made of them in the East, though, and these collections appeared later in the West. In the 19<sup>th</sup> century, scholars made critical editions of the Novels that incorporated elements from the three major collections and from other manuscripts. (For a detailed history of the transmission process and the various compilations, see *The Creation and Transmission of Justinian's Novels* at the [Novels' History link](#) on this web site.)

In making the English translation set out here, Justice Fred H. Blume used the Latin version established in the best-regarded critical edition of the Novels—that of Schoell and Kroll, which is volume three in Mommsen, Kruger, Schoell and Kroll's *Corpus Juris Civilis*.<sup>1</sup> (Volume one contains the Digest and Institutes, volume two, the Code.) Schoell and Kroll's now-standard edition follows the Greek Collection of 168, which adds a group of 13 Justinian edicts after the 168 novels proper. Schoell and Kroll then supplement these with an appendix of nine more laws, found in other manuscripts, that are deemed by the bulk of scholarly opinion to be from Justinian. Blume also consulted the German translation of the Novels by Carl Friedrich Freiesleben and M. Robert Schneider that comprises volume seven in the German CJC translation by Otto, Schilling and Sintenis.<sup>2</sup>

In a letter of May 28, 1943 to Professor Clyde Pharr, Justice Blume wrote that: “[the] Novels are at present connected in my manuscript with the laws of the Code, inserting the various provisions thereof in connection with the laws of the Code which were modified.” Several months later, in another letter to Pharr, Blume further explained: “Some of the Novels were translated along with the translation of the Code, having a bearing on the subject dealt with in the latter...When these were translated the number translated was so great I thought it would be just as well to translate them all.” In other words, Justice Blume's translation of the Novels was

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<sup>1</sup> Theodor Mommsen, Paul Kruger, Rudolph Schoell & William Kroll, *Corpus Juris Civilis*. This set has gone through many editions. Blume used the 4th edition (1912) for his translation of the Novels.

<sup>2</sup> Carl Edward Otto, Bruno Schilling & Carl Friedrich Sintenis, *Das Corpus Juris Civilis* (1831-1839).

initially an adjunct, or byproduct, of his translation of the Code, which, like any good jurist, he wanted to have “as amended.”<sup>3</sup>

Unfortunately, the process of separating the Code-related novels from the Code sections they affected, and recreating a unified Novels translation, did not operate perfectly. Two whole novels (41 and 168) and four chapters (c. 14 of novel 17, chapters 7 & 8 of novel 128, and c. 1 of novel 159) went missing in Justice Blume’s compiling process. For the text of these missing provisions, I have filled-in mostly with S.P. Scott’s translation,<sup>4</sup> identifying it with italics. (For his translation, Scott used the less well-regarded Latin version of the Novels by Osenbrüggen from the Kriegel brothers’ edition of the CJC.<sup>5</sup> Moreover, Scott’s translation was generally not well received.)

However, in some of these chapters, and in a few other places, where Justice Blume’s translation was uncertain, I have suggested alternatives from two other sources. One of these is an original English translation from the Greek being created by David J.D. Miller and Peter Sarris to be published by the Cambridge University Press, parts of which Mr. Miller has generously shared with me. (He also helpfully noted typographical errors and omissions in the scanned version of Blume’s manuscript previously posted on this web site.) The other source I have used is a translation of Justinian’s edicts made by William Thurman as a dissertation in 1964.<sup>6</sup>

The publication of a massive body of work such as this is an ongoing process, and the editor appreciates contacts from readers concerning errors or ways in which the presentation might be improved.

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<sup>3</sup> Justice Blume’s handwritten notebooks include a table of Code provisions he thought were affected by later novels, edicts and appendices. I have augmented his [table](#) and reproduced it on this web site. Also posted on this site is a [table](#) novels, edicts and appendices showing what Code sections they affect.

<sup>4</sup> *Corpus Juris Civilis: The Civil Law*, (S.P. Scott trans., 1932).

<sup>5</sup> Albert Kriegel, Moritz Kriegel, Emil Herrmann & Eduard Osenbrüggen, *Corpus Juris Civilis* (14<sup>th</sup> impression, 1872).

<sup>6</sup> William Sims Thurman, *The Thirteen Edicts of Justinian, Translated and Annotated* (June 1964) (unpublished Ph.D. dissertation, University of Texas) (on file with Perry Casaneda Library, University of Texas).