

## Introduction: *The Code of Justinian, and its Value*

*The Code of Justinian, and its Value*<sup>1</sup> is a lengthy (102 pages, including appendices) paper written by Justice Fred H. Blume for the May 1938 meeting of the Riccobono Seminar of Roman Law. He read part of it at that meeting, but until now the paper has not been presented or published in its entirety.<sup>2</sup>

This invitation to present a paper before the Seminar in 1938 reflects Justice Blume's growing recognition at that time among Roman law scholars in the United States. In addition to having made presentations on Roman law to Wyoming Bar Association meetings in 1922 and 1930<sup>3</sup>, Blume had published an article on Roman law in the 1931 *TULANE LAW REVIEW*<sup>4</sup> and a review of Sherman's *EPITOME OF ROMAN LAW* in a 1938 issue of the *ABA JOURNAL*.<sup>5</sup> Blume had been using Roman law concepts in his Wyoming Supreme Court decisions for many years<sup>6</sup>, and his knowledge of Roman law was well enough known as early as 1929 for Dean John Wigmore to invite him to teach a nine-week summer course on that subject at the Northwestern University School of Law.<sup>7</sup>

Thus, it was not surprising that Justice Blume was asked to join the distinguished list of scholars who lectured at the Riccobono Seminar. The Seminar, which operated under the auspices of the Catholic University of America, was begun as the result of enthusiasm generated by lectures on Roman law given there by Dr. Salvatore Riccobono in the 1929-30 academic year.<sup>8</sup> The Seminar was organized in 1934<sup>9</sup> and appears to have functioned

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<sup>1</sup> In the manuscript, Justice Blume penciled-in beneath the typed title "its historical significance and legal value," apparently having had second thoughts about the descriptive value of his original title.

<sup>2</sup> A precise of the paper was published as: F.H. Blume, *The Code of Justinian and its Value*, 17 *Bullettino dell'Istituto di Diritto Romano* 416-421 (1938) (in a section titled *Conferenze Washingtoniane del Riccobono Seminar of Roman Law in America*).

<sup>3</sup> Fred H. Blume, *The Roman Lawyer*, 1922 WYO. BAR ASS'N. REP. 40 and Fred H. Blume, *Human Rights and Property Rights and other Facts in the History of Private Law*, 1930 WYO. ST. BAR ASS'N. REP. 67 (also published in modified form as Fred H. Blume, *Human Rights and Property Rights*, 64 U.S. L. REV. 581 (1930)).

<sup>4</sup> Fred H. Blume, *Legitimation under the Roman Law*, 5 *TULANE L. REV.* 256 (1931).

<sup>5</sup> Fred H. Blume, *Epitome of the Roman Law*, 24 *A.B.A. J.* 660 (1938) (reviewing Charles Phineas Sherman, *EPITOME OF ROMAN LAW* (1937)).

<sup>6</sup> For a discussion of Blume's use of Roman law in his court opinions, see Harold Evjen, *Rome on the Range: Roman law and Justice Blume of Wyoming*, *ZEITSCHRIFT DER SAVIGNY-STIFTUNG FUER RECHTSGESCHICHTE (ROMANISTISCHE ABTEILUNG)* 213 (1984).

<sup>7</sup> For a discussion of Blume's relationship with Wigmore and the later's invitation to teach at Northwestern, see Michael Golden, *Journey for the Pole: The Life and Times of Fred H. Blume, Justice of the Wyoming Supreme Court* (pt. 2), 28 *LAND & WATER L. REV.* 511 at 515-518 (1993).

<sup>8</sup> For a brief history of the Seminar, see Salvo Randazzo, *Roman Legal Tradition and American Law: The Riccobono Seminar of Roman Law in Washington*, 1 *ROMAN LEGAL TRADITION* 123 (2002).

<sup>9</sup> *Id.* at 126.

until the 1955-56 academic year.<sup>10</sup> Lecturers at the Seminar included Roscoe Dorsey, Fritz Schultz, A.A. Schiller, Hans Julius Wolff, and Charles Sumner Lobingier among many other noted scholars of Roman law.<sup>11</sup> Justice Blume wrote of his own presentation:

There were present at the meeting the three greatest law writers of America, Professor Beale, Professor Williston, and Col. Wigmore, and a number of Justices of the Supreme Court of the United States. The occasion was the celebration of the fiftieth anniversary of teaching by Professors Williston and Beale.<sup>12</sup>

The report on Blume's presentation lists Justice Pierce Butler of the U.S. Supreme Court, without noting other justices, but it also notes the presence of Professors Hessel Yntema (University of Michigan Law School), Frederick Sloovere (New York University Law School), and Albert Koccurck (Northwestern University Law School), who were well known scholars of Roman Law in the U.S.<sup>13</sup> After providing a summary of Justice Blume's paper, the report states that in the discussion following, Dean John Wigmore of Northwestern University Law School "...said it was truly inspiring to have heard Chief Justice Blume's paper."<sup>14</sup>

Hence, we are happy to be able to publish this survey by Justice Blume some 70 years after he presented it to the distinguished audience present in Washington, D.C. that day in May.

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<sup>10</sup> Summaries of its activities were published in Bullettino dell'Istituto di Diritto Romano until World War II, then in Seminar, a special issue of The Jurist, the Catholic University of America's law review. Seminar ceased publication with volume XIII, 1955-56 and listed only one paper as having been read in 1955 and one in 1956, whereas the norm had been one a month, from October through May when the Riccobono Seminar was healthy.

<sup>11</sup> Randazzo, *supra* note 7, at 134-140. Blume's address is noted at 138.

<sup>12</sup> Timothy Kearley, *Justice Fred Blume and the Translation of Justinian's Code*, 99 LAW LIB. J. 525, 550 n.165 (2007).

<sup>13</sup> Blume, *The Code of Justinian and its Value*, *supra* note 2 at 416.

<sup>14</sup> Id. at 424. Wigmore also referred to Justice Blume's translation of the Code, opining that it was "a great monument to his scholarship." Id. He went on to point out that "Another scholar, Dr. Scott, had succeeded in achieving publication of an English translation of the Code first, but Justice Blume had pioneered in this connection." Id.