

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

*The Code of Justinian, and its Value*¹ 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.²

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 1930³, Blume had published an article on Roman law in the 1931 *TULANE LAW REVIEW*⁴ and a review of Sherman's *EPITOME OF ROMAN LAW* in a 1938 issue of the *ABA JOURNAL*.⁵ Blume had been using Roman law concepts in his Wyoming Supreme Court decisions for many years⁶, 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.⁷

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.⁸ The Seminar was organized in 1934⁹ and appears to have functioned

¹ 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.

² A precis 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*).

³ 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)).

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

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

⁶ 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).

⁷ 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).

⁸ 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).

⁹ *Id.* at 126.

until the 1955-56 academic year.¹⁰ 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.¹¹ 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.¹²

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.¹³ 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."¹⁴

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.

Addenda

¹⁰ 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.

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

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

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

¹⁴ *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.*

Note 7, (¶ 3) in the last sentence, replace the cited URL for the NOVELS with:
<http://uwacadweb.uwyo.edu/blume&justinian/novels.asp>.

¶4, add as final sentence: This process is now complete, and Justice Blume's ANNOTATED JUSTINIAN CODE is available in full at:
<http://uwacadweb.uwyo.edu/blume&justinian/default.asp>.

Note 18, (¶9) add as final sentence: For a fascinating, detailed examination of how the CJC was transmitted from Justinian's time until around 1100, see CHARLES M. RADDING & ANTONIO CIARALLI, *THE CORPUS IURIS CIVILIS IN THE MIDDLE AGES: MANUSCRIPTS AND TRANSMISSION FROM THE SIXTH CENTURY TO THE JURISTIC REVIVAL* (2007). The authors challenge the received wisdom regarding the early dating for many CJC manuscripts. As to reconstructing an accurate version of the Code, the authors note that putting all of the constitutions into proper order was "a daunting problem that made reconstituting the Code a challenge unlike any other classical text." *Id.* at 146.

Note 38, (¶15) add as final sentence: For a description of the manuscripts Krueger used to create his edition, see RADDING & CIARALLI, *supra* note 18 at 136.

¶25, add as note 64a to penultimate sentence: Many other volumes contain revision date notes adjacent to titles; e.g., "Rev. 11/20/31." Most of the manuscript volumes also contain Blume's handwritten notes to himself on the inside back cover or on otherwise blank pages, listing laws about which he was unsure and usually noting problems encountered. Blume appears to have addressed these troublesome translations, as all these notes have checks beside them.

Note 84,(¶30) add as final sentence: The comments of the eminent Roman law scholar Salvatore Riccobono on Scott's translation are worth noting. He referred to it in his preface to the 1935-36 reports on the Riccobono Seminar. He admitted that he was "not acquainted with this work of Scott, which has enjoyed little dissemination in Europe..." Salvatore Riccobono, *Roman Law in the United States of America* (Preface of Salvatore Riccobono to the Reports [of the Riccobono Society] of 1935-1936) at 4. (Translated by Anscar Parsons, 9-page mimeographed document in Riccobono Seminar file, Catholic University Reference Files, ACUA Reading Room; copy on file with the author. Original Italian version in: Salvatore Riccobono, *Il Diritto Romano in America*, 15 BULLETTINO DELL' ISTITUTO DI DIRITTO ROMANO 314 (1936). However, Riccobono went on to critique Scott's translation anyway: "I can admit that in difficult points, whether these be corruptions or interpolations, the translation may seem faulty when compared with the results of modern criticism. I can admit, further, that the translator here and there encountered insurmountable difficulties in rendering the meaning of the text." *Id.* Presumably, these sentiments were ones he picked up from colleagues who had read Scott's translation. They seem to coincide with those of Pound and Pharr as described above. It also should be noted, however, that Riccobono went on to opine that the deficiencies he remarked upon "do not weaken the practical value of the translation...[for] the immediate and wider diffusion of this treasure of jurisprudence among the ranks, and especially for practical purposes." *Id.*

¶155, add new penultimate sentence: (It is interesting to note that at least two Roman law scholars in the United States mentioned this manuscript translation in their writings.^{153.5}

Note 165, (¶158) add as final sentence: A scanned version of *The Code of Justinian and its Value* is now available at: <https://uwacadweb.uwyo.edu/blume&justinian/code-and-value.asp>. For a description and 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).

¶158, add as the final sentence: Finally, it is worthwhile to note that Dean Wigmore referred to Blume's translation as "a great monument to his scholarship."^{168.5}

Note 194, (¶165) add at the end: The resulting collaborative translation will be published by the Cambridge University Press, with a target date of 2011.

^{153.5} See Sass, *supra* note 7 at 231, note 11 and SCHILLER, *supra* note 7 at 40.

^{168.5} *The Code of Justinian and its Value*, 17 BULLETTINO DELL' ISTITUTO DI DIRITTO ROMANO 416, 424 (1938) (remarks made by Dean Wigmore following Justice Blume's partial reading of his paper at the Riccobono Seminar).