

Introduction to Justinian's Novels, 2nd Edition

Justinian's aim in ordering the Code created in 529 was to simplify and harmonize numerous, sometimes conflicting laws. However, circumstances required that he continue to issue legislation in following years, so he incorporated these new laws into a second edition of the Code in 534. This second edition is the only one that has come down to us. Justinian continued to legislate throughout his long reign (527-565). Most of the new laws were written in Greek, some in Latin, and a few in both, depending on the addressees. These new "constitutions"--*novellae constitutiones*, or novels--were never officially compiled. However, private manuscript collections were made of them in the east, and these collections became known at different times in the west.

In the 19th century, scholars made critical editions of the Novels incorporating elements from the three main collections and other manuscripts. (For an outline of the transmission process and the various collections, see the accompanying Novels Timeline.) In making the English translation set out here, Justice Fred Blume used the best regarded critical edition of the Novels--that of Kroll and Schoell (Wilhelm Kroll and Rudolf Schoell, *CORPUS IURIS CIVILIS: NOVELLAE*, 4th ed. (1912); vol. 3 in the set of which Theodor Mommsen's and Paul Kruger's editions of the Digest, Institutions and Code were volumes 1 and 2), aided by the German translation (Carl Edward Otto, Bruno Schilling, & Carl Friedrich Stintenis, *DAS CORPUS JURIS CIVILIS* (Leipzig, Focke 1831-1839).

Justice Blume explained to Professor Clyde Pharr in a letter of December 28, 1943 about the Justice's translation of the Code and Novels: "Some of the Novels were translated along with the translation of the Code having a bearing on the subjects 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."

A few months before (May 28, 1943), Blume had noted in a letter to Pharr that: "these Novels are at present connected in my manuscripts with the laws of the Code, inserting the various provisions thereof in connection with the laws of the Code which were modified." (An earlier, partial draft of his Code translation found in the Wyoming State Archives, is indeed arranged in this fashion.) Blume went on to say he could separate these Novel provisions from the Code for Pharr's use. He did remove them from the Code translation before he sent both the Code and the Novels to Pharr, although some Code annotations refer to them as still being attached.

Unfortunately, the process of separating the Code-related novels from the Code sections they affected and re-creating a unified Novels collection did not operate perfectly. Two entire novels (41 and 168) and three chapters of others (chapter 14 of novel 17, and chapters 7 and 8 of novel 128) never found their way into Blume's compilation. (For the text of these missing provisions, we have filled-in with S. P. Scott's translation, given in italics. Blume did not separately translate doublets either; e.g., he refrained from translating Novel 34, noting it is simply the *Authenticum* version of Novel 32, which he did translate.) Moreover, in many instances, chapters that had been attached to Code provisions were simply tacked on to the end of the novel whence they came, not re-inserted in order; e.g., in novel 74,

chapter 3 is followed by chapter six and the epilogue, while chapters 4 and 5 (which had been attached to C. 5.4.29 in the Code) are re-inserted after the epilogue in Blume's re-united collection of novels.

In order to put the first edition of the Novels online quickly, we simply scanned the loose, typewritten manuscript pages Blume had placed in accordion folders and posted the images. Thus, they reproduced the problems of the originals. For this second edition, we re-scanned the manuscript at a higher resolution, created a portable document file (pdf) for each novel, then reviewed each novel for instances in which the chapters were out of order or some other problem was evident. When we found defects, we re-typed the problematic parts then made pdfs of them and inserted them into the scanned version. These typed corrections are identifiable by their different typeface and sometimes consist of but a single line on an inserted page. However, we have not systematically copy-edited Justice Blume's Novels translation, and most of the novels we have posted are the direct, unedited result of scanning his original manuscript. (It also should be noted that in the Blume's letter of December 28, 1943 quoted above, he warned Pharr that he may not have proof read the entire manuscript and that his notes to the Novels may be duplicated in the Code.) I welcome contacts from readers concerning errors or ways in which this presentation might be improved.

Timothy Kearley
Laramie, Wyoming
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Addendum: Since this was written, David J.D. Miller and Peter Saaris have brought to my attention several typographical and other errors—such as omitted words and lines—in Novels 9, 18, 19, 22, & 24. I greatly appreciate their suggestions and have revised these novels accordingly. Miller and Saaris discovered these problems in the course of creating their own original English translation of the Novels (to be published by the Cambridge University Press) for which they are using Justice Blume's translation as a cross-check.

TK

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