Research in Roman Law; a Guide to the Sources and Their English Translations*

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"At American law schools the teaching and study of Roman law have reached an all-time low," although a sporadic but slowly spreading interest in this ancient "art of justice and fairness" is noticeable. It must be admitted, however, that in general this interest does not embrace Roman law as a whole, but only certain of its concepts, doctrines and institutions—and in most cases is only incidental to the comparative study of law, in particular the Civil law. Since Roman law offers the key not only to the terminology but also to the substance of many Civil law institutions, it is no wonder that institutional works, general treatises, specialized monographs and articles dealing with Civil law refer constantly and copiously to Roman law sources. The student of comparative law inevitably encounters Roman law citations in the course of his research. In most cases, because he lacks familiarity with that system and the sources thereof, the Latin quotations complete with puzzling symbols (e.g., D. 2. 9. 51 pr, or P.S. 3. 6. 13),
tower before him as insurmountable barriers, and he is forced to cease further inquiry or, at least, to ignore such references unless outside help is available.

This article grew out of practical needs. The author, though he had ten semester hours of Roman law, still had occasional difficulties in locating citations of Roman law passages. To help solve the problem, he undertook a survey, the results of which are summarized here for the purpose of providing a guide for those who may be asked to identify and go back to Roman law rules cited in various publications, and who, for any reason, are not adequately equipped to do so.

The first part of this article deals with the sources of Roman law; the second part, taking into account the constantly and rapidly decreasing number of scholars proficient in Latin, lists most of the English translations of Roman law sources, and finally, by way of a table, the abbreviations frequently used to cite Roman law passages.

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1 For a succinct appraisal of the status of Roman law in the Anglo-American community, including periodicals specializing in Roman law, see Mueller's review of Ancient Roman Statutes, 30 Fordham L. Rev. 571 (1962).

2 Based mainly on the following works: Berger, Encyclopedic Dictionary of Roman Law (1953); Girard, A Short History of Roman Law (1906); Jolowicz, Historical Introduction to the Study of Roman Law (1922); Krueger, Geschichte Der Quellen Und Literatur Des Roemischen Rechts (2d ed. 1912); Schulz, History of Roman Legal Science (1946); Sherman, Roman Law in the Modern World (3d. 1917); and especially, the monumental work by Wenger, Die Quellen Des Roemischen Rechts (1958).
I. Sources of Roman Law

The term “sources of law” is used in a number of different ways. This article is primarily concerned with literary sources (i.e., the sources of our knowledge of Roman law), as distinct from uses of this term to denote the law-making organs or the forms of legal rules. In Roman law the different meanings frequently overlap: e.g., Justinian’s codification or the juristic literature are sources of law in more than one sense. Nevertheless, the question of sources as relating to law-making agencies and forms of law will be dealt with here only insofar as absolutely necessary for the correct understanding of literacy sources.

Sources of Roman law—denoting the two main forms of legal rules—are classified under *ius scriptum* (written law) and *ius non scriptum* (unwritten law). While in modern parlance “written law” means enacted (statute) law alone, the Romans used the term in a much broader sense. Unwritten law dealt only with custom; all other law—leges, *plebiscita*, *edicta*, *senatusconsulta*, *constitutiones principum*, and the *interpretatio* of jurists—was classified as written law.

Let us first examine briefly the forms of Roman legal rules and of the law-making organs.

The first source of written law was the *lex* (plural: *leges*). The most approximate translation would be “statute”: that is, a general rule passed by the competent legislative organs. All three of the basic state organs participated in creating lex. The process involved a proposal coming from the *rex* (king), and subsequently from the magistrates, supported by the *auctoritas* of the Senate, and accepted or rejected in its entirety by the vote of the Roman people in one of the three legislative assemblies (*comitiae*). In addition to the comitiae, there was a fourth body called *concilia plebis*, the assembly of the plebeians (only). Its resolutions were called *plebiscita* and at first bound the plebeians alone. Later full legal force was given to these resolutions and they too came to be called leges.

In the imperial era the term *lex* was applied to imperial enactments as opposed to *ius*, meaning the legal rules originated by the interpretation of jurists. To distinguish the leges of popular assemblies from imperial enactments, Romanistic literature refers to the former as leges *publicae*.

Of the leges publicae the *Lex duodecim tabularum* (Law of the Twelve Tables, 451-450 B.C.), was by far the most influential in the development of Roman law. The Law of the Twelve Tables features concise, sometimes tersely stated general principles, rather than specific or elaborate provisions. It addresses itself to private law, procedural and criminal law and, to a lesser extent, public and sacral or divine law (*ius divinum, fas*).

Following the enactment of the Twelve Tables, the popular assemblies preserved their right to legislate for the next five hundred years. There are recorded about 800 such leges publicae, but apart from the Twelve Tables they played only a modest part
in the development of Roman law. The great bulk of these leges was merely of temporary political interest.

After the expulsion of the last king (510 B.C.) the hitherto royal functions in secular matters were conferred upon the magistrates elected annually by the people. Upon assuming office, high ranking magistrates (consuls, praetors, aedils, etc.) published, by virtue of their imperium (power), proclamations in which they laid down their program for the coming year. These proclamations were called edicta magistratum (magisterial edicts). Of the magisterial edicts, those of the praetors exerted the greatest influence on the progress of Roman law. In their yearly proclamations, the praetors set forth those legal rules which they would apply to the administration of justice, with which they were entrusted. By "supporting, supplementing and correcting the existing law," praetorian law helped broaden the formalistic, inflexible ius civile (law of Roman citizen) into a legal system able to meet the exigencies of changing times. It might be said that the praetor did for Roman law what the chancellor later did for common law.

For centuries the Senate (council of elders) had no legislative power, at least not in form: its resolution (senatusconsultum) was simply an advice to the magistrate requesting it (senatum consultare). However, due to the high prestige of the Senate and the fact that it had the power to call magistrates to account after their year of office, the senatusconsulta were unlikely to be ignored. Later, about the middle of the second century A.D., senatusconsulta (decrees of the Senate) acquired the legal force of statutes (but only in form) when they became the expression of the imperial will; finally, in the third century the senatorial decrees gave way to the direct legislation of the emperor, which became the only source of the written law.

Constitutiones principum is a general term embracing all types of imperial enactments which can be pretty much broken down into certain classifications. The emperor proclaimed various general orders, edicta, as the magistrate had during during the Republic. Mandata, containing mostly administrative instructions, were issued to state officials. The emperor rendered judicial decisions on appeal, or in cases in which he had exclusive jurisdiction, in the form of decreta; he also advised both officials and private persons on the law in rescripta.

There remains to be given a short account of the fifth and most important source of Roman written law, the interpretatio of jurists.

All law requires interpretation. This was obviously true in Rome after the legal precepts were reduced to the abstractions of the Law of Twelve Tables. Besides, as has already been noted, the Twelve Tables contained general principles, the interpretation of which was left to the college of pontiffs who were at the time the only masters of law. Shortly, the task of interpretation fell to the jurists, men learned in law (hence the
name jurispritus or jurisprudentes). There is no exact counterpart of the Roman jurist in modern life. As a rule, and this was particularly true in the Republic, jurists appeared in court only in exceptional cases. The task of representing clients was entrusted to the oratores (or advocati: men trained in rhetoric). The jurists’ main function consisted of giving legal advice (responsuum) to litigants, advocates, judges, and magistrates (in short, to anybody requesting such advice, hence they were also called jurisconsultae), and since giving responses was part of their service to the public, these opinions were offered free. (“The jurists’ profession cannot be evaluated or dishonored by a price in money.” D. 50. 13. 1. 5). The responsa were not binding either on the court or the magistrate, but due to the esteem in which the jurists were held, they were highly persuasive. The prestige of several jurists was subsequently further enhanced by the introduction of the ius respondendi. Thus, starting with Augustus, the emperor granted to select prominent jurists the right to give responsa “ex auctoritate principis” (on the personal authority of the emperor). This grant, however, still did not make the responsa binding, at least not in form. Not until the passage of the Law of Citations (Theodosius II, 426 A.D.) did the opinions of five jurists acquire binding force, with the works of Papinianus, Gaius, Paulus, Ulpianus, and Modestinus thereby declared primary authorities (but since these jurists referred to the writings of earlier jurisconsults the circle was, in fact, larger). When there was a difference of opinion the majority was to rule: in the absence of a majority, the opinion of Papinianus prevailed, and only if he was silent could the judge decide the case according to his own free choice of opinions.

Legal literature won its greatest recognition from Justinian whose Digest consists exclusively of excerpts from the writings of jurists. By virtue of Justinian’s codification a great part of juristic literature acquired the legal force of statute.

According to the Roman definition, law is “ars boni et aequi” (art of justice and fairness). The Roman jurists were true artists, the creators of a system of law fascinating in its logical strength—a system destined to be studied, admired, and followed through the many centuries to come. It is indeed true that “the so-called reception of Roman law was, at bottom, a reception of Roman jurisprudence; this was the only complete and lasting reception.”

Literary Sources of Roman Law

In dealing with the sources of our knowledge of Roman law, we propose to follow the division generally employed in Romanistic literature: (1) the pre-Justinian sources, and (2) the work of Justinian.

1. Pre-Justinian Sources of Roman Law

In modern times the primary sources of knowledge of the law are

3 Cf. Schulz, op. cit. supra at 100 and the reference therein.
the official publications of statutes and the well-organized reports of court decisions.

For obvious reasons, no such sources existed in Rome. Apart from the Law of the Twelve Tables, which itself was the result of a bitter struggle to make the law public, the publication of leges publicae was not obligatory. However, the more important statutes as well as senatusconsulta were engraved on metal, stone, or wooden tablets and posted on the Forum Romanum. The magisterial edicts were made public on white wooden boards (alba). Imperial enactments of general import were also inscribed on tablets of different substrates; manuscript copies of these and of most of the constitutiones principum were deposited in the imperial archives.

As for the interpretation of law, no publication existed in the archaic royal period. The records of the pontifical interpretations were kept secret in the priestly archives. The responsa of the Republican jurists were usually given orally. There are, however, references in later juristic literature to compilations of opinions, collected in all probability by pupils of the jurisconsults. Several of the Republican jurists were also engaged in literary activity which reached its peak in the classical period of Roman jurisprudence (from Augustus to the middle of the third century A.D.), when legal writings became the jurists' most important function.

Juristic literature took many forms and had many names. From the standpoint of the purpose and contents of juristic writing it can be classified under certain headings:

1. Elementary textbooks (Institutiones) were intended to provide beginning law students with an introduction to the system of law, by providing an outline of the legal institutions in a systematic arrangement.

2. Again, a pedagogic purpose was served by another group of writings usually entitled Regulae, Definitiones, Differentiae, or Sententiae, containing succinctly formulated legal principles and maxims, in easy to memorize forms.

3. The most frequently used type of legal literature was the commentary. Commentaries were written on the leges (especially on the Twelve Tables), the edicts, the senatusconsulta, and on customary law, as well as on earlier juristic writings. Commentaries on juristic works were usually called "notes" (notae). Of the greatest importance were the commentaries written on the praetorian edicts.

4. The "problematic literature" was devoted exclusively to the most difficult problems of law. Works belonging in this category were entitled Digesta, Responsa, Questiones, Disputationes, etc. The problems dealt with were in part actual problems presented to jurists in connection with litigation; in many cases, however, purely hypothetical problems were pre-
sented, the analyses of which gave Roman law its extraordinary richness of detail.

5. The monographic literature represented by works on individual legal institutions.

6. Works concerned with the duties of magistrates and procedural problems form the final category.

Legal literature in the so-called post-classical period (from the middle of the third century to Justinian's time), departed from the classical period both in character and form. The typical productions of this period were official and semi-official compilations and abridgments.

Juristic works written on papyri or parchments were usually divided into libri (books). The average size of a "book" was around 2,000 lines, each of approximately 35 letters. Compared with a modern, average-size printed book, one liber would amount to roughly 35-45 printed pages. Some idea of the magnitude of Roman juristic literature can be gleaned from the list of Paulus's works. We know of approximately eighty of his written works (many of them only by title), totalling about 275 books. Paulus's writings would cover today some 10,000 printed pages, or about 20 volumes of 500 pages each. During the 250 years of the classical period of Roman law there lived some 70 great jurists and while it is true that not all of them were as prolific as Paulus, the data on his writings nevertheless give a fair indication of the immense literary output of the classical Roman jurists.

Surviving Pre-Justinian Sources of Roman Law

Of the vast amount of Roman law sources, only a small fragment has survived independently of Justinian's codification—or, at least, has been discovered so far—and even within that fragment, we have to distinguish between sources which survived in the original and those transmitted to us second hand.

Inscriptions of leges publicae, senatusconsulta, and imperial enactments engraved on bronze, copper, stone, marble, or wooden tablets, and manuscripts preserved on papyrus and parchment sheets constitute the original surviving sources. Post-classical compilations and abridgments, as well as non-legal literature provide us with secondary source material. The works of Cicero, Festus, Gellius and Pliny among others, serve as relatively rich, if not always reliable means of transmission.

Before turning to an examination of the individual types of surviving sources and the various editions of their texts, let us consider three modern text editions with wide coverage so as to avoid repetition of titles. Each of the excellent collections of pre-Justinian sources listed below has its special features which make it indispensable to research in Roman law.

Bruns, Mommsen, & Gradenwitz. *Fontes Iuris Romani Antiqui* (7th ed. 1909-1912. 9v.) (1st ed. 1888; 7th ed. repr. 1958). Covers surviving sources from the earliest time down to the early years of the Empire, except for the jurists. This is the only collection which contains texts of sources
reconstructed from the writings of non-legal authors, but it does not contain sources that have been discovered since the appearance of the 7th edition. (hereinafter referred to as Bruns)


Intended primarily for academic purposes, this is the handiest of the collections. Contains the principal legal inscriptions (based mainly on Bruns) and the extant fragments of juristic writings not included in Justinian's compilation, and also includes the text of the Institutes of Justinian. (hereinafter referred to as Girard)

*Fontes Iuris Romani Ante Justinianum* (Riccobono, Baviera, Ferrini & Arangio-Ruiz 2d ed. 1940-1943. 5v.)

The most recent and the richest collection of sources with widest coverage. Utilizes the progress made in the field of Roman legal science in the past half century (hereinafter referred to as FIRA).

In dealing next with the individual types of pre-Justinian sources of Roman law, we propose to follow the order of sources as outlined at the outset of this paper and so we turn first to the leges publicae.

Of the most important of the leges publicae, the Law of the Twelve Tables, we have only second-hand knowledge by way of both juristic and non-legal literature. Some 140 longer or shorter fragments, often containing only one word, are extant. We do not even know the original arrangement of the text on the twelve tablets. Scholars from Jacobus Gothofredus (1616) to the modern Romanists have made tremendous efforts to reconstruct the contents and structural sequence from extant fragments. Modern writers follow the schema worked out by H. Dirksen in 1824. The standard text, from both the juristic and the philological aspect, is given in Schoell's *Leges duodecim tabularum reliquiae* (1886). The text in Bruns, FIRA, and Girard is based on his reconstruction.

As for the other leges publicae, not many of the tablets have survived or have been found so far. Besides such tablets as have been discovered, the juristic and non-legal literature constitute our main source. The most comprehensive collection of leges publicae is Rotondi's *Leges publicae populi Romani* (Estratto dalla Enciclopedia Giuridica Italiana 1912). Selections of the leges publicae in chronological order can be found in Bruns, FIRA, and, in smaller amount, in Girard.

The wooden tablets (alba), on which the texts of the praetorian edicts were promulgated, were destroyed at the end of the magistrate's term of office, so none of them survived in original form. Our indirect source of knowledge is the *Edictum perpetuum Hadriani* (or simply *Edictum perpetuum*). Emperor Hadrian (117-138 A.D.) entrusted the famous jurist Salvius Julius with the revision and codification of the edicts. This codification was reduced to bookform (132 A.D.) which did not survive either. The codified edicts, however, aroused the interest of the greatest of Roman jurists (e.g. Ulpian, Paulus, Gaius) and they wrote exhaustive commentaries on the Edict. Through these commentaries many of its passages were transmitted into Justinian's Digest. From the Digest fragments, later scholars have tried to reconstruct the text of the *Edictum perpetuum*. The
best work belongs to Lenel, whose study *Das Edictum Perpetuum. Ein Versuch zu seiner Herstellung* (5th ed. 1927) is one of the greatest contributions to the science of Roman law. Drawing on Lenel's work, Bruns, FIRA, and Girard took for their collections the text alone, without Lenel's scholarly notes.

Several of the senatusconsulta followed the general manner of transmission: they have come down to us as inscriptions, or in manuscripts and the writings of jurists. There is no collection of known senatusconsulta similar to Rotondi's compilation of the leges publicae. Selections appear in Bruns, FIRA, and Girard.

Of all Roman legal sources, the imperial enactments have come down to us in the greatest quantity. Many of them were incorporated in later official or semi-official collections (with which we deal below). A collection of all pre-Justinian imperial enactments which have survived independently of latter-day, post-classical codices is found in Haenel's * Corpus Legum ab Imperatoribus Romanis ante Iustinianum Latarum quae Extra Constitutionum Codices Extant* (1857). It features in chronological order 1280 imperial statutes that have survived either as inscriptions or in manuscripts, as well as through literary transmission. This collection has not been supplemented despite the large number of subsequent discoveries. Bruns, FIRA, and Girard contain selections of imperial enactments.

No original source of the interpretative and literary activities of Roman jurists has survived. All knowledge of them has come to us indirectly through excerpts and citations in posterior juristic literature, as well as in the works of Cicero, Festus, Gellius, and other non-legal authors.

As for the classical period, Justinian's codification is the main reservoir of that rich juristic literature. Quantitatively, only a small part has survived independently of Justinian's work.

Scholars equipped with admirable legal, philological, and historical knowledge have tried to reconstruct the original texts of these juristic writings from surviving fragments. In the field of scholarship we must again mention Lenel's name first. His monumental work, *Palingenesia Iuris Civilis* (2 v. 1889), contains a reconstruction in the original context of fragments that are scattered throughout Justinian's Digest.

Emphasis is placed on juristic writings dating from before Hadrian (second century A.D.), which are not included in Justinian's work, in Bremer, *Iurisprudentiae Antehadrianae quae Supersunt* (3 v. 1896-1901).

Wider in range but also restricted to the juristic writings surviving independently of Justinian, is Huschke, Seckel & Kuebler, *Iurisprudentiae Antejustinianae Reliquiae* (6th ed. 2 v. 1906-27), referred to hereinafter as Huschke.

Similar in scope is Krueger, Mommersen & Studemund, *Collectio Librorum Iuris Antejustiniani* (5 v. 1878-1923). This is perhaps the best edition of the juristic texts (hereinafter referred to as Collectio).
FIRA and Girard also contain the texts of jurists.

Among the juristic writings that have independently survived, those of Gaius, Ulpian and Paulus are the most important. Their special significance lies in the fact that, although their original contents were subject to minor modifications and alterations, they escaped thorough text-manipulation by the commissions entrusted with the compilation of Justinian's codification, and thus reflect the original thinking of the great jurists.

Of the greatest importance, since it is the only classical work that has reached us nearly intact, is the Institutiones of Gaius, an introductory elementary textbook arranged according to the celebrated tripartite classification of law: law of Persons, law of Things, and law of Actions. It was written in the middle of the second century A.D. and up until 1816 was known only through an abridgment in two books entitled Gai Institutionum Epitome in the Lex Romana Visigothorum (one of the later barbarian codes).

Our main source of Gaius' Institutiones is a parchment codex of the late 5th or early 6th century, preserved in the Cathedral Library in Verona (hence called Gaius Veronensis or Verona Codex). This palimpsest had been overwritten a century or two later. The writing underneath was discovered in 1816 by Niebuhr. The manuscript is now almost complete, the lacunae having been filled by the discovery in 1933 of some parchment sheets of the late fourth or early fifth century (now in Florence, hence called Gaius Florentinus).

The famous apograph edition of the Verona Codex by Studemund was first published in 1874 under the title Gaii Institutionum Commentarii Quattuor: Codicis Veronensis. The 7th edition of this work was published in 1923 as volume I of the Collectio. The best recent editions which also include the text of the fragments discovered in 1933, are those of Seckel, & Kuebler, Gai Institutiones (8th ed. 1939), and David & Oven, Gai Institutionum commentarii IV, mit philologischem Kommentar, published in volumes II and III of Studia Gaiana (1954) (also in FIRA, Girard, and Huschke).

Two other main sources which have survived independently are generally known as Paulus's Sententiae and Ulpian's Regulae.

The first is an abridgment of Paulus's Sententiarum ad filium libri quinque, and forms part of the Lex Romana Visigothorum. That Paulus was the author of the original work is doubted by several modern scholars. It is believed rather to have been composed from Paulus's writings by a post-classical jurist. The text preserved by the Lex Romana Visigothorum is contained in the Collectio, FIRA, Girard, and Huschke.

The Regulae is an abridgment made after 320 A.D. of Ulpian's Liber singularis regularum (hence also called Epitome Ulpiani). Authorship by Ulpian is similarly doubtful. In the opinion of modern scholars the Liber singularis was produced by an unknown jurist at the end of the
third century. The somewhat incomplete text of the Epitome has reached us through a manuscript of the fourth century which was attached to the Lex Romana Visigothorum, now in the Vatican Library (Vat. Reg. 1128). The standard edition of the abridgment is given by P. Krueger in the Collectio (also, in FIRA, Girard, and Huschke).

Post-Classical Compilations and Abridgments

As has been previously mentioned, the post-classical era of Roman law inherited a vast amount of both juristic literature and imperial enactments. For lack of organized publication, the whole mass became unmanageable and almost inaccessible. The pressing problem devolving to post-classical jurists was to make the immense accumulation available and their solution was to edit abridgments of juristic literature (ius) and compilations of imperial enactments (leges). The aforementioned Edictum perpetuum and Law of Citations served the very same purpose.

The earliest collections of imperial enactments are the Codex Gregorianus and the Codex Hermogenianus. Both are private compilations by authors (Gregorius and Hermogenianus) about whom we know nothing other than their names. The first codex contains imperial statutes from the time of Hadrian (117-138 A.D.) to the date of its publication (around 291), in a systematic arrangement divided into books and titles with rubrics. The Codex Hermogenianus is a supplement to the Gregorian Code. Originally it contained imperial enactments passed between 291 and 294, arranged by titles. Statutes passed subsequent to 364 were later added to this collection. Neither of these codices is independently preserved. Their contents are known from excerpts in other compilations. The best text edition is supplied by Krueger in the Collectio. A shorter text in FIRA is based upon Krueger’s.

The Codex Theodosianus is an official codification of imperial statutes from the time of Constantine the Great (312 A.D.) to the year of its publication (438 A.D.). It consists of 16 books divided into titles with rubrics, containing subject-related statutes in chronological order. The Codex Theodosianus was a code in the modern sense of the term; it had statutory force in itself and all constitutions enacted after 312 A.D. which were not included in the code lost their validity.

The Theodosian Code did not survive in the original, either, but in addition to the extracts contained in the Lex Romana Visigothorum, there are fragments of copies from which the original text has been reconstructed. There are several editions of this code. One of the earliest, Jacobus Gothofredus’ famous Codex Theodosianus cum perpetuis commentariis (6v. 1736-41) is still indispensable because of its excellent commentary. The standard modern edition is by Mommsen & Meyer, Theodosiani libri XVI cum constitutionibus Sirmondianis et leges novellae ad Theodosianum pertinentes (3 vols. 1905; 2d ed. 1954).
Editions of the Codex Theodosianus usually include also a private collection of sixteen imperial statutes enacted between 333-425, dealing with ecclesiastical law. This collection is presumed to have been compiled in the first part of the fifth century by an unknown author. The collection is called Constitutiones Sirmondiana after its first editor, J. Sirmondius, who published it as Appendix codicis Theodosiana novis constitutionibus cumulatior, opera et studio Jacobi Sirmondi presbyteri Societatis Jesu (1681).

Besides the codices, there are several abridgments of juristic writings, anonymously authored for the most part. Some of them also contain excerpts from imperial statutes.

One collection of imperial enactments plus 341 abstracts in numerical order from the writings of Papinian, Ulpian, and Paulus, is the Fragmenta Vaticana. It dates from the first half of the fourth century with the author again unknown. The text is preserved in a palimpsest discovered in the Vatican Library in 1821 (Cod. Vat. 5761), and reproduced in the Collectio, FIRA, Girard, and Huschke.

Mosaicarum et Romanarum legum collatio is a collection of maxims from Mosaic and Roman law compiled anonymously around the turn of the fifth century. This is the first known writing on comparative law; passages of the Mosaic law, dealing mainly with criminal law, are juxtaposed with extracts from the writings of the five Roman jurists recognized by the Law of Citations, and excerpts from imperial statutes. The work is generally referred to as Collatio.

The Collatio is preserved in three different manuscripts, none of which is complete, however. The text is published in the Collectio, FIRA, Girard, and Huschke.

The Consultatio veteris cuiusdam jurisconsulti was composed about 500 A.D. and contains a series of legal opinions given by an unknown jurisconsult, based on Paulus's Sententiae and the three pre-Justinian codices. A manuscript of the Consultatio was used for purposes of publication in 1577 by Cujas, who gave the collection the name by which it is generally known. Modern text editions based on Cujas appear in the Collectio, FIRA, Girard, and Huschke.

Fragments of a Greek commentary on Ulpian's Libri ad Sabinum were found in a manuscript in the monastery of St. Sinai, accordingly called Scholia Sinaitica (Sinaic Note), which also contains quotations from several other classical jurists and the three codices (edited in the Collectio, FIRA, Girard, and Huschke).

There remains to be mentioned the only systematic work that has survived from the post-classical period, the Liber Syro-Romanus (Syro-Roman Lawbook). It deals mainly with family and inheritance law. This lawbook has reached us in several oriental versions, all derived from a Greek translation of a Latin original. There was for a long time only a German translation by Bruns & Sachau, Syrischroemisches Rechtsbuch aus dem fuenften Jahrhundert (1880)
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(reprinted in 1961). A Latin translation by Ferrini & Furlani appears in FIRA.

Barbarian Codes

In the fifth century the Western Roman Empire was invaded and conquered by Teutonic tribes. The conquerors adopted the principle of personal law—whereby everyone must be judged according to the law of that nation to which he belongs—and so retained Roman law for the use of Roman inhabitants. In the early years of the sixth century the Teutonic kings promulgated codices of Roman law drawn from the pre-Justinian codices and juristic literature. There were three of these official codes, collectively called Leges Romanae Barbarorum. These codices do not form part of the sources of Roman law in terms of the law-making organs, but as literary sources they are important, for they present Roman works not otherwise preserved.

The most important of these codes is the Lex Romana Visigothorum which was promulgated in 506 by Alaric II, king of the Visigoths (hence also called Breviarium Alaricianum, Breviary of Alaric). As has already been noted, it contains excerpts from the three pre-Justinian codes, plus abridgments of Paulus's works and Gaius's Institutiones (the Epitome Gai or Visigothic Gaius).

The Breviary has survived in several manuscripts. The latest complete edition is by Haenel, Lex Romana Visigothorum (1849). Extracts are to be found in Huschke (the best edition of Epitome Gai), and in the Collectio, FIRA, and Girard.

Of lesser importance are the two other codices, the Lex Romana Burgundionum and Edictum Theodorici. Both draw essentially from the same sources as the Lex Romana Visigothorum. Their texts are printed in FIRA.

2. The Work of Justinian

That tremendous task—the comprehensive compilation of Roman law—was accomplished by Justinian, emperor of the Eastern Roman Empire (527-565). His achievement surpassed by far all the attempts of his predecessors, in scope as well as in value. By consolidating in permanent form the statutes of his predecessors along with his own, as well as the writings of prominent Roman jurists, he gave Roman law the shape in which it conquered first the European continent and subsequently a considerable part of the world.

Justinian's work is frequently referred to as a codification. Certainly it had the effect of a code, since all the legal rules not included in his collection ipso facto lost force, but in its form it is very different indeed from its present-day European successors. The French Code Civil or the German Bürgerliches Gesetzbuch adopted abstract legal precepts which were in fact already in existence, but incorporated them in such form as would make them appear newly created. In the Justinian work, it is not Justinian the sovereign who speaks in the imperative, but rather the jurists who expound the princi-
plecs, doctrines, and rules enunciated in the course of their casuistic approach to legal problems.

Although the commissions entrusted with the compilation were allowed wide discretion in eliminating superfluous, antiquated or contradictory material and making alterations and modifications in the excerpted fragments, the original form of the fragments was preserved.

Justinian's legislation generally goes under the name of Corpus Juris Civilis (body of civil law). This designation, however, was not given to it either by Justinian or the compilers; it has been in common use only since 1583 when Dionysius Gothofredus first published the Justinian text under that title.

Codex vetus (Old Code)

Justinian's prime objective was to compile in a single collection the pre-Justinian codices and the subsequent imperial statutes. The commission assigned this task in 528 completed it in 529, in just over a year, and the resulting codex vetus received imperial authority the same year. (Since this compilation has been lost, we need not go into detail about it here.)

Digesta Justiniani (Justinian's Digest)

In 530 by the statute "Deo auctore" (the opening words of the statute), Justinian appointed a commission of sixteen men, headed by Tribonian (perhaps the greatest jurist of the post-classical period), to undertake one of the most grandiose projects in legal history: a compilation of the vast volume of Roman juristic literature. The main objective was to preserve the best of the classical juristic writings and to provide a collection of ius applicable to Justinian's time. In accomplishing this goal, almost 2,000 books totalling some 3,000,000 lines were read, screened, frequently modified and altered, and finally reduced to 150,000 lines, representing 9,242 fragments excerpted from the works of 39 jurists. The end product is called Digesta sive Pandectae Justiniani (Justinian's Digest or Pandects: Digesta from the Latin verb digerere, "to arrange systematically"; Pandectae from the Greek words meaning "all" and "to contain," hence "all-embracing"). The work is arranged in fifty books divided into 432 titles, each of which has a "superscription" (rubrica) indicating the topic dealt with in the title. The titles are arranged according to the "edictal order" established by classical jurists in their edictum perpetuum commentaries. (Books 50-52 are not divided into titles: together they bear the title "On legacies and fideicommissa.") The titles are subdivided into laws or fragments, some only a few words in length, others spreading out over several pages. Long fragments are subdivided into sections or paragraphs. Except for the initial ones, the sections or paragraphs are numbered. Each fragment is an extract from one of the 39 jurists' writings, and is preceded by an "inscription" noting the author's name, the title of the work and the number of the book from which it was taken (e.g. Iulianus libro 84 Digestorum, the 84th book in Julian's Digest).
The earliest author represented by the fragments is Q. Mucius Scaevola (died 62 B.C.), but the great bulk of the Digest's text (95%) is derived from the writings of the classical jurists. The main contributors are Ulpian and Paulus (almost half of the text).

Although the time allotted for the compilation of the Digest was ten years, it was completed in three. Published by the statute "Tanta" on December 16, 533, it came into force two weeks later. The Digest, apart from having the force of law, also served as a textbook for advanced law students.

As has already been indicated, the form of the original writings was preserved, although not always in the original language. The number of alterations—as Justinian himself says—was "multa et maxima" (many and of the highest importance). The discovery of interpolations (called emblemata Tribonian for the head of the commission), and the search for the original wording of the juristic writings are objects of the modern science of Roman law. The last half century has seen great progress in this area, but the bulk of the work still lies ahead.

Institutiones of Justinian

The Digest had not even been completed when Justinian charged Tribonian and two law professors, Theophilus from Constantinople and Dophotheus from Berytus (Beirut), with the composition of an elementary textbook for first year law students. The compilers used as a model the institutional writings of the classical jurists. They drew the text largely from Gaius's Institutiones and for the remainder turned to other classical jurists. The text is arranged, as was Gaius's work, into four books following the classification of law into the law of Persons, the law of Things, and the law of Actions. Each book is subdivided into titles and sections. The work was completed in 533 under the title Imperatoris Iustiniiani Institutiones. The Institutiones were more than a textbook, for they themselves had the validity of an imperial statute.

The Second Code

After the enactment of the first Code (Codex vetus) in 529, a great number of statutes were passed which soon rendered necessary a new edition (repetita praefectio) of the Old Code. Immediately after the Digest was completed, a commission of five headed again by Tribonian was entrusted with this task, and accorded the same wide discretion its predecessors had enjoyed in the compilation of the Digest. The work was completed within a year and published with force of law on November 16, 534 under the title Codex repetitae praefectio.

Consisting of twelve books, the Codex contains about 4,700 statutes, largely rescripts (imperial advice on legal disputes). Book 1 treats ecclesiastical law, the sources of law, and the duties of higher officials; books 2-8 deal with private law; book 9, with criminal law; books 10-12 with administrative law. The books are
divided into titles which contain the statutes in chronological order. Each statute is provided with an “inscription” showing the names of both the enacting emperor and the person to whom it was addressed, as well as a “subscription” giving the date of promulgation or publication, and sometimes the place.

Novellae (Novels)

After the publication of the second code, Justinian issued a number of “new statutes” (Novellae constitutions, hence the modern “Novels”), concerned mainly with ecclesiastical, criminal, and family law as well as the law of succession. The Novels are almost entirely in Greek, except those addressed to Latin speaking provinces. Although Justinian intended to have the Novels compiled in an official collection this plan was never carried out, and the collection of Novels which appears as the final part of the Corpus Juris Civilis is derived from private compilations.

The oldest of these is known as Epitome Iuliani and was named after its compiler, Julian, a professor in Constantinople. This collection contains 122 statutes from the years 535-555 in a somewhat abridged Latin version.

The Authenticum is a collection of 135 statutes issued between 535-556. It contains the Latin statutes in the original, the Greek in translation. Since the statutes appear in full the collection was believed in the Middle Ages to be an official compilation, hence its name.

The most complete work in the series is known as the “Greek Collection,” comprising 168 statutes.

The Literary Sources of Justinian’s Codification

Our knowledge of the Digest is derived exclusively from one manuscript, the littera Florentina (Florentine), so named because since 1405 it has been preserved in Florence (where it now lies in the Biblioteca Laurenziana). This is a parchment codex in folio from the second half of the 6th or the beginning of the 7th century. Ironically, the glossators6 were not familiar with this manuscript. The large number of manuscripts used by the glossators contained only one of the three parts into which the Digest was divided in the Middle Ages. Mommsen later proved that all these manuscripts, generally called littera vulgaris or Vulgate to distinguish them from the Florentine, are derived from a single archetype (not preserved), itself a copy of the Florentine.

This fact helps explain the nomenclature applied to the three parts of the medieval Digest manuscripts. It is presumed that at first the glossators knew only manuscripts which contained the first third of the Digest and that later, manuscripts of the last third came into their possession. Thus, they called the first third Digestum vetus (Old Digest, containing Books 1-24, title 2) and the last third Digestum novum (New Digest, Books

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6 Scholars at the law school of Bologna from the 11th century until the 13th century who interpreted Justinian’s codification by adding marginal or interlineary remarks (glossae) to the text.
39-50). Subsequently, when they discovered the manuscripts containing the middle third, they called the contents *Infortiatum*, i.e. "reinforced."

The Institutiones have been transmitted to us in a number of manuscripts; with the exception of a small fragment, however, none goes back earlier than the 9th century.

The manuscript history of the Codex is much worse. The first code, *Codex vetus*, did not survive at all. As for the second, *Codex repetitae praelectionis*, only one manuscript—*the Veronese palimpsest*—is known to have contained the whole Codex. It dates from the 6th or 7th century, but is no longer extant except in fragments. Manuscripts from the eleventh and twelfth centuries contain the last three books separately from the first nine, but are not complete. The whole text of the Codex was later restored from Greek sources.

The restoration of the three private collections of the Novels was less difficult, since all three survived in several manuscripts.

The number of printed editions of the Corpus Juris is immense. It is said that "there is but one book of which there is a greater multitude—the Holy Bible." It is not the object of this paper to give an account of each of these editions. A mere enumeration of the titles would fill many pages. It will be sufficient to describe here the types and arrangements of the different editions.

The glossators divided the whole Corpus Juris into 5 books:

1. Digestum vetus: books 1-24; title 2
2. Infortiatum: books 24, title 3, to 38
3. Digestum novum: books 39-50
4. Codex; first 9 books
5. Volumen parvum (small volume): the last 3 books of the Codex, the Institutiones, and the collection of Novels called Authenticum

Early printed editions (the earliest is the Veronese edition from 1476-78) followed the glossators' division and relied upon the text established by them. Thus, the early editions contain many insertions and alterations.

Beginning with the 16th century, editors abandoned this tradition and turned their attention to the extant manuscripts in order to purge the text of medieval text manipulations. An excellent example of the early text criticism is the edition by Dionysius Gothofredus (Godefroy), *Corpus iuris civilis in III partes distinctum* (1583). Apart from being the first edition bearing the title Corpus Juris Civilis, it shows the parallel as well as the contradicting passages in the original text. Also, Gothofredus was first in applying the division into four parts in the following order: Institutes, Digest, Code, Novels. All subsequent full editions adopted this order.

Text criticism reached a very high stage of scholarship in 19th century German editions. Painstakingly meticulous, critical analysis coupled with thorough legal and philological knowledge produced the monumental Digest edition (the "large edition")
by Mommsen, *Digesta Iustiniani Augusti* (2 vols. 1870); the excellent Codex Iustinianus (1877), and the editions of the Institutes by Krueger, *Iustini-\nani Institutiones* (1867); and Huschke, *Imperatoris Iustiniani Institutionum libri quattuor* (1868).


As has been noted the critical study of Roman law texts is still going on. In the continuing endeavor to clean the texts of all the post-classical, intentional interpolations and the accidental changes caused by careless copying, much help is expected from the new science of legal papyrology,\(^6\) born of the recent preserved papyrus discoveries in the sandy soil of Egypt. The results will be of the greatest significance to the modern science of Roman law.

II. **English Translation of Roman Law Sources**

The history of English translations of Roman law sources has a distinguished past spanning two centuries. All Roman law sources of importance and several of lesser sig-


nificance have already been translated.\(^7\) Some of the sources, such as the Institutes of Gaius and of Justinian, are even represented by series of translations that have been mostly used as textbooks in English universities.

In general, the translations carry more or less elaborate footnote apparatus containing explanations of technical terms difficult to translate, and references to parallel passages in other Roman law sources; the textbook type translations are also accompanied by commentaries providing thorough analyses of Roman law institutions, as well as detailed philological and historical information.

Most of the translations are bilingual: either the original text is followed section by section by English translation, or the two texts are printed in parallel columns or on opposite pages. In some cases, either the original or the English text is contained in a companion volume.

As regards the relative merits of bilingual and monolingual editions of Roman law sources, the former are clearly superior even in terms of the merely technical aspects of reference work. Roman law sentences are usually too long. Although the Ciceronian style has been a characteristic feature of legal writing of all ages and languages, the Roman jurists are still champions in coining long sentences. Their half-page, frequently even full

\(^7\) A project is now under way, under the general editorship of Clyde Pharr, with its goal to translate all the source material of Roman law. The first two volumes in the series entitled "The Corpus of Roman Law" have already been published (See infra).
page sentences express more than one idea or principle and the Latin text citations frequently quote only the second, or even the fifth part of a sentence as having relevance to a particular topic. A quoted segment of a long sentence is easily recognizable in the accompanying Latin text of a bilingual edition even by those not at all familiar with Latin, and thus bilingual editions with textual juxtaposition in parallel columns or on opposite pages best serve the reader’s purpose.

In spite of the usefulness of earlier English translations, it is certainly true that their notes and commentaries have become out-of-date in many instances; as for the texts, a great deal depends upon the original text used for the translation. Several of the older editions and a few of the recent ones could not or did not use the best of the original texts now in current use, a matter to which we shall return in dealing with the individual types of translations. Nevertheless, the earlier editions are still worth consulting, and comparison of their texts and notes with those of recent editions can be very instructive.

For this reason, the following list of English translations is not restricted to recent publications and contains as many titles, regardless of the year of publication, as the author was able to identify. The titles are arranged by categories corresponding to the breakdown followed in this article and alphabetically within the categories, either by the translator’s name or title.8

8 The Library of Congress enters the

A. English translations of pre-Justinian sources.

1. Statutes of popular assemblies, edicts, decrees of the Senate, imperial enactments.

_Ancient Roman statutes_ (Fahr ed. 1961).

This is the second volume in the series “The Corpus of Roman Law.” In chronological order, it contains 392 “statutes” in the broadest sense of the term, i.e. not only statutes passed by the popular assemblies and imperial enactments, but also edicts and decrees of the Senate, as well as provincial enactments of administrative nature from the earliest time to Justinian (exclusive). Each document is introduced by a brief description of its character and history and followed by extensive footnotes explaining the difficult passages of the text. It contains the translated text only. The Twelve Tables are listed under no. 8, the Edictum perpetuum under no. 244.

_Apokri mata_; decisions of Sertius Severus on legal matters, text, translation, and historical analysis by W. L. Westermann; legal commentary by A. Arthur Schiller (1954).

Deals with the contents of a single sheet of papyrus, now in the Columbia University Library (P. Columbia 125), recording imperial decisions (rescripta; the title is derived from the Greek verb _apokriinai_, “to give an answer”) from the years 199–200 A.D.

_Hardy, Six Roman laws_ (1911).

A bilingual edition containing six legis publicae from 123 B.C. to the first century A.D. of which the _Lex Agraria_, furnishing valuable information on the nature and structure of agrarian law, is the most important.

2. Juristic literature of the pre-Justinian era.

As already noted there are three important survivals in this category: Gaius’s Institutes (by far the most significant), Paulus’s Sententiae, and Ulpian’s _Regulæ_.

a. In connection with the Gaius translations, there are two important translations under the name of the sources, e.g. _Corpus juris civilis_, Gaius, _Lex Romana Visigothorum_.

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dates to remember: (1) 1874, the year the standard text of the Verona Codex was first published in Studemund’s *Apographum*, and (2) 1933, when the three parchment sheets containing the fragments of the Institutes, which filled the lacunae in the Verona Codex, were discovered; thus English translations dating before 1874 and 1933 are respectively more or less out-of-date.


Mears, *Institutes of Gaius and Justinian, the Twelve Tables, and the CXVIIIth and CXXVIIth Novels* (1882) (Bilingual).

Muirhead, *The Institutes of Gaius and Rules of Ulpian*.

The former from Studemund’s *Apographum* of the Verona Codex; with translation and notes, critical and explanatory, and copious alphabetical digest. (1880; 1895; 1904) (Bilingual).


Scott, S. P. *The Civil law* (17 vol. in 7 1932).

This work, the most inclusive English translation of Roman law sources, will be described later under translations of Justinian’s Corpus Juris. The first bound volume contains the Gaius translation based upon a German edition of 1886 (not the best one).


*Supplements to the Institutes of Gaius* (1935).

Bilingual edition of the 1933 Gaius discovery.

b. The translated text of Paulus’s frequently cited *Sententiae* is to be found in the first bound volume of Scott’s *The Civil Law*.

c. Ulpian’s as often cited *Regulae* are translated in the following works already listed under 2/a:


3. The pre-Justinian codices.

The author has every reason to believe that only one of the three pre-Justinian codices has been translated into English so far—


This is volume one in the series “The Corpus of Roman Law.” An excellent translation of the most important pre-Justinian code which had never before been translated. Monolingual: The *variorum* translation that gives other possible translations of a given passage in the footnotes is very helpful, even for simple reference purposes.

4. Other pre-Justinian collections of law.

Only one of the collections has been translated into English:


5. The barbarian codes.9

9 There is no English translation of the

**B. Corpus Juris Civilis.**

1. There is only one work so far, the most comprehensive translation of Roman law sources, which includes the whole Corpus juris civilis.

Scott, *The Civil law*, including the Twelve Tables, the Institutes of Gaius, the Rules of Ulpian, the Opinions of Paulus, the Enactments of Justinian, and the Constitutions of Leo; translated from the original Latin, edited and compared with all accessible systems of jurisprudence, ancient and modern. (17 vols. in 7. 1932).

There is no parallel to this translation in any language; this tremendous work is one man's achievement. Roscoe Pound says of this translation that “This work must be used with caution since the best texts were not used and at some points the translations are not reliable.”

Ironically, this tremendous task was based, without exception, on antiquated text editions. For the Corpus juris, for instance, not the standard edition of Krueger, Mommsen, Schoell and Kroll was used, but the less reliable text established by the Kriegel Brothers which contains many medial inclusions. The resulting mistranslations are due, to a great degree, to the defects in the original texts. Added to that, the translator did not follow the well-established practice of Anglo-American translators and translated highly technical Roman law terms into doubtful English equivalents instead of leaving them untranslated with explanations in the footnotes. These shortcomings reduce the value of the work, but do not render it valueless. For reference purposes it can very well be used; moreover, occasionally one cannot avoid using it since it is the only complete translation of Justinian's enactments.

2. Justinian's Digest.

Besides Scott's complete translation,


There is only one major partial translation of the Digest:


Vol. 1 contains Books 1-6; vol. 2, Books 7-15, title 4. Monro's project for a complete Digest translation was interrupted by his untimely death and the 2d volume was completed by W. W. Buckland. This excellent monolingual translation has to be consulted for the first 15 books of the Digest.

Apart from the above mentioned translations, there is an impressive roster of Anglo-American treatises which include one or more selected Digest titles and their English translation. These works were prepared with the intention of providing students, through a detailed study of Roman law on a particular topic, with a general knowledge of the basic concepts of the Civil law systems. Given this objective some of these treatises are not confined to Roman law alone, but also include relevant sections of modern codes. The works in this category are, in fact, excellent treatises on comparative law, containing scholarly analyses of individual Civil law institutions in comparison with their Anglo-American counterparts.

The following works are listed by order of the Digest titles they treat and are mostly bilingual (sometimes even polyglot).

The first topic is the *Lex Aquilia,* a plebscite of the second half of the third century B.C., the base upon which modern Civil law liability for damages has been built.


One of the most valuable monographic contributions to comparative study of law. In addition to Digest 9, 2, it contains ex-
tracts from other relevant Roman texts as well as selections from modern codes. Foreign texts, except for the French, are translated into English.

Monro, Digest IX. 2. Lex Aquilia. (1898 repr. 1921; 1928).

Thayer, Lex Aquilia (Digest IX. 2. Ad legem Aquilam) (1929).

This book also contains the text and commentary, without translation, of another Digest title: On gifts between husband and wife (Digest XXIV. 1, De donationibus inter virum et uxorem).

The next topic deals with actions for the recovery of things given for unjust, illegal, or immoral causes; stolen, or given for a specific purpose which subsequently failed (i.e. with unjust enrichment).

Oliver, Digest XII. 1 and 4-7 and XIII. 1-3, De conditionibus (1897).

Walker, Selected titles from the Digest: De conditionibus; Digest XII. I, and IV-VII, and Digest XIII. I-III. (1881).

One of the works deals with the problems of partnerships:

Monro, Digest XVII. 2. Pro socio (1902).

The Roman law of sale is “one of the most fruitful subjects in Roman law for advanced law students.” The following three works deal with this topic:

Mackintosh, The Roman law of sale, with modern illustrations. Digest XVIII. 1 and XIX. 1. (2d enl. ed. 1907).

Williams, J. Translation of Digest XVIII. 1 and XIX. 1. (1888; 1893).

Zulueta, The Roman law of sale (1945).

In addition to the relevant Digest titles, this work contains abstracts from other Roman law sources, selections from the French Code Civil, references to German sources and, for ready reference, the English Sale of Goods Act of 1893, the Factors Act of 1889, as well as the American Uniform Sales Act and the Uniform Conditional Sales Law.

The related subject of lease and hire is dealt with in:

Monro, Digest XIX. 2. Locati conducti (1891).

The Roman law of mortgage is the topic of:

Jackson, Justinian’s Digest (book 20) (1908).

The Roman family law was chosen by:

Leathley, The Roman family and de rito nuptiarum: title XXIII (2) from the Digest of Justinian (1922).

Acquisition of ownership (Digest 41. 1) and acquisition and loss of possession (Digest 41. 2) form the subjects of the following works:

Monro, Digest XLI. 1, De adquirendo rerum dominio (1900 repr. 1933).

Zulueta, Digest 41. 1 and 2 (1950).

The question of verbal obligations is dealt with in:

Trapnell, Translation of Digest XIV. 1. (1908).

Specific branches of obligations, such as suretyship, novations, and delegations are the topics of:


Three works may be added to this list, dealing with furtum—“theft”—the Roman law concept which encompassed not only simple stealing but also making use of another’s property without the knowledge of, or contrary to an agreement with, the owner.


Jolovitz, Digest XLVII. 2. De furtis (1940).

Monro, Digest XLVII. 2. De furtis (1893).

The last title of the Digest is treated in:


Besides Gaius's Institutes, their namesake by Justinian is the other Roman law source represented by a series of translations. The year to be remembered here is 1867, the date of the first edition of Krueger's Jurisprudentiae Romanae (Bilingual). Grapel, The Institutes of Justinian, with the Novel as to succession. (1885).

Harris, Institutes Institutionum libri quattuor. (1756; 1761; 1811; 1890).

Hunter, A systematic and historical exposition of Roman law . . . (Listed under A.2/a).


Standard beginner's textbook—

—The Institutes of Justinian: Latin text to accompany The elements of Roman law. (1951).

Mears, Institutes of Gaius and Justinian . . . (Listed under A. 2/a).

Moyle, J. B. Imperatoris Justiniani Institutionum libri quattuor (5th ed. 1912). The companion volume containing the English translation is entitled:

—The Institutes of Justinian, translated into English with an index. (5th ed. 1912).

One of the best translations of Justinian's Institutes.


Apart from Scott's complete Corpus Juris, there is no English translation of Justinian's Codex, and only two translations of the Novels have been published so far,11 the 118th and 127th dealing with intestate succession by Grapel and Mears in their works listed under B. 3 and A. 2/a, respectively, and by Harris. The latter's translation is appended to Cooper's The Institutes of Justinian (p. 393-400), also listed under B. 3.

Miscellanea.

Pound, Readings in Roman law, and the Civil law, and modern codes as developed thereof (2d ed. 1914).

A collection of extracts from various Roman law sources.


Ware, Roman water law, translated from the Pandects of Justinian. (1905).

Contains all the provisions of Roman law found in Justinian's Digest concerning fresh water.

III. DICTIONARIES, ENCYCLOPEDIAS AND VOCABULARIES

A selection of the large number of these indispensable tools for any kind of research in Roman law is listed below:

Foreign language dictionaries, etc.—


One of the best smaller size dictionaries.


Pauly's Realencyklopädie der klassischen Altertumswissenschaft. (21 vols. 1894-1953). Supplement volumes have been added under the direction of K. Ziegler.

English language dictionary:


A bad and lengthy gap has been filled by the publication of this excellent work.
an altogether indispensable tool in any kind of research in Roman law. The primary objective of this work is to meet the needs of students whose interest in Roman law has been awakened by the comparative study of law, but its bibliographical features make it equally valuable for teachers and advanced researchers.

This dictionary uses the lexicographical method. Each of the articles, written lucidly and with thorough accuracy, is followed by a bibliography pointing the way to research on a given subject. In addition, it includes a brief English-Latin glossary of legal terms and a general bibliography divided into twenty chapters.

IV. Key to Symbols for Citing Roman Law Sources

General Remarks

With a few exceptions, literary sources of the Roman law are arranged in books; books are divided into titles; titles, into laws or fragments; longer laws or fragments are subdivided into paragraphs or sections.

As a rule all these units are numbered. Roman numerals are used for books and titles; Arabic, for laws or fragments and paragraphs or sections. However, even though the sources are generally arranged in this manner, the prevailing practice has been to cite all the units of the sources with Arabic numbers.

The most frequently cited Roman law source is Justinian's Corpus Juris Civilis. The earliest method of citing the Corpus Juris, as established by the glossators, was to refer only to the numbered law and paragraph and the rubric (title heading). E.g. 1(ex) 15. § 3. De furtis (on theft). This method of citation did not indicate the number of the book or title, nor the part of the Corpus Juris to which reference was made. Medieval lawyers were expected to know by heart the several thousand rubrics in the Corpus Juris and where to find them. Later, Humanist authors inserted into the earlier form of citation the first letter of the name of the work, e.g. 1(ex) 15. § 3. D(igest) de furtis. This made it somewhat easier to find the cited rule. A developed version of this manner of citation survived for a long time in the writings of European authors who added to the Humanist form of citation the numbers of the book and title, often in parentheses, e.g. 1(ex) 15. § 3. D(igest) de furtis, (47. 2).

Gibbon the historian established the simple and rational method of citation which is not only generally followed today by Anglo-American authors, but has become prevalent in modern European writings as well. This mode of citation states, in consecutive order, the name of the source designated by the first letter; then the numbers of the book, of the title, of the law or fragment; and finally, the number of the paragraph or section. Thus, the above citation transliterated into this simple form, reads: D. 47. 2. 15. 3, which means that the cited rule is to be found in the Digest, book 47, title 2, law or fragment 15, paragraph or section 3.

The symbols for frequent citations are listed in the table below in alphabetical order, with explanations, and are followed by the best or the only English translation in which they can be located.

C. or Cod.—Codex Justinianus (Justinian's Code) consists of twelve books divided into titles which are subdivided into leges (laws); long laws are further subdivided into paragraphs or sections. E.g. C. 2. 4. 8. 3 means
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Code, book 2, title 4, law 8, paragraph or section 3. (Scott, The Civil law.)

C. Th.—Codex Theodosianus (Theodosian Code) contains sixteen books divided into titles which contain the statutes in chronological order. E.g. C.Th. 3. 1. 2 means Book 3, title 1, statute 2. (The Theodosian Code.)

Coll.—Mosaicarum et Romanarum legum collatio (Collation of Mosaic and Roman laws) consists of sixteen titles divided into chapters and sections. E.g. Coll. 10. 2. 5 reads Title 10, chapter 2, section 5. (Hyamson's translation listed under II.A.4)

Consultatio—Consultatio veteris ciudam jurisconsulti contains nine chapters divided into sections. E.g. Consultatio 3. 6 means Chapter 3, section 6. (No translation)

D. or Dig.—Digesta Justiniani (Justinian's Digest) is composed of fifty books divided into titles and fragments; long fragments are subdivided into paragraphs or sections. E.g. D. 1. 3. 32. 1 reads Digest, book 1, title 3, fragment 32, and the first numbered paragraph or section.

Several authors cite the Digest in longer form by adding the "inscription," which contains the name of the jurist and the number and title of his work from which the fragment was taken. E.g. D. 1. 3. 32. 1 Iuliani et Dig. means that the cited rule was excerpted from the 84th book in Iulianus's work, entitled Digest (not to be confused with Justinian's Digest). (Scott, The Civil law; and the first 15 books: Mono, The Digest of Justinian.)

Epit. Gai—Gai Institutionum Epitome (The Visigothic Gaius, contained in the Lex Romana Visigothorum) consists of two books divided into titles and sections. E.g. Epit. Gai 2. 9. 15 means Book 2, title 9, section 15. (No English translation. German translation by M. Conrat, Breviarium Alaricium, 1903.)

G—Gaius's Institutes are composed of four books divided into sections. E.g. G. 2. 69 reads Gaius's second book, section 69 (Zullueta, The Institutes of Gaius or Poste, Gai Institutiones.)

G. Epit.—see Epit. Gai.

I. or Inst.—Institutiones Justiniani (Justinian's Institutes) consist of twelve books divided into titles and sections. E.g. I. 3. 26. 2 means Book 3, title 26, section 2. (Moyle, The Institutes of Justinian.)

J.—see I. or Inst.

l or L.—stands for lex (law). Earlier European publications—a few recent ones—cite Roman law sources first by the law, then the section, and then the name of the work followed by the number of the book and of the title. E.g. l. 1. 2. 5. D. 24. 3. or l. 3. 2. C. 4. 8; which, in the generally employed form, reads D. 24. 3. 2. 5. and C. 4. 8. 3. 2, respectively.

Very often the rubric (title heading) or the "inscription," i.e. the reference to the jurist's work from which the fragment was taken, also is included in the citation. E.g. l(L)70. 3. D. de usufr. 7. 1 (Digest, book 7, title 1 dealing with usufruct, law 70, section 3); or l(L) 6. 1. D. 41.2. Ulpianus libro 70 ad edictum (Digest, book 41, title 2, the first numbered section of the sixth law which was excerpted from the 70th book of Ulpian's commentary on the Edict).

N. or Nov.—Novellae Justiniani (Justinian's Novels) contains 168 statutes which are cited as follows: N. (or Nov.) 118. 2. 4, meaning the 4th section of the second chapter in the 118th statute (Scott, The Civil law).

P.S. or Pauli Sent.—Paulus's Sententiae (Opinions of Paulus) consist of five books divided into titles and sections. E.g. P.S. 2. 5. 8 means Book 2, title 5, section 3 (Scott, The Civil law.)

pr—stands for "principium." Longer fragments or laws in Justinian's Corpus Juris are subdivided into numbered sections or paragraphs, but the initial section or paragraph is not numbered and is cited as pr. E.g. D. 1. 3. 32pr.

Th. C.—see C. Th.

XII Tabl.—Law of the Twelve Tables. E.g. XII Tabl. 4. 2 means the second law on the fourth tablet (Ancient Roman Statutes, Document no. 8).