



Introduction to Roman Law

James Hadley

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The Corpus Juris Civilis represents the Roman law in the form which it assumed at the close of the ancient period (a thousand years after the decemviral legislation of the Twelve Tables), and through which mainly it has acted upon modern times. It was compiled in the Eastern Roman Empire (the Western ceased in 476 a.d.), under the Emperor Justinian (controversies as to his character), who reigned 527-565 a.d.

The plan of the work, as laid out by Tribonian, included two principal parts, to be made from the constitutions of the Roman emperors, and from the treatises of the Roman lawyers. The *constitutiones* (law-utterances) of the emperors consisted of—1. *Orationes*, proposals of law, submitted to and adopted by the Senate; 2. *Edicta*, laws issued directly by the emperor as head of the state; 3. *Mandata*, instructions addressed by the emperor to high officers of law and justice; 4. *Decreta*, decisions given by the emperor in cases brought before him by appeal or otherwise; 5. *Rescripta*, answers returned by the emperor when consulted on questions of law by parties in a suit or by magistrates. Codes made up of imperial constitutions, selected and arranged, had been produced before, especially the Theodosian Code in the fifth century. The new Codex Constitutionum, prepared in little more than a year, was published in April, 629.

The next work was to digest the treatises of the most eminent law writers. Thirty-nine were selected, nearly all of whom lived between 100 b.c. and 250 a.d. Their books (2,000 in number) were divided among a body of collaborators (sixteen besides Tribonian), each of whom from the books assigned to him extracted what he thought proper, making the necessary changes (as to which Justinian had issued a number of *decisiones* for their guidance), and putting the extracts (9,000 in all) under an arranged series of heads. The Digest (or Pandects), thus produced by three years' labor, was issued in November, 533. It was divided into fifty books, and each book into several titles. About a third part comes from the jurist Ulpian (died 228), a sixth from his contemporary Julius Paulus, a twelfth from Papinian (died 212), etc. The Digest is the longest component of the Corpus Juris, and much the most important, from the nature and variety of its contents, showing the spirit of the law, and giving illustrations of juristic reasonings and methods.

To bring the *Codex Constitutionum* into better conformity with the Digest, it was revised in 534, and issued as we now have it in November of that year. It was divided into twelve books, and these into titles, with the same general arrangement as the Digest. Yet it contains some topics which do not appear in the Digest, especially all those connected with Christianity and the church. In general, it contains much more of public law than the Digest; and the superior importance of the latter is partly due to this fact, it being the private, not the public, law of Rome which has obtained currency in modern Europe...

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