"As if Uttered By Our Own Inspired Mouth": Researching the Corpus Juris Civilis

Frederick W. Dingledy
William & Mary Law School, fwding@wm.edu
“As if Uttered By Our Own Inspired Mouth”: Researching the *Corpus Juris Civilis*

by

Fred Dingedey
Senior Reference Librarian
College of William & Mary Law School
For LHRB+FCIL-SIS Roman Law Interest Group
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The George Wythe Room

Explore the George Wythe Room, the Wolf Law Library's recreation of George Wythe's library. Pages for each title in the collection include information about the work and its author, evidence for why the library believes George Wythe owned each title, and descriptions and photos of the copy held at The Wolf Law Library.

You can also find entries for the various people who received Wythe books after Thomas Jefferson inherited them and learn more about the copies of Wythe books that survive to this day.

The George Wythe Encyclopedia

George Wythe is preeminent in the list of Virginia's revolutionary founding fathers, and his life and careers as a teacher and judge gave him the opportunity to have a profound impact on the history of the Commonwealth and the United States.

- Biographical information for George Wythe.
- Samples of Wythe’s signature and handwriting.
- Details of Wythe’s cases.
- Accounts of Wythe’s death and the ensuing murder trial.
- Memorials to Wythe.
- Wythe’s letters and correspondence.
- The story of Wythe’s lost law lectures.
- Wythe ephemera.
- A bibliography of resources about Wythe.
What we’ll cover

- **History and Components** of the *Corpus Juris Civilis*
- **Relevance** of the *Corpus Juris Civilis*
- **Researching** the *Corpus Juris Civilis*
Diocletian (r. 284-305)
- Codex Gregorianus (ca. 291)
- Codex Hermogenianus (295)

Theodosius II (r. 408-450)
- Codex Theodosianus (438)

Previously…
Byzantine Empire in 500
Emperor Justinian I (r. 527-565)

“Arms and laws have always flourished by the reciprocal help of each other.”
528: Justinian appoints Codex commission
Book III.
Title I.

Concerning Trials
(De judiciis)

Bas. 7.6; D. 5.1.

3.1.1. Emperors Severus and Antoninus to Clemens.

The stipulation for interest is not destroyed by joinder of issues in an action. You may, therefore, sue a debtor for the interest of such time as was not included in the suit. Promulgated April 1 (205).
Codex

Liber
530: Digest commission
532: Nika (Victory) Riots
Digest: Writings by jurists
I: Public
II-XLVII: Private
XLVIII: Criminal
XLIX: Appeals + Treasury
L: Municipal, specialties, definitions

533: Digest/Pandects

1 Ulpian, Edict, book 39: Bonorum possessio, once granted, confers both the advantages and disadvantages relating to an inheritance as well as ownership of the things comprised among such bona; for all these are contingent on the grant of the bona.

“Appalling arrangement”
--Alan Watson
533: Justinian’s Institutes

First-year legal textbook

I: Persons
II: Things
III: Obligations
IV: Actions

BOOK TWO

2.1 THE CLASSIFICATION OF THINGS

After persons in the previous book, we turn to things. They are either in the category of private wealth or not. Things can be: everybody’s by the law of nature; the state’s; a corporation’s; or nobody’s. But most things belong to individuals, who acquire them in a variety of ways, described below. 1. The things which are naturally everybody’s are: air, flowing water, the sea, and the sea-shore. So nobody can be stopped from going on to the sea-shore. But he must keep away from houses, monuments, and buildings. Unlike the sea, rights to those things are not determined by the law of all peoples. 2. Rivers and harbours are state property. So everybody shares the right to fish in them. 3. The sea-shore extends as far as the highest winter tide. 4. The law of all peoples allows public use of river banks, as of the rivers themselves: everybody is free to navigate rivers, and they can move their boats to the banks from paved banks.

of God. Under our pronouncement such things must not be alienated or charged except for redeeming prisoners. If anyone tries to make something sacred himself for his own purposes, it does not become sacred but remains secular. The ground on which a church has been built remains sacred even after the building comes down. That is in Papinian. 9. Anyone can make a site religious by deciding to bury a dead body on land which he owns. A co-owner of land which is not religious cannot use it as a burial place without his colleague’s consent. With a shared tomb it is different: burial by one does not need the others’ consent. Where someone has a usufruct in the land the law is that the owner cannot make it religious unless the usufructuary consents. The land of a third party may be used for burial if its owner consents; the site does become religious even if his approval is given after the burial. 10. Sanctified things, such as city walls
533: Reform of Byzantine legal education

First year: *Institutes*

*Digest & Novels*

Fifth year: *Codex*
Novel 3.

That the number of clergymen of the holy Great Church (at Constantinople) and of the other holy churches of this fortunate city shall be limited.
(Ut determinatus sit numerus clericorum sanctissimae magnae ecclesiae et certerarum sanctissimarum ecclesiarum felicissimae urbis.)

534: Codex 2nd ed.
565: Justinian dies
Justinian’s Empire in 555
Byzantine Empire in 717
The medieval revival

Holy Roman Emperor Henry IV, Abbot of Cluny, and Matilda of Canossa
1583: Dionysius Gothofredus, *Corpus Juris Civilis*
1753: George Harris, *The Four Books of Justinian’s Institutions*
The 19th-century critical editions

Theodor Mommsen: *Digest* (1870)
Paul Krueger: *Institutes* (1867) and *Codex* (1877)
Rudolf Schöll & Wilhelm Kroll: *Novels* (1895)
1904: Partial English translation of *Digest*
1932: English translation of CJC

S.P. Scott
1985: English translation of *Digest*
ca. 1952: English translation of *Codex* and *Novels*
France

LES INSTITUTES DE L'EMPEREUR JUSTININEN,

Traduites en Français par M. HULOT, et suivies d'une Table générale des Titres du Digeste et des Institutes par ordre alphabétique tant en français qu'en latin, avec renvoi au volume et à la page de l'édition in 4°.

A METZ,
Chez BEHMER,
Chez LAMORT,
A PARIS,
Chez RONDONNEAU, au basét des Lois.
AN 1806.

Germany

Das CORPUS JURIS CIVILIS
in's Deutsche übersetzt
von einem VEREINE RECHTSGELEHRTER
und herausgegeben
von
Dr. CARL ED. OTTO, Dr. BRUNO SCHILLING,
Professoren der Rechte an der Universität Leipzig,
und
Dr. CARL FRIEDRICH FERDINAND SINTENIS,
as Redactoren.

ERSTER BAND.

LEIPZIG, 1830.
VERLAG VON CARL FOCKE.

European influence
CUERPO
DE
DERECHO CIVIL ROMANO
A DOBLE TEXTO, TRADUCIDO AL CASTELLANO DEL LATINO
PREPARADO POR LOS HERMANOS KRIEGEL, HERMANN Y OSENBRÜGGEN
CON LAS VARIANTE DE LAS PRINCIPALES EMOCIONES ANTIGUAS Y MODERNAS Y CON NOTAS DE REFERENCIAS
POR
D. ILDEFONSO L. GARCÍA DEL CORRAL
Licenciado en Derecho Civil y Canónico y en Filosofía y Letras
y Abogado de los Ilustres Colegios de Barcelona y Madrid.

TERCERA PARTE
Revisado el texto latino por D. EDUARDO OSENBRÜGGEN
NOVELAS

CORPO DEL DIRITTO
CORRIGEATO DELLE NOTE
DI DIONISIO GOTOFREDO, E DI C. E. FREIESLEBEN
ATTUATORES
FERROMONTANO
CON LA COSTRUTTIVA DELLE LEGI E CON LA CONSIDERAZIONE DELLE STESSI PER GUSTO
DI GIOVANNI VIGNALI,
DELLA CRONOLOGIA DELLE LEGGI DI ROMA
COMPIUTA DALLE RESTATE OPERE DELLA PRIMIZIA
SCRITTO IN VENETO
DI SRI INDICI E CRONOLOGICI ED ALFABETICI
VOLUME PRIMO

GIOVANNI VIGNALI

NAPOLI
PRESTATO VINCENTI PREZIOTTI, EDITORE
1870

European Influence
and if the first donor, by force of the agreement between himself and his
feoffee, enters and ejects the last feoffee, the latter, when he seeks restitution by the
assise, will be barred by an exception based upon the agreement, though he is not
bound by an agreement made between others,\textsuperscript{7} [for] though he is not bound
[personally], he is bound because he holds a burdened thing.

\textsuperscript{7}D. 2.14.27.4: 'ne conventio in alia re facta aut cum alia persona in alia re aliave persona
noceat.'
“Secondly, Homonymiae, (as Justinian calleth them,) cases merely of iteration and repetition, are to be purged away…”

Sir Francis Bacon, A Proposition to His Majesty
“I am this Day about beginning Justinians Institutions with Arnold Vinnius’s Notes.”

Diary of John Adams
By the roman civil law arbitrorum genera sunt duo, unum ejusmodi, ut sive aequum sit, sive iniquum, parere debamus: quod observatur, cum ex promisso ad arbitrium itum est. Dig. lib. XVII. tit. LVI. I. 76. qualem autem sententiam dicat arbitrer, ad practorem non pertinere, Labeo ait, dummodo dicat quod ipsi videtur. Dig. lib. IV. tit. VIII.
The principle which underlies the equal footing doctrine and the strong presumption of state ownership is that navigable waters uniquely implicate sovereign interests. The principle arises from ancient doctrines. See, e.g., Institutes of Justinian, Lib. II, Tit. I, § 2 (T. Cooper transl. 2d ed. 1841) ("Rivers and ports are public; hence the right of fishing in a port, or in rivers are in common"). The special treatment


Modern U.S. references
"Classification was not a strength of Roman jurisprudence. It was a methodology that the Romans borrowed enthusiastically from the Greeks, but in which they generally proved to be relatively inept."

CJC research

Secondary Sources

*Borkowski’s Textbook on Roman Law*

*Cambridge Companion to Roman Law*

*Justinian’s Institutes*

*Thomas translation*
CJC Cite format
(Edward Gibbon)

D 47.2.15.3

Part of CJC
Book
Title
Law
Paragraph/Section

Older cites may only give Law+paragraph/section number
Bluebook Style (Rule T2.34)

- Code Just. 2.45.3 (Diocletian & Maximian 290/293).
- Dig. 9.2.23 (Ulpian, Ad Edictum 18).
- J. Inst. 2.23.1.
- Nov. 15.1 (535)
Online sources – Blume’s *Code* and *Novels* (U. of Wyoming)
Online Sources – Watson’s Digest translation (Penn Press)
Online sources – archive.org
Online sources -- Hein
Tables of Contents

- Almost always present in print-first editions
- Often English+Latin
- Sometimes just English
Indexes

- Not in Monro’s or Watson’s Digest
- Other print-first parts of CJC have them
Pictures used

- Slide 4: Bust of Byzantine Emperor Theodosius II (reigned 408–450 AD) photo by Marie-Lan Nguyen. https://commons.wikimedia.org/wiki/File:Theodosius_II_Louvre_Ma1036.jpg (Licensed under CC BY 2.5)
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  [Image: https://commons.wikimedia.org/wiki/File:Winner_of_a_Roman_chariot_race.jpg](Public Domain)

- Slide 10: Theodora. Detail from the 6th-century mosaic "Empress Theodora and Her Court" in the Basilica of San Vitale in Ravenna photo by The Yorck Project.
  [Image: https://commons.wikimedia.org/wiki/File:Meister_von_San_Vitale_in_Ravenna_008.jpg](Public Domain)

- Slide 15: The Eastern Roman Empire (red) and its vassals (pink) in 555 AD during the reign of Justinian I by user Tataryn77, Wikimedia Commons.
  [Image: https://commons.wikimedia.org/wiki/File:Justinian555AD.png](Licensed under CC BY-SA 3.0)

- Slide 16: Byzantine Empire in 717 A.D. by users Amonixinator and Hoodinski, Wikimedia Commons.
  [Image: https://commons.wikimedia.org/wiki/File:ByzantineEmpire717%2Bextrainfo%2Bthemes.svg](Licensed under CC BY-SA 3.0)

- Slide 17: Life of the Countess Matilda of Canossa by unknown miniaturist, Italian (active 1160s).

- Slide 18: Half-title from volume one of Corpus Juris Civilis.
  [Image: http://lawlibrary.wm.edu/wythepedia/index.php/File:CorpusJurisCivilis1663v1HalfTitle.jpg](Public Domain)


- Slide 20: Theodor Mommsen in 1863 by Louis Jacoby.
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- Slide 25: Professor Alan Watson by user Soloviev1, Wikimedia Commons. [https://commons.wikimedia.org/wiki/File:Alan_watson_scholar.jpg](https://commons.wikimedia.org/wiki/File:Alan_watson_scholar.jpg) (Public Domain)

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