

THE DIGEST OR PANDECTS.

THE THREE PREFACES OF THE DIGEST BY JUSTINIAN.

FIRST PREFACE.

CONCERNING THE PLAN OF THE DIGEST ADDRESSED TO TRIBONIANUS.

THE EMPEROR CÆSAR, FLAVIUS, JUSTINIANUS, PIOUS, FORTUNATE,
RENOWNED, CONQUERER AND TRIUMPHER, EVER AUGUSTUS, TO
TRIBONIANUS HIS QUÆSTOR:

GREETING.

With the aid of God governing Our Empire which was delivered to Us by His Celestial Majesty, We carry on war successfully, We adorn peace and maintain the Constitution of the State, and have such confidence in the protection of Almighty God that We do not depend upon Our arms, or upon Our soldiers, or upon those who conduct Our Wars, or upon Our own genius, but We solely place Our reliance upon the providence of the Holy Trinity, from which are derived the elements of the entire world and their disposition throughout the globe.

(1) Therefore, since there is nothing to be found in all things so worthy of attention as the authority of the law, which properly regulates all affairs both divine and human, and expels all injustice; We have found the entire arrangement of the law which has come down to us from the foundation of the City of Rome and the times of Romulus, to be so confused that it is extended to an infinite length and is not within the grasp of human capacity; and hence We were first induced to begin by examining what had been enacted by former most venerated princes, to correct their constitutions, and make them more easily understood; to the end that being included in a single Code, and having had removed all that is superfluous in resemblance and all iniquitous discord, they may afford to all men the ready assistance of their true meaning.

(2) After having concluded this work and collected it all in a single volume under Our illustrious name, raising Ourselves above small and comparatively insignificant matters, We have hastened to attempt the most complete and thorough amendment of the entire law, to collect and revise the whole body of Roman jurisprudence, and to assemble in one book the scattered treatises of so many authors; which no one else has herebefore ventured to hope for or to expect, and it has indeed been considered by Ourselves a most difficult undertaking, nay, one that was almost impossible; but with Our hands raised to heaven, and having invoked the Divine aid. We have kept this object in Our mind, confiding in God who can grant the accomplishment of things which are almost desperate, and can Himself carry them into effect by virtue of the greatness of His power.

(3) We have also taken into consideration your marked integrity as disclosed by your labors, and have committed this work to you, after having already received the evidence of your talents in the preparation of Our Code; and We have ordered you in the prosecution of your task, to select as your assistants whomever you might approve of from among the most eloquent professors of law, as well as from the most learned men belonging to the bar of this great city. These, therefore, having been collected and introduced into Our palace, and accepted by Us upon your statements, We have permitted the entire work to be accomplished; it being provided, however, that it should be conducted under the supervision of your most vigilant mind.

(4) Therefore We order you to read and revise the books relating to the Roman law drawn up by the jurists of antiquity, upon whom the most venerated princes conferred authority to write and interpret the same; so that from these all the substance may be collected, and, as far as may be possible, there shall remain no laws either similar to or inconsistent with one another, but that there may be compiled from them a summary which will take the place of all. And

while others have written books relating to the law, for the reason that their writings have not been adopted by any authorities, or made use of in practice, We do not deem their treatises worthy of Our consideration.

(5) Since this compilation is to be ascribed to the extraordinary liberality of Our Imperial will, it ought to constitute a most excellent work and, as it were, be revered as a peculiar and most holy temple of justice. You shall divide the entire law into fifty books, and into a certain number of titles following, as far as may be convenient for you, the arrangement of Our Code, as well as that of the Perpetual Edict, so that nothing may be omitted from the above mentioned collection; and that all the ancient law which has been in a confused condition for almost fourteen hundred years shall be embraced in the said fifty books, and this ancient law, purified by Us shall be, so to speak, surrounded by a wall, and shall have nothing beyond it. All legal authors shall possess equal authority, and no preference shall be given to any, because all of them are neither superior nor inferior to one another in every respect, but some are of greater or less weight as far as certain subjects are concerned.

(6) But you must neither base your judgment as to what is best and most equitable upon the number of authors, as perhaps on some points the opinion of one who is inferior may be preferable to that of many and greater ones; and therefore you must not entirely reject what was formerly included in the notes to Æmilius Papinianus, taken from Ulpianus, Paulus, and Marcianus, although the said notes have hitherto had but little force, on account of the distinction of the most renowned Papinianus; but if you perceive that anything from them is required to supplement the labors of Papinianus, that man of eminent genius, or necessary for their interpretation, you must not hesitate, after having selected it, to give it the force of law; so that all those most learned men whose opinions are included in this book may have the same authority as if their studies had been based upon the Imperial Constitutions promulgated by Our own Divine power; for We very properly consider all those things to be Ours which have obtained their sanction from Us; for he who corrects what has not been skilfully done is more praiseworthy than he who is the original author of the same.

(7) We desire you to be careful with regard to the following: if you find in the old books anything that is not suitably arranged, superfluous, or incomplete, you must remove all superfluities, supply what is lacking, and present the entire work in regular form, and with as excellent an appearance as possible. You must also observe the following, namely: if you find anything which the ancients have inserted in their old laws or constitutions that is incorrectly worded, you must correct this, and place it in its proper order, so that it may appear to be true, expressed in the best language, and written in this way in the first place; so that by comparing it with the original text, no one can venture to call in question as defective what you have selected and arranged. Since by an ancient law, which is styled the *Lex Regia*, all the rights and power of the Roman people were transferred to the Emperor, We do not derive Our authority from that of other different compilations, but wish that it shall all be entirely Ours, for how can antiquity abrogate our laws?

We wish that all these matters after they have been arranged in place shall be observed to such an extent that, although they may have been written by the ancients in a different way than appears in Our collection, no blame shall be imputed the text, but it shall be ascribed to our selection.

(8) Therefore, in no part of the aforesaid treatise, shall there be any place for *antinomia*, (this was derived by antiquity from a Greek word), but there must be such conformity and consistency therein that there will be no opportunity for contradiction.

(9) We desire, as has already been stated that all repetition shall also be banished from this compilation, and whatever has been provided by the most Sacred Constitutions which We have included in our Code We do not permit again to be considered as a part of the ancient law, since the sanction of the Imperial Constitutions is sufficient to confer authority upon

them; unless perhaps this should take place either for the purpose of division, or supplement, or in order to secure greater exactness; and even this must be done very rarely, lest where this repetition occurs, something thorny may grow up in this meadow.

(10) However, by no means do We allow you to insert into your treatise laws that appearing in ancient works have now fallen into desuetude; since We only desire that legal procedure to prevail which has been most frequently employed, or which long custom has established in this benign City; in accordance with the work of Salvius Julianus which declares that all states should follow the custom of Rome, which is the head of the world, and not that Rome should follow the example of other states; and by Rome is to be understood not only the ancient city, but Our own royal metropolis also, which by the grace of God was founded under the best auguries.

(11) Therefore We order that everything shall be governed by these two works, one that of the Imperial Constitutions, the other, that of the law to be interpreted and compiled in a future Code; so that if anything else should be promulgated by Us in the form of an elementary treatise, the uninstructed mind of the student, being nourished by simple matters, may the more readily be conducted to a knowledge of the higher principles of jurisprudence.

(12) We desire Our compilation which, God willing, is to be drawn up by you, to bear the name of the Digest or Pandects, and no person learned in the law shall dare hereafter to add any commentaries thereto, and to confuse by his own prolixity the abridgement of the aforesaid work, as was done in former times, for almost all law was thrown into confusion by the opposite opinions of those interpreting it; but it is sufficient merely by indexes, and a skilful use of titles (which are called paratitla), to give such warning that no change may take place in the interpretation of the same.

(13) And in order that no doubt may arise hereafter on account of the writing, We order that the text of the said work shall not be written with abbreviated words, and that obscure and compendious expressions shall not be employed, which by themselves and through the defects which they have occasioned have brought about many contradictions, even where the number of the book or something else is meant; for We do not permit such things to be indicated by special abbreviations of numbers but they must be designated by regular letters.

(14) Let it be your earnest desire, therefore, to do all these things, God willing, by the aid of your own wisdom and that of those other most eloquent men, and bring the work to as excellent and rapid a conclusion as possible; so that it having been completed and digested into fifty books may remain a monument to the great and eternal memory of the undertaking, a proof of the wisdom of Almighty God, to the glory of Our Empire and of your service. Given on the eighteenth day of the *Kalends* of January, during the Consulship of those most illustrious men Lampadius and Orestes, 530.

THE EMPEROR CÆSAR, FLAVIUS, JUSTINIANUS, ALEMANNICUS, GOTHICUS,
FRANCISCUS, GERMANICUS, ANTICUS, ALANICUS, VANDALICUS, AFRICANUS,
PIOUS, HAPPY, RENOWNED, CONQUEROR AND TRIUMPHER, EVER AUGUSTUS,
TO THEOPHILUS, DOROTHEUS, THEODORUS, ISIDORUS, ANATOLIUS,
THALELEUS, AND GRATINUS, ILLUSTRIOUS MEN AND PROFESSORS OF LAW,
AND TO SALAMINIUS MOST ELOQUENT MAN, AND PROFESSOR OF LAW,
GREETING.

Who knows more fully than you do that the entire law of Our State is now amended and compiled in four books of Institutes or elements, and in fifty books of the Digest or Pandects as well as in twelve Imperial Constitutions? All those things which it was necessary to order either at the beginning, or to settle after the completion of the work, with free admission of the fact, have already been explained to you by Our speeches expressed in both the Greek and Roman languages, which We desire to become eternal. But since it is necessary for you and all others who have been appointed professors of legal science also to know this, namely: what

We think is necessary to be communicated to students, and at what time this should be done, so that they may by this means become perfect and most learned; We therefore are of the opinion that the present Imperial address should be especially directed to you, so that you in your wisdom, as well as other professors who may desire to exercise the same profession at any time, having observed Our rules may be able to travel the glorious road of legal knowledge. Therefore there is no doubt that elementary treatises have a right to claim for themselves the first place in all studies, for the reason that they afford in small compass the first principles of every science. Of the fifty books of the Digest, We are of the opinion that thirty-six would be sufficient for your explanation of the law, as well as for the instruction of youth; and it seems to Us to be suitable now to explain their arrangement, and to indicate the paths by which you must proceed; to recall to your memory what you formerly taught, and also to point out not only the usefulness of Our new compilation but also state the time which should be consumed in its study, in order that none of this science may remain unknown.

(1) Formerly indeed, as you are well aware, among the vast multitude of laws which are included in two thousand volumes, and more than three million lines, students received from the instruction of their masters the contents of only six books, which were greatly confused and included very few useful laws; the others had already fallen into disuse and were difficult of comprehension to all. In these six books were comprised the Institutes of Our Gaius and four special treatises; the first concerning the ancient dotal action, the second, on guardianship, the third and the fourth relating to wills and legacies, which students did not study as a whole, but omitted many portions of the same as being superfluous.

This work was not taught to students during the first year in accordance with the order of the Perpetual Edict (but indiscriminately and as it were collected in a medley, the useful mixed with the worthless and the latter composing the larger portion.

During the second year, an absurd arrangement was adopted, and the first part of the laws was taught, certain titles having been omitted, for it was contrary to all rules to read anything after the elements but what occupied the first place among the laws and which deserved this name. After this part had been read without any continuity, special subjects being chosen which were for the most part useless, other titles were taught to the students which were derived from that part of the laws styled "Concerning Actions", and in this no regular method was pursued, rarely were profitable subjects selected, and almost the entire remainder of the volume was considered of no value; and from that part which is designated "Things" seven books were rejected as being unfitted for students and considered neither suitable nor peculiarly adapted to instruction.

During the third year, they studied what had been omitted from each volume, that is to say from those on Things and on Actions-at-law, using each volume alternately; and this opened the way for them to the most sublime Papinianus and his Opinions. From the aforesaid collection of Opinions which are contained in nineteen books, they were taught only eight, nor were the entire contents of these given them, but very few subjects from many were selected, and of these the shortest out of a great number, so that they laid them down without being thoroughly informed. Then after these treatises alone had been expounded by the professors, the students were accustomed to study the Opinions of Paulus by themselves not as a whole, but in an imperfect and somewhat disconnected manner, in accordance with a vicious custom. In this way the study of ancient jurisprudence was brought to a close in the fourth year, and if anyone desired to enumerate the studies which had been pursued, he found on making the calculation that out of the immense number of laws hardly sixty thousand lines of very little value had been gone over and that all the remainder were unconsidered and unknown; except where some small portion of them were required to be examined whenever the practice of the courts compelled this to be done; for you yourselves, masters of the law, deemed it proper to read something from them in order that the information of your scholars might be, to some extent, increased by your efforts. Such were the monuments of ancient instruction which is

also confirmed by your own testimony.

(2) We, however, finding such a need of laws, and considering this condition to be most wretched, do now open the treasures of jurisprudence to all those desirous of obtaining them; and these when dispensed by your wisdom, as it were, will render your scholars most eloquent legal orators.

During the first year, they will study Our Institutes which We have taken from almost all the ancient elementary works, and which have been brought from all turbid sources into one limpid, pure, reservoir, by the agency of Tribonianus, that most eminent man, and magistrate, former Quæstor of our Sacred Palace, and former Consul, as well as by both of you, that is to say, Theophilus and Dorotheus, most eloquent professors. For the remainder of the year according to an excellent method We direct that the first part of the laws, which is designated by the Greek term *prwta* shall be taught to students, and that nothing shall precede this, because what holds the first rank can have nothing before it; and We decree that this shall be the beginning and end of instruction during the first year. Nor do We consent that those who take this course shall be designated by the foolish and ridiculous name of "Twopounders"; but shall be called "New Justinians", and We desire that this rule shall be followed for all future time, so that those who still uninformed aspire to the knowledge of the law, and are willing to accept the ordinances of the former year may be worthy of bearing Our name; since the first volume which has been promulgated by Our authority will be immediately delivered into their hands. The name which they formerly bore was one which was worthy of the ancient confusion which enveloped all jurisprudence; now, however, as the laws are to be clearly and intelligibly presented to their minds, it was necessary for their appellation to be changed, and for them to be distinguished by another.

(3) In the second year, for which a name has already been given them by an Edict approved of by Us, We decree that they shall be taught either from the seven books relating to Actions or from the eight relating to Things, as the alteration of the time may permit; and this arrangement We direct shall be preserved unaltered; but in the study of the said books on Actions and Things they must thoroughly apply themselves, taking them in their regular order and without omitting anything, because all is adorned with new elegance, and nothing whatever that is worthless or that has fallen into disuse is to be found therein. We wish to be added to the study of one or the other of these treatises, that is the one on Actions or the one on Things, during the second year, four special books which We have selected out of the entire compilation of fourteen; one of which is derived from the contents of the work in three books which We have compiled on dowries; one from the two on guardianships and curatorships; one from the work in two parts concerning wills; and also one compiled in like manner from the seven which treat of legacies and trusts and topics of a similar character. Therefore We order that these four books which have been placed in the first rank of the special compilations aforesaid, shall alone be used by you in giving instruction to students; the other ten being reserved for a proper opportunity, because it is not possible, nor does the second year afford sufficient time for the said fourteen books to be explained to them by the voice of the master.

(4) During the third year the course of instruction must pursue the following order, so that whether they be taught alternately from the books relating to Actions or from those relating to Things the triple method of special works on jurisprudence shall be followed: first must be taken up the formula of hypothecation, to which We have assigned a suitable place, namely that in which We treat of mortgages; for as it resembles actions arising from pledges, which have been discussed in the books treating of Things, it should not avoid their neighborhood, since both subjects have reference to almost the same matters.

After this special treatise, another like it shall be explained to them, which We have compiled with reference to the Edict of the Ædiles, and concerning actions for the recovery of property,

and on evictions, as well as those relative to stipulations for double the amount; as when provisions are made by the laws with respect to purchases and sales they occupy a prominent place, in the books on Things; but as all the definitions which We mentioned were inserted in the last part of the former edict, We were compelled to transfer them to the first position, lest they might be too far separated from Sales, to which they are, as it were, auxiliary. We have designated these three books to be read with that of the most talented Papinianus whose works students were accustomed to study during the third year, not as a whole but a little being taken here and there from the entire contents. The most elegant Papinianus affords excellent subjects for your instruction, not only from the Opinions which are contained in nineteen books, but also from his thirty-seven books of Questions and his two books of Definitions, and besides the book on Adultery, and indeed, almost all his disquisitions in the entire arrangement of Our Digest, in which he appears eminent in his own particular sphere.

And lest students of the third year, who are styled "Papinianists", may appear to lose their name as well as their elegance, he himself has again been introduced to the third year by means of a most excellent contrivance; for We have filled the book on the hypothecary formula from the elements of the same excellent Papinianus, so that they may derive their name from him and be styled Papinianists, and may remember him and rejoice and observe the festival day which they were accustomed to celebrate when they first studied his principles of law; and that by means of this the memory of that most distinguished Præfectorian Papinianus may survive forever; and with this the study of the third year shall be concluded.

(5) Then, for the reason that it is customary for students of the fourth year to be designated by the ordinary Greek name *lutaV*, they may retain this name if they desire to do so; and instead of the Opinions of the most learned Paulus, of whose twenty-three books they formerly were accustomed to study scarcely eighteen, reading them in a confused manner as already stated; they must now endeavor to frequently peruse ten special books which remain out of the fourteen which We have already enumerated, and from these they will obtain a much greater and more ample fund of information than they were accustomed to derive from the Opinions of Paulus.

Thus the entire order of separate books compiled by Us and divided into seventeen will be impressed upon their minds, which We have included in two parts of the Digest, that is to say, the Fourth and Fifth, in accordance with its division into Seven Parts; and what We stated in the first words of Our address will be found to be true; so that young men may become perfect by the study of the said thirty-six books, and prepared for any legal work, and not be unworthy of our age. The other two parts of our Digest, that is to say the Sixth and Seventh which are composed of fourteen books, must be laid aside for the time, so that they can subsequently read them and make use of them in court. If they carefully absorb these, and during the fifth year in which they are called *proluta*, they endeavor not only to read but to perfectly understand the Code of Imperial Constitutions, they will lack nothing of the knowledge of jurisprudence, but they will be familiar with it all from beginning to end; and although this happens in almost no other scientific system, the number of whose branches is infinite however useless they may be, this course of study alone will have an admirable termination, which is effected by Us at the present time.

(6) Therefore, when all these secrets of the law are disclosed, nothing will be concealed from the students, but after having read all the books which have been compiled by Us through the agency of that distinguished man Tribonianus, and others, they will become eminent orators and ministers of justice and as fitted for deciding causes as for trying them, and will be prominent and fortunate in every place and in every age.

(7) We wish that these three treatises which have been composed by Us shall be taught students not only in royal cities, but also in the most beautiful city of Berytus — which may well be designated the nurse of the law, as has already been ordained by former princes — but

in no other places, to which this privilege was not granted by Our ancestors; and for the reason that We have learned that certain ignorant men have gone about in the magnificent city of Alexandria, as well as in a Cæsarea, and have imparted spurious instruction to students, We intend to deter these from this undertaking by means of the above-mentioned warning, so that if they venture hereafter to perpetrate such acts outside the royal cities and the metropolis of Berytus, they shall be punished by a fine of ten pounds of gold, and shall be banished from that city in which they do not teach the laws, but violate them.

(8) There is another matter which We referred to in Our address in the beginning, when ordering this work to be composed, which after its completion We also inserted in another of Our Sacred Constitutions, and which We now promulgate as being useful; that is, that none of those who compile these books shall dare to insert abbreviations in them; or, by the employment of notes introduced any ambiguity in the interpretation and composition of the laws; and all copyists who may commit this offence hereafter are hereby notified that they, in addition to being liable to a criminal penalty shall be compelled to pay double the value of the book to the owner, if he was ignorant of its character when they delivered it to him; since he who purchases such a book cannot consider it of any value, for no judge will permit a citation to be made from it, but will direct that it shall be considered as unwritten.

(9) The following We publish as an extremely necessary regulation based upon a most solemn warning, namely, that no one of those who are pursuing the study of the law shall dare, either in this most magnificent city, nor in the beautiful city of Berytus, to perpetrate any jokes which are unworthy and most vile, nay even befitting only the condition of slaves, that have an injurious effect; or any other illegal acts either against their professors or their associates, and especially against those who come to the study of the law while inexperienced; for who indeed can designate as jokes such deeds as give birth to crimes? We do not suffer these things to be done under any circumstances; but We subject this matter to a rigid rule in Our times and transmit it to all future ages, since it is proper that Our minds should first be educated and afterwards our tongues.

(10) The exalted Prefect of this most flourishing city shall have charge of the enforcement and punishment for violation of these rules so far as both youths and copyists are concerned. In the city of Berytus the most illustrious President of the Phœnician shore, together with the most blessed Bishop and the professors of law of that city shall discharge this duty.

(11) Begin then, under the direction of God to teach the science of law to students and open to them the way which We have discovered, that they may become excellent ministers of justice and of the State, and that the greatest possible honor may accrue to you for all time; because in your age an exchange of laws has been devised, such as was made by Glaucus and Diomedes with one another, as is set forth in Homer, the father of every virtue, when they exchanged things which were dissimilar: crusea calkeiwn. ekotomboioa enneaboioiwn; that is to say — "Gold for copper, cattle worth a hundred for others worth nine."

We decree that all these rules shall be observed in every age by all professors, students of law, and copyists, and by the judges themselves.

Given on the seventeenth day of the *Kalends* of January at Constantinople, our Lord Justinian, ever Augustus, being Consul for the third time, 533.

SECOND PREFACE.

CONCERNING THE CONFIRMATION OF THE DIGEST.

TO THE SENATE AND ALL PEOPLES. IN THE NAME OF OUR LORD GOD JESUS CHRIST.

THE EMPEROR CAESAR, FLAVIUS, JUSTINIANUS, ALEMANNICUS, GOTHICUS, FRANCICUS, GERMANICUS, ANTICUS, ALANICUS, VANDALICUS, AFRICANUS,

PIOUS, FORTUNATE, RENOWNED, VICTOR AND TRIUMPHER, EVER AUGUSTUS,
TO THE SENATE AND ALL PEOPLES.

So great is the forethought of Divine Humanity in Our favor, that it always deigns to sustain Us with its eternal liberality. After having terminated the Parthian wars by a lasting peace, and after having overthrown the nation of the Vandals, and for a second time united Carthage, nay indeed all Lybia with the Roman Empire; We by Our care have caused the ancient laws, already oppressed with age, to be invested with new beauty and suitably compiled; which no one before Our reign ever hoped for, or even thought to be hardly possible for human effort to accomplish. For it was truly wonderful that Roman jurisprudence, which from the foundation of the City up to the time of Our accession, a period embracing almost fourteen hundred years, had been rendered unstable by intestine conflict, a condition which had also extended to the Imperial Constitutions, should nevertheless be reduced into one consistent system, in such a way that nothing contradictory, identical, or even similar should be encountered, and that no two laws enacted for the same purpose should ever appear therein; for a work of this kind would indeed seem to be within the province of Divine Wisdom, but in no wise attainable by human frailty.

Therefore We, according to Our custom, have had recourse to the assistance of Immortality, and having invoked the Supreme Deity, have wished God to become the author and head of the whole work, and We have given its supervision to that eminent man Tribonianus, Master of the Offices, former Quæstor of our Sacred Palace, and former Consul, and We have confided to him the entire management of this undertaking, so that he himself, along with other most illustrious and learned men, might accomplish Our desire. And Our Majesty also relying upon the heavenly Divinity and constantly examining and scrutinizing the matter compiled by these men, have corrected whatever has been found to be ambiguous or doubtful and reduced it into proper order.

(1) Everything therefore has been completed by the aid of Our Lord God Jesus Christ, who has rendered the task possible for Us as well as for Our ministers, and We have already collected the principal constitutions and digested them into twelve books, in the Code which is distinguished by Our name. Afterwards, applying Ourselves to the preparation of a very extensive work, We permitted the aforesaid illustrious man to collect and compile with certain changes the contents of many most valuable treatises of antiquity, which at that time were almost utterly confused and disconnected. But while making Our inquiries, We were reminded by the aforesaid eminent man that there were almost two thousand books written by the ancient jurists, and more than three million lines produced by them, all of which it would be necessary to read and thoroughly examine, and from which must be chosen whatever would be best. This has been accomplished by the grace of God and the favor of the Supreme Trinity, in conformity to Our orders, which in the beginning We issued to the above mentioned eminent man; and everything especially useful has been collected into fifty books, all ambiguities have been removed, and nothing which is contradictory retained.

We have given to these books the name of the Digest or Pandects, as they contain all discussions and decisions relative to the law, and these gathered from all sources, have been placed in this compendium, the entire work including about a hundred and fifty thousand lines; and We have divided it into seven parts, not by chance or without reason, but with a view to the nature and disposition of numbers, and making a division of the parts in conformity with the same.

(2) Thus the First Part of the entire compilation, which is called by the Greek term *prwta*, is divided into four Books.

(3) The Second Part contains seven Books which are styled "On Actions-at-law".

(4) We have inserted in the Third Part everything embraced by the Title on Things, and to this subject eight Books are allotted.

(5) The Fourth Part, which may be considered, as it were, the centre of the entire work, includes eight Books, in which is contained everything relating to hypothecation, so that they do not differ greatly from actions for the redemption of pledges, which are discussed in the Books relating to Things. Another Book is inserted in the same volume which contains the Edict of the *Ædile*, and the action for recovery, as well as the stipulation for double the price paid, which is prescribed in cases of eviction; for the reason that all these matters are connected with the topic of Purchase and Sale, and the aforesaid actions were, so to speak, originally on the same footing with them. In the plan of the ancient Edict these matters were treated in different places widely separate from one another, but by Our care they have been brought together, since it is proper that those things which relate to closely similar topics should be placed in juxtaposition.

Following the first two, We have planned another Book relating to usury, loans on bottomry, documents, witnesses, evidence, and presumptions, and these three separate Books are inserted near the part relating to Things. After these we have placed certain matters mentioned in the laws relating to betrothals, marriages, and dowries, including them in three volumes. We have also written two Books concerning guardianships and curatorships.

The aforesaid arrangement of eight Books We have inserted in the middle of the entire work, and it contains the most useful and excellent rules collected from all sources.

(6) The Fifth Book of the Digest now appears before Us, and in it anyone can find whatever was stated in ancient times with reference to the wills and codicils of private persons, as well as soldiers, and this is entitled "Concerning Testaments". Five books relating to legacies and trusts have also been added, and since there is nothing so closely connected with other matters as a description of the *Lex Falcidia* with legacies, and one of the Trebellian Decree of the Senate with trusts, two Books are devoted to these subjects respectively, and the entire Fifth Part is completed in nine books. We have decided that the Trebellian Decree of the Senate should alone be introduced; and rejecting the ambiguities of the Pegasian Decree of the Senate, which seemed whimsical and odious to the ancients themselves; and also the superfluous and over-nice distinctions existing between the two above-mentioned Decrees We have included in the Trebellian Decree all the law which has reference to them. In these, however, nothing has been mentioned by Us with relation to the escheat of estates, so as not to preserve in our time — which the favor of heaven and the vigor of peace have rendered secure, and in which We have subjected all nations by Our victories — a legal topic under unfortunate circumstances and in evil days, (for Rome increased with calamities and was strengthened by civil war), so that a sad remembrance might be permitted to cast a shade upon a joyful age.

(7) The Sixth Part of the Digest comes next in order, in which is inserted everything relating to the possession of property, whether with reference to freemen or freedmen, so that the entire law on degrees of relationship and affinity, as well as that of legal inheritance and intestate succession is given, together with the Tertullian and Orphitian Decrees of the Senate, by which the succession of children to their mother, and *vice versa*, are set forth; and having arranged in a compact and most lucid order the different kinds of possession of property We have arranged them in two Books.

After this We placed in a single Book what the ancients have written on notices with reference to new structures, to warnings against threatened injury, to the demolition of buildings and treacherous designs against them; to the care of rain-water; to farmers of the revenue, and to *donationes inter vivos*, as well as *mortis causa*, which We have found provided for by the laws. Another Book treats of manumissions and actions relating to freedom, and also many and various articles concerning the acquisition of ownership and possession, and the titles which confer the latter have been inserted in a single volume; and another Book has been allotted to those who have confessed judgment, or against whom a decision has been

rendered, as well as on the detention of property and the sale of the same, to prevent anything being done to defraud creditors. After this all interdicts are treated together, and then exceptions and prescriptions. Still another Book contains obligations and actions, so that the aforesaid Sixth Part of the entire volume of the Digest is embraced in eight Books.

(8) The Seventh and last Part of the Digest is composed of six Books; and all that the law mentions with respect to stipulations, verbal obligations, sureties and mandators, as well as concerning renewals, payments, receipts, and prætorian stipulations, which it was hardly possible to enumerate in the ancient treaties is included in two volumes.

And after this two terrible books are added concerning private and extraordinary offences, as well as public crimes, in which are set forth all the severity and harshness of their punishments. With these are also mingled provisions relating to audacious men who attempt to conceal themselves and are contumacious; and also penalties inflicted upon those who are guilty, or which are remitted, as well as what relates to the disposition of their property. One book also is devoted to appeals against decisions which have been rendered in both civil and criminal cases.

All other matters found in the works of the ancients and which relate to municipal affairs or concern *Decurions*, public employments and public works, markets, promises, divers judicial inquiries, assessments, or the signification of terms, enumerated in regular order are contained in the Fiftieth Book, which concludes the entire work.

(9) All these things have been perfected by that eminent man and most learned magistrate, the former Quæstor and the former Consul Tribonianus, equally adorned with the arts of eloquence and legal knowledge, and prominent as well for his practical acquaintance with affairs; and one who esteems nothing greater or dearer to him than the execution of Our orders.

To the completion of this work other distinguished and most zealous men have contributed, that is to say the eminent Constantinus, Count of the Sacred Largesses, and Master of the Office of Memorials and of the Imperial Judicial Inquiries, who has always commended himself by his good reputation and renown; Theophilus, an illustrious man and a magistrate learned in the law, who in a praiseworthy manner administers justice in this most noble city; Dorotheus, an illustrious and most eloquent man who has exercised the function of Quæstor, whom We, having been attracted by his distinguished abilities and reputation have summoned to Our presence, while he was expounding the laws to students in the magnificent city of Berytus; as well as Anatolius, an illustrious man and magistrate who also was summoned to this work while interpreting the laws to the people by Berytus, a man descended from an ancient race of lawyers — for both his father Leontius and his grandfather Eudoxius obtained much honor by their knowledge of jurisprudence; and succeeded Patricius of distinguished memory who himself was raised to the dignity of Quæstor, and was a professor of law; and Leontius of Consular Rank, who filled the office of Prefect with distinction; and also Cratinus, an illustrious man and Count of the Sacred Largesses, who was acknowledged to be a most eminent professor of law of this delightful city.

All of these have been selected for the aforesaid undertaking together with Stephanus, Mena, Prosdocius, Eutolmius, Timotheus, Leonides, Leontius, Plato, Jacobus, Constantinus, Johannes, most learned men, who practice the profession of law in the Supreme Tribunal of the Prefecture, to which are subject all the Prætorian jurisdictions of the East. These men, whose merit is acknowledged by the testimony of all, have been selected by Us for the performance of this immense task under Our direction, and have been assembled for this purpose, under the direction of that eminent man Tribonianus, and by the aid of God the work has been completed in the aforesaid fifty books.

(10) We entertain so much reverence for antiquity that We cannot suffer the names of these learned jurists to be consigned to oblivion, and We have therefore inserted in Our Digest the

name of the author of each law; and this has been done by Us solely that if anything in their rules should seem to be either superfluous, imperfect, or inapplicable, the proper addition or curtailment might be made, and the passage be subjected to the strictest construction; and where there are several points which are similar or contradictory, whatever appears to be most correct should be set down instead of the other passages, and all confirmed by the same authority; and that whatever is written there should appear to be Ours, and to have been composed with Our consent, no one being permitted to compare what was sanctioned by antiquity with what Our authority has established; for the reason that many most important changes have been made on account of general convenience, so that even where an Imperial Constitution was promulgated in the ancient books, We have not spared even it, but have thought that it should be corrected and improved; the older terms, however, have been preserved, and We have retained in Our corrections whatever was proper and necessary for the meaning of the laws, and therefore where formerly any doubt arose the point has now become entirely safe and indisputable, all ground for perplexity having been removed.

(11) But as We have noticed that uneducated men who, standing in the vestibule of jurisprudence are hastening to fathom its mysteries, are not competent to sustain a mass of such knowledge, We have thought that another abridgment should be made, so that colored by it, and, as it were, imbued with the primary elements of the entire science, they might be able to penetrate into the innermost sanctuary of the same, and view with undazzled eyes the beautiful image of the law. Therefore We have ordered that eminent man Tribonianus, who has been selected for the entire supervision of the work, together with Theophilus and Dorotheus, illustrious men and most eloquent professors, who have been summoned for this purpose, to collect separately all those books composed by the ancients which contain the first principles of the law, and are styled Institutes; in order that whatever was useful, most suitable and elegant in every respect might be rendered available in the present age; and that they should attempt to collect and arrange this in four books, and lay the first foundations and elements of all instruction, so that young men being supported thereby might be able to obtain a more extensive and perfect acquaintance with the laws.

We have also directed them not to lose sight of Our Constitutions which We have promulgated for the amendment of jurisprudence, nor to fail to insert the same in the compilation of the Institutes; so that not only what was formerly uncertain, but also what had afterwards been established as law, might be made plain. This work having been completed by them, and having been presented to, and perused by Us, We have received it with favor, and decided it to be not unworthy of Our intelligence; and We have ordered that these books shall have the same authority as Our Constitutions, which We have more clearly set forth in Our address prefixed to the said books.

(12) The entire substance of the Roman law having been compiled and perfected in three treatises, namely, that of the Institutes, that of the Digest or Pandects, and that of the Constitutions, and the task having been finished in three years, while when the compilation was first begun it was not expected that it could be completed in ten; We with devout purpose offered this work to Almighty God for the preservation of mankind, and gave abundant thanks to the Supreme Deity who has enabled Us to wage war with success, to enjoy honorable peace, and to establish excellent laws, not only for Our own age, but also for every other, both present and to come.

(13) We have deemed it necessary to promulgate this decree to all persons so that they having been delivered from such infinite confusion may know to what regularity and certainty with respect to jurisprudence they have now attained; and that they may hereafter have laws which are not only direct but comprehensive, and placed within reach of all, and of such a description that the books treating of the same may be easy to procure; so that men may be able, not to purchase works abounding in superfluous laws by the expenditure of immense sums of money, but that the easy acquisition of the same for a small amount may be opened to

the wealthy as well as to the poor, and a vast amount of knowledge be obtainable at a reasonable price.

(14) If, however, there shall occasionally be found some matters which are similar — and in so great a compilation of laws collected from an enormous number of treatises no one ought to think this to be worthy of censure — it must in the first place be attributed to the innate weakness of human nature, for to possess a memory of all things and to be hardly ever mistaken, is rather an attribute of divinity than of mortals, which has also been stated by our ancestors.

Again, it must be remembered that where repetition appears in certain matters, and these most brief, it is not useless, and has not occurred in opposition to Our intention; for either the rule was so important that it was necessary for it to be mentioned under different titles for the proper understanding of the subject, or when it was mingled with other different rules it was impossible to exclude it from some portions in order to prevent the whole from being thrown into confusion; and in those parts in which the perfect views of the ancients were expounded, it would have been inexpedient to divide and separate whatever had been scattered through them, as not only the understanding but also the hearing of the reader would be confused thereby. In like manner, where anything has been provided by the Imperial Constitutions, We have by no means permitted it to be included in the volumes of the Digest, as the reading of the Constitutions is sufficient; except where this was rarely done for the same reasons for which a repetition was permitted.

(15) Nothing contradictory, however, is to be found inserted in this work, nor can it claim any place for itself; for if one examines with diligent attention the reasons for diversity, something new or which encloses a hidden meaning, will be discovered that disposes of any complaint of inconsistency, giving another appearance to the subject, and excluding the same from the bounds of discord.

(16) If by chance anything was passed by which placed in the depths, as it were, in so many thousands of volumes was there concealed, and, while proper to be used, being involved in obscurity was necessarily omitted, who can with rightful intention make this a subject of reproach; when first the weakness of the human mind is taken into consideration, and then the imperfection of the matter itself which, mingled with many useful things, affords no opportunity of separating it from the others? And again, it is much more profitable that a few good passages should be omitted, than that men should be overwhelmed with many that are worthless.

(17) There is one extraordinary thing that appears in these books, namely: that the great number of old ones are found to be smaller in bulk than those of the present compilation, for the men who formerly conducted lawsuits, although many rules have been established, nevertheless employed only a few of them in judicial proceedings, either on account of the scarcity of books which it was impossible for them to obtain, or because of their own ignorance; and cases were disposed of rather according to the will of the judge than by the authority of the law. In the present compilation of Our Digest, the laws have been collected from numerous volumes, whose titles We not only declare men of former times did not know, but had never even heard of; and all these things have been assembled in abundance, so that Our most opulent brevity makes the great quantity of the ancients appear deficient. That most excellent man Tribonianus has furnished Us with a copious supply of the ancient learning of these books, many of which were unknown even to the most highly educated men; and these having been thoroughly studied, whatever was found best in them was selected, and inserted in Our compilation. The composers of this work, however, read not only the volumes from which these laws are taken, but also numerous others, and finding therein nothing either useful or new, which, if appropriated, could be included in Our Digest, they with excellent judgment rejected them.

(18) But for the reason that only divine things are perfect, and that it is a characteristic of human jurisprudence to be always indefinitely extending, and that there is nothing in it which can endure forever, for nature is constantly hastening to bring forth new forms; We expect that certain matters may subsequently arise which, up to this time, have not been included in the restraints of the law. Therefore, if anything of this kind should take place, recourse must be had to the Emperor, because God has given the Imperial power control over human affairs in order that wherever any new contingency arises, he might be able to correct and arrange it, and subject it to suitable rules and regulations. We are not the first to promulgate this, for it is derived from an ancient origin; since Julianus himself, that most discerning author of laws and of the Perpetual Edict, declared in his works that if anything imperfect should be found it must be supplied by Imperial Decree; and not he alone, but the Divine Hadrian as well, stated most clearly in the consolidation of the Edict and the Decree of the Senate which followed it, that where anything was not found to have been inserted in the Edict, more recent authority might supply the deficiency in compliance with the rules, the objects, and the resemblances of the same.

(19) Therefore, you Conscript Fathers, and all men of the earth being informed of all these things offer the fullest thanks to the Supreme Divinity who has preserved for your age so salutary a work of which, according to Divine judgment, antiquity does not seem to have appeared worthy, but has bestowed it upon your times. For which reason revere and observe these laws, while all the ancient ones remain quiescent; and let none of you venture to compare them with former ones, or to call in question anything that appears inconsistent in either; because We decree that everything that is inserted herein shall alone be observed. Nor let anyone in a trial or other controversy, where laws are necessary, attempt to cite or support any legal principle from any other book except the said Institutes, and Our Digest and Constitutions composed and promulgated by Us; unless having become liable to the crime of forgery, he, together with the judge who suffers such matters to be heard, desires to be subjected to the most severe penalties.

(20) In order that it may not be unknown to you from what books of the ancients this compilation has been made, We order that this be stated in the beginning of Our Digest, that it may be perfectly plain from what jurists and from which of their books, and from how many thousands of them this temple of Roman justice has been erected. We have, however, selected such jurists and commentators as are worthy of so great a work, and whom the most pious former Emperors did not hesitate to admit; and to all of them, without distinction, We have assigned an equal rank, and have not permitted any to claim superiority; for since We have decreed that the present laws promulgated, as it were, by Ourselves should be observed instead of the constitutions, how can any greater or less credit be imputed to any of them, since the same rank and the same authority are conceded to all?

(21) One matter, however, which seemed to Us proper at the beginning, when, with the assistance of God We ordered this work to be done, also appears to Us to be expedient at the present time; that is that none of those who is now learned in the law, or who may become so hereafter, shall presume to annex any commentaries to these laws, unless he may wish merely to translate them into the Greek language, in the same order and with the same arrangement in which they are set forth in the Roman idiom, which the Greeks call "foot by foot"; and if he wishes to add any notes because of any obscurity in the titles, those which are called annotations shall be employed; but We do not permit any other construction of the laws, and still less any perversions of the same, to be made by them, for fear that their prolixity may discredit Our jurisprudence by causing confusion. This was done by the old commentators on the Perpetual Edict, for though this work was concisely drawn up, they extended it *ad infinitum*, drawing it here and there by attributing different meanings to the same thing, so that almost all Roman jurisprudence remained in a confused condition; and if We can not endure them, how can the vain discord of posterity be tolerated? If they dare to do anything of this

kind they shall be liable to prosecution for forgery, and their works shall be entirely destroyed. If anything, as has been stated above, appears to be ambiguous, it must be referred by the judges to the Emperor, and be explained by the Imperial authority to which alone has been granted the enactment and interpretation of the laws.

(22) We prescribe the same penalty for forgery also against those who dare to write down Our laws by using the obscure method of abbreviations; for We wish everything, that is to say the names of the learned lawyers, the titles, and the numbers of the books to be indicated by entire letters, and not by abbreviations; so that whoever procures for himself a book of this kind in which abbreviations are employed, no matter in what part of the treatise or of the volume this may occur, will know that he is the owner of a worthless Code; nor do We grant permission for any citation to be made in court from a Code of this kind which contains in any division whatsoever the defect of abbreviations.

Moreover, any copyist who dares to write down such things shall not only be punished criminally, as has already been stated, but shall also restore double its value to the owner of the book, if the latter ignorantly purchased it or directed it to be written; and this We have already promulgated in a Latin and Greek Constitution which We have addressed to professors of law.

(23) We desire that Our laws contained in these books, namely, the Institutes or Elements, and the Digest or Pandects, shall take effect from the present date, that is to say, from our third most fortunate Consulate of this twelfth Indiction, on the third *Kalends* of January; shall be valid for all time, and shall have the same force as Our Constitutions; exhibiting their authority in all judicial trials, not only in those now pending in the courts but in such as may hereafter arise, where they have not been determined by judicial decision or arbitration; for under no circumstances are We willing that those that have already been settled by judicial decision of friendly agreement shall be revived.

We have hastened to publish these laws during Our third Consulate, because by the grace of the Supreme Deity and of our Lord Jesus Christ, it has been rendered most fortunate for the State, since during it the Parthian War has been terminated, perpetual peace established, and the third part of the world been subjected to Our rule; for after Europe and Asia, all of Lybia has been added to Our Empire, and this important work on jurisprudence has been concluded, so that all the gifts of heaven have been bestowed during this Our third Consulate.

(24) All Our judges in their several jurisdictions shall receive these laws and enforce them in their tribunals, as well as in this Imperial City, and especially must that illustrious man, the Prefect of this noble capital, do so; and it shall be the duty of the three eminent Prætorian Prefects, of the East, of Illyria, and of Libya, to publish the same by their authority to all those who are subject to their jurisdiction.

Given on the seventeenth of the *Kalends* of January, during the third Consulship of Our Lord Justinian, 533.

THIRD PREFACE.

CONCERNING THE CONFIRMATION OF THE DIGEST.

TO THE GREAT SENATE. IN THE NAME OF OUR LORD GOD JESUS CHRIST.

THE EMPEROR CÆSAR, FLAVIUS, JUSTINIANUS, ALEMANNICUS, GOTHICUS, FRANCICUS, GERMANICUS, ANTICUS, ALANICUS, VANDALICUS, AFRICANUS, PIOUS, FORTUNATE AND ILLUSTRIOUS, VICTOR AND TRIUMPHER, EVER TO BE REVERED AS AUGUSTUS, TO THE GREAT SENATE, THE PEOPLE, AND ALL THE CITIES OF OUR EMPIRE.

After peace was made with the Persians, and after the triumphs over the Vandals and the acquisition of all Lybia, and after having again united the most famous city of Carthage to Our

Empire, God permitted Us to bring to a successful conclusion the important work of revision of the ancient laws, which no prince before Our reign thought could either be planned or executed by the human mind. For it was indeed an extraordinary thing to examine the entire body of Roman jurisprudence, from the foundation of the ancient city up to our day, a period embracing almost thirteen hundred years; which sometimes was in agreement with, and sometimes in contradiction to itself, not only in its various parts but also especially in the laws promulgated by Imperial authority; not merely to remove therefrom whatever was inconsistent with itself, but also to reject all that was found to be identical, or similar, and to present the various aspects of the beauty of jurisprudence, so that each law might seem to have been enacted for a single purpose. This result beyond doubt was due to the Supreme Divinity and His beneficence, and not to human thought, enterprise, or power.

Therefore We, having according to Our custom raised Our hands to God, and having invoked Him that He would deem Us worthy of His aid, have undertaken this task, and have at length completed it; having employed for this entire service the celebrated Tribonianus, Master of the Offices, and former Quæstor of Our Sacred Palace, as well as former Consul, together with certain other illustrious and learned men; constantly exercising supervision over the matters composed by them and carefully scrutinizing whatever was doubtful, We have imparted to all said matters a suitable form, according to the vigor of Our intellect and the ability conferred upon Us by God and Our Saviour Jesus Christ.

(1) We have then composed a Code dignified by Our Imperial Name, which includes the Imperial Constitutions formerly contained in twelve books. We have afterwards collected in a well-arranged and perspicuous compilation, a multitude of opinions of the ancient founders of the law, which were distributed through almost two thousand volumes and three million sentences. With the assistance of heaven We have included all this in fifty books, accepting everything that was useful, rejecting all ambiguities, and retaining nothing which was contradictory.

These books We have named the Digest or Pandects, for the reason that they contain divisions and decisions of the laws and because everything is collected in one work; and while We have given them this title, they do not contain more than a hundred and fifty thousand lines. Finally, We have divided them into Seven Parts, which was not done improperly, or without reason, but with a view to the nature and harmony of numbers.

(2) Those matters then which are ordinarily called by all *prwta*, that is to say, "The Elements", We have divided into four books.

(3) Next We have divided whatever relates to Trials into seven other books.

(4) Also, such matters as relate to Things We have divided into not more than eight books.

(5) The next Part of the work, however, which is the Fourth, and occupies the middle of the whole, We have divided into eight other books, in which hypothecary actions, which are not greatly different from those brought for the recovery of pledges, are treated of, and also the Edict of the *Ædiles*, and stipulations relating to evictions. These two are accessory to, and arise from contracts of sale; and although widely separated from one another in the arrangement of the ancient law, We have brought them nearer together, on account of the common relationship existing between them, and in order that matters that are mentioned as being of almost the same nature may not be widely separated.

Then, after these two books We have introduced those things which have been written on money loaned in commercial transactions, not only on land but also on vessels, or in maritime business; and what relates to evidence and presumptions, which form the substance of one book. In these three books, each devoted to a single topic which bears considerable resemblance to the treatise on Things, We have next brought together those matters concerning marriage and dowries which are set forth in the laws, and have devoted to them

three more volumes in this arrangement. We have also compiled two books on the guardians of minors — We mean those which are generally designated by all persons "Concerning Guardianships" — and here We have concluded the above-mentioned arrangement of eight books, and have finished the central part of the entire work, as previously stated, inserting therein the most excellent and useful laws.

(6) Moreover, We have assembled in nine books everything relating to legacies and trusts, and those matters are placed at the beginning which relate to testaments and codicils, not only in general, but also to those of soldiers who make such disposition of their property as they desire; and these being arranged in two books are entitled "Concerning Wills".

In the five following books the rules relating to legacies and trusts, and whatever opinions have been rendered with reference to ambiguities arising from them are contained; and as the treatise on the *Lex Falcidia* includes and depends upon that of legacies and trusts, We have, therefore, placed it immediately after the one on legacies, having devoted one entire book to the subject with some short additions. And again, for the reason that the Trebellian Decree of the Senate was introduced into trusts because of its resemblance to the *Lex Falcidia*, We have devoted to it the last place in this Part, attributing all the law expounded on these matters to the Trebellian Decree of the Senate, finding the insertion of the Pegasian Decree of the Senate to be superfluous, and considering the differences and resemblances existing between the said Decrees of the Senate to be absurd, which indeed the ancients themselves detested, and designated captious and dangerous; and, having united all this matter in a simple form under the single title of the Trebellian Decree of the Senate, We have completed this Fifth Part of the entire treatise in nine books. In these nine books nothing has been stated by Us concerning what were formerly called escheats, for the reason that no use was made of them in the prosperous days of the State, but they were a sad monument of the Civil War, and should not survive in these times during which God has granted Us peace at home and abroad, and whenever it was necessary to carry on war it was easy for Us, with His favor, to overcome and make captive our enemies.

(7) Next follows the Sixth Part of the entire work divided into eight books. It begins very properly with what are styled "Possessions", and having considered these in a diligent manner, as We have done the other subjects, not only such as relate to free persons but also to freedmen, We have made a lucid compilation of what was characterized by great confusion and obscurity in ancient times, thinking that two books on this subject would be sufficient. We have also treated therein of all successions called intestate, and the different degrees of descent, and have devoted one book to the same; and at the end of all We have placed the Tertullian and Orphitian Decree of the Senate by which mothers and children reciprocally succeed one another.

After this conies another book which treats of the erection of houses, and of the security to be given on account of buildings which are ruinous, and about to fall down; and concerning those who commit some injury or fraud against others; as well as with reference to such persons as injure their neighbors by the overflow of water; and also concerning collectors of public taxes; and in addition to this, whatever the statutes and laws prescribe with respect to donations, either indefinite or simple, and such as are made in apprehension of death. Again, whatever exists relating to manumission and to such matters as have reference to it is treated in this single book.

We have also inserted into one treatise or book everything that has reference to possession, and acquisition by means of it, and the circumstances under which it is obtained. In the next book has been collected whatever can be found on judicial decisions and on those who have made admissions against themselves; the surrender of property; the detention of debtors, and the sale of their goods; the separation and charge of irresponsible persons; and provisions against the defrauding of creditors. To the discussion of interdicts We have only set apart a

single book and then We come to prescriptions or exceptions, and to the terms designated for them. Finally, We discuss the rules governing obligations and actions, and the whole of this Part, which is the Sixth of the entire work and begins, as has been stated, with Possession, We have divided into eight books.

(8) The last Part of the entire treatise which is the Seventh, includes six books, beginning first with stipulations, next taking up whatever has been written relative to suretyship, the paying of money, the discharge of debts and the release of the same, and what relates to stipulations introduced by the jurisdiction of the Prætor; all of which has been included by Us in two books; although it cannot be stated how many the ancients possessed on this subject.

We next proceed to the description of crimes, and all those matters are discussed which relate to minor offences called "private", as well as to those which are unusual and are styled "extraordinary"; then We come to public crimes, which are of the most atrocious character, and deserve the severest punishment. This treatise is also composed of two books, which include those things relative to inferior offences and crimes, and with them are mingled whatever has been written concerning criminals who attempt to conceal themselves, and on the disposal of their property, and also the penalties which are to be inflicted on such as are found guilty, or the pardons which should be granted them are enumerated.

A treatise on appeals which are a frequent and common means of annulling decisions, civil as well as criminal, forms the beginning of another book; and whatever has been written and is to be found in ancient writers on citizens of town or country, Decurion's offices, public and public works, markets, promises for the payment of money, various legal proceedings, interrogations, and judicial investigations, the census of the people, and whatever exists relative to the signification of words and to those things which were drawn up as rules by the ancients; are all contained in the last Book. This Book, therefore, which begins with Stipulations, is the Sixth, if mentioned with respect to the beginning of this Part, but is the Fiftieth when considered with reference to the entire perfection and harmony of the work.

(9) All these matters have been composed and thoroughly elaborated in compliance with Our command, by the illustrious Tribonianus, most learned Master, and former Quæstor of Our Palace, and former Consul, a man greatly celebrated by reason of his experience in affairs, his eloquence, and his familiarity with the law, and who has never disobeyed any of Our orders. Other men, also, there are, who have assisted in this work under him, namely: Constantinus, the most noble Count of the Sacred Largesses, Secretary, Master of the Requests, of the Imperial Records, and of the Judicial Inquests of the Empire, who has given Us in all matters an excellent opinion of himself; also, Theophilus, the most renowned instructor, who, in a manner worthy of all praise expounds the laws in this Royal City, with the degree of diligence worthy of his exalted office; and Dorotheus, most illustrious Quæstor, appointed Doctor of Laws in his own city — We refer to the venerated and splendid metropolis of Berytus — whose extraordinary renown and glory have conducted him to Us and induced Us to give him a share in this work; and Anatolius likewise, that most eminent teacher, who himself imparts instruction in a thorough manner to the people of Berytus, on points relating to jurisprudence, and who is a man third in descent in a family famous among the Phoenicians for its interpretation of the laws, (for he traces his lineage to Leontius and Eudoxius, jurists of distinguished reputation after Patricius of famous memory, former Quæstor and Censor; and the most glorious Leontius, who held the office of Prefect and Consul, and Patricius his son, all men worthy of the highest admiration); as well as the most illustrious Cratinus, learned Count of the Imperial Largesses and the best interpreter of the laws in this Royal City; and in addition to these should be mentioned Stephanus, Mena, Prosdocius, Eutolmius, Timotheus, Leonides, Leontius, Plato, Jacobuus, Constantinus, Joannes, most accomplished men, advocates of Our most glorious and noble Prefecture, who have also justly acquired a great reputation for wisdom and glory among all men, and who have deservedly been deemed by Us worthy to be chosen as associates in so important an undertaking. These matters which belong

to the compilation of the Digest have accordingly been perfected by the above mentioned most eminent men.

(10) We have so much reverence for antiquity that We were not willing for the names of the ancient jurists to be omitted, but We have inserted that of each one of them in the laws. Certain matters, however, have been altered where something did not appear to be correct, and occasionally portions have been removed and elsewhere additions have been made; upon the whole, having always selected what was best, and having conceded to all one and the same force or power, whatever is written in this book shall be considered as Our opinion, without anyone having the audacity to compare the rules which have now been adopted with those which formerly prevailed; for the reason that We have changed for the better many things not easy to be enumerated, even though some things may have been stated in another form than that in which they appeared in the constitutions of former Emperors; for while preserving the names of the ancient authorities, We have made the truth of their laws Our own, so that where any contradictions of them existed (and many were to be found therein), there has been removed and decided, and every law has been set forth in the clearest terms.

(11) But since it was necessary to prepare an introductory treatise for the benefit of those who have recently begun the study of the law, and who are unable as yet, to understand the more advanced principles of that science, We have not allowed this to escape Our foresight; and therefore having chosen the most distinguished Tribonianus for the direction of the entire work, together with Theophilus and Dorotheus, most eminent and learned professors; We ordered that they be sent for, in order that they might select from the ancient writers such rules as they had composed which were most suitable and weighty in their application, and present them to Us; and that they might make mention of the Constitutions which We promulgated for the amendments of ancient jurisprudence, and compile from them four books embracing the first elements of legal knowledge, and which We have seen proper to designate Institutes; and this part of the work on the law having been completed they presented it to Us; and after having duly considered and weighed the same We have decided that it is properly executed and not unworthy of Our understanding, and have ordered that it shall be adopted and have the same authority as Our Constitutions; which We have made apparent to all by what We stated in the Prefaces of the said work.

(12) That the entire plan of the Roman law and this important work could have been completed in three volumes and in as many years, exceeded all Our hopes in the beginning, and at the end when We learned that this was possible, it did not seem that it could indeed be accomplished in ten years. Therefore, this undertaking having been concluded so quickly in three years, which was made possible by the assistance of God, who permitted Us to make peace, to carry on war successfully, as well as to establish laws for the past, present, and future time; We have deemed it expedient to show to all men both the zeal and the foresight displayed by Us in these matters; and being relieved of the perplexity and confusion with which they were surrounded, which condition seemed interminable, laws which are just and comprehensive are now available and ready at hand for all for the purpose of shortening litigation, and prepared and arranged so as to be easily understood by every one who desires to become familiar with them; and no longer will large sums of money be required for the purpose of collecting a multitude of useless books, but by the expenditure of an insignificant sum the rich, as well as those endowed with a slender patrimony, will be able to obtain these stores of learning.

(13) If any point should be found to be similar to, or identical with something else out of the great number of matters which have been accumulated and collected from so many thousands of volumes, (and this We think will seldom occur), it will not seem to be inexcusable to those familiar with the weakness of human nature; for not to err, or to be blameless or not liable to correction in any respect, is an attribute of Divinity alone, and does not belong to the character or power of mankind, as has already been stated by the ancients. Wherever then, We inserted

matters resembling one another, this has been done either because the subjects required that the same things should be stated under several heads, or it was impossible to dispense with that resemblance, because the matter which seemed similar to what had been already mentioned was confounded with something else in another place; or for the reason that the passages frequently required to be preserved intact, and the mind and attention of the reader could not be separated or distracted by the omission of what had already been written; but where repetition occurs on account of necessity, it is only in passages which are very short and which do not affect the meaning.

(14) This rule We have also observed in everything which relates to the Imperial Constitutions and the law derived from them; for We have not allowed whatever had already been provided for to be inserted into this work, except where a repetition was permitted to stand for some particular reason.

(15) No one will easily find in this compilation a law which is at variance with others if he will only diligently examine all the appearances of contradiction; for some difference always exists, and in such cases it will be apparent that one law treats of one thing and the other of another.

(16) If any of those matters which ought to have been inserted has by chance been omitted (and something of this kind perhaps may occur by reason of the infirmity of human nature) it is certainly much better for Our subjects to be delivered from a multitude of useless laws; although they may be deprived of very few things indeed which appear to be valuable that are buried and deposited in innumerable works, and probably had never been noticed by any mortals.

(17) It is for this reason that the judges, being deprived of so many books which in former times it was necessary to have copied, disposed of lawsuits with too great facility, by having recourse to very few authors and works of law; and rendered decisions without due consideration, either because of the lack of authorities, or because they could not endure the labor required to ascertain many things that were useful, this being beyond their power.

In the present compilation, however, a great number of laws which are in force have been extracted from rare books that can only be found with difficulty, and whose names even are not known to many men most learned in their profession. The above-mentioned distinguished Tribonianus has indeed furnished Us with a copious supply of matter on these subjects by having procured such a multitude of volumes that they can scarcely be counted, all of which having been thoroughly read have been condensed in this work; but, those who have been commissioned by Us to do this, when they did not find in other treatises anything valuable or different from what had already been compiled, wisely refrained from inserting quotations from them into this book.

(18) If, however, attention should be called to something new, which does not appear to be inserted in these laws (for Nature delights in innovations) God has established Imperial authority over men in order to meet emergencies, dispose of defects in the law, and remove the uncertainty of human nature by the establishment of principles and rules. We are not the author of this, for Julianus, the most learned of all the distinguished lawgivers of former times, said this same thing; and he, by the Imperial authority, directs that the deficiency of the law shall be supplied where ambiguities and important questions arise.

The Divine Hadrian, of pious memory, also makes this statement, when the Edicts which were published by the Prætors every year were collected by him in one volume; and who, for the accomplishment of this work, made use of the illustrious Julianus in an address which he delivered in the Roman Senate: "If any point should arise which had not previously been determined, the members of the magistracy shall attempt to decide it and provide a remedy by comparison with those laws which have already been enacted."

(19) For all these things (since We are speaking to you, great Senators, and all the subjects of Our Empire) you should indeed give thanks to God who has preserved so great a benefit for our times. Make use then of Our laws so that none of those that are inserted in the old books shall receive any attention from you, and do not compare them with those which are now promulgated; because even though some of them may not appear to agree with rules that precede and are older than Our own, whatever is imperfect has been rejected, and what is now approved must be observed. For We forbid the former to be made use of hereafter, and We allow only the latter laws to be obeyed and enforced in the Empire so that whoever attempts to make use of those contained in former works instead of in these two alone, along with the Book of Constitutions compiled or issued by Us, or cites the same in court, or if anyone bases a decision on them having suffered them to be quoted before him, he shall be considered guilty of forgery, shall be prosecuted criminally, and subjected to punishment; which indeed is not necessary for Us to mention because it is sufficiently evident from the fact itself.

(20) We have deemed it best to prefix to the Digest not only the names of the ancient framers of the laws and the titles of their works from which this compilation has now been made by Ourselves; but We have commanded it to be done, and it has been done. At the same time We have directed whatever has been written with reference to these things to be appended to this Our Divine Constitution, so that it may be apparent to all how great was the imperfection and uncertainty of former jurisprudence, and what changes We have effected therein. We have had recourse to legislators and interpreters of the law who were approved and accepted by all men, who received the commendation of former Emperors and deserved to be quoted by them; and when indeed any author was not known to the ancient legislators We forbade the insertion of any portion of his work into this one of Ours. We have given one rank and authority to all those extracts which have been inserted, and have bestowed no superiority upon one more than another; and if We have conceded the force of Imperial Constitutions to everything which has been written by those authors, what is there that can have greater or less weight than this?

(21) We order, and We decree in confirmation of the same, what in the beginning We directed where this legal compilation was projected by Us; and We again forbid all persons now in existence as well as those who are to come to write any commentaries on these laws, unless someone may wish to translate them into the Greek language and this translation We desire to be literal, or such as are called "according to the foot", to be employed in the interpretation of the laws; but We forbid them to make any other addition to them, however small; or again to give occasion to contradiction and ambiguity, or to an infinite number of laws which previously occurred in the review of the ancient Edict; so that this extremely short work may not be vastly extended by the difference or diversity of the various commentaries.

If, indeed, anything should seem to be ambiguous, either to parties to suits or to those who preside over trials, it must be interpreted by the Emperor, for this privilege is legally granted to him alone. Therefore, if anyone should venture to add to this Our compilation of laws any commentaries whatsoever, or anything prohibited by the terms of this Our order, he is hereby notified that he will be liable to the penalty of forgery under the law, and that whatever he has composed will be taken from him and entirely destroyed.

(22) The same penalty shall be inflicted upon those who make use of notes or any abbreviated characters (which are called *singlas*) desiring by this means to corrupt the text; as well as upon those who do not write out in full the names and titles of the legal authorities and their laws. Those, also, who obtain books of this kind are notified that they will be useless to them, for We do not grant permission for such books to be employed in court, even if the one which is quoted has no abbreviation or note in that part which is read, and though only one abbreviation may be found anywhere therein. Therefore, he who has such a book must consider it as not written; and he also who wrote it and delivered it to an ignorant purchaser shall pay to him double the amount of the damage which he has sustained, by reason of the

same; and shall also be prosecuted criminally. This We have already inserted in other constitutions relating to this subject, not only in those published in the Latin language but also in those issued in Greek, which We have sent to professors of law.

(23) Moreover, We decree that these books, (by which We mean the Institutes and Digest) shall have authority from the end of Our third fortunate Consulate, that is to say, from the third *Kalends* of January of the present Twelfth Indiction, and shall prevail for all time hereafter, having the same force and effect as the Imperial Constitutions, not only in such matters as may subsequently arise, but also in those that are still pending in court, and have not yet been disposed of in an amicable manner; as We by no means permit that whatever has been determined or settled up to this time shall be reconsidered. During this, Our third most famous Consulate, which God has bestowed upon Us, peace has been concluded with the Persians, and this collection of laws, which no one had previously devised, has been completed, and besides, the third part of the globe (We mean all Africa) has been added to Our Dominions; all these benefits having been bestowed upon Us during Our third Consulate by Almighty God and Our Saviour, Jesus Christ.

(24) Therefore, the magistrates of Our renowned universal Empire having accepted this Our Sacred Constitution, shall make use of Our aforesaid laws, each of them preparing himself in his own tribunal. The most glorious Prefect shall also publish the same in this the greatest of royal cities. This is also enjoined upon Our most excellent and praiseworthy Master, and Our most glorious and celebrated Prætorian Prefects, not only in the East, but also in Illyria, and in Africa, who, by their Edicts, shall without fail, give notice publicly to all under their jurisdiction and to all Our subjects.

Given on the seventeenth of the *Kalends* of January, during the third Consulate of Our Lord Justinian, ever Augustus, 533.