

THE THREE PREFACES OF THE CODE OF JUSTINIAN

FIRST PREFACE.

CONCERNING THE ESTABLISHMENT OF A NEW CODE.

The Emperor Justinian to the Senate of the City of Constantinople. Those things which seem to many former Emperors to require correction, but which none of them ventured to carry into effect, We have decided to accomplish at the present time with the assistance of Almighty God; and to diminish litigation by the revision of the multitude of constitutions which are contained in the Three Codes; namely, the Gregorian, the Hermogenian, and the Theodosian, as well as in those other Codes promulgated after them by Theodosius of Divine Memory, and by other Emperors, who succeeded him, in addition to those which We Ourselves have promulgated, and to combine them in a single Code, under Our auspicious name, in which compilation should be included not only the constitutions of the three above-mentioned Codes, but also such new ones as subsequently have been promulgated.

(1) Therefore, having in view the accomplishment of this extensive work, as well as the maintenance of the public welfare, We have chosen, as being competent for a task involving such labor and care, John, a most eminent man, Ex-Quæstor of our Sacred Palace, and of consular, as well as patrician dignity; Leontius, a man of the highest standing, an officer in the army, an Ex-Prætorian Prefect, of consular and patrician dignity; Phocas, a most illustrious man, an officer of the army, also of consular and patrician dignity; Basilis, a most excellent man, Ex-Prætorian Prefect of the East, and of patrician rank; Thomas, a most glorious man, Quæstor of our Sacred Palace, and Ex-Consul; Tribonian, a distinguished man of great authority, and invested with magisterial dignity; Constantine, an illustrious man, one of the Stewards of Our bounty, Master of Requests, and of Our Judicial Inquiries; Theophilus, a most eminent man, and one of the members of our Sacred Consistory, a Doctor of Laws in this Fair City; and Dioscorous and Præsentinus, most learned jurists of the Prætorian Tribunal.

(2) To these We have especially entrusted the suppression of superfluous preambles, so far as this can be done without affecting the efficacy of the laws, as well as of such enactments as are similar or contradictory, and, in addition to this, the division of the laws; and it will be to the advantage to omit such as have fallen into desuetude, to give expression in concise terms to those which are included in the said three Codes, and in the New Constitutions, and to place them under suitable titles, adding and omitting portions of the same, and, indeed, changing their phraseology where convenience requires it.

Bringing under one head enactments which are scattered through various constitutions, and rendering their meaning clearer; so that the order of the said constitutions may appear not only from the days and the consulate when they were enacted, but also from their composition itself, by placing those primarily published in the first place, and those which follow in the second. And if any laws should be found in the three ancient codes without the date and the name of the consul, or if any new constitutions have been inserted among them, they should be so arranged that no doubt may arise with reference to their general application, in such a way that rescripts addressed to certain individuals, or originally issued by pragmatic sanction, may obtain the effect of general constitutions, where, for the public welfare, they have been included in a new code.

(3) Hence We have hastened to bring these matters to your notice, in order that you may be informed to what an extent Our daily care is occupied with matters having reference to the common welfare, by collecting such laws as are certain and clear, and incorporating them into a single code, so that, by means of this code, designated by Our auspicious name, the citation of the various constitutions may cause decisions to be more readily rendered in all litigation.

Given at Constantinople, on the *Ides* of February, during the reign and second Consulship of the Emperor Justinian.

SECOND PREFACE.

CONCERNING THE CONFIRMATION OF THE CODE OF JUSTINIAN.

The maintenance of the integrity of the government depends upon two things, namely, the force of arms and the observance of the laws: and, for this reason, the fortunate race of the Romans obtained power and precedence over all other nations in former times, and will do so forever, if God should be propitious; since each of these has ever required the aid of the other, for, as military affairs are rendered secure by the laws, so also are the laws preserved by force of arms. Therefore, We have, with reason, directed Our attention, Our aims, and Our labors, in the first place, to the maintenance of the public welfare, and have corrected matters relating to the army in many ways, and thus provided for everything; as We have by means of old laws not only brought matters into a better condition, but We also have promulgated new laws, and by Our just administration, or with additional expense, We have preserved those already enacted, and afterwards by publishing new ones, have established them most firmly for the obedience of Our subjects.

(1) But as it was necessary to reduce the vast number of the constitutions contained in the three old codes, as well in the others compiled in former times, and to clear up their obscurity by means of proper definitions, We have applied Ourselves with willing mind to the accomplishment of this work for the common good; and, after having selected men conspicuous for their legal learning and ability, as well as for their experience in business, and tireless zeal for the interests of the State, We have committed this great task to them under certain limitations, and have directed them to collect into a single code, to be designated by Our auspicious name, the constitutions of the three ancient codes, namely the Gregorian, Hermogenian, and Theodosian compilations, as well as all those subsequently promulgated by Theodosius of Divine Memory, and the other princes who have succeeded him; together with such constitutions as have been issued during Our reign; and to see that any preambles which are not confirmed by subsequent decrees, and any constitutions which are contradictory, or should be suppressed, as well as such as have been repealed by others of later date, or which are of the same character — except those which, by conferring upon them Our sanction to a certain extent, We have considered to be susceptible of division, and by such division of these ancient laws some new principle may appear to arise.

In addition to all this, many other matters relative to the composition of this Code have been placed by Our authority in the hands of these most wise men; and Almighty God has afforded this protection through Our zeal for the welfare of the State.

(2) The following persons have been chosen for this work, and the completion of a task of such importance, namely: that most excellent man, John, Ex-Quæstor of Our Palace, and of consular and patrician dignity; as well as that most eminent man, Leontius, Ex-Prætorian Prefect, of consular and patrician dignity; and also the most distinguished Phocas, officer of the army, also of consular and patrician dignity; and that most accomplished man of patrician dignity, Basilis, Ex-Prætorian Prefect of the East, now Prætorian Prefect of Illyria; also, the most illustrious Thomas, Quæstor of our Sacred Palace and Ex-Consul; and the eminent Tribonian, of exalted magisterial dignity; the distinguished Constantine, Steward of Our Imperial Largesses, Master of Requests, and of Judicial Inquiries; Theophilus, former magistrate and Doctor of Laws in this Fair City; as well as those most learned jurists, Dioscorus and Præsentinus, members of your bar; and all that We have directed them to do, they with God's assistance have, through assiduous and untiring industry, brought to a successful conclusion, and offered to Us this new, systematically arranged Justinian Code, compiled in such a manner as to contribute to the common benefit, and meet the requirements of Our Empire.

(3) Therefore We have had in view the perpetual validity of this Code in your tribunal, in order that all litigants, as well as the most accomplished advocates, may know that it is lawful

for them, under no circumstances, to cite constitutions from the three ancient codes, of which mention has just been made, or from those which at the present time are styled the New Constitutions, in any judicial inquiry or contest; but that they are required to use only the constitutions which are included in this Our Code, and that those who venture to act otherwise will be liable to the crime of forgery; as the citation of the said constitutions of Our Code, with the opinions of the ancient interpreters of the law, will be sufficient for the disposal of all cases. No doubt as to their validity should arise where any of them appears without a date and without the name of the consul, or because they may have been addressed to certain private individuals; as there can be no question whatever that all have the force of general constitutions; and even if there should be some of them from which anything has been taken, or to which anything has been added, or which have been changed in certain respects (which We have specially permitted the most excellent men aforesaid to do), We grant to no one the right to cite the said constitutions, as they are stated in the books of the ancient authorities, but merely to mention the opinions of the latter, as being of legal effect when they are not opposed to the constitutions of this Our Code.

(4) Moreover, the pragmatic sanctions that are not included in Our Code, and which have been granted to cities, corporate bodies, bureaus, offices, or private individuals, shall remain in every respect valid, if they concede any privilege as a special favor; but where they have been promulgated for the settlement of some legal point We direct that they shall only hold when not opposed to the provisions of Our Code. But in any matter which comes before your tribunal, or in any other civil or military proceeding, or in one which has reference to accounts forming part of the public expenses, or in such as have any relation to the public welfare, We decree that they shall remain valid as far as public convenience may require this to be done.

(5) Therefore let your illustrious and sublime authority, actuated by a desire for the common good, and with zeal for the execution of Our orders, cause information of this Code to be communicated to all peoples, by the promulgation of an edict in the customary way, and by sending into each province, subject to Our Empire, a copy bearing Our signature, so that in this manner the constitutions of this Our Code may be brought to the knowledge of all persons; and that during festival days, that is to say, from the sixteenth day of the *Kalends* of May of the seventh current indiction, and during the consulate of that most illustrious man Decius, citations of the constitutions shall be made from this Our Code.

Given at Constantinople, on the sixth of the *Ides* of April, during the Consulate of the illustrious Decius.

THIRD PREFACE.

CONCERNING THE AMENDMENTS OF THE CODE OF OUR LORD JUSTINIAN, AND THE SECOND EDITION OF THE SAME.

Our heart, Conscript Fathers, always induces Us to pay the strictest attention to matters concerning the public welfare, so that nothing which has been begun by Us may be left imperfect. Therefore, in the beginning of Our reign, we formed the design of collecting in a single body the Imperial Constitutions which were scattered through several volumes, and the most of which were either repetitions or conflicting, and free them from every defect. This work has now been perfected by certain most distinguished and learned men, and has been subsequently confirmed by Us, as is shown by Our two Constitutions prefixed hereto.

(1) But after We decreed that the ancient law should be observed, We rendered fifty decisions, and promulgated several constitutions relative to the advantages to be derived from the proposed work, by means of which the majority of the former enactments were amended and abridged; and We divested all the ancient law of superfluous prolixity, and then inserted the same in Our Institutes and Digest.

(2) But, as Our new decisions and constitutions, which were promulgated after the completion of Our Code, were distinct from the body of the same, and seemed to demand our care and attention, and as some of them, which were afterwards inserted, appeared to require alteration or correction, it seemed to Us necessary to have the said constitutions revised by that eminent man Tribonian, Ex-Quæstor and Ex-Consul, the authorized minister of our work; and also by the illustrious Dorotheus, Quæstor and Doctor of Laws of Berytus; and, in addition to these Menna, Constantine, and John, most eloquent men, and distinguished advocates of the bar of this City, who were ordered to divide said constitutions into separate chapters for the purpose of rendering them more available; to place them under proper titles; and to add them to those constitutions which had preceded them.

(3) We permitted the aforesaid distinguished and most learned jurists to do all these things, and when there was need of any correction, allowed them to make it without hesitation, relying upon Our authority; and where any of the constitutions were superfluous, or had been annulled by any of Our subsequent decrees; or where they were found to be similar or conflicting, to remove and separate them from the compilation of the Code itself; as well as to complete such as were imperfect, and to bring to light those that were shrouded in obscurity, so that not only the way of the Institutes and the Digest might appear clear and open, but also that the splendor of the Constitutions of Our Code might be manifest to all, and no constitution which resembled another, or was contradictory or useless, should be retained, and no one should have any doubt that what was confirmed by the revision was both valid and sufficiently perspicuous. For, in the ancient Books, the authorities of former times not only called the first, but also the second editions, revisions; which can be readily ascertained from the works of that eminent jurist Ulpianus, on Sabinus, by those who desire to know.

(4) These things having been accomplished according to Our intention, and the Justinian Code having been purified and elucidated by the aforesaid most illustrious and learned men (all of this having been done in compliance with Our order, and the work offered to Us with its amplifications, and changes), We ordered that it should be copied in accordance with the second edition, and not in accordance with the first, but as it was revised; and, by Our authority, We directed that it alone should be used in all tribunals, whenever the Divine Constitutions were applicable, from the fourth day of the *Kalends* of January of the most auspicious Consulate of Ourselves and that illustrious man Paulinus; and that no constitution not contained in this Our Code should be cited, unless in the course of events some new question may arise which requires Our decision. For, if something better should be found hereafter, and it becomes necessary to revise a constitution, no one will doubt that We should do so, and incorporate into another compilation those laws which are designated by the name New Constitutions.

(5) Therefore, having repeated Our order that We shall permit none hereafter to quote anything from Our decisions, or from other constitutions, which We have previously promulgated, or from the first edition of the Justinian Code; but that only what may be found written in this Our present purified and amended Code shall be regarded as authority, and cited in all tribunals, We have ordered it to be transcribed without any ambiguity, as was done in the case of Our Institutes and Digest, so that everything which has been compiled by Us shall be clear and intelligible, not only in the chirography, but also in the laws themselves, although on this account the matter contained in this Code has been considerably extended.

(6) Therefore, Most Reverend and Illustrious Fathers, in order that Our labors may become manifest to you and obtain authority through all time, We have presented this collection of laws to your most distinguished Order.

Given at Constantinople, on the seventeenth day of the *Kalends* of December, during the Consulate of Our Lord Justinian, for the fourth time Consul, and of Paulus.