

Select Bibliography
Roman Law
Autumn, 2020

As the syllabus indicates, we are urging you to write the first drafts of your papers from primary sources, ideally one or two – that’s all you have space for in a short paper. We are also urging you to begin with the sources and work up to an idea, a conclusion. Starting with a thesis, then giving the support for it, and then reaffirming the thesis in the conclusion may be a good way to write a legal memo or a brief, but in the history biz we like to think that the evidence leads to the conclusions rather than the other way around.

We can’t prevent you from looking at secondary sources when you write your first draft, but you don’t have to. For these purposes, the secondary sources in the *Materials*, or already available in the ‘Files’ tab in Canvas, should be more than adequate. (We will add some secondary sources, in addition to the primary ones, in the *Materials* for the last quarter of the course.) If there’s a secondary source that you ought to look at before you rewrite for the final draft, we’ll try to find it online and tell you about it.

The previous sentence is, of course, referring to the fact that much of what is in the Harvard libraries, which are quite good for Roman law, is inaccessible to most of you. That makes the method that we urging you to use – work from the primary sources – close to a necessity. By and large the primary sources, both in the original language and in translation are available online. (More of that in a minute.) Many of the secondary sources are not, and working with a collection of secondary material which, in large part, cuts off in 1923 or is written for a general audience, e.g., Wikipedia, is not a good way to write a paper that approaches professional standards.

As of this writing (August of 2020), there is a workaround. [Hathi Trust](#), has a huge collection of digitized scholarly books that are normally not available if they were published after 1923. During the pandemic it has allowed users who have a password from one of their subscribing libraries, which includes Harvard, to display the text of the book online even if it is in copyright. We do not know how long this arrangement will last. The publishers are not happy about it.

One should not talk long about Roman Law without actually going to the texts. The following lists the basic texts in the editions which have received general approval and some translations, which, unfortunately, have received something less than general approval. Some notes on online accessibility follow.

Fontes Iuris Romani Anteiustineani (3 vols. S. Riccobono *et al.* eds. 2d ed. 1941, 1940, 1943)

Institutes, Gaius, (2 vols. F. de Zulueta, ed., trans. and commentary 1946, 1953) [Note: a fine scholarly job.]

The Theodosian Code and Sirmondian Constitutions, (T. Mommsen ed. 1905)

The Theodosian Novels (P. M. Meyer and T. Mommsen eds. 1905)

The Theodosian Code and Novels and the Sirmondian Constitutions, (C. Pharr trans. 1952)
[Note: first-class.]

The Institutes of Justinian (J. A. C. Thomas ed., trans. and commentary 1975)

Ancient Roman Statutes (A. C. Johnson *et al.* trans. 1961) [Note: A first-class translation and commentary on all the Roman statutes (and some other legal documents) not included in the Corpus Iuris Civilis or in the Theodosian Code.]

Corpus Iuris Civilis (T. Mommsen, P. Krueger R. Schoell, and W. Kroll eds. 3 vols. various dates) [Note: Known as the “Berlin stereotype edition.”]

The Civil Law (17 vols. in 7, S.P. Scott trans., 1932) [Note: The complete *Corpus Iuris Civilis* and all of the substantial (as opposed to fragmentary) pre-Justinianic works, except for the Theodosian Code. Also includes the Constitutions of the post-Justinianic emperor Leo. The translation is unfortunate in many places, but it is complete.]

The Digest of Justinian (2 vols. C. H. Monro trans. 1904, 1909) [Note: A far better job than Scott but covers, unfortunately, only the first 15 of the 50 books of the Digest.]

The Digest of Justinian (4 vols. A. Watson ed. 1985) [Note: A new translation under the direction of a distinguished Romanist. This replaces Scott for the *Digest*, though Monroe should still be consulted for difficult passages.]

The Codex of Justinian : a new annotated translation, with parallel Latin and Greek text based on a translation by Justice Fred H. Blume (3 vols., B. Frier gen. ed. 2016) [Note: Even better than Watson’s *Digest*, and replaces Scott for the *Codex*.]

The Novels of Justinian : a complete annotated English translation (2 vols., D. Miller and P. Sarris ed. 2018) [Note: Replaces Scott for the Novels.]

Online availability. The original Latin texts of virtually everything listed above (‘virtually’, because the texts in the Codex that are only in Greek are not yet there, and a couple of the Novels have not yet been posted) can be found in the [Roman Law Library](#). One can quibble with some of the texts that they used (we prefer Zulueta’s text of GI to Kuebler’s), but the quality of the work is high. The texts are in HTML, which means that they can be copied into a Word document, but it also means that in many cases the notes are missing.

For the translations, it is much more of a mixed bag. The Zulueta translation of Gaius’ *Institutes* is in the *Materials* as is Moyle’s translation of Justinian’s *Institutes*, which is not so good as Thomas’s but will do the job for starters if you have to use a translation. The Watson group’s translation of the Digest (with some corrections but not with the accompanying Latin text) is available online (comes up on your screen as a PDF): [volume 1](#), [volume 2](#). Frier’s translation of the Codex is not available online, but the [translation of Fred H. Blume](#), on which it is based is.¹ The Miller and Sarris translation of the Novels is also not online, but the translation of the indefatigable [Blume](#) is. It would probably not be a good idea to use any of Scott’s translation of the Corpus, the most easily available online copy of which is in [HeinOnline](#).² CD has copies of the Frier Codex and the Miller and Sarris Novels. Check with him if you are going to base your paper on a Codex text or on a text from Novels.

¹ Blume’s is truly amazing story. He was a lawyer in Wyoming and ultimately a justice of its Supreme Court. His knowledge, moreover, of Latin, Greek, and German was excellent, and although he worked largely his own he had a good library and the best editions of the works he translated. (That’s quite different from Scott.) Not only are his translations good, his annotations, though now out of date, are also reliable for their time. The University of Wyoming Law Library, with justifiable pride and some editorial clean-up, has published digitized versions of his translations, which Blume, who died in 1971 at the age of 95, never saw in anything except typescript.

² The full title of the work is *The Civil Law Including The Twelve Tables, The Institutes of Gaius, The Rules of Ulpian, The Opinions of Paulus, The Enactments of Justinian, and The Constitutions of Leo: Translated from the original Latin, edited, and compared with all accessible systems of jurisprudence ancient and modern*. Finding what you are looking for in the 17 vols. is something of a challenge, but it’s all there, including, so far as we are aware, the only English translations of the *Regulae Ulpiani* and the *Sententiae Pauli*.

Johnson's Roman Statutes and Pharr's Theodosian Code are currently available through [Hathi Trust](#), though as mentioned above, it is not clear how long that arrangement is going to last.

Harvard has a partial subscription to what the Oxford University Press has online. Among other things, it allows you access the [Oxford Classical Dictionary](#) (click on the button for the *Dictionary* once you get there). This is a multi-authored work, so the coverage varies, depending on what the author thought was important. What it's got, however, is much more reliable than what can be found by a general Google search for, for example, Ulpian's dates. In using the search engine, keep in mind that guys who wrote this are classicists, so you won't find 'Ulpian', but you will find 'Ulpianus'. On the other hand if you need a quick reference about the Roman wine trade, 'wine trade' are the words that you should use.

The standard dictionary for classical Latin is the *Oxford Latin Dictionary*. If someone can figure out how to get online access to it through Harvard, let us know. Oxford has a complicated system whereby you pull a word out of a Latin text and the Dictionary supposedly comes up. It works, but only with those texts which Oxford has online and only with those online texts to which Harvard has a subscription, which is not all of them.

What we use for a Latin dictionary is a remarkable website created by the University of Chicago called [Logeion](#). The basic dictionary in it is the older Oxford Latin dictionary known as 'Lewis and Short'. For almost all purposes this is just as good as the newer *Oxford Latin Dictionary*. The site also includes some standard Greek dictionaries, but to get it to hit, you need to put in the word with Greek unicode. (It's forgiving, however, about the accents.)