

ON THE MEDIEVAL TRADITION OF JUSTINIAN'S NOVELLAE: AN INDEX TITULORUM AUTHENTICI IN NOVEM COLLATIONES DIGESTI

After the fundamental studies of the nineteenth century, especially in the works of Biener (1824), Savigny (1834), and Heimbach (1846)¹, modern scholarship has paid surprisingly little attention to the twelfth-century arrangement of the *Authenticum* in the Bolognese 'Vulgata' of Justinian's Novels, although it is this version that was incorporated in the 'Volumen (parvum)' of the medieval five-part manuscripts and the pre-modern editions of Justinian's Corpus.

Manuals that speak of 'versio vulgata' when they mean the *Authenticum* itself² only embroil matters, since the complete *Authenticum* was not used at all by the Glossators, once the nine *Collationes* had been put together. Schoell and Kroll in the standard bilingual edition (*Corpus Iuris* vol. III), do not even provide an index of the *tituli* of the 134 'constitutions' in the full *Authenticum*. They do indicate, it is true, in the body of their edition, the place in the *Collationes* for each of the constitutions that are there incorporated; but this will be of little avail, for lack of an appropriate index, to anyone who wants to verify a reference (*allegatio*) by one of the medieval glossators or commentators. And if the reader turns to Heimbach's cumbersome edition, he will only find that of its three indices³ (*Authenticum* set over against *Novellae*; *Collationes* against *Auth.*; *Nov.* against *Auth.*), the first does not indicate the *Collationes*, the second does not say what constitutions are missing there, and the third again bypasses the *Collationes* altogether⁴. The synoptic tables, finally, of Osenbrüggen (1840ff.) in

1 F. W. Biener, *Geschichte der Novellen Justinian's* (Berlin 1824) 243-91, esp. at pp. 271-85; F. C. von Savigny, *Geschichte des römischen Rechts im Mittelalter*, III (2nd ed. Heidelberg 1834) 490-504, esp. at pp. 501ff.; G. E. Heimbach (ed.), *Authenticum: Novellarum constitutionum Iustiniani versio vulgata* (2 vols. Lipsiae 1846-51; repr. Aalen 1974), I i-dcciii, esp. at pp. cccclxxvi-lxxxii.

2 P. Krüger, *Geschichte der Quellen und Litteratur des Römischen Rechts*, 2nd ed. (Binding's Handbuch 1.2; München-Leipzig 1912) 399-402; see p.402 n.21; L. Wenger, *Die Quellen des römischen Rechts* (Denkschriften Akad. Wien 2; Wien 1953) 670 n.198, 678. Even Biener had done so in the title of his excellent chapter on the 'altlateinische Novellensammlung (Liber authenticorum oder Versio Vulgata)' (p.243); not however Savigny, as Wenger claims.

3 Heimbach I dcciv-ix, dccxv-xxi.

4 There are other shortcomings: (1) in the first index one has to correct two misprints: *Auth.* 79 is *Nov.* 78 (not 76), and *Auth.* 120 is *Nov.* 127 (not 128); (2) in the same index his count of the