

# Clyde Pharr, the Women of Vanderbilt, and the Wyoming Judge: The Story behind the Translation of the Theodosian Code in Mid-Century America

Linda Jones Hall\*

Abstract — When Clyde Pharr published his massive English translation of the Theodosian Code with Princeton University Press in 1952, two former graduate students at Vanderbilt University were acknowledged as co-editors: Theresa Sherrer Davidson as Associate Editor and Mary Brown Pharr, Clyde Pharr's wife, as Assistant Editor. Many other students were involved. This article lays out the role of those students, predominantly women, whose homework assignments, theses, and dissertations provided working drafts for the final volume. Pharr relied heavily

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\* Professor of History, Late Antiquity, St. Mary's College of Maryland, St. Mary's City, Maryland, USA. Acknowledgements follow.

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Citations to collections are abbreviated as follows: Blume Collection, H69-10 = Blume Collection, H69-10, Wyoming State Archives, Reference, Research and Historical Photo Unit, Wyoming Department of State Parks and Cultural Resources, Cheyenne, Wyoming; CAHUTA = The Center for American History, The University of Texas at Austin, at the University of Texas Website; PUPR = Princeton University Press Records, Manuscripts Division, Department of Rare Books and Special Collections, Princeton University Library; SCUAVU = Special Collections and University Archives, Jean and Alexander Heard Library, Vanderbilt University.

on their work, as well as on the work of Justice Fred Blume of Wyoming, who supplied to Pharr his unpublished translation of Justinian's Code and drafts of parts of the Theodosian Code. Pharr's debt to Theresa Davidson was substantial and unevenly acknowledged, and this led to a dispute and a great deal of acrimony, until Davidson ultimately won the right to have her scholarship acknowledged in the publication of the Code. The evidence for this article comes from previously unpublished materials, including those held by the Davidson family and relatives of other students; Princeton University Press; Special Collections and University Archives at the Jean and Alexander Heard Library at Vanderbilt University; and the University of Wyoming College of Law.

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### I. The Theodosian Code and the translators

The Theodosian Code is a compilation of edited extracts from numerous Roman laws which date from Constantine's appointment as senior emperor in the fourth century to the reign of Theodosius II in the fifth century AD. In one huge volume the reader finds laws about every aspect of life in the Roman Empire. The heading (or inscription) of each law gives the emperor(s) and recipient(s); the end (subscript) of each law lists the dates and places of issuance or receipt. Because the laws are often vividly worded and sometimes take the form of a response to a particular situation, they offer a remarkable window into the period known now as Late Antiquity, the period bridging antiquity and the medieval world. Numerous books and articles draw on the evidence of this law code, which was issued in Latin in both the East and West. The English translation produced by Clyde Pharr and his associates has become the unrivalled authority for scholarship in such fields as jurisprudence and social history, interestingly at the very time Rome was said to have "fallen."<sup>1</sup>

Clyde Pharr, justly well-known for his editions of Homeric Greek and Vergil, came to the study of Roman law after an initial focus on producing teaching texts of the classical languages.<sup>2</sup>

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<sup>1</sup> C. Pharr, et al., eds., *The Theodosian Code and Novels and the Sirmundian Constitutions* (Princeton 1952; reprinted New York 1969). See J. Harries and I. Wood, eds., *The Theodosian Code: Studies in the Imperial Law of Late Antiquity* (Ithaca, NY 1993).

<sup>2</sup> C. Pharr, *Homeric Greek: A Book for Beginners* (Boston 1921; reprinted Norman, OK 1959); C. Pharr, *Vergil's Aeneid I-VI* (New York 1930; reprinted Mundelein, IL 1999).

What attracted him to, and sustained him in the study and translation of Roman law is unclear, but his determination to complete the task lasted through retirements from both Vanderbilt University and the University of Texas at Austin. According to an obituary published in the Vanderbilt *Alumnus*, Pharr “intended this work to be an aid to the legal profession which he had planned at one time to enter, but he became fascinated with Classics while preparing for a law career.”<sup>3</sup> However, the assertion that he had intended a law career appears nowhere else, although Pharr had been a close friend of Sam Rayburn, Speaker of the House of Representatives, and the two men might have had a shared interest in the law.<sup>4</sup>

After rising from a rural background in Texas to studies at Yale and in Europe, Clyde Pharr landed his lengthiest position at Vanderbilt. Born near Saltillo, Texas, on February 17, 1885, he was the son of Samuel Milton and Josephine Fleming Pharr. Although his elementary and secondary education was fragmentary and intermittent, he completed his B.S. degree from East Texas Normal College (later known as East Texas State Teachers College or East Texas State University) in 1903, within only two years of entering. Then while teaching in a country school near his home, he earned an A.B. from this same college in 1905, and went on to earn a B.A. from Yale in 1906.<sup>5</sup> By 1910 he had also earned a Ph.D. from Yale where he was the Abernethy Fellow from 1907 to 1910. After studying in Berlin, Athens, and France, Pharr began his teaching career in Ohio. He subsequently taught in Tennessee, at Southwest Presbyterian University in Clarksville with a break in Athens, Greece. Then Pharr moved to Vanderbilt where he taught from 1925 through 1949, first as an Associate Professor and then as Full Professor and Department Chair of Classics.<sup>6</sup>

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<sup>3</sup> “Class Notes,” *Vanderbilt Alumnus* (Summer 1973), 44.

<sup>4</sup> Pharr is shown in a photograph of Mr. Rayburn’s graduation class from East Texas Normal College, Commerce, Texas. Image G-324, catalogued in the Guide to the Sam Rayburn papers, part 5 (CAHUTA). See also “In Memoriam Clyde Pharr,” *Index of Memorial Resolutions and Biographical Sketches*, at the University of Texas at Austin Website (hereafter Pharr Memorial Resolution).

<sup>5</sup> Clyde Pharr, Letter to Dr. S. H. Whitney, East Texas State University, Commerce, Texas, January 12, 1929 (CAHUTA).

<sup>6</sup> Pharr attended the University of Berlin in 1910; studied at the American Classical School in Athens from 1910 to 1912 on a fellowship from the Archaeological Institute of America; and then attended the summer school at the University of Besançon, France, and spent 1920–1921 as an American Field Service Fellow at the University of Paris.

Pharr's Associate Editor Theresa Sherrer Davidson also shared a background in Classics and law; her life paralleled and intersected with his at key points. It well may be that this potential for shared collaboration influenced Pharr to begin the project at just the time and place that he did. Theresa Julienna Sherrer was born on October 12, 1893, in Marion, Ohio, daughter of Frederick Anthony and Mary (Alge) Sherrer. After studying at Western Reserve University from 1910 to 1912 and also at Cleveland Art School, she earned a B.A. in 1914 and M.A. in 1915 from Oberlin College. She graduated Phi Beta Kappa and with honors in Classics, one of her majors; the other was mathematics in which she wrote her thesis. From 1915 to 1917 she taught both mathematics and Classics at Martin College, a small Methodist college in Pulaski, Tennessee,<sup>7</sup> where she met Donald Davidson, born on August 18, 1893, in Campbellsville, Tennessee. He had been teaching and trying to finish his studies at Vanderbilt; he finally received his B.A. in absentia in 1917. The couple were married on June 8, 1918, when Davidson was on leave, midway in his Army enlistment from May 1917 to June 1919. Their only child Mary Theresa, later Mrs. Eric Bell, Jr., was born on March 26, 1919.<sup>8</sup> That same year, upon his return from the military, Donald undertook his M.A. studies in English at Vanderbilt. While Donald was abroad, Theresa studied at the Ohio State University School of Law in 1917–1918 on a fellowship.<sup>9</sup>

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Pharr was Professor of Greek and Latin at the Urbana University School in Ohio in 1906–1907 and 1912–1913, then became Assistant Professor of Latin and Greek at Ohio Wesleyan University from 1913 to 1917. Pharr then moved to Southwest Presbyterian University (SPU) in Clarksville from 1918–1920. After his time in Athens he returned to SPU as Professor of Classical Languages from 1921 to 1924. He became Associate Professor of Greek and Latin from 1925 to 1927 and then rose to become Full Professor and Head of the Department of Classics from 1928 to 1949. "Pharr, Clyde," in W. W. Briggs, Jr., ed., *Biographical Dictionary of North American Classicists* (Westport, CT 1994), 498–99. See also *Who's Who in America*, 32 (Chicago 1963), s.v. "Pharr, Clyde."

<sup>7</sup> Donald Davidson, Memorandum of 1949 (hereafter Donald Davidson Memorandum). A copy of this document was provided by Mary (Molly) Bell Kirkpatrick, the Davidsons' granddaughter, who found it among her grandparents' personal papers. The family has authorized its publication, which appears to have been written for meetings with the administration of Vanderbilt University in 1949. The full significance of this memorandum is developed below.

<sup>8</sup> C. Fitzgerald, *The Rivers of America: A Descriptive Bibliography, including Biographies of the Authors, Illustrators, and Editors*, 2 (New Castle, DE 2001), 711–14.

<sup>9</sup> Donald Davidson Memorandum (note 7):

In 1922, Theresa received a Bachelor of Laws degree from Vanderbilt University and was admitted to the Tennessee Bar.<sup>10</sup> According to her husband, she “graduated at the head of her class in Vanderbilt Law School, leading by a considerable margin. But she was disqualified for [the] Founder’s Medal by a ruling, previously made by Dean Keeble, which required that the medalist take the full three-year course at Vanderbilt.”<sup>11</sup> In the same year that Theresa earned her law degree (1922), Donald Davidson received his M.A. from Vanderbilt University. Two years earlier, in 1920, he began his long teaching career at Vanderbilt, and retired as Full Professor Emeritus in 1968.<sup>12</sup>

## II. Roman law at Vanderbilt

After Theresa Davidson taught at Ward Belmont, a school for young ladies, in 1923–1924, she became the librarian at Vanderbilt University Law Library from 1924 to 1927, “at [the] solicitation of Dean Keeble.”<sup>13</sup> By 1929, Pharr began pushing for Theresa Davidson and another student to be allowed to pursue doctoral work on Roman law topics in the Classics Department. There was initial opposition to this proposal from Dean Walter Fleming of

In 1917, [Theresa] won the Aelioian Fellowship, a competitive fellowship and high honor, awarded only occasionally by Oberlin College. The fellowship entitled her to one year of study toward [a] Ph.D. degree at the institution she should elect, and she contemplated entering Radcliffe College. But she decided to study law instead. [She] refused the fellowship, and studied law at Ohio State University for one year, 1917–18.

<sup>10</sup> “50 Years of Pioneers,” at the Tennessees Bar Association Website.

<sup>11</sup> Donald Davidson Memorandum (note 7). The reasons Theresa never engaged in full-time work as a lawyer are unclear: it was perhaps due to a lack of opportunity or the need to be flexible for travel in the summers or simply a desire to work in academe.

<sup>12</sup> From 1920 to 1924, Davidson taught at Vanderbilt as an Instructor in English; from 1925 to 1929, as Assistant Professor of English; from 1930 to 1937, as Associate Professor of English; from 1938 to 1964, as Professor of English; in 1964, as Distinguished Lecturer in English; from 1965 to 1968, as Professor of English, Emeritus. Davidson’s office changed very little: in 1925–1926 he was in College Hall, in 1928–1929 in Science Hall, but by 1928–1929 he moved to the third floor of Calhoun Hall where he remained until the Department moved to Old Central in 1957. See “Faculty Database and Directories” (SCUAVU). See also M. R. Winchell, *Where No Flag Flies: Donald Davidson and the Southern Resistance* (Columbia, MO 2000), who discusses Davidson’s personal conservatism and political views, which included not only opposition to industrialization but to such social change as integration.

<sup>13</sup> Donald Davidson Memorandum (note 7).

the Graduate School and Chancellor J. H. Kirkland.<sup>14</sup> Pharr argued that “Both candidates plan to offer not less than three years of training in the Law School for their minor and to spend not less than two years in the graduate study of Latin and Greek for their major.”<sup>15</sup> After complaining that Pharr was teaching too many courses (nineteen hours per week) to both undergraduates and graduates,<sup>16</sup> Kirkland raised his main objection concerning the two would-be doctoral students whom he guessed to be “[Arthur] Crownover<sup>17</sup> and Mrs. Davidson,” who had already received a law degree for her work in law. He did not want that work “counted again as a minor in the Ph.D. program.” He went on to argue that “Vanderbilt offers no special courses in Roman law, neither in the classical department nor in the School of Law, and if a student wishes to specialize in Roman Law for the purpose of research or future writing, such a student ought certainly to go to another university.”<sup>18</sup>

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<sup>14</sup> James H. Kirkland, Chancellor of Vanderbilt University from 1903 to 1937, had been hired in 1886 as Professor of Latin. “James H. Kirkland 1893–1937,” *The Chancellor Search*, at the Vanderbilt University Website. Kirkland hired Robert Benson Steele as instructor of Latin, and in the 1920s Steele became Chair of the Classics Department and in turn hired Pharr. See S. F. Wiltshire, “Steele, Robert Benson,” in Briggs (note 6), 612–13.

<sup>15</sup> Clyde Pharr, Letter to Dean W. L. Fleming, January 26, 1929, in Box 96, file 17 (SCUAVU).

<sup>16</sup> Kirkland cites these enrollment figures after each course number: Greek 11 (2 students), Greek 12 and 21 (0); courses not in the catalog, Greek 13 (3), Latin 16 (5), Latin 17 (13), and Latin 18 (10). Chancellor Kirkland, Letter to W. L. Fleming, February 26, 1929, in Box 96, file 17 (SCUAVU).

<sup>17</sup> Arthur Crownover, Jr., was a distinguished lawyer in Tennessee in the 1930s and 1940s. His degrees were all from Vanderbilt University: A.B., 1929; M.A., 1930; LL.B., 1932. His thesis topic for the M.A. in Classical Studies was “Notes on the Captivi of Titus Maccius Plautus,” which was written as a grammatical and literary commentary, much in the style of notes for a textbook. Although modern historians have plumbed Plautus’ text for legal evidence, Crownover did not. In the 1928, 1929, and 1930 *Vanderbilt Commodore* yearbooks, Crownover is listed as President of the Classical Club. He presented a paper on “Cicero the Lawyer,” at the American Philological Association meeting in 1933 (*Trans. Proc. Am. Philological Assoc.*, 64 (1933), iv). Many details about his life can be found at “Descendants of Wolphert Gerretse Van Kouwenhoven,” at the Conover Genealogy Website, which inaccurately states he was single. His father was Arthur Crownover, Sr., who had risen to be the Chief Judge on the Tennessee Court of Appeals; see the finding aid for his papers, “CROWNOVER, ARTHUR, SR. (1874–1942) PAPERS 1880–1942” at the State of Tennessee Website.

<sup>18</sup> Chancellor Kirkland, Letter to W. L. Fleming, February 26, 1929,

Pharr and Theresa Davidson apparently saw the potential in collaborating on Roman law long before Pharr first officially proposed the translation project in 1932 at a meeting of the American Philological Association.<sup>19</sup> Donald Davidson reports that as early as 1928 Theresa

began Independent study of Roman Law. In that summer, she read Gaius. In the fall of 1928, [she] started Roman Law courses under Dr. Pharr, being registered as [a] regular graduate student. In addition to the Roman Law courses [she] took Paleography (Pharr), Lucretius (Santee), Greek Orators and Greek Law (Johnson), and Philosophy (Sanborn).<sup>20</sup>

Pharr in his reply to Kirkland noted her studies in Gaius, Ulpian, Justinian, fragments of other Roman jurists, and the development of Roman law, beginning with the Twelve Tables. Pharr proposed that her admission to Ph.D. candidacy be set for June 1930. He closed by saying: "She has a very fine mind with true scholarly instincts and I am thoroughly confident that she will make some real contributions."<sup>21</sup> Kirkland continued to resist, and raised the objection that it was unlikely that the graduate committee would allow "a single professor to give the doctor's degree on such a variety of work, superintended by him alone and for which work, finally, he is the examiner and the sole critic."<sup>22</sup>

But in the end Theresa Davidson was granted permission to pursue the doctorate in Classics with an emphasis on Roman law and with Pharr as her dissertation director. As her husband reported later, the first of six dissertation topics was

an edition of Justinian's Institutes (the Latin text, annotated, etc.) . . . intended to be her Ph.D. thesis. The word-count for this thesis, which had been completed, was lost in the Wesley Hall fire of February, 1932. Dr. Pharr had a duplicate copy which, however, he could not find. Later on he found it, but never returned it to Mrs. Davidson.<sup>23</sup>

There was a groundswell of interest in Roman Law in the

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in Box 96, file 17 (SCUAVU).

<sup>19</sup> "Minutes," *Trans. Proc. Am. Philological Assoc.*, 63 (1932), xxxi–xxxii.

<sup>20</sup> Donald Davidson Memorandum (note 7).

<sup>21</sup> Clyde Pharr, Letter to Chancellor Kirkland, March 11, 1929, in Box 96, file 17 (SCUAVU).

<sup>22</sup> Chancellor Kirkland, Letter to Clyde Pharr, March 12, 1929, in Box 96, file 17 (SCUAVU).

<sup>23</sup> Donald Davidson Memorandum (note 7).

1930s, perhaps due to the increasing interest in Comparative law.<sup>24</sup> It seems that Pharr wanted to change the direction of graduate studies at Vanderbilt from literary analysis to legal studies. After a very productive period of twelve years of publishing on classical language pedagogy, Pharr decisively switched to his lifelong devotion for translating Roman law.<sup>25</sup> The first indication that Pharr was becoming interested in the post-classical period is revealed in 1927 when he published an article about some suspect passages in Josephus related to Christianity, based on evidence from the time of Origen and Eusebius. This was Pharr's first foray into the post-classical era, now referred to as Late Antiquity.<sup>26</sup>

In 1932 Pharr published his first article related to Roman law, albeit via a topic of interest to a wider audience — the outlawing of magic in the Christianized Roman Empire.<sup>27</sup> That same year, Pharr's growing interest in Roman law was revealed by his motion at the American Philological Association to investigate the possibility of a group of scholars translating the "whole body of Roman law into English."<sup>28</sup> The following year, Pharr returned, backed by "many letters of endorsement and encouragement which he had received from eminent scholars and jurists" concerning the "preparation of a 'variorum translation of the entire body of Roman law.'"<sup>29</sup> Donald Davidson noted that soon after (1933) Theresa

began (during summers spent in Vermont) a translation of the Digest of Justinian. She completed one book: On Interdicts. This translation could have constituted her Ph.D. thesis, but Dr. Pharr stopped it, because at this time he claimed that it would be easier to get financial support for the Roman law Project if they had not done any translating before soli-

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<sup>24</sup> The belief that the study of Roman law would benefit American jurists was the reason for founding the Riccobono Seminar in the late 1920s at Catholic University of America. See S. Randazzo, "Roman Legal Tradition and American Law: the Riccobono Seminar of Roman Law in Washington," *RLT*, 1 (2002), 123–44.

<sup>25</sup> In addition to his textbook on Homeric Greek (1921) and on Vergil (1930), Pharr published two articles on teaching Greek and Latin: "A Year or More of Greek," *Classical Journal*, 13 (1918), 364–71; and "Ovid for Caesar," *Classical Journal*, 21 (1925), 11–20.

<sup>26</sup> C. Pharr, "The Testimony of Josephus to Christianity," *Am. J. Philology*, 48/2 (1927), 137–47.

<sup>27</sup> C. Pharr, "The Interdiction of Magic in Roman Law," *Trans. Proc. Am. Philological Assoc.*, 63 (1932), 269–95.

<sup>28</sup> "Minutes" (note 19), xxxi.

<sup>29</sup> *Trans. Proc. Am. Philological Assoc.*, 64 (1933), xxxvi–xxxvii.



citing support.<sup>30</sup>

### III. Justice Blume of Wyoming

In this very time frame of 1933, Pharr began a lengthy correspondence with Justice Fred Blume of Wyoming who had been working on a translation of Justinian's Code on his own for twenty years.<sup>31</sup> Since Justinian's Code contains many of the same laws as the Theodosian Code, this contact made a great deal of sense.<sup>32</sup> In his letter of July 11, Pharr described a larger project that would include translating all of Roman law and invited Blume to join because he envisioned "an editorial board of not less than five, and certainly at least two of them should be jurists."<sup>33</sup> Pharr claimed to have the support of scholars from Harvard, Yale, Princeton, Columbia, Johns Hopkins, the University of Chicago, Tulane, the University of California, the University of Illinois, the University of Pennsylvania, the University of Pittsburgh, Duke University, the Library of Congress, and several others.<sup>34</sup> On September 22, 1933, acknowledging the receipt of Blume's translation of Book II of Justinian's Code, Pharr offered to have his "graduate students in Greek and Latin" who were in Roman law courses make corrections as needed. A few months later he sent Blume numerous suggestions about the translation of Book II.<sup>35</sup> But since no theses or dissertations on Roman law would appear for another ten years, the "we" seems actually to have consisted of just Pharr and Theresa Davidson.

In an interview given in 1934 to a popular magazine, Pharr reported that he was planning a translation into English of the whole body of Roman law. In his usual optimistic way, Pharr projected that the project would take him at least five or six years, with possibly twenty-five scholars cooperating. Pharr then

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<sup>30</sup> Donald Davidson Memorandum (note 7).

<sup>31</sup> For details about Fred H. Blume (Friedrich Heinrich Blume, 1875–1971), see especially T. Kearley, "Justice Fred Blume and the Translation of Justinian's Code," *Law Library J.*, 99 (2007), 525–54. See also M. Golden, "Journey for the Pole: The Life and Times of Fred H. Blume, Justice of the Wyoming Supreme Court," *Land & Water L. Rev.*, 28 (1993), 195–269, 511–90. For a study of how Blume actually applied Roman law in his rulings, see H. Evjen, "Rome on the Range: Roman Law and Justice Blume of Wyoming," *ZSS (RA)*, 97 (1980), 213–31.

<sup>32</sup> See all of Blume's translation of Justinian's Code online at the University of Wyoming Website.

<sup>33</sup> Clyde Pharr, Letter to Fred Blume, July 11, 1933 (Blume Collection, H69-10).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

asserted that he had the support of such legal luminaries as Justin Miller, Roscoe Pound, and John H. Wigmore, then deans of the schools of law at Duke, Harvard, and Northwestern. He even purported to have support from Chief Justice Charles Evans Hughes and other distinguished jurists. Pharr reported that he had assembled “the most complete Roman-law library in the United States, not excepting those at Yale, Harvard, and Columbia.” The location of the collection on the fourth floor of Calhoun Hall meant that students like Theresa Davidson had ready access to these books. He had also enrolled in the law school at Vanderbilt the year before in order to sharpen his legal expertise.<sup>36</sup> Such study would have allowed him to gain the legal training that Theresa Davidson had had for over a decade.

From 1936 onward, Pharr’s papers and publications focused on Roman law. In 1936, Pharr spoke about “The Authenticity of the *Constitutio Sirmondiana* I.”<sup>37</sup> In 1937 and 1938, Pharr published reviews of European legal histories in the *Classical Weekly*.<sup>38</sup> In 1937, he presented a paper on the “Ecclesiastical Legislation of Constantine,”<sup>39</sup> which appears to culminate in the publication of an article two years later on “Constantine and the Christians.”<sup>40</sup> In 1939, Pharr published an article that combined his interest in pedagogy and Roman law.<sup>41</sup> The article is a masterful survey of legal education from the time of Cicero with learned citations to both the Theodosian Code and Justinian’s Code, specifically the Institutes which were the textbook for students in Roman law in the schools of Berytus and Constantin-

<sup>36</sup> R. R. Farrar, “Clyde Pharr, Practical Scholar,” *Holland’s*, (July 1934). This same article mentions the 1931 marriage to his first wife Evelyn Guertin Hart, whose parents, the late Mr. and Mrs. Louis de Guertin, of Los Angeles, California, were described as members of “prominent French families.” This marriage seems to have been made for raising Pharr’s status socially and ended at some point after 1934, according to H. Lloyd Stow, retired Chair of Vanderbilt University Classics Department, telephone interview, September 7, 2001. Professor Stow was hired to replace Pharr, and so their time at Vanderbilt did not overlap.

<sup>37</sup> *Trans. Proc. Am. Philological Assoc.*, 67 (1936), xxx.

<sup>38</sup> C. Pharr, Review of E. Weiss, *Grundzüge der römischen Rechtsgeschichte*, in *Classical Weekly*, 31 (1937), 4, and Review of P. de Francisci, *Storia del diritto romano*, in *Classical Weekly*, 31 (1937), 194.

<sup>39</sup> “Program for the meeting in New Orleans of the Southern Section of the Classical Association of the Middle West and South,” *Classical Journal*, 33 (1937), 66.

<sup>40</sup> C. Pharr, “Constantine and the Christians,” *Classical Outlook*, 16 (1939), 57–58.

<sup>41</sup> C. Pharr, “Roman Legal Education,” *Classical Journal*, 34 (1939), 257–70.

ople.<sup>42</sup>

Pharr was President of the Southern Classical Association in 1937 and President of the Classical Association of the Mid-West and South (CAMWS) in 1943.<sup>43</sup> These positions not only enhanced his reputation among fellow classicists but gave him opportunities to lobby for funding for his translation project, which was now well begun by the work of two new graduate students of differing background and abilities.

#### IV. Early theses on Roman law

In 1940, a uniquely over-qualified graduate student came to Vanderbilt to study with Pharr. Hans Julius Wolff, a distinguished jurist in his own country, had to flee Germany and appears to have been rescued by this opportunity to enter the USA as a “student.”<sup>44</sup> He was already a lawyer and a judge and a well-known classical scholar when he arrived.<sup>45</sup> From 1935 to 1939, Wolff had been Professor of Roman and Civil Law at the National University of Panama, and by 1940 he completed an M.A. thesis entitled “Marriage Law and Family Organization in Athens and Rome” at Vanderbilt University for Clyde Pharr and Edwin Lee Johnson.<sup>46</sup> In the bibliography of the thesis, he listed two of his own scholarly articles and a monograph.<sup>47</sup> From

<sup>42</sup> See L. J. Hall, *Roman Berytus: Beirut in Late Antiquity* (London 2004), 195–220, for a full discussion of legal education in Berytus.

<sup>43</sup> Pharr Memorial Resolution (note 4).

<sup>44</sup> “Inventory of Emergency Committee in Aid of Displaced Foreign Scholars Records, 1933–1945,” at the New York Public Library Website.

<sup>45</sup> He is listed modestly as “Wolff, Hans Julius, educator” in *Who’s Who in the World*, 6th ed. (Chicago 1982–1983), though the entry itself describes an accomplished German scholar even before his arrival in the United States: a Doctor Iuris in 1932 from the University of Berlin; a judge in Berlin 1932–33; a collaborator on *Thesaurus Linguae Latinae*, Munich, 1933–35. His date of birth is variously given as 1898 or 1902. Dona Straley, Librarian at Ohio State University, E-mail message to author, August 16, 2002: “I suspect that this discrepancy occurred in the process of getting him into the US. German references uniformly list his dates as 1898–1976.”

<sup>46</sup> H. J. Wolff, *Marriage Law and Family Organization in Athens and Rome* (M.A. thesis, Vanderbilt University, 1940), under the direction of Clyde Pharr and Edwin Lee Johnson.

<sup>47</sup> H. J. Wolff, “Zwei juristische Papyri der University of Michigan,” *Aegyptus*, 17 (1937), 463–78; “Trinoctium,” *Revue d’Histoire du Droit*, 16 (1938), 145–83; *Written and Unwritten Marriages in Hellenistic and Post-Classical Roman Law* [American Philological Association Monographs, 9] (Haverford, PA 1939). Additional bibliography on Wolff can be found at J. Beatson and R. Zimmermann, eds., *Jurists Uprooted* (Oxford 2004), 196,

Vanderbilt he was able to move on both personally and professionally. His career included teaching stints at various American institutions, and he eventually published *Roman Law: An Historical Introduction* with the University of Oklahoma Press, in Norman, in 1951. He even returned to Germany where he became Professor of Law at the University of Mainz Faculty of Law from 1952 to 1955, and then at the Freiburg Faculty of Law from 1955 onward.<sup>48</sup>

Another graduate student, Byno Ryvers Rhodes, produced an M.A. thesis titled *Index verborum iurisperdentiae* [sic] *anteiustinianae reliquiarum* which appeared in 1941.<sup>49</sup> Remarkably the Latin in the title is misspelled. The thesis consists of an alphabetical listing of Latin words with the citations of classical *loci* and appears to have been written more to please his professors than himself.<sup>50</sup> Tellingly, the year before, in 1940, Pharr had placed an announcement in the news for the American Philological Association that “Clyde Pharr has undertaken the preparation of a legal Latin lexicon, based on existing indexes, to be completed in 4–5 years.”<sup>51</sup> Clearly the thesis by Rhodes was part of this proposed project. Rhodes optimistically proposes that his thesis

n.671; I wish to thank the anonymous reader of *RLT* for this reference.

<sup>48</sup> See note 45. See also D. V. Simon, “Hans Julius Wolff,” *Gnomon* 59, (1987), 83–84.

<sup>49</sup> B. R. Rhodes, *Index verborum iurisperdentiae* [sic] *anteiustinianae reliquiarum* (M.A. thesis, Vanderbilt University, 1941), 221 pages, signed by Clyde Pharr and Edwin Lee Johnson. In the preface Rhodes states that his “index is based on the critical edition of Eduard Huschke as revised by E. Seckel and B. Kuebler (Leipzig 1908).” The title which Rhodes does not give is *Iurisprudentiae anteiustinianae quae supersunt*. In the Vanderbilt Library copy it is bound with Ferdinand Fabricius, *Ad Huschkii Iurisprudentiam anteiustinianam indices* (Leipzig 1868). A recent search of the Vanderbilt library holdings shows that Rhodes probably had at his disposal these useful volumes: O. Gradenwitz’s two Theodosian volumes [*Heidelberger Index zum Theodosianus* (Berlin 1925) and *Ergänzungsband zum Heidelberger Index zum Theodosianus* (Berlin 1929)] and E. Levy [*Ergänzungsindex zu Ius und Leges* (Weimar 1930)]. Additionally, the library owns even older works such as a late edition of Brisson’s *De verborum quae ad jus pertinent significatione libri XIX* (Halle 1743) and John Calvin, *Lexicon iuridicum iuris Caesarei simul, et canonici* (Geneva 1645), which may have been acquired during Pharr’s years at Vanderbilt.

<sup>50</sup> Pharr was wise to see this as a necessary step in the translation process, as legal Latin was quite different from the classical language of Cicero. For a detailed discussion of the correct translation of just one word in the Theodosian Code, see L. J. Hall, “Rescuing the Reputation of Tyre in Late Antiquity: The Documentation of *Gynaeccea/Genicia* as Weaving Factories, not Brothels,” *Chronos*, 12 (2005), 125–50.

<sup>51</sup> *Trans. Proc. Am. Philological Assoc.*, 71 (1940), xx.

will serve as one of the bases for the preparation of a legal Latin lexicon, a much needed tool in research in Roman law. At present no adequate lexicon of legal Latin has ever been produced, and, by the use of this index, in conjunction with other such indexes of Roman legal material it now becomes possible to prepare such a lexicon.<sup>52</sup>

Since he graduated with a B.A. in 1940 and an M.A. a year later, Rhodes seems to have spent only a year on this thesis in the Classics Department and then went on to write a dissertation in the English Department and to have a career as an English professor.<sup>53</sup>

#### V. World War II and the influx of women to Vanderbilt

It has usually been argued that World War II changed the ratio of women to men in academe, and that of course is true. But at Vanderbilt women had long dominated graduate studies in the Department of Classics, even before the turn to legal studies. From 1929 to 1932 the master's theses were often studies of such classical authors as the Roman historian Livy, the comic playwright Plautus, the tragic playwright Seneca, and even the orator Cicero's relations with women. Mentored by Clyde Pharr and R. B. Steele, all but one of these theses were written by female graduate students.<sup>54</sup> Such a pattern of female graduate study was unique at a time when there was an expectation that the enrollment of women would be limited to a small fraction of the student body.<sup>55</sup>

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<sup>52</sup> Rhodes (note 49), Preface.

<sup>53</sup> Rhodes's real interests were clearly in the field of English literature; his subsequent dissertation (489 pages) on *Swift and Mandeville as Critics of Society*, appeared ten years later in 1951 and led to a Ph.D. in English. Although Rhodes in no way matched the accomplishments of his German colleague, he had a full career as an English professor, at Lincoln Memorial University (1949–1958) and then at Eastern Kentucky University (1958–1982). Jackie Couture, Eastern Kentucky University, Special Collections, E-mail message to author, September 17, 2001. His only publication seems related to his English dissertation: B. Rhodes, "Milton's Banquet in the Wilderness," *American Notes & Queries*, 2 (Oct. 1976), 20–23.

<sup>54</sup> In 1929: Lucy Joslin, "Livy, Book I: Notes"; and Nan Ruth Parrish, "Livy, Book XXI: Notes." In 1930: Arthur Crownover, Jr., "Notes on the *Captivi* of Titus Maccius Plautus"; Harriet Mabel Smith, "Seneca's *Medea*: Notes"; and Frances Burks McKinley, "[Cicero's] *De Senectute*: Notes." In 1932: Ida Ophelia Strong, "Cicero and His Relations with Women."

<sup>55</sup> "Admission of Young Women," *Vanderbilt University Catalog* (1930), 53 (SCUAVU):

In just this time frame the percentage of women admitted to the College of Arts and Sciences at Vanderbilt University rose steadily, increasing from 23% of the entering freshman class in 1930 to a high of 50% in 1944 and then dropping again to 23% in 1946.<sup>56</sup> As the Chancellor's report of 1951 makes clear, the increased admission of women during the early 1940s was seen as an anomaly to be corrected:

By 1939, the relative number of men and women in the College was as follows: 799 men, 301 women. During the Second World War military requirements threatened to leave the University bereft of men, and women students increased in numbers. In 1944–1945 sixty-one per cent of the [total] students in the College of Arts and Science were women.<sup>57</sup>

#### VI. The first doctorate in Roman law

Theresa Davidson remained a reliable constant in the Vanderbilt Classics program, covering Pharr's classes when he was ill in 1941 for three weeks. As her husband recalled: "In the spring of 1942, she started teaching in the Classics Department, (Dr. Pharr had earlier promised Mrs. Davidson that, when there was an opening, she might have a position)." The topic of her dissertation

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As far as resources permit, young women are admitted to the University on the same terms as young men and enjoy the same privileges. Special conditions, such as limited dormitory accommodations for women and lack of convenient boarding houses, make it impossible to receive as large a number of young women as now seek admission. Until further provision can be made only fifty young women will be received into the freshman class, these to be selected by the Dean of the College on proof of exceptional merit. . . . The University has matured plans for the education of young women. These include special buildings and endowment and require a total sum of one million dollars. If this sum can be secured, the restrictions above indicated on the attendance of young women will be removed.

<sup>56</sup> Breakdown of admissions to the College of Arts and Sciences is stated in the Report of the Registrar, bound with catalogs of Vanderbilt University. Using the enrollment data in those reports, I calculated the following percentages for women admitted to the freshman class of the College of Arts and Sciences by year: 1930 and 1931, 23%; 1932, 26%; 1933, 27%; 1934, 26% [1936 Report of the Registrar, p. 83]; 1936, 22%; 1937, 29%; 1938, 23%; 1939, 26%; 1940, 35% [1941 Report of the Registrar, p. 105]; 1941, 32%; 1942, 36%; 1943, 47%; 1944, 50%; 1945, 30% [1947 Report of the Registrar, p. 31]; and 1945, 23% [May 1947 Report of the Registrar, p. 41].

<sup>57</sup> Chancellor Harvie Branscomb's Report to the Board of Trust (Oct. 1951), 63 (SCUAVU).

would be the opening text of their long-projected translation project. Her husband reports:

*At his request* she took as her thesis Book I of the Theodosian Code. She translated and annotated this and received her Ph.D. degree in 1943. She published her thesis, in an abbreviated form, in 1944, under the title, "A Study in Roman Administrative Law."<sup>58</sup> Mrs. Davidson's work on this thesis, which she prepared in about two months time, while she was teaching a full schedule, and was ill [*sic*].<sup>59</sup>

Pharr was clearly pleased with Theresa Davidson's work on Book One, and he commended her in a letter to Judge Blume in mid-May of 1943. Pharr mentioned that Vanderbilt University was donating money to translate the whole body of Roman law "[b]ecause of the importance of understanding of Latin American law."<sup>60</sup> He then commended the abilities of his assistants "including Dr. T. S. Davidson who graduated at the head of her class in law and is a very competent classical scholar also."<sup>61</sup> They would begin with the Theodosian Code. The letter emphasizes the shared roles of the two editors; Pharr writes that "we" would distribute "our" work to other scholars for comment. Pharr then went on to request that Blume send him copies of his translation of Justinian's Code for commentary.<sup>62</sup> He clearly had substantial ambitions for Theresa Davidson:

Due to my own rather specialized interests, I wish to spend the bulk of the rest of my life on the Theodosian Code and the problems involved therein. Fortunately Dr. Davidson, with her fine legal training, is admirably equipped to assist in the editorial work and to supervise the translation and annotation of the Digest of Justinian. Of course I plan to keep my connection with the entire work but hope that I may be able to depend on Dr. Davidson and other trained jurists for a

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<sup>58</sup> T. S. Davidson, *A Study in Roman Administrative Law; Condensation of Thesis* (Nashville 1944). The full thesis (159 pages) includes translations of Book I of the Theodosian Code and minutes of a meeting of the Roman Senate in AD 438, with notes and a bibliography.

<sup>59</sup> Donald Davidson Memorandum (note 7) (emphasis in original).

<sup>60</sup> Clyde Pharr, Letter to Fred Blume, May 25, 1943 (Blume Collection, H69-10). It should be noted that ultimately Theresa Davidson focused on Latin American law in the 1950s, and so it seems reasonable to conclude that she suggested this phrasing in the fund-raising.

<sup>61</sup> Clyde Pharr, Letter to Fred Blume, May 25, 1943 (Blume Collection, H69-10).

<sup>62</sup> *Id.*

great deal of necessary translation and elucidation. We are hoping also to be able to enlist the assistance of several of the most competent Roman law scholars of America in our work.<sup>63</sup>

The letters went back and forth between Pharr and Blume. A month later, Pharr states: "According to our present setup, I am to be the Editor-in-Chief of the entire work with Dr. T. S. Davidson as Associate Editor." Then he invited Blume to join in the task with the title of "Assistant Editor of the series" and translator of Justinian's Code and Novels.<sup>64</sup> In late December of 1943, Blume wrote to Pharr: "I am sending you, as I promised I would, by express, [a] copy of my translation of the Justinian Code and the Justinian Novels, including the edicts and appendices appearing in the edition of the Novels of Schoell and Kroll."<sup>65</sup> This was an amazingly generous act on the part of Blume because so much of the Theodosian Code is quoted in the "Justinian Code," as Blume preferred to call it. Blume stated that since Pharr had written to him six months earlier he had re-read the entire translation and had made numerous notes in pencil. Blume also enclosed a lengthy appendix explaining his choice of words and translations and explained how he had come to work on this translation for so many decades.<sup>66</sup>

Pharr acknowledged the receipt of Blume's translation in early January of 1944:

Frankly, I am quite overwhelmed by the indication of extremely sound research and scholarship by your work. . . . I remember criticising part of your manuscript some eleven years ago. At that time, I was a beginner in Roman Law, although I have been engaged<sup>67</sup> in classical scholarship. Because of my rather superficial knowledge of Roman law at that time, I criticised certain features of your manuscript

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<sup>63</sup> Id.

<sup>64</sup> Clyde Pharr, to Letter to Fred Blume, June 9, 1943 (Blume Collection, H69-10).

<sup>65</sup> Fred Blume, Letter to Clyde Pharr, December 28, 1943 (Blume Collection, H69-10).

<sup>66</sup> F. Blume, *History of the Translation and its Background* (n.d.) (untitled manuscript annexed to Letter from Fred Blume to Clyde Pharr, Professor, Vanderbilt University, December 28, 1943 (Blume Collection, H69-10)).

<sup>67</sup> Pharr edits "although I have since been enlarged" by striking out "since" and changing "enlarged" to "engaged." He apparently was at the mercy of a typist who either misheard or misread what Pharr had dictated or drafted out previously.



which, in the light of further knowledge, I now gladly revise.<sup>68</sup>

Simply put, Pharr owed an enormous debt to Blume which he acknowledged in the opening of the first draft that was mailed out for criticism by his editorial consultants in 1944:

Justice Fred H. Blume, of the Wyoming Supreme Court, has spent years in the study and interpretation of the Code and Novels of Justinian. He has recently completed his translation of this material, to which he has made very full annotations. Several years ago we had an opportunity to examine Justice Blume's work and found it of much higher quality than anything else that has been done in this field. . . . We are finding both his translation and his notes invaluable in the interpretation of many difficult and obscure passages of the Theodosian Code.<sup>69</sup>

This first draft of Book One was very nearly identical to the thesis Theresa Davidson had written. It is important to note that out of all the preliminary drafts of the Theodosian Code that were issued, only Theresa Davidson's work did not depend in any way on the work of Justice Blume. The fact that she very quickly published it in a shortened copyrighted form may indicate concern that she might not get full credit for her independent effort.

In July 1944, Pharr responded to Blume's critique of the Pharr-Davidson draft of Book One:

You have placed us under many obligations by your criticisms, notes, and suggestions on Book I of the Theodosian Code. . . . We deliberately made our first draft of our translation of such passages without consulting your version, in order that we might more readily establish independent points of view. In most cases we came precisely to your conclusions. In other cases we modified our results to conform to your form of statement.<sup>70</sup>

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<sup>68</sup> Clyde Pharr, Letter to Fred Blume, January 8, 1944 (Blume Collection, H69-10).

<sup>69</sup> C. Pharr (General Editor) and T. S. Davidson (Associate Editor), *The Theodosian Code: A Translation, with Annotations*, 1 (unpublished; Department of Classics, Vanderbilt University, 1944–1946), Preface to Book One (SCUAVU) (hereafter Theodosian Code Draft). The draft indicates that one hundred copies were issued; drafts were distributed in four volumes in mimeograph. The first volume is date stamped May 11, 1944. Mary Brown Pharr is indicated as the assistant editor of Books Seven and Ten to Sixteen.

<sup>70</sup> Clyde Pharr, Letter to Fred Blume, July 9, 1944 (Blume Collec-

Pharr went on to refer to some textual problems in the text of the Theodosian Code which he had solved. He anticipated the publication of articles in the *American Journal of Philology* which would reveal the solution of these readings in 1944 and 1945.<sup>71</sup> A year later, Theresa Davidson also published a lengthy article on a problem of senatorial procedure in the Late Roman Empire in the same journal. The article clearly comes from her translation of difficult passages in Book One.<sup>72</sup>

## VII. Financial and clerical support for the project

From 1943 onward the University subsidized payment to graduate assistants and clerical helpers, such as Fred Cloud who worked for Clyde Pharr on the third floor of Calhoun Hall from 1943 to 1944. He had come from Little Rock, Arkansas, as a transfer student from Hendrix College where he had already completed his junior year. Because he had gone to business college, he knew typing and shorthand.<sup>73</sup> As he recalled, the method of producing the translation of the Theodosian Code was to assign various passages to students who prepared drafts which were then corrected by Pharr. Cloud would then type out the final mimeograph masters for about thirty copies which he then sent out (Pharr always stated that one hundred copies were mailed out). Cloud also typed all of Pharr's letters for him.<sup>74</sup>

Donald Davidson took credit for revising various documents sent out in preparation for gaining the necessary financial assis-

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tion, H69-10).

<sup>71</sup> C. Pharr, "The Text and Interpretation of the Theodosian Code, 6, 4, 21," *Am. J. Philology*, 66 (1945), 50-58; "A Thirteenth Century Formula of Anathema," *Am. J. Philology*, 66 (1945), 135-50; and "The Text of Gratian's *Decretum*, 2, 32, 4, 5," *Am. J. Philology*, 66 (1945), 255-65.

<sup>72</sup> T. S. Davidson, "A Problem of Senate Procedure in the Late Roman Empire," *Am. J. Philology*, 67 (1946), 168-83.

<sup>73</sup> When Cloud first came to Nashville, he was a night clerk at the Sam Davis Hotel but got a full scholarship at Vanderbilt after his first semester. He washed dishes at Kissam Hall for his meals and slept at #1 Vanderbilt Campus, the retirement home of Dr. and Mrs. John T. McGill, in exchange for driving their old Buick and stoking their furnace. Cloud was Pharr's only student in Homeric Greek and thereby enjoyed the setting of a seminar while going over the translations one-on-one in Pharr's office. He received his B.A. in 1944 from Vanderbilt and intended to go to Union Theological Seminary in New York, but then was offered a full scholarship from 1944 to 1947 by Dean John Benton. He also received a doctorate of ministry from Vanderbilt. Fred Cloud, Letter to the author, August 2002; telephone interview, summer 2002.

<sup>74</sup> Id. See also F. Cloud, "My Most Memorable Professor," *Vanderbilt Cornerstone*, at the Vanderbilt University Website.

tance to support the project. For example, he says that he improved the wording in both the prospectus and the letter sent to Mr. Williams to obtain funding.<sup>75</sup> In January 1945, A. B. Benedict, the treasurer of Vanderbilt University, wrote to Chancellor Carmichael detailing an arrangement by which C. D. Williams of the American Locomotive Company gave \$1,500 to “enable Dr. Pharr and Mrs. Davidson to apply their entire time to translating and printing the Theodosian Code.” He notes that Mr. Williams had agreed to pay “an additional amount of \$3,500.00 between now and June, 1946.”<sup>76</sup> In the summer of 1944 the University made a grant to Davidson for her work. In 1946–1947 the project was further supported in part by a generous grant to Pharr by the Carnegie Foundation for the Advancement of Teaching and by Vanderbilt University. Eventually the publication of the book was aided with a subsidy from the American Council of Learned Societies.<sup>77</sup> These grants did gain release time for Pharr but seemingly only added to the work load for Theresa Davidson who “taught half time, worked on the Theodosian Code, and also had charge of the administration of the department.”<sup>78</sup>

#### VIII. Acknowledged and unacknowledged student work

The contributions of various students, both graduate and undergraduate, were acknowledged in the Preface to the *Theodosian Code* published in 1952. They were listed in alphabetical order but a close examination (laid out below) reveals that their efforts were in no way equivalent.

Acknowledgment must be made to the graduate students who assisted in the preparation of this work. These include Frances Burks, Elizabeth Craddock Casale, Mack Craig, Hannah Abramson Greenfield, Pat Henry Ottarson, and F. Virginia Praytor. Dr. Casale prepared a translation and commentary of the sixteenth book of the Code as her doctoral dissertation and thus made a substantial contribution to the work. As undergraduate students in Roman law, Grace Caldwell, Winifred Glankler, and Henrietta Uhl also took some part in the

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<sup>75</sup> Donald Davidson Memorandum (note 7).

<sup>76</sup> A. B. Benedict, Letter to Chancellor O. C. Carmichael, January 24, 1945 (SCUAVU).

<sup>77</sup> Clyde Pharr, Letter to Chancellor Harvie Branscomb, June 23, 1947, refers to \$2,000 awarded for the publication of the Theodosian Code. Pharr also refers in this letter to support from Vanderbilt University for the five years (SCUAVU).

<sup>78</sup> Donald Davidson Memorandum (note 7).

preparation of translations.<sup>79</sup>

Although the translation of five of the sixteen books in the final publication can be clearly traced to master's theses (Brown, Praytor, and Greenfield) or doctoral dissertations (Davidson and Casale), the contributions of the other graduate students appear to be insubstantial. Interestingly, in the acknowledgements, Pharr did not refer to the graduate publications of either Theresa Davidson or his wife Mary Brown Pharr. Nor did he mention the graduate theses of Wolff and Rhodes discussed above.

The years 1943–1945 brought Pharr not only a new graduate student but a second wife. Mary Elizabeth Brown clearly endeared herself to her mentor as they were married within nineteen months after she completed her thesis (December 19, 1945).<sup>80</sup> Her thesis, *A Study in Roman Criminal Law*, was signed on May 30, 1944, by both Clyde Pharr and Theresa S. Davidson, and was the first thesis to be signed by Dr. Davidson. Clearly, it is a translation of Book IX of the Theodosian Code, which was sent out as a mimeographed draft version on January 25, 1946, one month after her marriage to Clyde Pharr. This thesis, by far the best of the M.A. theses, has a smoothly flowing translation style and is annotated in a more scholarly fashion. Its 154 footnotes refer to the sources of information, both ancient and modern, and the bibliography of three pages is more extensive than those of the other M.A. theses.

Brown's thesis was the only one to mention Justice Blume's translation of the "Justinian Code" [sic] in her bibliography. Furthermore, Pharr wrote to Blume that the latter's translation had proven valuable to Miss Brown.<sup>81</sup> After her marriage to Pharr, Mary herself acknowledged the usefulness of Blume's translation:

I made use of your notes and translation of the Justinian Code in preparing my thesis, which was a translation of the ninth book of the Theodosian Code. We continually find your translations and editorial suggestions of inestimable value, now that we are revising the entire Code for the last time.<sup>82</sup>

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<sup>79</sup> Pharr (note 1), viii.

<sup>80</sup> Briggs (note 6), s.v. "Pharr, Clyde." Grateful acknowledgment is made to Donald Lateiner, Ohio Wesleyan University, for this citation.

<sup>81</sup> Timothy Kearley, E-mail message to author, June 28, 2006.

<sup>82</sup> Mary Brown Pharr, Letter to Fred Blume, December 19, 1946 (Blume Collection, H69-10).

Below are examples of translations by Blume,<sup>83</sup> Brown,<sup>84</sup> and Pharr<sup>85</sup> of the same text (*Codex Theodosianus* 9.9.1).<sup>86</sup>

BLUME	BROWN	PHARR
Concerning women who marry their own slaves.	Women Who Have Joined Themselves to Their Own Slaves	Woman who have united themselves to their own slaves <sup>87</sup> (DE MULIERIBUS QUAE SE SERVIS PROPRIIS JUNXERUNT)
(De mulieribus quae servis propriis se junxerunt.)	1. The Emperor Constantine Augustus to the People.	1. <sup>88</sup> Emperor Constantine Augustus to the People.
Bas. 60.37.73.		
Emperor Constantine to the people.		
If a woman is detected to have anything to do secretly with her slave, she will be subjected to capital punishment, and the scoundrel (the slave) shall be burned to death. 1. Everyone shall have the right to bring an accusation for this public crime; the official staff of the judge shall have the privilege to denounce it; a slave shall have permission to report it, and when the crime has been proved, he	If any woman is discovered to have an affair with her slave secretly, she shall be subject to the capital sentence, and the scoundrel (slave) shall be delivered to the flames. All shall have the opportunity to bring accusation for this public crime, and the public officials to denounce it; even slaves shall have the right to report it, to whom freedom shall be given if the crime is proved, although	If any woman is discovered to have a clandestine love affair with her slave, she shall be subject to the capital sentence, and the rascally slave shall be delivered to the flames. All persons shall have the right to bring an accusation of this public crime; office staffs shall have the right to report it; even a slave shall have the permission to lodge information, and freedom shall be granted to him if the

<sup>83</sup> F. H. Blume, *Annotated Justinian Code*, 1st ed., at the University of Wyoming College of Law Website (C.9.11.1 = C.Th. 9.9.1). This is the text sent to Pharr in 1943.

<sup>84</sup> See M. E. Brown, *A Study in Roman Criminal Law* (M.A. thesis, Vanderbilt University, 1944), 39–41, for the full text of law, which has six sections and an interpretation. Her translation of the title rubric is closer to the original than is Blume's.

<sup>85</sup> Pharr (note 1), 233.

<sup>86</sup> This law has been definitively discussed by J. Evans Grubbs, "Marriage More Shameful Than Adultery": Slave-Mistress Relationships, 'Mixed Marriages,' and Late Roman Law," *Phoenix*, 47/2 (1993), 125–54, especially 142–46.

<sup>87</sup> Pharr's note: "Brev. 9, 6; CJ 9, 11. Continual warfare had so reduced the number of Roman men that the women were consorting with slaves." Pharr (note 1), 233 n.1.

<sup>88</sup> Pharr's note: "Brev. 9, 6, 1; CJ 9, 11, 1; Nov. Anth. 1." Pharr (note 1), 233 n.2.

shall be free. . . .  
Given at Serdica May  
29 (326). C. Th. 9.9.1.

punishment threatens  
a false accusation. . . .  
Given four days before  
the Kalends of June in  
the year of the  
seventh consulship of  
Constantine Augustus  
and of the consulship  
of Constantine  
Caesar. May 29 (326).

crime is proved,  
although punishment  
threatens him if he  
makes a false  
accusation. . . .  
Given on the fourth  
day before the kalends  
of June at Sofia  
(Serdica) in the year of  
the seventh consulship  
of Constantine  
Augustus and the  
consulship of  
Constantius Caesar.  
— May 29, 326; 329.

A comparison of the texts shows that Pharr’s final version incorporated some language from both Blume and Brown but improved the clarity (and severity) of the language. Some admirable characteristics of the published text are the fuller indications of place and date of issuance of the law, and a certain nobility of language appropriate to an imperial decree.

Francis Virginia Praytor completed her thesis on August 10, 1945; strangely she misspelled the name of the code in the title *A Study in Roman Taxation: Theodosion [sic] Code, Book XI*. Signed by Clyde Pharr and Richmond Beatty, this thesis is only ninety-six pages long with a mere forty-nine footnotes, none of which cites any reference for the information given, and the bibliography is only one page long. Born in Birmingham in 1899, Praytor was about forty-six years old at the time of the completion of her thesis.<sup>89</sup> Praytor’s thesis used less technical language than the subsequent draft sent out on May 25, 1946, which was signed now by all three editors. Again, one may surmise that the lengthy notes on taxation that Blume had sent Pharr influenced the final version.<sup>90</sup> Pharr in his published text of 1952 intensified the

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<sup>89</sup> Francis Virginia Praytor had received an undergraduate degree from Birmingham-Southern College and taught Latin and English, primarily at Phillips High School in Birmingham. In the early 1950s she and her sister Anna Linton Praytor (1914–1989) bought a bookstore named “Smith and Hardwick.” Her sister had a similar education and career as a Latin and English teacher in the Birmingham area. They organized an annual Books and Authors Luncheon which took place as part of the Birmingham Festival of Arts. Virginia died in 1974. She and her sister are commemorated at the Alabama Women’s Hall of Fame Website.

<sup>90</sup> Fred Blume, Letter to Clyde Pharr, May 28, 1943 (Blume Collection, H69-10): Blume offered in a postscript to share his notes on taxation as covered in Book VIII on the Building Code in Justinian’s Code. Blume

compulsoriness of the language and improved the flow and phrasing.

Hannah Abramson Greenfield's *A Study in the Roman Law of Property* which was written in 1943 under the supervision of Clyde Pharr and Edwin Lee Johnson clearly provides the underlying translation for Book V of the Theodosian Code. She had completed her B.A. in 1942 and finished her M.A. just a year later. Although the thesis is only sixty-four pages in length, Greenfield must have impressed her mentors because she eventually came to teach in the Department and remained in that position after both Theresa Davidson and Pharr were gone. According to her family, she had started work on her doctorate while her husband was fighting in Europe in World War II but left to join him in Chicago upon his return. She was one of those many female "town" students that Vanderbilt had always been willing to admit; her Jewish family did not wish her to go away to college.<sup>91</sup>

Pharr thanked Elizabeth Craddock Casale explicitly for her dissertation *A Study in Roman Ecclesiastical Legislation: An Annotated Translation of the Sixteenth Book of the Theodosian Code*, signed by Clyde Pharr and Theresa S. Davidson on May 31, 1948.<sup>92</sup> However, there is a bit of an anomaly in the timeline of sending out the draft of Book XVI in 1946 to readers, fully two years before the completion of the dissertation. Interestingly, the language in the dissertation, the draft mimeographed publication, and Pharr's published version, are much closer than in the case of the M.A. theses. The finished dissertation, a model of scholarship with cross-references to such ancient contemporary historians as Ammianus Marcellinus, has copious and extensive footnotes which are numbered in reference to the various titles, as is the pattern in the published edition. There are sixty pages of footnotes, out of the total 225 pages of the dissertation. Pharr made very few changes in his published version but perhaps he oversaw

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enclosed a 31-page preface with the manuscript he sent to Pharr on December 28, 1943.

<sup>91</sup> Information from Jerome Abramson (brother), Sonia Dooshin (sister), Laurence Greenfield (son), and Hazel Greenfield (daughter), and from two obituaries for Hannah Greenfield, *Chicago Sun-Times* (October 4, 2000) and *Chicago Tribune* (October 4, 2000). Telephone interviews in October 2004 with family members of Hannah Abramson Greenfield revealed that she grew up Orthodox Jewish, and her family wanted her to live at home to go to college.

<sup>92</sup> Casale had received her M.A. from Peabody College in 1936. Elisabeth Craddock Casale, *A Study in Ecclesiastical Legislation: An Annotated Translation of the Sixteenth Book of the Theodosian Code* (Ph.D. dissertation, Vanderbilt University, 1948).

closely the final dissertation so there would be little need for changes.

Book Sixteen, dealing with religion, is the most cited and discussed section of the Theodosian Code,<sup>93</sup> and so one would hope to find more of the persona of the translator in her dissertation or some subsequent published work. However, Dr. Casale appears to have had a very modest career, with no lasting appointments at any one college or university, little recognition of her role in translating Book Sixteen, and no subsequent publications. Even tracking her academic appointments has proven difficult. She held teaching appointments at Appalachian State Teachers' College from 1949 to 1951,<sup>94</sup> at East Tennessee State University during 1957–1958,<sup>95</sup> and subsequently at Manchester College (now University) in Indiana from 1958 to 1959.<sup>96</sup> She signed her dissertation with her married name of Casale, having previously enrolled as only Elizabeth Craddock.<sup>97</sup> Eventually she returned to her home in Water Valley, Kentucky, where she resided with her sister Wilna Craddock Wilson, and died in 1998.<sup>98</sup>

The story of Mary Frances Burks who was acknowledged first on the list of graduate students raises more questions than it answers because she clearly was only very briefly a graduate student in the program (two to three months at most; see below). I have hypothesized that Pharr thanked several graduate students in order to obscure the greater debt he owed to only a few. Burks had received a B.A. degree in Classics from Vanderbilt on June 12, 1929, and on the same day also was awarded the Founder's Medal for the department.<sup>99</sup> Just as she graduated, she

<sup>93</sup> See, for example, M. R. Salzman, "The Evidence for the Conversion of the Roman Empire to Christianity in Book 16 of the Theodosian Code," *Historia*, 42 (1993), 362–78.

<sup>94</sup> *The Rhodendron Yearbook* (Appalachian State Teachers College, Boone, NC) for the years 1949 and 1951 show Elizabeth Casale and her husband Renato Casale as teachers of English.

<sup>95</sup> Elizabeth Casale was listed as "Special Teacher" in the English Department in 1957–58, according to Ned Irwin, University Archivist, East Tennessee State University, E-mail message to the author, June 2006.

<sup>96</sup> "Faculty List," Funderburg Library, at the Manchester College Website.

<sup>97</sup> Elizabeth Craddock is pictured in the 1941 Vanderbilt University *Commodore Yearbook* as a member of Eta Sigma Phi, the honorary Classics fraternity.

<sup>98</sup> *Memphis Commercial Appeal* (February 14, 1998), B5: "HUMBOLDT — Dr. Elizabeth Craddock Casale, 89, of Clinton, Ky., formerly of Gibson County, retired educator, died of pneumonia Friday at Birchtree Healthcare in Clinton."

<sup>99</sup> Peggy Downing, Registrar's Office, Vanderbilt University, E-mail message to author, October 28, 2004. For the Founder's Medal, see the



married Dr. Silas Bent McKinley, an assistant professor of history at Vanderbilt University who came from a socially prominent family in St. Louis, Missouri. In the fall of the same year she enrolled as Frances Burks McKinley and received the M.A. degree in Classics in October 1930 for her thesis on Cicero's essay *On Old Age*.<sup>100</sup> By 1933, she and her husband were living in St. Louis. Using the androgynous name of F. Burks McKinley, she published *Death Sails the Nile*, a murder mystery inspired by travels on her honeymoon.<sup>101</sup> In the fall of 1943, after at least a decade away, she returned to Vanderbilt as Frances Burks and registered for four classes, but withdrew in November 1943. At that time, she gave a New York address.<sup>102</sup> Since she was not at Vanderbilt during the ten years that the project was in full tilt, it is hard to understand what she could have done to merit the mention. Certainly her translation contribution could not have matched that of the other graduate students who wrote lengthy studies of various books.

Mack Wayne Craig was the only male graduate student acknowledged in the list, although his work was limited to translating passages for a tutorial on Roman law taught by Theresa Davidson. In oral interviews, he reported being given certain passages to translate which he then took to Theresa Davidson who would then pass them to Pharr, and so around again. His description of this process provides a window into the steps of translation which involved using student drafts as groundwork to be revised and improved by the two main editors. In that time frame Davidson was teaching while Pharr sequestered himself in the Joint University Library and worked away on the master translation. Craig received his B.A. from Vanderbilt University in 1946, and continued his studies at George Peabody College, where he completed an M.A. in 1948 and a doctorate in 1958. He served as Dean at David Lipscomb College in the 1950s and 1960s.<sup>103</sup>

Also acknowledged was Pat [Margaret] Henry Ottarson who was a highly respected Latin scholar in Nashville during this period. However, it is impossible to determine what her contribution to the project was; perhaps she was asked to look over drafts

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Vanderbilt University Website (awarded in 1929 under the name Mary Frances Burks).

<sup>100</sup> F. B. McKinley, *Cicero's De Senectute: Notes* (M.A. thesis, Vanderbilt University, 1930), 190 pages.

<sup>101</sup> F. B. McKinley, *Death Sails the Nile* (Boston 1933).

<sup>102</sup> Peggy Downing, Registrar's Office, Vanderbilt University, E-mail message to author, October 28, 2004.

<sup>103</sup> Mack Wayne Craig, telephone interview, August 3, 2001.

or to offer advice. Her classical education was stellar: B.A., Randolph-Macon Woman's College; M.A., University of Rome (La Sapienza); The American, British, Italian, and French Academies, Athens; The Sorbonne; Vanderbilt University.<sup>104</sup> At the time of this project she was teaching Latin at Ward-Belmont, an exclusive school for the daughters of the elite in Nashville.<sup>105</sup> It may be that her contact with the project stemmed from Theresa Davidson who had also taught at the same school many years before.

As the acknowledgments in the front of the final publication state, all the undergraduates contributed to the project via assignments made in a course on Roman Law. Grace Verdell Caldwell completed a B.A. in 1945 and then an M.A. in 1948 in English with a thesis on Henry David Thoreau, the "Yankee Greek." According to her recollection, Pharr jokingly asked her to change her name so he did not have to thank a girl.<sup>106</sup> This remark may have been said in jest, but it appears to reflect a practice of his, as seen in references to Theresa Davidson as "T. S. Davidson" in correspondence with Blume. Two other students are just names in the list and their contributions are unknown. Winifred Glankler, from a family of lawyers in Memphis, may have had special insight into the significance of her translation assignments. She served as office manager for her family's law firm until her death in 1995.<sup>107</sup> Last and least in the list is Henrietta Uhl about whom no information could be found.

### IX. Drafts of the translation

From 1944 to 1946, the process of mailing out drafts of the Theodosian Code to consulting editors began in earnest. These mimeographed books survive as four bound volumes in the Vanderbilt University library. According to the front material in each one, one hundred copies were made and sent out (though Fred

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<sup>104</sup> *Milestones* yearbook, The Harpeth Hall School (Nashville 1973), 18, gives the list of institutions at which Mrs. Ottarson studied.

<sup>105</sup> See L. D. Morrison, *Voyage of Faith: The Story of Harpeth Hall* (Nashville 1980), 21; see also the obituary for "Ottarson, Mrs. Margaret Henry," *Nashville Tennessean*, Feb. 16, 1981 (provided by Carol Kaplan, Nashville Room Reference, Special Collections Division, Nashville Public Library).

<sup>106</sup> Grace Caldwell Smith, telephone interview in 2004; she died on August 27, 2008, at the age of 85. Obituary online at the *Clarion Ledger* Website.

<sup>107</sup> Winifred Glankler died in May of 1995 when she was office manager of her brother's law firm. Debby Elkins (of the same law firm), E-mail message to the author, Feb. 4, 2005.

Cloud thought only thirty were sent out<sup>108</sup>). Each book had a different introduction and date and was signed by Pharr, Davidson, and in April 1946, by Mary Brown Pharr, who was now listed as Assistant Editor because she was “devoting full time to this work.”<sup>109</sup> Thus for the issuance of the first nine books of the Theodosian Code (or over half of the sixteen books), Theresa Davidson was Pharr’s only acknowledged co-editor. The lack of footnotes in these drafts may have been due to the deadline imposed by the Williams grant. In fact, it seems that the editors felt they had satisfied the requirements of the deadline by “publishing” these drafts by 1946, some six years before the final publication by Princeton University Press.

The relationship between the translations by Blume and Pharr and his co-editors provokes the question of how dependent the Vanderbilt editors were on the work of the Wyoming judge. It is noteworthy that Blume had sent his complete translation of Justinian’s Code to Pharr in 1943; the correlations to the various laws in the Theodosian Code were laid out in Blume’s manuscript as well as in most editions of the Latin text. It is only after Pharr received Blume’s manuscript that the draft translations of the Theodosian Code gained rapid dissemination. Such a loan clearly was useful; however, the Vanderbilt translators imposed a certain tone and unity to their final version which was far more authoritarian in tone than that of Blume, who wanted to make his version “accessible” to the modern reader. In the sample passage below (*Codex Theodosianus* 11.1.1 i.f. = *Codex Justinianus* 10.16.4), one can note the influence of Blume’s translation on Praytor’s thesis, the draft, and the final version, especially in the phrasing related to “tax levies,” *delegationes*. Yet the comparison of texts re-affirms the substantial contribution of the graduate students’ work to the final published translation. These variant versions of the same text concerning taxation are presented in the chart below: Blume,<sup>110</sup> Praytor,<sup>111</sup> Pharr’s draft,<sup>112</sup> and Pharr’s final version.<sup>113</sup>

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<sup>108</sup> See above, notes 73 to 74 and accompanying text.

<sup>109</sup> *Theodosian Code Draft* (note 69), Preface to Book Seven.

<sup>110</sup> Blume (note 83), at C.10.16.4 (= C.Th.11.1.1 i.f.). This is the text sent to Pharr in 1943.

<sup>111</sup> F. V. Praytor, *A Study in Roman Taxation: Theodosion [sic] Code, Book XI* (M.A. thesis, Vanderbilt University, 1945), at C.Th. 11.1.1.

<sup>112</sup> C. Pharr, et al., eds., *The Theodosian code. A Translation, with Annotations*, 3 (unpublished; Department of Classics, Vanderbilt University, 1946), at C.Th. 11.1.1.

<sup>113</sup> Pharr (note 1), 291.

BLUME	PRAYTOR	PHARR'S DRAFT	PHARR'S FINAL VERSION
<p>Concerning the provisions — tax and tribute (De annona et tributis.)</p> <p>Emperor Constantine to Proclianus.</p>	<p>TAXES IN KIND (ANNONA) AND TRIBUTE</p> <p>1. Emperor Constantine Augustus to Proclianus.</p> <p>* * *</p>	<p>TAXES IN LAND AND TRIBUTE (DE ANNONA ET TRIBUTIS)</p> <p>1. Emperor Constantine August to Proclianus.</p> <p>* * *</p>	<p>TAXES IN KIND AND TRIBUTE (DE ANNONA ET TRIBUTIS)</p> <p>1. Emperor Constantine Augustus to Proclianus.</p> <p>* * *</p>
<p>All must pay the amounts specified by our hand in the tax levies (<i>delegationibus</i>) and nothing more shall be demanded. And if any vicar or rector of a province dares to release anyone from any part of the payment of it, he shall be compelled to give from his own property the amount released by him to others. Given June 17 (315). C. Th. 11.1.1.</p>	<p>Therefore all must pay whatever is ascribed by Our hand to tax assessments, and nothing more than this is to be demanded of them. For if any Vicar or Governor (Rector) of a Province should suppose that remission of tax payments should be granted to any person, whatever he has remitted to others, he shall be forced to make good from his own resources. Given on the fifteenth day before the Kalends of July at Constantinople in the year of the fourth Consulship of Constantine Augustus and of Licinius. June 17, 315.</p>	<p>And therefore all men must pay whatever is ascribed by Our Hand in the tax assignments (<i>delegationes</i>, tax warrants, tax levies) but nothing more shall be exacted of them. For if any Vicar or any Governor (Rector) of a Province should suppose that he may remit anything for any person, he shall be compelled to compensate from his own resources whatever he remitted for others. Given on the fifteenth day before the Kalends of July at Constantinople in the year of the fourth Consulship of Constantine Augustus and of Licinius Caesar. January 18, 360.</p>	<p>Therefore all men must pay whatever is ascribed by Our hand in the tax levies, but nothing more shall be exacted of them. For if any vicar or governor of a province should suppose that he may remit anything for any person, he shall be compelled to compensate from his own resources whatever he remitted for others. Given on the fifteenth day before the kalends of July at Constantinople in the year of the fourth consulship of Constantine Augustus and of Licinius. June 17, 315; January 18, 360.</p>

Blume integrated lengthy discussions of the meaning of Roman taxation with his straightforward translation of the texts. Pharr says in the introduction to his draft:

Through the presentation of the laws of taxation and court procedure, a clear picture of the economic and social decadence of the later Empire is also given. Many of the difficulties involved in the translation have found only tentative solution, and suggestions from the Consulting Editors and other sources will be most welcome.<sup>114</sup>

In 1946, the three editors co-authored an article which appeared in the *Classical Journal* entitled "A Project for the Translation of Roman Law."<sup>115</sup> In the same year, Dr. Pharr alone corresponded with both Macmillan and Princeton University Press about the publication of the finished translation. Since Pharr had named virtually every important legal scholar in America as experts he had consulted, Datus Smith, the Director of Princeton University Press, elicited evaluations from faculty at Princeton University: Whitney J. ("Mike") Oates, Chairman of the Divisional Program in the Humanities;<sup>116</sup> Charles H. McIlwain, of the History Department,<sup>117</sup> and one "Joe," probably Joseph Strayer, prominent medieval historian of the History Department.<sup>118</sup>

<sup>114</sup> Pharr (note 112), i (Preface).

<sup>115</sup> C. Pharr with T. S. Davidson and M. B. Pharr, "A Project for the Translation of Roman Law: An Abridgment of a Prospectus by Clyde Pharr, Theresa Sherrer Davidson, and Mary Brown Pharr, Vanderbilt University," *Classical Journal*, 42 (1946), 141–46.

<sup>116</sup> Datus C. Smith, Jr., Letter to "Mike" (Whitney Oates), January 18, 1947; and "Mike" (Whitney Oates), Letter to Datus Smith, January 21, 1947. A. Leitch, *A Princeton Companion* (Princeton 1978), s.v. "Oates, Whitney Jennings":

[S]uccessively Ewing Professor of Greek, West Professor of Classics, and Avalon Professor of the Humanities, was a prime mover in the founding and development of a number of important University programs. Mike, as he was known to his colleagues and students . . . graduated *summa cum laude* in classics, earning his A.M. in 1927 and his Ph.D. in 1931.

Acknowledgement is made to Ted Champlin, Chair of Classics at Princeton, E-mail message to the author, August 10, 2010, for the identification of "Mike."

<sup>117</sup> Charles H. McIlwaine, Letter to Datus Smith, February 4, 1947, offered enthusiastic endorsement of the project. Charles H. McIlwaine (Princeton Class of 1894) was a professor of history and government at both Princeton (1905–1910) and Harvard University (1926–1946).

<sup>118</sup> "Joe," Letter to Datus Smith, August 10, [1946?] on Department of

In 1947, Theresa Davidson wrote to Chancellor Harvey Branscomb about the publication of the 1946 journal article and about her concerns that he would be dropping Roman Law courses. Branscomb reassured her thus:

Thank you so much for sending me the December [1946] issue of *The Classical Journal* with its article about the Roman law translation. I am very pleased over that article, but I did not need it to tell me of the importance of the project. When Dr. Pharr reported to me that the Princeton Press would publish it with a \$2,000 subsidy, I immediately set out to assist in getting those funds. I am inclined to think that the translation of the Theodosian Code, particularly if followed by the Justinian, will be a monument to classical scholarship in the South, of which we will have occasion to be proud for a very long time to come. Let me congratulate you on having part in the important undertaking.<sup>119</sup>

#### X. Conflict amongst the editors

Theresa Davidson lectured on Roman law and Classics at Vanderbilt from 1942 to 1949.<sup>120</sup> But Pharr's marriage to Mary Brown eventually changed the dynamics in the relationship of Theresa Davidson and Clyde Pharr. As Donald Davidson detailed in his 1949 memorandum, Theresa had come to feel excluded from the project:

In late December, 1945, Dr. Pharr married Miss Mary Brown, one of his graduate students who had done some work on the project. He now assured Mrs. Davidson (1) that Mrs. Pharr would be working on the Roman Law Project with him, he would be slow about pushing her; that they both (Mrs. Davidson and he) must be critical of her work (she had no special equipment or extensive preparation to qualify her; her only graduate work was for the M.A. degree); (2) that his marriage

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History letterhead, in support of the project. Joseph Strayer was a medieval historian who was also Chair of the History Department at Princeton from 1941 to 1961.

<sup>119</sup> Harvie Branscomb, Chancellor of Vanderbilt University, Letter to "Mrs. Donald Davidson," March 24, 1947, in reply to her letter to him dated March 18, 1947 (SCUAVU). It is unfortunate she was not addressed as Dr. Davidson.

<sup>120</sup> From the "Faculty List, 1895–1985" (internal database, SCUAVU): Librarian 1925–1927; Teaching Fellow, Latin and Greek, 1940; Assistant in Latin, 1944; Assistant in Classics, 1945; Lecturer in Roman Law and Classics, 1945–1947; and Lecturer in Classics, 1946–1947.

would make no difference in Mrs. Davidson's relationship to the project; (3) that he had made special provision for disposition and availability of his Roman Library in case of his death.<sup>121</sup>

After consulting with his lawyers, Donald Davidson had successive meetings with the Dean of Vanderbilt University in April and May 1949. As he meticulously recorded in both his diary and a memorandum, which might have been prepared in anticipation of a lawsuit, he sought to get justice for his wife whom he felt was being exploited by Clyde Pharr, who used "various means, both subtle and crude" to "debar" his wife from the project.<sup>122</sup> Donald Davidson had clout at Vanderbilt as a leading member of the English Department and as one of the Fugitive poets whose work as part of the "Agrarian movement" championed resistance to industrialization of the South.<sup>123</sup> Although his wife is known most widely for the woodcut illustrations she made for her husband's manuscripts,<sup>124</sup> Davidson himself seems to have valued her achievements and ambitions as a classicist and expert on Roman law. As Donald Davidson recollected in 1949:

The understanding between Dr. Pharr and Mrs. Davidson was as follows: that Dr. Pharr would be editor and Mrs. Davidson associate editor; that if any additional editors should be appointed, she would be consulted. At this time Dr. Pharr emphasized that it was Mrs. Davidson's knowledge of

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<sup>121</sup> Access to this library was a serious issue to Theresa Davidson. Her husband complains in the memorandum that "Dr. Pharr emphasized his desire that his own private Roman Law library be kept intact, no matter what happened to him [in the event of his proposed retirement], and that arrangements would be made, in any eventuality, to give Mrs. Davidson access to it." Donald Davidson Memorandum (note 7).

<sup>122</sup> Id.

<sup>123</sup> For studies of Donald Davidson's literary work and cultural views, see Winchell (note 12) and M. G. Malvasi, *The Unregenerate South: The Agrarian Thought of John Crowe Ransom, Allen Tate, and Donald Davidson* (Baton Rouge 1997), 152–219. Donald Davidson's publications include collections of poems and essays as well as textbooks, including *An Outland Piper* (Boston and New York 1914); *The Tall Men* (Boston and New York 1917); *British Poetry of the Eighteen-Nineties* (Garden City 1937); *Lee in the Mountains and Other Poems Including the Tall Men* (Boston and New York 1938); *The Attack on Leviathan: Regionalism and Nationalism in the United States* (Chapel Hill 1938); *American Composition and Rhetoric* (New York 1939); *Still Rebels, Still Yankees and Other Essays* (Baton Rouge 1957); *The Long Street* (Nashville 1961); *Concise American Composition and Rhetoric* (New York 1964).

<sup>124</sup> Fitzgerald (note 8), 711–14.

English and American law and jurisprudence, in combination with her knowledge of Roman law and foreign languages, that made her necessary to the project. He said there were not more than five other persons in the country, if that many, who had her peculiar qualifications; and that all of these were high-salaried persons whose services could not be obtained.<sup>125</sup>

Donald Davidson, seemingly oblivious to any demands he himself was making on his wife, describes the burdens placed on his wife Theresa during 1945–1946:

During this same period Mrs. Davidson was also working on the illustrations for my two volume book, *The Tennessee*. This commitment, which had been carefully explained to Dr. Pharr, antedated the commitment to the Roman law project, since my [project] originated as early as 1940. The book and Mrs. Davidson's illustrations along with it, was delayed by war conditions and other difficulties. The result unfortunately was that the Roman Law work, the teaching, and the art work ran concurrently. Mrs. Davidson also had to manage a household under difficult circumstances. The extraordinary strain had a most disastrous effect upon her physical condition, and she has not yet recovered. Night after night she worked on the Theodosian Code until midnight or later, after doing a full day's work before. Meanwhile, Dr. Pharr had full time off and clerical assistance. Yet he expected Mrs. Davidson to keep up with him and have the Code ready not only at the deadline but, he suddenly announced, a month before the deadline. The result of this strain, exhaustion, and worry was that Mrs. Davidson became ill and was unable to work much during the summer of 1946. (She ran a temperature all summer and was in a condition of serious depletion.)<sup>126</sup>

Apparently Donald Davidson thought that Pharr was trying to expunge Theresa's contribution to the project:

After sending off the Theodosian Code (first draft) to Mr. Williams, Dr. Pharr and Mrs. Pharr destroyed the work

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<sup>125</sup> Donald Davidson Memorandum (note 7).

<sup>126</sup> Id. Theresa Davidson's granddaughter reports that the Davidsons were struggling financially and were working on multiple projects to produce income. Part of the time pressure resulted from the fact that the original one-volume book *The Tennessee* was so long that it had to be split into two volumes and thus additional drawings had to be made by her grandmother. Mary (Molly) Bell Kirkpatrick, E-mail message to the author, February 13, 2011.



sheets on which Mrs. Davidson had entered emendations and notes which she had expected would be available in connection with final work on the Code and for other purposes. She had asked that they be preserved, but they were destroyed, with the exception of Bk. IX, which was retrieved and turned over.<sup>127</sup>

As Donald Davidson saw it, the relationship among the editors deteriorated, to the detriment of Mrs. Davidson:

Before his marriage, Dr. Pharr made no decisions without conferring with Mrs. Davidson. After his marriage, he adopted, for a while, the method of saying that “We” (Mrs. Pharr and he) had decided so-and-so. But presently he ceased even this degree of consultation. Later, he stopped all communication, transferred his working headquarters from the campus to his home, and in effect denied Mrs. Davidson access to the project. He has offered no explanation. Mrs. Davidson does not now know what the status of the project is, what has been done with her own considerable work of scholarship expended on it, or what, precisely, her own status is.<sup>128</sup>

The Davidson Memorandum indicates that Davidson believed his wife had been excluded from the publication negotiations with Princeton University Press; that Pharr had imposed departmental duties that hindered her work on the project; that Pharr had made access to the necessary works difficult; that Pharr was depriving her of the fruits of twenty years of research, and in effect ending her career at Vanderbilt. Most important, he believed Pharr was restricting her access to the manuscript, leaving her unable to assess the extent of her own contributions.<sup>129</sup> In his diary entries for April and May 1949 he records the efforts of university authorities, with aid of legal counsel, to engage Pharr in some kind of agreement, efforts which were successful.<sup>130</sup>

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<sup>127</sup> Donald Davidson Memorandum (note 7).

<sup>128</sup> Id. A former student of Theresa Davidson, Ward Allen, recalls Davidson mentioning, in the late 1940s, legal action brought by herself against Pharr. This has not been verified. Ward Allen, Auburn, Alabama, Letter to the author, September 18, 2004.

<sup>129</sup> Donald Davidson Memorandum (note 7).

<sup>130</sup> Photocopied diary pages were provided by Mary (Molly) Bell Kirkpatrick, the Davidsons' granddaughter. Donald Davidson's concerns that his wife's contributions to the translation of the *Theodosian Code* would be forgotten and ignored are confirmed by a 1994 biographical entry on Clyde Pharr:

He and his wife, Mary Brown, made an effective team, devoting

Letters preserved in the archives of Princeton University Press confirm that Theresa Davidson had won some sort of legal settlement in 1949 to have the material she had contributed to the translation of the Theodosian Code acknowledged. Although the letter was sent by her lawyers to deny any financial obligation on her part for a subvention towards publication costs, the correspondence clearly shows that her rights were to be protected in the publication of material on which she had worked. It seems self-evident that this would include retaining credit for her as the Associate Editor. In a letter from mid-1951, her lawyer suggested that her recent dealings with Pharr made it necessary for her to insist that the front matter, recognizing her contribution, would be printed as had been agreed more than two years earlier, and that she should be permitted to peruse the front matter before the type was set.<sup>131</sup> The Press replied one week later, acknowledging that Theresa Davidson had been in an ongoing dispute with Pharr, and expressing impatience with Davidson's repeated urgings to peruse the front matter — undeserved impatience as it happens, as the letter promises only to allow Davidson to see the front matter at proof stage.<sup>132</sup> Although the files kept by the lawyers in Nashville appear to be lost,<sup>133</sup> the letters preserved in the archives of Princeton University Press substantiate the concerns expressed in the diary entries by Donald Davidson and the memorandum he composed. In the end, Theresa Davidson had found it necessary to protect her interests as a scholar by legal means.

#### XI. The final outcomes for the editors

Pharr retired in 1949, when he was nearing the age of sixty-five. Certainly he has been criticized in the histories of Vanderbilt for

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themselves for years to the first of their projected Corpus of Roman Law series, the first English translation of Theodosius. . . . The method was to have Vanderbilt students produce rough drafts, which were then corrected and polished by the Pharrs.

Briggs (note 6). There is no mention of the work of Theresa Davidson, who had labored so many years on this project.

<sup>131</sup> J. P[aschall] Davis, on letterhead of the firm Waller, Davis, and Lansden, Nashville, Letter to Datus Smith, July 6, 1951, copied to Mrs. Donald Davidson, Bread Loaf School of English, Breadloaf, Vermont (PUPR).

<sup>132</sup> Datus Smith, Princeton, Letter to J. P[aschall] Davis, Nashville, July 12, 1951 (PUPR). No copies sent to Theresa Davidson were recorded.

<sup>133</sup> Ames Davis, son of Paschall Davis, E-mail message to the author, July 17, 2009.

focusing on Roman law at the expense of more exciting literary topics and thus reducing enrollment in the department.<sup>134</sup> The staffing of the Classics Department was left in a weakened position, with only Fordyce Mitchel, an Assistant Professor who had not written a dissertation, and an "Assistant Greenfield."<sup>135</sup> Hannah Greenfield had completed the coursework for the doctorate, according to her family, but she moved to Chicago in 1950 to be with her husband who had returned from military service.<sup>136</sup> In 1951, the Department was down to Mitchel alone. In 1952, H. Lloyd Stow, a professor of ancient Greek, was hired to head the Department. A year later, Stow dismissed Mitchel and hired Francis Newton, a distinguished Latin scholar. Stow and Newton were tasked with reviving the "moribund" department.<sup>137</sup>

In 1950 Pharr moved to the University of Texas at Austin as a Visiting Professor of Classics, and then became Research Professor in 1952.<sup>138</sup> In the introduction to the final publication, Pharr reports that due to a lack of funds, he and Mrs. Pharr had not followed the previous procedure of mimeographing the commentary, glossary, and bibliography of the entire work, or the translation of the Sirmondian Constitutions and the Novels.

<sup>134</sup> "In 1946, the strongest College departments at Vanderbilt were English and history, with chemistry close behind. Traditionally, classical language had been strongest, but enrollment shifts had transformed Greek and Latin into a small and undistinguished classics department." P. K. Conkin, with H. L. Swint and P. S. Miletich, *Gone with the Ivy: A Biography of Vanderbilt University* (Knoxville 1985), 486. Telephone interviews in 2006 with Drs. Robert Drews, Carter Philips, and H. Lloyd Stow of the Vanderbilt Department of Classics substantiate the impression that Pharr was forced out by the Administration. See Conkin, 385, for a full explanation of the new retirement policy put in place in 1941, which allowed voluntary retirement at age 64 and mandatory retirement at age 68, with possible extension to age 70. Note that Donald Davidson did not retire until 1964 when he was nearly age 71. Conkin, 655.

<sup>135</sup> Hannah Abramson Greenfield, who had completed her M.A. degree in 1943, is listed as an Assistant teaching Latin in the 1945 Vanderbilt University Faculty Directory. Fordyce Mitchel received his Ph.D. from Yale in 1954 and concluded a distinguished career at the University of Missouri in 1986. See Briggs (note 6), s.v. "Mitchel, Fordyce."

<sup>136</sup> According to her family she was "all but dissertation" at the time she left Vanderbilt University to join her husband in 1950 in Chicago, where she became a respected high school Latin teacher. E-mail messages to author and telephone interviews in September 2004 with Jerome Abramson (brother), Sonia Dooshin (sister), Laurence Greenfield (son), and Hazel Greenfield (daughter). See also the two obituaries for Hannah Greenfield cited above, note 91.

<sup>137</sup> H. Lloyd Stow, telephone interviews with the author, 2001.

<sup>138</sup> Obituary in the *Austin American* (January 2, 1973) (CAHUTA).

“Hence this material is entirely the work of the general editor and the assistant editor, and it was not submitted for criticism either to the associate editor or to the consulting editors. The index has been prepared by the assistant editor [Mary Brown Pharr].” Pharr also explains that “the general editor . . . insure[d] the necessary uniformity of language, style and treatment.”<sup>139</sup>

The solid contributions of Theresa Davidson to the project were underplayed by heavy commendation of the “consulting editors” who were all renowned scholars and who had reputedly read and commented on all the Code:<sup>140</sup> Fred H. Blume, Wyoming Supreme Court; A. E. R. Boak, University of Michigan;<sup>141</sup> Allan Johnson, Princeton University;<sup>142</sup> Floyd S. Lear, Rice Institute;<sup>143</sup> Robert S. Rogers, Duke University;<sup>144</sup> and Eva M. Sanford, Sweet Briar College, whose career has many parallels to that of Theresa Davidson.<sup>145</sup> Other parts were reportedly read by additional

<sup>139</sup> Pharr (note 1), vii.

<sup>140</sup> This group had changed since the list appeared in the *Classical Journal* of 1946, due to death or other factors. The Consulting Editors of the 1952 publication are listed as: Alfred R. Bellinger, Yale University; Fred H. Blume, Wyoming Supreme Court; A. E. R. Boak, University of Michigan; Vladimir Gsovski, Library of Congress; Mason Hammond, Harvard University; Allan Johnson, Princeton University; Tom B. Jones, University of Minnesota; Stephan G. Kuttner, Catholic University of America; Floyd S. Lear, Rice Institute; Ernst S. Levy, University of Washington; M. R. P. McGuire, Catholic University of America; Gaines Post, University of Wisconsin; Roscoe Pound, Harvard University; Ernst Rabel, University of Michigan; Max Radin, University of California; Robert S. Rogers, Duke University; Michael Rostovtzeff, Yale University; Eva M. Sanford, Sweet Briar College; J. B. Thayer, Harvard University; A. A. Vasiliev, University of Wisconsin; Hessel E. Yntema, University of Michigan.

<sup>141</sup> No correspondence between Pharr and Boak has been found in the University of Michigan archives. Teresa Hebron, E-mail message to the author, July 20, 2006. See A. E. R. Boak, *A History of Rome to 565 A.D.* (New York 1921) for an example of his areas of expertise.

<sup>142</sup> A. C. Johnson, P. R. Coleman-Norton, and F. C. Bourne, *Ancient Roman Statues: A Translation, with Introduction, Commentary, Glossary and Index* (Austin 1961) (General Editor: Clyde Pharr) is the only other volume in the projected comprehensive publication project.

<sup>143</sup> Floyd Seyward Lear taught Medieval History at Rice Institute (now University) from 1925 to 1975.

<sup>144</sup> Rogers' work focused on legal issues of the first century, and so its usefulness to Pharr is not clear: see R. S. Rogers, *Criminal Trials and Criminal Legislation Under Tiberius* (Middletown, CT 1935).

<sup>145</sup> Eva M. Sanford's publications include *Salvian: On the Government of God* (New York 1930); *The Mediterranean World in Ancient Times* (New York 1938); and “The Learned Professions in the Theodosian Code,” *Classical Journal*, 40 (1945), 544–52.

Roman law experts: Adolf Berger,<sup>146</sup> Ernst S. Levy,<sup>147</sup> and Max Radin whom Pharr considered to be “easily the most competent American scholar in Roman Law.”<sup>148</sup> Russell M. Geer of Tulane University,<sup>149</sup> Frederick Cramer,<sup>150</sup> C. E. van Sickle,<sup>151</sup> and Glanville Downey<sup>152</sup> offered suggestions.

After the break with Pharr, from 1949 to 1953 Theresa Davidson worked as a research associate in law at Vanderbilt’s Institute for Brazilian Studies and published an article “The Brazilian Inheritance of Roman Law.”<sup>153</sup>

Her lost identity as a scholar in Roman law is sadly apparent in an interview given in 1949. Theresa Davidson was quoted as saying that “she has accumulated her amazing collection of

<sup>146</sup> Berger’s massive encyclopedia of Roman law came out a year after Pharr’s translation of the Theodosian Code appeared. Doubtless this was a project consuming many years as well. A. Berger, *Encyclopedic Dictionary of Roman Law* (Philadelphia 1953).

<sup>147</sup> Ernst Levy was a co-editor of the *Index Interpolationum* and author of many works, including *West Roman Vulgar Law: The Law of Property* (Philadelphia 1951).

<sup>148</sup> Max Radin died in 1950, but his book, *Handbook of Roman Law* (St. Paul, MN 1927) was long a standard in the field.

<sup>149</sup> Russell M. Geer was the author of a well-received textbook *Rome* (New York 1940) and was also subsequently involved in translating Livy for the Loeb Library.

<sup>150</sup> See F. H. Cramer, “Bookburning and Censorship in Ancient Rome: A Chapter from the History of Freedom of Speech,” *J. Hist. of Ideas*, 6 (1945), 157–96, for an indication of Cramer’s interests in Roman law.

<sup>151</sup> Van Sickle’s articles, “The Headings of Rescripts of the Severi in the Justinian Code,” *Classical Philology*, 23 (1928), 270–77, and “Diocletian and the Decline of the Roman Municipalities,” *JRS*, 28 (1938), 9–18, reveal his knowledge of social and legal conditions in the third century AD.

<sup>152</sup> Downey’s research on Late Roman offices had been demonstrated in his dissertation, which remains useful: *A Study of the “Comites Orientis” and the Consulares Syriae* (Ph.D. diss., Princeton University, 1939).

<sup>153</sup> T. S. Davidson, “The Brazilian Inheritance of Roman Law,” in *Brazil: Papers Presented in the Institute for Brazilian Studies, Vanderbilt University* (Nashville 1951), 59–90. In the Foreword, Reynold E. Carlson, Director, praises the author as a lawyer and does not mention her doctorate: “Mrs. Davidson holds the LL.B. degree and has also collaborated in the translation of *The Theodosian Code* recently published by Princeton University Press.” He credits Alexander Marchant for editing the contributions as they were received, so it is not a peer-reviewed publication. The support of the Carnegie Corporation was acknowledged for the support of the venture. The reader for *RLT* noted that there are reviews of this book by J. W. Culver in *Hispanic American Hist. Rev.*, 34 (1954), 202–204, and by C. E. Nowell in *American Hist. Rev.*, 59 (1954), 665–67. Both reviewers were impressed by Davidson’s erudition and comment on the usefulness of her article as a history of the lasting influence of Roman law on Brazilian jurisprudence.

languages, degrees and artistic achievements simply because it gives her a good excuse not to do housework." The reporter Louise Davis, who also held an M.A. in Classics from Vanderbilt, clearly venerated Donald Davidson, but merely says of his wife that she "has her own sunny study and keeps their household running serenely."<sup>154</sup> Theresa Davidson illustrated two volumes of the *Tennessee*, written by her husband; she drew the frontispiece of his book *Still Rebels, Still Yankees*,<sup>155</sup> and illustrated his work of poetry *The Long Street*.<sup>156</sup> Indeed if one searches today for her publications, the collaborative support of her husband's publications figures far more prominently than her own scholarly work with Pharr on Roman law.<sup>157</sup>

In mid-1957, Theresa Davidson resumed her legal activities by becoming one of seventeen lawyers who defended fifteen defendants in the bombing of Clinton High School in a futile effort to thwart integration. Six were found guilty while the rest were acquitted. Theresa Davidson shared her husband's opposition to societal change, especially integration in an academic setting. It is hard to know if she took on the defense of these accused because she supported their agenda or because she believed that they deserved legal representation. Nevertheless, the ironic outcome is that the case hastened integration in Tennessee by causing the Tennessee Supreme Court to declare segregation unconstitutional.<sup>158</sup>

Donald Davidson died on April 25, 1968, at the age of 74. Theresa Davidson died in September 1986 in Nashville at the age of 92.<sup>159</sup> Only about ten people in addition to family members attended the funeral mass for Theresa Davidson at St. Henry's Catholic Church, but such a small turnout is understandable

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<sup>154</sup> L. Davis, "He Clings to Enduring Values," *The Nashville Tennessee Magazine* (September 4, 1949), 6–8.

<sup>155</sup> Baton Rouge 1957.

<sup>156</sup> Nashville 1961. See Fitzgerald (note 8), 711–14.

<sup>157</sup> Theresa Davidson was a member of the legal staff of the Tennessee Federation for Constitutional Government, the American Philological Association, the Classical Association of the Middle West and South, the American Academy of Political and Social Sciences, the Centennial Club, and the Tennessee Bar Association. Fitzgerald (note 8), 711–14.

<sup>158</sup> Winchell (note 12), 295. As Winchell makes clear throughout his book, the Davidsons were strongly opposed to the federal government's "interference" with their Southern way of life. In their view, such interference ranged from building dams to integrating schools. Such political views clearly were reactionary but they were not uncommon in this era.

<sup>159</sup> See "Donald Davidson Papers Chronology" (SCUAVU). For Theresa Davidson's dates, see Fitzgerald (note 8), 711–14.

since she had suffered from dementia for many years.<sup>160</sup>

## XII. Law books and legacies: Davidson, Pharr, and Blume

Even legal scholars like to see justice prevail, despite the mores of the era. Surely in our times, the female graduate students with doctorates would have gone on to university professorships and independent publications. Theresa Davidson tried to advance her career as a legal scholar but in the end was blocked by the broken relationship with her mentor and the lack of opportunity in mid-century America.

According to her heirs, Theresa Davidson's library of classical and legal references was dispersed in several ways.<sup>161</sup> Some of the books were sold to Charles Elder, a well-known bookstore in Nashville, for a mere \$150 shortly after her death. Several seventeenth-century volumes were donated to the Rare Books collection of the University of Notre Dame in 1996: six volumes of works by Cujas (1617), and two volumes of the *Corpus Iuris Civilis* (1663).<sup>162</sup>

The publication of the Theodosian Code in 1952 demonstrated Pharr's ability to complete a project. In 1958, he received a grant-in-aid for \$3,000 from the American Council of Learned Societies to "assist in the completion of important research." Since he had already published the Theodosian Code, this money was definitely earmarked for the publication of Justinian's Code as revealed in correspondence with Floyd Seaward Lear of Rice University.<sup>163</sup> In 1966 Pharr became Emeritus Research Professor of Classics and held this post till his death on December 31, 1972, one week after

<sup>160</sup> Winchell (note 12), 236; Mary (Molly) Bell Kirkpatrick, E-mail message to the author, November 11, 2010.

<sup>161</sup> Mary (Molly) Bell Kirkpatrick, E-mail message to the author, January 16, 2007.

<sup>162</sup> Marina Smyth, Rare Books and Special Collections, University of Notre Dame, E-mail message to the author, February 7, 2005. Robert Sullivan, husband of Theresa's granddaughter Theresa Bell Sullivan, confirmed that he donated the books to Notre Dame in 1996. Robert Sullivan, E-mail message to the author, November 30, 2004.

<sup>163</sup> Clyde Pharr, University of Texas, Austin, Letter to Floyd Seaward Lear, Rice University, September 15, 1957 (asking Lear to be a referee for the grant application). In another letter Pharr refers to a set-back in his health three or four years earlier, his recovery, and the need for funding for typists for the current project. Clyde Pharr, University of Texas, Austin, Letter to Floyd Seaward Lear, Rice University, January 24, 1958, with newspaper clipping enclosed from the *Austin American* (January 28, 1958), 11 (from the papers of Floyd Seaward Lear, provided by Lisa Moellering, Rice University, Fondren Library Archives).

the death of his wife Mary Elizabeth Brown Pharr on December 24 in Austin, Texas.<sup>164</sup>

The fate of the library of Clyde Pharr has been difficult to trace since he and his wife left no children. That it was extensive and expensive is attested in Pharr's own words in 1949:

Our personal library is easily the best private collection of Roman law material in America, and probably in the world. It has been gradually built up for the past thirty years, at an expense of over \$25,000. This collection contains all the essential source material, both primary and secondary, including all the basic Greek and Latin texts of Roman law, the work of the glossators of the eleventh and twelfth centuries, and the great commentaries of the fifteenth, sixteenth, and seventeenth centuries. Most of these books are no longer obtainable at any price. The library also contains the later essential publications, including the latest critical texts, histories, and discussions of Roman law, and an exceptionally full collection of lexical material, beginning with the *Vocabularius [sic] Juris* of 1476 and comprising everything of any importance from that date to the present.<sup>165</sup>

Interestingly, although Pharr had promised Vanderbilt in 1938 to donate 7,500 books in his will, he only gave the university a few journals and some copies of the mimeographed drafts. Before leaving Vanderbilt he asked the chief librarian to help him circulate a list of books to other faculty to recommend to the Joint University Libraries for purchase. Both the list and the outcome of this proposal have been lost. In 1973, after his death, the Joint Universities Library at Vanderbilt checked to see if in fact Pharr

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<sup>164</sup> Pharr Memorial Resolution (note 80).

<sup>165</sup> Clyde Pharr and Mary Brown Pharr, "A Project for the Collection, Translation, and Annotation of All the Source Material of Roman Law," (1949), 14–15, sent to Princeton University Press, on November 12, 1951. Similar language is used in Clyde Pharr, "A Project for the Collection, Translation, and Annotation of All the Source Material of Roman Law," (University of Texas 1951), 14–15, but the cost of \$25,000 is omitted. See also "Dr. Pharr Joins Language Staff," *Daily Texan* (n.p., May 25, 1951) (CAHUTA):

A noted scholar and authority on Roman law, Dr. Pharr and his wife, also a Latinist, are now reading the proofs of the first volume of their six-volume collection of Roman law. As sources, they have used materials in Dr. Pharr's library, the largest private collection on Roman law in the country.



had bequeathed any books to it, but he had not.<sup>166</sup>

It seems that many of Pharr's books were disposed of in other ways. His last student William S. Thurman reports that at Pharr's suggestion, he drove a large station wagon down and filled it with as many books as he could which he then donated to the University of North Carolina at Ashville.<sup>167</sup> As a young graduate student Thurman had been invited by Pharr to come to the University of Texas at Austin to study Roman law with him. His dissertation, completed in 1964, was titled *The Thirteen Edicts of Justinian, Translated and Annotated*. Clyde Pharr was the only mentor listed. Thurman's publications stemmed from this dissertation.<sup>168</sup> Additionally some of Pharr's books have been located at the University of California. "The law faculty at UCLA has a rare books room (called the delta room) where many books seem to have his small name stamp."<sup>169</sup> So in the end, the editors' libraries were dispersed.

Justice Blume's collection of over 2,000 volumes was given intact to the University of Wyoming College of Law where it remains today. Timothy Kearley's transcription of Blume's translation reveals the scholarliness of his work on Justinian's Code. Clyde Pharr's dream of publishing Blume's work will soon be realized through the efforts of eminent legal scholars under the direction of Bruce Frier.<sup>170</sup> The clarity of Blume's translation and the fine legal conceptualization by a judge on the frontier of America surely will find at last a place in the scholarship on Roman law and its lasting legacy in the modern world.

How is Pharr to be judged in his dealings with his contributors, ranging from graduate students in a southern university to a judge isolated in Wyoming to "contributors" from Ivy League institutions? In the end, he persevered in the completion of the project, and he acknowledged, in name at least, their contribu-

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<sup>166</sup> Teresa Gray, SCUAVU, e-mail message to the author, August 15, 2006.

<sup>167</sup> William S. Thurman, telephone interviews, between 2004 and 2006. Thurman recalled seeing the manuscript from Blume and even used it for his dissertation. However, that copy of Blume's translation of Justinian's Code has not been located.

<sup>168</sup> W. S. Thurman, "How Justinian I Sought to Handle the Problem of Religious Dissent," *Greek Orthodox Theological Review*, 13/1 (1968), 15-40; "A Law of Justinian concerning the Right of Asylum," *Trans. Proc. Am. Philological Assoc.*, 100 (1969), 593-606.

<sup>169</sup> Dr. Michael Cahn, visiting professor in the History Department, UCLA, E-mail message to the author, October 25, 2006.

<sup>170</sup> B. Frier, ed., *The Code of Justinian: A New Annotated Translation, with Parallel Latin and Greek Text, translated by Justice Fred H. Blume* (Cambridge) (forthcoming).

tions. For the time in which he worked and by the standards of the day when subordinates were just that, perhaps he was fair and possibly even generous. By the standards of the twenty-first century, his treatment of the female graduate students in particular seems exploitive and unfair, and his own dreams grandiose and hubristic. Yet the team he put together did bring the Theodosian Code to life in English, and we are able to study Roman law in an understandable and fascinating format. As with the emperors whose achievements we admire, but whose actual rule and rulings seem at least distasteful and in some cases appalling, so perhaps it is with Pharr whose final work is admirable but whose methods may not have been.

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Grateful acknowledgment is made to Mary (Molly) Bell Kirkpatrick, granddaughter of Theresa Sherrer Davidson, who made available invaluable documents and answered many questions; to Timothy Kearley who shared many letters between Blume and Pharr and a pre-publication copy of his article on Blume; to Teresa Gray and Kathy Smith, of Special Collections and University Archives at the Jean and Alexander Heard Library at Vanderbilt University; and to librarians and archivists at other institutions whose assistance is acknowledged at the appropriate point. I wish also to thank Timothy E. Gregory of the Ohio State University, Noel Lenski of the University of Colorado, Fred Jenkins of the University of Dayton, Donald Lateiner of Ohio Wesleyan University, and Richard Rothaus, formerly of St. Cloud University, for useful suggestions. Special acknowledgment is made also to Pharr's former students and families who shared their recollections in telephone interviews. Thanks also to my colleagues at St. Mary's College, especially Gail L. Savage, Charles J. Holden, Thomas Barrett and Christine Adams for encouragement and funding for research. Finally I wish to acknowledge the careful editing of this article by Ernest Metzger, Douglas Professor of Civil Law at the University of Glasgow and editor of *Roman Legal Tradition*. His insightful suggestions and queries improved both the content and the narrative of this article. A very preliminary paper on this topic was given at the Byzantine Studies Conference at The Ohio State University in Columbus in the fall of 2002.

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