

# THE RULE OF LAW



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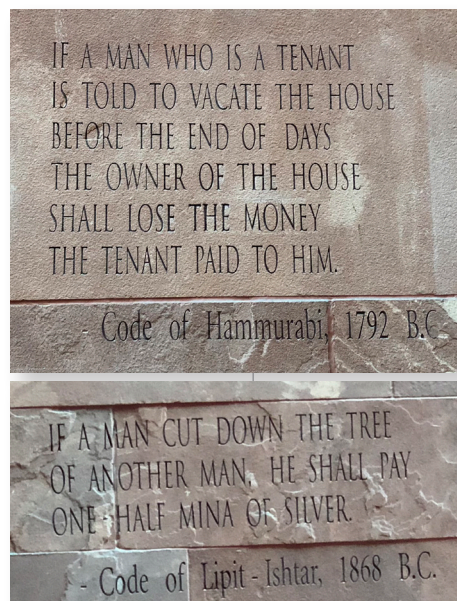
## CORRECTING THE (CUNEIFORM) RECORD

I am writing in response to the “Rule of Law” column by Patty Cafferata that appeared in the April 2018 edition of *Nevada Lawyer*. In her column, Cafferata shared State Bar of Nevada past President Gene Leverty’s statement that the earliest known code of law was compiled by Hammurabi, in Babylon.

*Nevada Lawyer*’s readers might find it interesting to learn that, although the Code of Hammurabi is fairly old, even that ancient document is based on published precedent.

Specifically, the Code of Ur-Nammu predates the Code of Hammurabi. The Code of Ur-Nammu is about four millennia old, and it is my go-to citation for saying an aspect of the law has been in existence as long as law itself. The Code of Ur-Nammu is drafted as a series of “if-then” statements: “if condition X occurs, then Y is the result” (albeit written in Sumerian). This continues to be a useful analytical tool through which to view the law.

As a fun aside, the City Court of Buffalo, New York, has also utilized Ur-Nammu to make the point that something law-related is as ancient as law itself. In 1967 that court stated, “[I]t appears that the compulsion to say ‘There ought to be a law’ is not of recent origin but dates back to the time of King Urnammu about 2145 B.C.” *People v. Bielmeyer*, 54 Misc. 2d 466, 282 N.Y.S.2d 797 (1967) (in a case discussing police power of the state to constitutionally require motorcyclists to wear helmets).



Leverty is not alone in thinking of Hammurabi when discussing the oldest-known code. He is in quite good company; Bryan Garner, in his editions of Black’s Law Dictionary, describes the Code of Hammurabi as “The oldest known written legal code.” Black’s Law Dictionary 293 (9<sup>th</sup> Edition), 274 (Del. 8<sup>th</sup> Edition) & 251 (7<sup>th</sup> Edition). Interestingly, the earlier 5<sup>th</sup> Edition, of which Garner was not the editor, describes the Code of Hammurabi as a “Set of laws once considered the oldest promulgation of laws in human history, prepared by Babylonian King.” Black’s Law Dictionary 644 (5<sup>th</sup> Edition 1979). The 4<sup>th</sup> edition of Black’s (at least the copy sitting on my desk) has no entry for Hammurabi, or his code.

But the takeaway is that the Code of Ur-Nammu predates the Code of Hammurabi, as do the Sumerian language Code of Lipit-Ishtar and the Code Eshnunna (which is the oldest code, written in the Akkadian language). Indeed, there are even inscriptions discussing the legal reforms of Uru-Inimgina (also called Urukagina) of Lagash, dating as far back as c. 2,400 B.C.E. But, I believe Ur-Nammu’s is the oldest extant code to which we have access at this point in history. **NL**

*\* This column expresses the views of its author and does not reflect the opinion of any organizations with which she may be employed or affiliated.*

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