

Personal servitude (N)

using 'taking' fruits 'property not one's own, with impairing substance' that property Paul ↑ not complete - doesn't show for life only.

ius { possessionis
utendi
fructu

UNIVERSITY OF EDINBURGH.

legacy - orig only ^{always actual}
in iure censio. facts - stipulations

deductio
legis time
adjudication
law

CIVIL LAW.

SECOND PAPER.

TUESDAY, 16th June 1953.—12 NOON to 2 P.M.

Candidates should mark their papers on the outside
M.A., B.L., or LL.B., as the case may be.

(Candidates for M.A. or B.L. should answer SIX of the questions in Group A. Candidates for LL.B. or combined M.A., LL.B. should answer FOUR of the questions in Group A and BOTH the questions in Group B.)

Candidates for Ordinary M.A. of the third and later years are required to write '(3)' after their names on the Examination Books.

little better to slave. all public, no private.

cd be granted pecunia - only mitigation to end Republic.
Acquire of own - Augustus. A.—INSTITUTES.

Cast - original. heirs not
Fate took by succession
father, will, only while surviving till time Had.

1. Trace the growth of the proprietary capacity of the filius-familias.

2. State the principal kinds of dos and the rules applicable to each. perfect male asc. advant. wife or other than p. male, to receipt 3rd p. other

complete defective personality
auctent. inter. negotium gress
enter inheritance
demand goods
take inherit. given
by trust

3. State the several cases in which:—(1) a tutor could act for his pupil; (2) a pupil could act without his tutor; (3) the concurrence of both was necessary.

See parishables wind up business
sign

4. Define usufruct. Over what things could it be established? What was the legal method of creating usufruct?

5. By what methods in Justinian's time could one:—
prescription legacy - traditio

personal dies out -
real remains - pledge
Chyp. (Kecy)
cover land

1. convey a landed estate;
2. create a right of way;
3. guarantee a debt?

legc
pactioibus et stipulationibus
will
prescription
deductio
adjudicatio

6. What is the effect in Roman Law of inserting an illegal condition in a contract and in a will respectively? Give reasons for any difference there may be between the two cases.

[OVER

Conduct - if ~~non~~ -- A.A.

Also used in non-contractual cases - not owed (*indebitum*)

Pay by mistake, got it back by this action. - Give dowry, never married
Used this formula: didn't know what action was but felt sd be one

2

7. State the rights and duties of a tenant of land in Roman Law. What was the law with reference to fixtures and improvements made by the tenant?

8. What was the *condictio indebiti*? State the circumstances in which it did, or did not, lie.

9. 'Our constitution . . . has enacted that the nature of all legacies should be the same.—(JUSTINIAN, *Instit.*, 2, 20, 2.)
Explain this statement.

Universal
Fideicommissum
(+ trusts)
10. Apart from inheritance, what other modes of universal succession were in use in the time of Justinian? Give a short description of each mode.

Potestis Mortis Causa

Gift

B.—DIGEST 9, 2.—AD LEGEM AQUILIAM.

1. Translate and comment on:—

(a) 'Atque eodem tempore accusator de plebe L. Caesulenus fuit, quem ego audiui iam senem, cum ab L. Sabellio multam lege Aquilia de iustitia petivisset.'—(CICERO, *Brutus*, 34, 131.)

Medical expenses
loss earnings
(1) compelled to
relinquish

(2) disabled for
likelihood

No damages for
disfigurement,
except e.g.
actor

(b) 'Liber homo suo nomine utilem Aquiliae habet actionem: directam enim non habet, quoniam dominus membrorum suorum nemo videtur. . . .'—(D. 9, 2. 13 pr. Ulpianus libro octavo decimo ad edictum.)

Double denial
~~per~~ *per*al: payment by me doesn't release other.
Greatest value in year.
Not as heirs unless enriched.

2. 'The act which causes damage must be committed unlawfully, *iniuria*, as the *lex* says, i.e. there must be an *occidere iniuria* according to the first chapter and *urere*, *frangere*, *rumpere iniuria* according to the third chapter. But nothing is said as to what is meant by that term.'—(GRUEBER, *The Lex Aquilia*, at page 214.) How was the term *iniuria* interpreted?

Something more than killing - viz. dolus or culpa. Not self defence. Lumpy infancy accident.

in har 2 senses - contra law
- particular kind unlawful act. This usually in plural.

Has to be direct violence or else factum
Accidents don't count
N.B.—The ORAL EXAMINATION in connection with the DEGREES of LL.B. and B.L. will be held in the LAW RETIRING CLASS ROOM on MONDAY, 29TH JUNE: Candidates whose surnames begin with the letters A to F will attend at 9.15 A.M., G to L at 10.30 A.M., M to N at 11.30 A.M., O to S at 2.15 P.M., and T to Z at 3 P.M.

Not objective standard - some psychological element neces.

" Must be wrong as well as damage - utility - otherwise - unless under stress of urgent physical danger.

" Not some kind of insult s.i.
Damage done by negligence (not reasonable chastisement)

Slightest culpa counts.
only hit back in self-defence