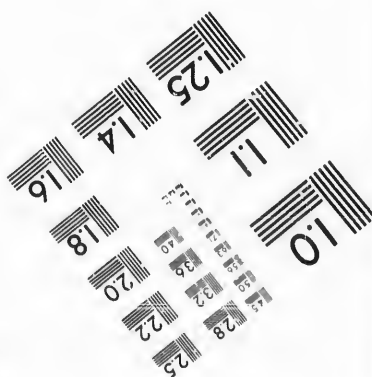
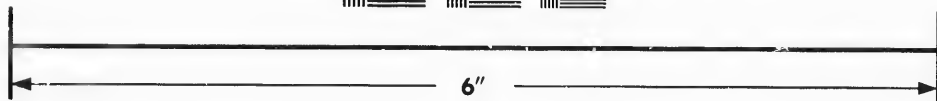
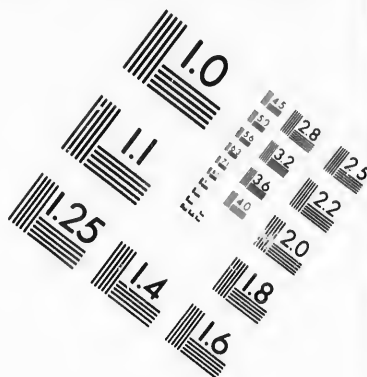




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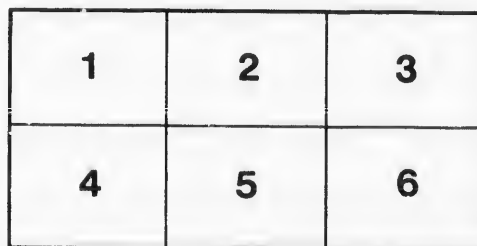
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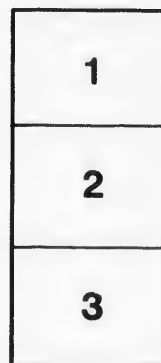
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LAW FACULTY.

SYLLABUS

OF

LECTURES ON THE CIVIL LAW.

TEXT BOOK : *Justiniani Institutiones*—see marginal references.

*"The Law of Rome has the distinguished honour of vindicating to itself the exclusive Title of
'The Civil Law.'"*

- I.—Introductory ; National characteristics of Romans ; Policy ; Characteristics of their Jurisprudence ; Advantages of the study.
- II.—History of the Roman Jurisprudence, four periods ; 1st, Infancy : U. C. 1—300. 2nd, Youth : U. C. 300—650. 3rd, Maturity : U. C. 650—1000, or A. D. 250. 4th, Decline : U. C. 1000—1300.
- III.—The nature of Law in general ; and the divisions and parts Inst. Lib. 1.
Tit. 1, 2. of the Civil Law.
- The objects of the Civil Law ; *viz* :
- I. Rights as to Persons ; II. Rights as to Things ; III. Actions.

IV.— I. RIGHTS AS TO PERSONS.

Considered,

i. In their natural capacity ; with regard to $\left\{ \begin{array}{l} \text{Life.} \\ \text{Sex.} \\ \text{Age.} \end{array} \right.$

ii. In their civil capacity ; with regard to

V.— 1. Liberty ; under which of

Tit. 3—8.

(1) Freemen ; who were..... $\left\{ \begin{array}{l} \text{Ingenui.} \\ \text{Libertini.} \end{array} \right.$

(2) Slaves ; who were..... $\left\{ \begin{array}{l} \text{Ordinary.} \\ \text{Peculiar.} \end{array} \right.$

VI.— 2. City : under which of

(1) Citizens ; who were..... $\left\{ \begin{array}{l} \text{Cives.} \\ \text{Latini.} \\ \text{Italici.} \\ \text{Provinciales.} \end{array} \right.$

(2) Strangers ; called *Hostes* and *Peregrini*.

3. Family : under which of

VII.— (1) *Patres-Familias* ;
and the

Tit. 9—12.

VIII.—

IX.—

X.—

Power of a father ; acquired by $\left\{ \begin{array}{l} \text{Marriage.} \\ \text{Legitimation.} \\ \text{Adoption.} \end{array} \right.$

Tit. 10.

Tit. 10. § 13.

Tit. 11.

(2) *Filii-Familias*.

XI.—

(3) Guardians ;
and

Guardianship ; divided into.. $\left\{ \begin{array}{l} \text{Tutela.} \\ \text{Cura.} \end{array} \right.$ $\left. \right\}$ Tit. 13—26.

XII.—III. In their artificial capacity ;

as *Universitates* or Corporations.

$\left\{ \begin{array}{l} \text{Digest.} \\ \text{Lib. 3. Tit. 4.} \\ \text{Lib. 47. Tit. 22.} \end{array} \right.$

II. RIGHTS AS TO THINGS.

In which are considered,

XIII.—I. Their kinds : viz.

Inst. Lib. 2. Tit.
1. Pr. § 1—10.

1. *Extra Patrimonium*.

2. *In Patrimonio*.

XIV.—II. The rights to be acquired in them ; under which of

(a) Property in possession : acquired by

i. The Law of Nature or Nations :

1. In things corporeal, by..... { Occupancy.
Accession.
Tradition. } Tit. 1. § 11—47.
Tit. 8.
- XV.—2. In things incorporeal,
as servitudes; by *Quasi-Possession*. Tit. 2—5.
- XVI.—By a man's self; or by others under his power: under
which of:
- The *Peculium* of a Son..... { Military.
Pagan. } Tit. 9.
- XVII.—II. The Civil Law: by
1. Usucapion, or Prescription. Tit. 6.
2. Donation: Tit. 7.
- (1) Proper.
- (2) Improper.
3. Succession: by
- XVIII.— (1) Testament: Tit. 10—19. 25.
- XIX.— } under which of..... { Legacies. Tit. 20—22.
- XX.— } { *Fidei-commissa*. Tit. 23, 24.
- XXI.— (2) Law. Inst. I. ib. 3.
Tit. 1—9.
- XXII.— (3) *Bonorum Possessio*. Tit. 10.
- XXIII.— 4. Arrogation.
5. *Bonorum Addictio*.
6. *Sectio bonorum*.
7. *Sctum Claudianum*. } Tit. 11—13.
- XXIV.—(b) Property in Action: which arose from Tit. 14.
- i. Obligations *ex Contractu*, or Contracts properly so called.
1. Innominate.
2. Nominate.
- XXV.— (1) Real..... { 1. *Mutuum*.
2. *Commodatum*.
3. *Depositum*.
4. *Pignus*. } Tit. 15.
- XXVI.— (2) Verbal..... { Stipulation.
Fidejussion. } Tit. 16—21.
- Under Fidejussion
- are treated.. { 1. *Beneficium Divisionis*.
2. *Ordinis Sive Excussionis*.
3. *Cedendarum Actionum*.
4. *Sctum Velleianum*.
- XXVII.— (3) Literal. Tit. 22.

XXVIII.— (4) Consensual..... { 1. *Emptio Venditio.*
2. *Locatio Conductio.*
3. *Emphyteusis.*
4. *Societas.*
5. *Mandatum.* } Tit. 23-27.

XXIX.—II. Obligations *Quasi ex Contractu*, or *Quasi Contracts* : Tit. 28, 29.

1. *Negotiorum Gestorum.*
2. *Tutela.*
3. *Rei Communis Administratio.*
4. *Hereditatis Administratio.*
5. *Hereditatis Aditio.*
6. *Indebiti Solutio.*

XXX.—The Obligations from Contracts and *Quasi Contracts* Tit. 30.
being again dissolved by ways ;

1. Common to all contracts.
 - (1) Solution or Payment.
 - (2) Compensation.
 - (3) Confusion.
 - (4) Oblation and Consignation.
 - (5) Novation.
2. Peculiar to some only ; as
 - (1) Acceptilation.
 - (2) Mutual consent.

XXXI.—III. Obligations *ex Delicto*, or from Offences (*delicta*) Lib. 4. Tit. 1 pr.
properly so called :

XXXII.—1. *Furtum.* Four kinds.... { 1. *Conceptum.*
2. *Oblatum.*
3. *Prohibitum.*
4. *Non-exhibitum.* } Tit. 1.

XXXIII.—2. *Rapina.* Tit. 2.

XXXIV.—3. *Damnum*, or Damage. { 1. *Lex Aquilia.*
2. *Nunciatio Novi*
3. *Cautio de Dam-*
no *Infecto.* } Tit. 3.

XXXV.—4. *Injuria.* Two kinds..... { 1. Real.
2. Verbal. } Tit. 4.

Remedies by { Decemviral Law.
Prætorian Law.
Cornelian Law.

XXXVI.—IV. Obligations *Quasi ex Delicto*, or from Offences Tit. 5.
Improper, (*Quasi-Delicta*).

1. Erroneous sentence.
2. Things thrown or poured from a house.
3. Things hung or placed so as to be dangerous.
4. Things stolen in a ship or inn.

III. ACTIONS.

In which are considered,

- i. Their kinds : viz.

XXXVII.—1. Real or *Vindicationes* ;

Tit. 6.

founded upon *jura in re* :

- | | | |
|-------|---|------------------------------------|
| Kinds | { | 1. <i>Rei Vindicatio</i> . |
| | | 2. <i>Confessoria</i> . |
| | | 3. <i>Negatoria</i> . |
| | | 4. <i>Publiciana</i> . |
| | | 5. <i>Rescissoria</i> . |
| | | 6. <i>Pauliana</i> . |
| | | 7. <i>Serviana</i> . |
| | | 8. <i>Quasi Serviana</i> . |
| | | 9. <i>Actiones Præjudiciales</i> . |

- | | | | | |
|---|---|-----|---|---------------------------------|
| <i>Actiones</i>
<i>Præjudiciales</i> | { | are | { | 1. <i>De Libertate</i> . |
| | | | | 2. <i>De Ingenuitate</i> . |
| | | | | 3. <i>De Partu Agnoscendo</i> . |

2. Personal ;

founded upon *jura ad rem* :

- | | |
|--------------------|---------------------------------------|
| 1. From Law : | <i>Conditiones ex lege</i> . |
| 2. From Equity.... | { 1. <i>Actio ad exhibendum</i> . |
| | 2. <i>Restitutiones in integrum</i> . |
| 3. From Contracts. | { <i>Innominate</i> . |
| | { <i>Nominate</i> . |
| Innominate... | { <i>Actio in factum</i> or |
| | { <i>Præscriptis verbis</i> . |
| Nominate, viz. | |

- | | | |
|------------------------------|---|------------------------|
| From the Real Contracts..... | { | 1. <i>Mutuum</i> , |
| | | 2. <i>Commodatum</i> , |
| | | 3. <i>Depositum</i> , |
| | | 4. <i>Pignus</i> , |

Arose the following Actions :

1. *Condictio certi ex mutuo*.

2. *Commodati, directa et contraria.*

3. *Depositi, directa et contraria.*

4. *Pignoratitia, directa et contraria.*

From the Verbal Contracts { 1. Stipulation,
2. Fidejussion,

Arose the following Actions :

1. *Actio certi ex stipulatu : incerti ex stipulatu.*

2. *Beneficia divisionis : ordinis : cedendarum actionum.*

From Literal Contracts came the Action

Condictio ex chirographo.

From the Consensual Contracts. { 1. *Emptio venditio,*
2. *Locatio conductio,*
3. *Emphyteusis,*
4. *Societas,*
5. *Mandatum,*

Arose the following Actions :

1. *Empti : venditi : redhibitoria : quanti minoris.*

2. *Locati : conducti.*

3. *Emphyteuticaria, directa et contraria.*

4. *Pro socio.*

5. *Mandati, directa et contraria.*

From the Quasi Contracts { 1. *Negotiorum gestio,*
2. *Tutela,*
3. *Rei communis administratio,*
4. *Hereditatis administratio,*
5. *Hereditatis aditio,*
6. *Indebiti solutio,*

Arose the Actions :

1. *Negotiorum gestorum, directa et contraria.*

2. *Tutela, directa et contraria.*

3. *Communi dividundo.*

4. *Familiae erciscundae.*

5. *Ex Testamento.*

6. *Condictio indebiti.*

From Quasi Contracts were also the Actions :

1. *De Constituta pecuniâ.*

2. *De Peculio.*

3. *De Jurejurando voluntario.*

From the Offences. { 1. *Furtum*,
2. *Rapina*,
3. *Damnum*,
4. *Injuria*,

Arose the Actions :

1. *Furti ; condictio furtiva.*
2. *De vi bonorum raptorum.*
3. *Ex lege Aquiliâ.*
4. *Injuriarum : Decenviralis : Prætoriana ex lege Corneliâ.*

From Offences were also the Actions :

1. *De albo corrupto.*
2. *De in jus vocando.*
3. *De in jus vocato non eximendo.*
4. *De servo corrupto.*
5. *De calumniatoribus.*

From *Quasi* Offences was the *Actio in Factum*, or *Præscriptis Verbis*.

3. Mixt Actions were :

1. *Hæreditatis petitio.*
2. *Communi dividundo.*
3. *Familiæ erciscundæ.*
4. *Finium regundorum.*

XXXVIII.—4. Actions arising from the contract of others were : Tit. 7.

1. *Quod jussu.*
2. *Exercitoria.*
3. *Institoria.*
4. *Tributoria.*
5. *De in rem verso.*
6. *De Peculio.*

5. Noxal Actions were :

Tit. 8, 9.

1. *De pauperie.*
2. *De pastu pecorum.*
3. *Ex edicto Edilitio.*

XXXIX.—6. Of the Parties to Actions, or of the *actor* and Tit. 10, 11.
reus, and the proctors of each ;

Under which of the following Securities or Cautions :

1. *Judicatum solvi.*
2. *De judicio sisti.*
3. *De rato.*

XL.— 7. Perpetual.

Tit. 12.

8. Temporary.

9. Descending { To heirs.
 { Against heirs.

XLI.—10. Exceptions. { Peremptory.
 { Dilatory.

} Tit. 13.

11. Replications, Duplications, Triplications, Quadruplications. Tit. 14.

XLII.—12. Interdicts :

Tit. 15.

- Three kinds.. { 1. Prohibitory.
 { 2. Restoratory.
 { 3. Exhibitory.

Interdicts to *gain* possession were called :

1. *Quorum bonorum.*
2. *Quod Legatorum.*
3. *Salvianum.*

Interdicts to *retain* possession were called :

1. *Uti possidetis.*
2. *Utrubi.*

Interdict to *recover* possession was called :

Unde vi.

XLIII.—Litigation was restrained by :

Tit. 16.

1. The oath of calumny.
2. A pecuniary mulct.
3. Legal Infamy.

XLIV.—The validity of actions was tried :

Tit. 17.

1. As to matter of law, by the magistrate.
2. As to matter of fact, by the judge.

XLV.—Of the form of Private Judgment, or the course of proceedings in Civil causes ; under which of :

1. The persons necessary to a Court, viz.
 1. *Actor.*
 2. *Reus.*
 3. *Judex.*
 4. *Advocates.*
 5. *Proctors.*
 6. *Notaries.*
 7. *Apparitors.*
2. *Vocatio in jus.*
3. *Postulatio et editio actionis.*
4. *Vadimonium.*
5. *Intentio actionis.*
6. *Exceptio rei.*
7. *Datio judicis.*
8. *Satisfactions actoris et rei.*
9. *Contestatio litis.*
10. Oaths of the Judge and Litigants.
11. Proofs:

Two kinds	{	<i>Plena.</i>
	{	<i>Semi-plena.</i>
Had from.....	{	1. Confession
	{	2. Presumpt
	{	3. Witnesses
	{	4. Instrumen
	{	5. Oaths.

Of which

Presumptions are.....	{	1. Of Law.
	{	2. Of Man.
Instruments are.....	{	1. Public.
	{	2. Private.
Oaths are.....	{	1. Promissory
	{	2. Decisory.
Decisory oaths are.....	{	1. Voluntary
	{	2. Judicial.
	{	3. Necessary.
Necessary oaths are....	{	1. Purgatory.
	{	2. Suppletory
12. *Disceptatio causæ*; under which of:
 1. *Conjectio causæ.*
 2. *Pecoratio.*

13. Sentences, which were :

1. Interlocutory.
2. Definitive.

14. Execution.

15. Appeal.

XLVI.—Public Judgments, answering to Crown Prosecutions Tit. 18.
in English Law :

1. Lese Majesty, or Treason ; of which two kinds :

1. *Crimen perduellionis.*
2. *Crimen Læsæ Majestatis in specie.*

2. *Lex Julia de Adulteriis* ; under which of :

1. Adultery.
2. Crime against nature.
3. Incest.
4. *Stuprum.*

3. *Lex Cornelia de Sicariis* ; under which of :

1. Homicide.
2. *Veneficium.*

4. *Lex Pompeia de Parricidiis* ; under which of :
Parricide.

5. *Lex Cornelia de Falsis* ; under which of :
Crimen Falsi.

6. *Lex Julia de vi publicâ et privatâ.*

7. *Lex Julia de Peculatu* :

Two branches. { 1. *Peculatus.*
2. *Sacrilege.*

8. *Lex Fabia de Plagiariis* ; or of *Plagium.*

9. *Lex Julia Repetundarum* ; de *Ambitu* ; de
Annona ; de *Residuis.*

In which the course of proceeding was by :

1. *Vocatio in jus.*
2. *Postulata facultas deferendi nomen.*
3. *Delatio et receptio nominis.*
4. *Citatio rei.*
5. *Sortitio judicum.*
6. *Actio prima.*
7. Proofs.

8. *Defensio et laudatio rei.*
9. *Actio secunda.*
10. *Missio iudicum.*
11. Sentence.
12. Execution.

And sometimes in judgments of the People, by :

1. *Diei dictio.*
2. *Citatio rei.*
3. *Accusatio.*
4. *Promulgatio.*
5. *Defensio rei.*
6. *Populi vel plebis suffragia.*

SELECT AUTHORS ON THE ROMAN CIVIL LAW

CLASS A.

- 1.—Corpus Juris Civilis.
- 2.—Justiniani Institutiones, (comprised in the Corpus,) the Text-book of the Course.
- 3.—Gaii Institutiones.

CLASS B.

HISTORY OF THE ROMAN LAW.

- 1.—Ortolan: Histoire de la Legislation Romaine. 3me Édition. Paris, 1851. 1 vol.
- 2.—Giraud: Histoire du Droit Romain. Paris, 1847. 1 vol.
- 3.—Hugo: Histoire du Droit Romain, traduite de L'Allemand. Paris. 2 vols.
- 4.—Berriat St. Prix: Histoire du Droit Romain suivie de l'histoire de Cujas. Paris, 1821. 1 vol. in 8.
- 5.—Guérard: Essai sur l'histoire du Droit Privé des Romains. Paris, 1841. 1 vol. in 8.
- 6.—Dupin: Précis Historique du Droit Romain. Paris, 1820. 1 vol.
- 7.—Savigny: Histoire du Droit Romain au moyen age, traduite par Guenoux. Paris, 1839.
- 8.—Irving: Introduction to the Study of the Civil Law, by David Irving, L. L. D. 4th Edition. London, Edinburgh and Dublin, 1837.
- 9.—Laferriere: Histoire du Droit Civil de Rome et du Droit Français. 1846. Not yet finished; four volumes have appeared.
- 10.—Ferrière: Histoire du Droit Romain. Paris. 1 vol.
- 11.—Lerminier: Introduction générale à l'histoire du Droit. 2nde Édition. Paris, 1835. 2 volumes.

CLASS C.

COMMENTARIES ON THE INSTITUTES.

- 1.—Ducaurroy: Institutes de Justinien, traduites et expliquées. 8me Édition. Paris, 1851. 2 vols.
- 2.—Ortolan: Explication Historique des Institutes de L'Empereur Justinien, avec le texte, la traduction en regard, et les explications sous chaque paragraphe, précédée d'une généralisation du Droit Romain. Paris, 1847. 2 vols. 4ème Édition.
- 3.—Ferrière: Traduction des Institutes de Justinien, avec commentaire. Paris. 6 vols. in 12.
- 4.—Lagrange: Manuel de Droit Romain, ou explication des Institutes de Justinien, par demandes et reponses, précédé d'une Introduction Historique. Paris, 1853. 6me Édition.
- 5.—Vinnius: In quatuor libros institutionum Justiniani, commentarius academicus et forensis. Amstelodami, 1692. 1 vol. quarto.

CLASS D.

(GENERAL.)

- 1.—Mackeldey: Manuel de Droit Romain, traduit de L'Allemand. Bruxelles. 3me Édition. 1846.
- 2.—Marezoll: Précis d'un Cours sur l'ensemble du Droit Privé des Romains, traduit de L'Allemand. 2nde Édition. Paris, 1852.
- 3.—Blondeau: Chrestomathie, ou Choix de Textes pour un Cours Elémentaire du Droit Privé des Romains. Paris, 1843. 1 vol.
- 4.—Savigny: Traité de Droit Romain, traduit de L'Allemand. 8 vols. Paris.
- 5.—Cujacius: Opera omnia.
- 6.—Despeisses, (Ant.) Les Œuvres.
- 7.—Domat: Les Loix Civiles. Paris. 1 vol. folio.

CLASS E.

(SPECIAL.)

- 1.—Bonjean: Traité des Actions, ou exposition historique de l'organisation Judiciaire, et de la procédure Civile chez les Romains. 2nde Édition. Paris, 1845. 2 vols.
- 2.—Le Bastard Delisle: Précis de l'administration de la Justice Criminelle chez les Romains. Valognes, 1841, in 8.

THE above are by no means exhaustive of the subject. They are simply suggested as the most useful and available to the Law-Student of Lower Canada.

