

This act is the ancestor of our own statutes of limitations for actions to recover real property, and its history is known to every first-year property student. What is worded as a simple statute of limitations became the statutory basis of the doctrine of adverse possession with the familiar judicially engrafted requirements that the possession be actual, continuous, open and notorious, and hostile, with the frequent addition that it be under “(good faith) claim of right” and “color of title.”⁵⁹ A great deal has been written emphasizing how the common law system of limitation differs from the civil law system of acquisitive prescription.⁶⁰ The point is not often made, however, that adverse possession, in the hands of at least some judges, looks remarkably like acquisitive prescription, without quite the civilian emphasis on bona fides.⁶¹ Whether this result was foreseen by the framers of the 1623 statute is hard to know. The notion of prescription was, however, not unknown to them; it had been brought into English law by Bracton to compensate for the fact that the common law of his day had no system of limitation that applied to someone claiming a nonpossessory right to the land of another.⁶² The preamble to the 1623 statute states twin purposes “avoiding of suits” and “quieting of men’s estates.”⁶³ The former idea is clearly derived from the notion of limitation, but the latter certainly smacks of prescription.

The question which I am suggesting needs further exploration is not whether a “reception” of Roman law was threatened in the 16th or 17th centuries, nor whether the institutions of the civil law, their courts, and the body of civil lawyers themselves were stronger than recent research would suggest they were.⁶⁴ Nor am I suggesting that at least the main elements in the movement for law reform were motivated by a desire to abandon the “barbaric” common law for the more “elegant” civil law.⁶⁵ The evidence seems quite convincing that there was no real danger of reception, that the civil law institutions never posed a serious threat to the common law, and that the motivation for the most thoughtful of the reform writing was not an intellectual but a practical one. What I am suggesting needs more study is what role the learned law played in shaping the reactions of the English legal system, a system concededly dominated by common lawyers, to the felt need for reform.

In the latter part of the 17th century and in the 18th, the academic civilians on the Continent abandoned the idea of getting the Digest as such accepted as an authoritative body of law in the courts and began instead to use the civil law as a means for determining certain first principles of law—what we might today call fundamental Western legal ideas and what they called natural law.⁶⁶ The abrasive contact between the civil law taught in the academies, the non-civil law espoused in the courts, and the diverse human conflicts which call for resolution led thoughtful men to search for first principles. That contact occurred in England at many times, most notably in the 16th and early 17th centuries, and it is the effect of this contact that ought to be more fully explored.

⁵⁹ See generally 3 AMERICAN LAW OF PROPERTY §§ 15.1–15.14, at 755–831 (A.J. Casner ed. 1952).

⁶⁰ See, e.g., B. NICHOLAS, AN INTRODUCTION TO ROMAN LAW 120–30 (1962).

⁶¹ See, e.g., Taylor v. Horde, 1 Burr. 60, 97 Eng. Rep. 190 (K.B. 1757) (Mansfield, L.C.J.); cf. City of Rock Springs v. Sturm, 39 Wyo. 494, 273 P. 908 (1929).

⁶² See W. HOLDSWORTH, AN HISTORICAL INTRODUCTION TO THE LAND LAW 279–86 (1927).

⁶³ 21 Jac. 1, c.16, preamble.

⁶⁴ See, e.g., Ives, *The Common Lawyers in Pre-Reformation England*, 18 TRANS. ROYAL HIST. SOC’Y 145 (5th ser. 1968).

⁶⁵ See pp. 131–33, on the attitude of the humanists. See generally D. VEALL, *supra* note 56, for what the reformers were after.

⁶⁶ See A. PASSERIN D’ENTREVES, NATURAL LAW 51–64 (2d ed. 1970); B. NICHOLAS, *supra* note 60, at 50–51.

B. THE LETTER OF PAUL TO THE CHURCH IN ROME

1:1–3:31, 7:1–8:11, 12:1–13:14 in JERUSALEM BIBLE, NEW TESTAMENT (New York, 1966), pp. 267–91 [Footnotes omitted.]†

Address

1 ¹From Paul, a servant of Christ Jesus who has been called to be an apostle, and specially chosen to preach the Good News that God ²promised long ago through his prophets in the scriptures.

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³This news is about the Son of God who, according to the human nature he took, was a descendant of David: ⁴it is about Jesus Christ our Lord who, in the order of the spirit, the spirit of holiness that was in him, was proclaimed Son of God in all his power though his resurrection from the dead. ⁵Through him we received grace and our apostolic mission to preach the obedience of faith to all pagan nations in honour of his name. ⁶You are one of these nations, and by his call belong to Jesus Christ. ⁷To you all, then, who are God's beloved in Rome, called to be saints, may God our Father and the Lord Jesus Christ send grace and peace.

Thanksgiving and prayer

⁸First I thank my God through Jesus Christ for all of you and for the way in which your faith is spoken of all over the world. ⁹The God I worship spiritually by preaching the Good News of his Son knows that I never fail to mention you in my prayers, ¹⁰and to ask to be allowed at long last the opportunity to visit you, if he so wills. ¹¹For I am longing to see you either to strengthen you by sharing a spiritual gift with you, ¹²or what is better, to find encouragement among you from our common faith. ¹³I want you to know, brothers, that I have often planned to visit you—though until now I have always been prevented—in the hope that I might work as fruitfully among you as I have done among the other pagans. ¹⁴I owe a duty to Greeks just as much as to barbarians, to the educated just as much as to the uneducated, ¹⁵and it is this that makes me want to bring the Good News to you too in Rome.

The theme stated

¹⁶For I am not ashamed of the Good News: it is the power of God saving all who have faith—Jews first, but Greeks as well—¹⁷since this is what reveals the justice of God to us: it shows how faith leads to faith, or as scripture says: *The upright man finds life through faith.* [Hab 2:4]

God's anger against the pagans

¹⁸The anger of God is being revealed from heaven against all the impiety and depravity of men who keep truth imprisoned in their wickedness. ¹⁹For what can be known about God is perfectly plain to them since God himself has made it plain. ²⁰Ever since God created the world his everlasting power and deity—however invisible—have been there for the mind to see in the things he has made. That is why such people are without excuse: ²¹they knew God and yet refused to honour him as God or to thank him; instead, they made nonsense out of logic and their empty minds were darkened. ²²The more they called themselves philosophers, the more stupid they grew, ²³*until they exchanged the glory* of the immortal God for a worthless imitation, *for the image* [Ps 106:20] of mortal man, of birds, of quadrupeds and reptiles. ²⁴That is why God left them to their filthy enjoyments and the practices with which they dishonour their own bodies, ²⁵since they have given up divine truth for a lie and have worshipped and served creatures instead of the creator, who is blessed for ever. Amen!

²⁶That is why God has abandoned them to degrading passions: why their women have turned from natural intercourse to unnatural practices ²⁷and why their menfolk have given up natural intercourse to be consumed with passion for each other, men doing shameless things with men and getting an appropriate reward for their perversion.

²⁸In other words, since they refused to see it was rational to acknowledge God, God has left them to their own irrational ideas and to their monstrous behaviour. ²⁹And so they are steeped in all sorts of depravity, rottenness, greed and malice, and addicted to envy, murder, wrangling, treachery and spite. ³⁰Libellers, slanderers, enemies of God, rude, arrogant and boastful, enterprising in sin, rebellious to parents, ³¹without brains, honour, love or pity. ³²They know what God's verdict is: that those who behave like this deserve to die—and yet they do it; and what is worse, encourage others to do the same.

The Jews are not exempt from God's anger

2 ¹So no matter who you are, if you pass judgment you have no excuse. In judging others you condemn yourself, since you behave no differently from those you judge. ²We know that God condemns that sort of behaviour impartially: ³and when you judge those who behave like this while you are doing exactly the same, do you think you will escape God's judgement? ⁴Or are you abusing his abundant goodness, patience and toleration, not realising that this goodness of God is meant to lead you to repentance? ⁵Your stubborn refusal to repent is only adding to the anger God will have towards you on that day of anger when his just judgements will be made known. ⁶*He will repay each one as his works deserve.* [Ps 62:12] ⁷For those who sought renown and honour and immortality by always doing good there will be eternal

life;⁸ for the unsubmitive who refused to take truth for their guide and took depravity instead there will be anger and fury. ⁹Pain and suffering will come to every human being who employs himself in evil—Jews first, but Greeks as well; ¹⁰renown, honour and peace will come to everyone who does good—Jews first, but Greeks as well. ¹¹God has no favourites.

The Law will not save them

¹²Sinners who were not subject to the Law will perish all the same without that Law; sinners who were under the Law will have that Law to judge them. ¹³It is not listening to the Law but keeping it that will make people holy in the sight of God. ¹⁴For instance, pagans who never heard of the Law but are led by reason to do what the Law commands, may not actually ‘possess’ the Law, but they can be said to ‘be’ the Law. ¹⁵They can point to the substance of the Law engraved on their hearts—they can call a witness, that is, their own conscience—they have accusation and defence, that is, their own inner mental dialogue. ¹⁶... on the day when, according to the Good News I preach, God, through Jesus Christ, judges the secrets of mankind.

¹⁷If you call yourself a Jew, if you really trust in the Law and are proud of your God, ¹⁸if you know God’s will through the Law and can tell what is right, ¹⁹if you are convinced you can guide the blind and be a beacon to those in the dark, ²⁰if you can teach the ignorant and instruct the unlearned because your Law embodies all knowledge and truth, ²¹then why not teach yourself as well as the others? You preach against stealing, yet you steal; ²²you forbid adultery, yet you commit adultery; you despise idols, yet you rob their temples. ²³By boasting about the Law and then disobeying it, you bring God into contempt. ²⁴As scripture says: *It is your fault that the name of God is blasphemed among the pagans.* [Is 52:5 LXX]

Circumcision will not save them

²⁵It is a good thing to be circumcised if you keep the Law; but if you break the Law, you might as well have stayed uncircumcised. ²⁶If a man who is not circumcised obeys the commandments of the Law, surely that makes up for not being circumcised? ²⁷More than that, the man who keeps the Law, even though he has not been physically circumcised, is a living condemnation of the way you disobey the Law in spite of being circumcised and having it all written down. ²⁸To be a Jew is not just to look like a Jew, and circumcision is more than a physical operation. ²⁹The real Jew is the one who is inwardly a Jew, and the real circumcision is in the heart—something not of the letter but of the spirit. A Jew like that may not be praised by men, but he will be praised by God.

God’s promises will not save them

3 ¹Well then, is a Jew any better off? Is there any advantage to being circumcised? ³A great advantage in every way. First, the Jews are the people to whom God’s message was entrusted. ³What if some of them were unfaithful? Will their lack of fidelity cancel God’s fidelity? ⁴That would be absurd. God will always be true even though everyone proves to be false; so scripture says: *In all you say your justice shows, and when you are judged you win your case.* [Ps 54:4 LXX] ⁵But if our lack of holiness makes God demonstrate his integrity, how can we say God is unjust when—to use a human analogy—he gets angry with us in return? ⁶That would be absurd, it would mean God could never judge the world. ⁷You might as well say that since my untruthfulness makes God demonstrate his truthfulness and thus gives him glory, I should not be judged to be a sinner at all. ⁸That would be the same as saying: Do evil as a means to good. Some slanderers have accused us of teaching this, but they are justly condemned.

All are guilty

⁹Well: are we any better off? Not at all: as we said before, Jews and Greeks are all under sin’s dominion. ¹⁰As scripture says:

There is not a good man left, no, not one;

¹¹*there is not one who understands,
not one who looks for God.*

¹²*All have turned aside, tainted all alike
there is not one good man left, not a single one.* [Ps 14:1–3 (rearranged)]

¹³*Their throats are yawning graves; their tongues are full of deceit.* [Ps 5:9]
Vipers’ venom is on their lips, [Ps 140:3]

¹⁴*bitter curses fill their mouths.* [Ps 10:7]

¹⁵*Their feet are swift when blood is to be shed,*

¹⁶*wherever they go there is havoc and ruin.*

¹⁷*They know nothing of the way of peace, [Is 50:7–8]*

¹⁸*there is no fear of God before their eyes. [Ps 36:1]*

¹⁹Now all this that the Law says is said, as we know, for the benefit of those who are subject to the Law, but it is meant to silence everyone and to lay the whole world open to God's judgement; ²⁰and this is because *no one can be justified in the sight* [Ps 143:2] of God by keeping the Law: all that law does is to tell us what is sinful.

The revelation of God's Justice

²¹God's justice that was made known through the Law and the Prophets has now been revealed outside the Law, ²²since it is the same justice of God that comes through faith to everyone, Jew and pagan alike, who believes in Jesus Christ. ²³Both Jew and pagan sinned and forfeited God's glory, ²⁴and both are justified through the free gift of his grace by being redeemed in Christ Jesus ²⁵who was appointed by God to sacrifice his life so as to win reconciliation through faith. In this way God makes his justice known; first, for the past, when sins went unpunished because he held his hand; ²⁶then, for the present age, by showing positively that he is just, and that he justifies everyone who believes in Jesus.

What faith does

²⁷So what becomes of our boasts? There is no room for them. What sort of law excludes them? The sort of law that tells us what to do? On the contrary, it is the law of faith, ²⁸since, as we see it, a man is justified by faith and not by doing something the Law tells him to do. ²⁹Is God the God of Jews alone and not of the pagans too? Of the pagans too, most certainly, ³⁰since there is only one God and he is the one who will justify the circumcised because their faith and justify the uncircumcised through their faith. ³¹Do we mean that faith makes the Law pointless? Not at all: we are giving the Law its true value. [...]

The Christian is not bound by the Law

⁷ ¹Brothers, those of you who have studied law will know that laws affect a person only during his lifetime. ²A married woman, for instance, has legal obligations to her husband while he is alive, but all these obligations come to an end if the husband dies. ³So if she gives herself to another man while her husband is still alive, she is legally an adulteress; but after her husband is dead her legal obligations come to an end, and she can marry someone else without becoming an adulteress. ⁴That is why you, my brothers, who through the body of Christ are now dead to the Law, can now give yourselves to another husband, to him who rose from the dead to make us productive for God. ⁵Before our conversion our sinful passions, quite unsubdued by the Law, fertilised our bodies to make them give birth to death. ⁶But now we are rid of the Law, freed by death from our imprisonment, free to serve in the new spiritual way and not the old way of a written law.

The function of the Law

⁷Does it follow that the Law itself is sin? Of course not. What I mean is that I should not have known what sin was except for the Law. I should not for instance have known what it means to covet if the Law had not said *You shall not covet*. [Ex 20:17] ⁸But it was this commandment that sin took advantage of to produce all kinds of covetousness in me, for when there is no Law, sin is dead.

⁹Once, when there was no Law, I was alive; but when the commandment came, sin came to life ¹⁰and I died: the commandment was meant to lead me to life but it turned out to mean death for me, ¹¹because sin took advantage of the commandment to mislead me, and so sin, through that commandment, killed me.

¹¹The Law is sacred, and what it commands is sacred, just and good. ¹²Does that mean that something good killed me? Of course not. But sin, to show itself in its true colours, used that good thing to kill me; and thus sin, thanks to the commandment, was able to exercise all its sinful power.

The inward struggle

¹⁴The Law, of course, as we all know, is spiritual; but I am unspiritual; I have been sold as a slave to sin. ¹⁵I cannot understand my own behaviour. I fail to carry out the things I want to do, and I find myself doing the very things I hate. ¹⁶When I act against my own will, that means I have a self that acknowledges that the Law is good, ¹⁷and so the thing behaving in that way is not my self but sin living,

in me. ¹⁸The fact is, I know of nothing good living in me—living, that is, in my unspiritual self—though the will to do what is good is in me, the performance is not, ¹⁹with the result that instead of doing the good things I want to do, I carry out the sinful things I do not want. ²⁰When I act against my will, then, it is not my true self doing it, but sin which lives in me.

²¹In fact, this seems to be the rule, that every single time I want to do good, it is something evil that comes to hand. ²²In my inmost self I dearly love God's Law, but ²³I can see that my body follows a different law that battles against the law which my reason dictates. This is what makes me a prisoner of that law of sin which lives inside my body.

²⁴What a wretched man I am! Who will rescue me from this body doomed to death? ²⁵Thanks be to God through Jesus Christ our Lord!

In short, it is I who with my reason serve the Law of God, and no less I who serve in my unspiritual self the law of sin.

The life of the spirit

8 ¹The reason, therefore, why those who are in Christ Jesus are not condemned, ²is that the law of the spirit of life in Christ Jesus has set you free from the law of sin and death. ³God has done what the Law, because of our unspiritual nature, was unable to do. God dealt with sin by sending his own Son in a body as physical as any sinful body, and in that body God condemned sin. ⁴He did this in order that the Law's just demands might be satisfied in us, who behave not as our unspiritual nature but as the spirit dictates. ⁵The unspiritual are interested only in what is unspiritual, but the spiritual are interested in spiritual things. ⁶It is death to limit oneself to what is unspiritual; life and peace can only come with concern for the spiritual. ⁷That is because to limit oneself to what is unspiritual is to be at enmity with God: such a limitation never could and never does submit to God's law. ⁸People who are interested only in unspiritual things can never be pleasing to God. ⁹Your interests, however, are not in the unspiritual, but in the spiritual, since the Spirit of God has made his home in you. In fact, unless you possessed the Spirit of Christ you would not belong to him. ¹⁰Though your body may be dead it is because of sin, but if Christ is in you then your spirit is life itself because you have been justified; ¹¹and if the Spirit of him who raised Jesus from the dead is living in you, then he who raised Jesus from the dead will give life to your own mortal bodies through his Spirit living in you. [...]

Spiritual Worship

12 ¹Think of God's mercy, my brothers, and worship him, I beg you, in a way that is worthy of thinking beings, by offering your living bodies as a holy sacrifice, truly pleasing to God. ²Do not model yourselves on the behaviour of the world around you, but let your behaviour change, modelled by your new mind. This is the only way to discover the will of God and know what is good, what it is that God wants, what is the perfect thing to do.

Humility and charity

³In the light of the grace I have received I want to urge each one among you not to exaggerate his real importance. Each of you must judge himself soberly by the standard of the faith God has given him. ⁴Just as each of our bodies has several parts and each part has a separate function, ⁵so all of us, in union with Christ, form one body, and as parts of it we belong to each other. ⁶Our gifts differ according to the grace given us. If your gift is prophecy, then use it as your faith suggests; ⁷if administration, then use it for administration; if teaching, then use it for teaching. ⁸Let the preachers deliver sermons, the almsgivers give freely, the officials be diligent, and those who do works of mercy do them cheerfully.

⁹Do not let your love be a pretence, but sincerely prefer good to evil. ¹⁰Love each other as much as brothers should, and have a profound respect for each other. ¹¹Work for the Lord with untiring effort and with great earnestness of spirit. ¹²If you have hope, this will make you cheerful. Do not give up if trials come; and keep on praying. ¹³If any of the saints are in need you must share with them; and you should make hospitality your special care.

Charity to everyone, including enemies

¹⁴Bless those who persecute you: never curse them, bless them. ¹⁵Rejoice with those who rejoice and be sad with those in sorrow. ¹⁶Treat everyone with equal kindness; never be condescending but make real friends with the poor. Do not allow yourself to become self-satisfied. ¹⁷Never repay evil with evil but let

everyone see that you are interested only in the highest ideals. ¹⁸Do all you can to live at peace with everyone. ¹⁹Never try to get revenge; leave that, my friends, to God's anger. As scripture says: *Vengeance is mine—I will pay them back*, [Dt 32:35] the Lord promises. ²⁰But there is more: *If your enemy is hungry, you should give him food, and if he is thirsty, let him drink. Thus you heap red-hot coals on his head.* [Pr 25:21–22] ²¹Resist evil and conquer it with good.

Submission to civil authority

13 ¹You must all obey the governing authorities. Since all government comes from God, the civil authorities were appointed by God, ²and so anyone who resists authority is rebelling against God's decision, and such an act is bound to be punished. ³Good behaviour is not afraid of magistrates; only criminals have anything to fear. If you want to live without being afraid of authority, you must live honestly and authority may even honour you. ⁴The state is there to serve God for your benefit. If you break the law, however, you may well have fear: the bearing of the sword has its significance. The authorities are there to serve God: they carry out God's revenge by punishing wrongdoers. ⁵You must obey, therefore, not only because you are afraid of being punished, but also for conscience' sake. ⁶This is also the reason why you must pay taxes, since all government officials are God's officers. They serve God by collecting taxes. ⁷Pay every government official what he has a right to ask—whether it be direct tax or indirect, fear or honour.

Love and law

⁸Avoid getting into debt, except the debt of mutual love. If you love your fellow men you have carried out your obligations. ⁹All the commandments: *You shall not commit adultery, you shall not kill, you shall not steal, you shall not covet*, [Ex 20:13–17] and so on, are summed up in this single command: *You must love your neighbour as yourself.* [Lv 19:18] ¹⁰Love is the one thing that cannot hurt your neighbour; that is why it is the answer to every one of the commandments.

Children of the light

¹¹Besides, you know 'the time' has come: you must wake up now: our salvation is even nearer than it was when we were converted. ¹²The night is almost over, it will be daylight soon—let us give up all the things we prefer to do under cover of the dark; let us arm ourselves and appear in the light. ¹³Let us live decently as people do in the daytime: no drunken orgies, no promiscuity or licentiousness, and no wrangling or jealousy. ¹⁴Let your armour be the Lord Jesus Christ; forget about satisfying your bodies with all their cravings. [...]

C. OUTLINES OF THREE LEGAL HISTORIES

Roman Legal History

<i>Period</i>	<i>Description</i>	<i>Politics</i>	<i>Sources of Law</i>
500–250 BC	Archaic	City-State	XII Tables
250–1 BC	Pre-Classical	Urban Empire	Statutes/Cases
1–250 AD	Classical	Principate	Cases
250–500 AD	Post-Classical	Dominate	Imperial Constitutions
550 AD	Justinian	Byzantine	Code

English Legal History

<i>Period</i>	<i>Description</i>	<i>Politics</i>	<i>Sources of Law</i>	<i>Roman Influence</i>	<i>Continental Contrast</i>
600–1150	Age of Tort	Tribal->Feudal Monarchy	Barbarian Codes, Custom	Almost non-existent	Weak
(1000?, 1066?) 1150–1300	Age of Property	Feudal monarchy	Custom, Case Law, Statute	Strong on Method	Same
(1250) 1300–1500 (1602)	Age of Trespass	National monarchy	Case Law	Weak	Quite Strong
(1375) 1500–1700	Age of Equity	Absolute Monarchy-> Const. Monarchy	Case Law, Statute	Strong in spots	Strong
1700–1900	Age of Reform	Const. monarchy	Case law, Some Codification	Submerged but there	Very strong

Continental Legal History

<i>Period</i>	<i>Description</i>	<i>Politics</i>	<i>Roman</i>	<i>Canon</i>	<i>Customary/National</i>
450–1100	Early Middle Ages	Barbarian Invasions,	Romano-barbarian Codes	Collections	Barbarian Codes
1100–1250	High Middle Ages	Feudalism, Feudal monarchy	CJC-glossators	Gratian->decretists Papal decretals	Coutumiers
1250–1500	Later Middle Ages	National monarchy	CJC-commentators, <i>Consilia</i>	Decretalists->encyclopedic jurists	Coutumiers and statutes
1450–1550	Renaissance	Absolutism	Humanists	Councils, <i>Consilia</i>	Codification of custom, Reception
1550–1750	Early Modern	Absolute monarchy	Natural law	Papal bureaucracy, Handbooks	“Institutes” and statutes
1700–1900	Modern	Revolution	Pandectists, Historical School	Codification	Codification

D. JUSTINIAN'S INSTITUTES

J.I.1.1pr-1

Justice is the set and constant purpose which gives to every man his due. Jurisprudence is the knowledge of things divine and human, the science of the just and the unjust.

J.I.1.1.3-4

The precepts of the law are these: to live honestly, to injure no one, and to give every man his due. The study of the law consists of two branches, law public, and law private. The former relates to the welfare of the Roman State; the latter to the advantage of the individual citizen. Of private law then we may say that it is of threefold origin, being collected from the precepts of nature, from those of the law of nations, or from those of the civil law of Rome.

J.I.1.2.12

The whole of the law which we observe relates either to persons, or to things, or to actions. And first let us speak of persons: for it is useless to know the law without knowing the persons for whose sake it was established.

J.I.2.1pr

In the preceding book we have expounded the law of Persons: now let us proceed to the law of Things. Of these some admit of private ownership, while others, it is held, cannot belong to individuals: for some things are by natural law common to all, some are public, some belong to a society or corporation, and some belong to no one. But most things belong to individuals, being acquired by various titles, as will appear from what follows.

J.I.2.6pr

It was a rule of the civil law that if a man in good faith bought a thing, or received it by way of gift, or on any other lawful ground, from a person who was not its owner, but whom he believed to be such, he should acquire it by usucapion—if a movable, by one year's possession, and by two years' possession if an immovable, though in this case only if it were in Italian soil;—the reason of the rule being the inexpediency of allowing ownership to be long unascertained. The ancients thus considered that the periods mentioned were sufficient to enable owners to look after their property; but we have arrived at a better opinion, in order to save people from being over-quickly defrauded of their own, and to prevent the benefit of this institution from being confined to only a certain part of the empire. We have consequently published a constitution on the subject, enacting that the period of usucapion for movables shall be three years, and that ownership of immovables shall be acquired by long possession—possession, that is to say, for ten years, if both parties dwell in the same province, and for twenty years if in different provinces; and things may in these modes be acquired in full ownership, provided the possession commences on a lawful ground, not only in Italy but in every land subject to our sway.

J.I.2.9.6

So much at present concerning the modes of acquiring rights over single things: for direct and fiduciary bequests, which are also among such modes, will find a more suitable place in a later portion of our treatise. We proceed therefore to the titles whereby an aggregate of rights is acquired. If you become the successors, civil or praetorian, of a person deceased, or adopt an independent person by adrogation, or become assignees of a deceased's estate in order to secure their liberty to slaves manumitted by his will, the whole estate of those persons is transferred to you in an aggregate mass.

J.I.3.1.13

Let us now pass on to obligations. An obligation is a legal bond, with which we are bound by a necessity of performing some act according to the laws of our State. The leading division of obligations is into two kinds, civil and praetorian. Those obligations are civil which are established by statute, or at least are sanctioned by the civil law; those are praetorian which the praetor has established by his own jurisdiction, and which are also called honorary. By another division they are arranged in four classes, contractual, quasi-contractual, delictal, and quasi-delictal. And, first, we must examine those which are contractual,

and which again fall into four species, for contract is concluded either by delivery, by a form of words, by writing, or by consent: each of which we will treat in detail.

J.I.4.1pr

Having treated in the preceding Book of contractual and quasi-contractual obligations, it remains to inquire into obligations arising from delict. The former, as we remarked in the proper place, are divided into four kinds; but of these latter there is but one kind, for, like obligations arising from real contracts, they all originate in some act, that is to say, in the delict itself, such as a theft, a robbery, wrongful damage, or injury.

J.I. 4.6pr

The subject of actions still remains for discussion. An action is nothing else than the right of suing before a judge for what is due to one.