

Review from last time: **14.** Incorporeal are things that are intangible, such as exist merely in law, for example an inheritance, a usufruct, obligations however contracted. It matters not that corporeal things are comprised in an inheritance, or that the fruits gathered from land (subject to a usufruct) are corporeal, or that what is due under an obligation is commonly corporeal, for instance land, a slave, money; for the rights themselves, of inheritance, usufruct, and obligation, are incorporeal. Incorporeal also are rights attached to urban and rural lands. Examples of the former are the right to raise one's building and so obstruct a neighbour's lights, or that of preventing a building from being raised lest neighbouring lights be obstructed, also the right that a neighbour shall suffer rain-water to pass into his courtyard or into his house in a channel or by dripping; also the right to introduce a sewer into a neighbour's property or to open lights over it. Examples of rights attached to rural lands are the various rights of way for vehicles, men, and beasts; also that of watering cattle and that of watercourse. Such rights, whether of urban or rural lands, are called servitudes.

II. acquisition of things <i>per universitatem</i> –2.97–9			
si qui heredes facti sumus (hereditas)		bonorum possessio–scattered	bonorum emptio–3.77–81 adoptio, conventio in manum, [in iure cessio]–3.81–87
1. ex testamento –2.100–190	2. [legacies and <i>fideicommissa</i>] –2.191–289	3. ab intestato –3.1–76	

1. ex testamento–2.100–190		
form and capacity–2.101–13	requirements for validity–2.114–51a	heirs–2.152–90

1.a. forms of <i>testamentum</i> –2.101–11		
calatis comitiis–§101	in procinctu–§101	per aes et libram–§§102–4
restrictions on witnesses–§§105–8 soldiers' wills–§§105–8		

“**103.** The two earlier kinds of will have fallen into desuetude, and that executed *per aes et libram* has alone remained in use. Its present scheme, however, is other than what it was of old. For then the *familiae emptor*, that is he who by mancipation received the estate from the testator, used to occupy the position of heir, and consequently it was to him that the testator gave instructions as to the distribution of the estate after his death; but at the present day one person is instituted heir and the legacies are charged on him, whilst another figures formally as *familiae emptor* in imitation of the ancient system.

“104. The proceedings are as follows: The testator, as in other mancipation, takes five Roman citizens above puberty to witness and a scale-holder, and, having previously written his will on tablets, formally mancipates his *familia* to someone. In the mancipation the *familiae emptor* utters these words: ‘I declare your *familia* to be subject to your directions and in my custody, and be it bought to me with this bronze piece and’ (as some add) ‘this bronze scale, to the end that you may be able to make a lawful will in accordance with the public statute.’ Then he strikes the scale with the bronze piece and gives it to the testator as the symbolic price. Next the testator, holding the tablets of his will says as follows: ‘According as it is written in these tablets and on this wax, so do I give, so do I bequeath, so do I call to witness, and so, *Quirites*, do you bear me witness.’ This utterance is called the nuncupation, *nuncupare* meaning to declare publicly; and the testator is considered by these general words to declare and confirm the specific dispositions which he has written on the tablets of his will.”

b. fragment concerning women's wills (the whole § may have dealt with capacity)–§§112–13

c. requirements for validity: *testamenti factio* and *secundum regulam iuris civilis*–§§114–46

initial requirements

heredis institutio–§§116–17	auctoritas tutoris–§§118–23 [with excursus on <i>bonorum possessio secundum tabulas</i>]	exheredatio–§§123–9
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subsequent requirements

postumi	subsequent will–§144	capitis deminutio–§§145–6
agnatio–§§130–7	quasi agnatio–§§138–43	

d. *bonorum possessio cum re*–§§147–51a

e. *heredes*–§§152

necessarii–§§153–5	sui et necessarii–§§156–60	extranei and <i>cretio</i> –§§161–73
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f. *substitutio*

vulgaris—§§174–8	pupilaris—§§179–84
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2. legacies and fideicommissa—2.191–289

a. legacies			
vindication—§§193–200	damnation—§§201–8	permission—§§209–15	preception—§§216–23
II. Furia (c. 200 B.C.), Voconia (169 B.C.), Falcidia (40 B.C.), Fufia Canina (2 B.C.)—lawyers' legal history—§§224–28			

void legacies				
ante heredis institutionem – §§229–31	post mortem heredis –§§223–4	poenae nomine – §§209–15	incertae personae – §§216–23	his qui in potestate sunt –§§216–23

b. fideicommissa		
of hereditas—§§247–59	of res singulae—§§260–2	of libertas—§§263–7
differences between fideicommissa and legacies—note parallels to the development of the use—§§268–89		

3. succession ab intestato—3.1–76	
a. ab ingenuis—§§1–38	b. a libertis—§§39–76

a. ab ingenuis					
[iure civili]			[iure honorario] bonorum possessio		
sui—§§1–9	agnati—§§9–16	gentiles—§17	emendandi or impugnandi iuris civilis—§§1–38	confrimandi iuris civilis—§§1–38	bonorum possessio sine re— §§1–38

b. a libertis—§39

cives—§54	Latini—§§55–72	cives tamquam Latini—§§72–3	dediticii—§§74–6
men—§§40–42		women—§§43–44	
descendants of patrons—§§45–48			

descendants of patronesses-§§49-53

other forms of acquisition <i>per universitatem</i> -3.77-87		
bonorum emptio-§§77-81	adoptio <i>and</i> conventio in manum- §§82-84	in iure cessio <i>of an</i> hereditas- §§185-7

Obligations-in general-§88	
ex contractu-3.88-181	ex delicto-3.182-225