

gives four gnomic references, nude of fact, to *Vita Food Inc. v. Unus Shipping Co.*²⁴

In sum, one's disappointment with the book under review is not so much that it is a bad book; it is that it is not better, that it is a tool, a reference point, not a work to engage the mind and stimulate the imagination.

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The Institutes of Justinian. Text, Translation and Commentary, by J.A.C. Thomas, Cape Town, Juta & Co. Ltd., 1975, xviii + 355 pp. (inc. indices). \$25.00 (limp).

Text Book of Roman Law, by J.A.C. Thomas, Amsterdam, North Holland Publishing Co., 1976, xix + 562 pp. (inc. index). \$17.20 (limp).

There has long been a shortage of good Roman Law text books which give an intelligent person a general, but scholarly, conspectus of the whole of Roman private law. There are — and, oddly enough, increasingly so — any number of advanced works, but on Roman law generally, and on specific topics; but these are of little assistance to a novice. There are also one or two excellent primers (of which Nicholas's *Introduction to Roman Law* is the most outstanding example) which are designed to do no more than whet the appetite of one *cupidus legum*. There is now almost nothing in between. Until recently one had Lee's *Elements of Roman Law*, but — alas — the fourth edition of that work is now out of print.

Professor Thomas's two works on the subject are, therefore, doubly to be welcomed: once, because of what they are; and a second time, because they fill the gap left by Lee's disappearance.

His *Text Book* is, by far, the more successful of the two. It covers the field formerly covered by Lee, and usually in a more satisfactory and thorough manner. For example, his accounts of both the *ius publice respondendi* (pp. 43-45) and of the Sabinian-Proculian Schools (pp. 45-47) give some inkling of the problems which those topics involve, whereas a reader of Lee would be left innocent of complication. Likewise, the theory that in Roman law a statute can fall into desuetude and thereafter cease to have legal effect is treated in a way which suggests the difficulties of too readily embracing it (p. 29). However, in the reviewer's opinion, there are some points where the work falls a little short. There is no really adequate discussion of *infamia* and the manifold difficulties involved in that concept; in the chapter on servitudes, no mention is made of the so-called "abnormal servitudes", i.e. the few praedial servi-

²⁴ [1939] A.C. 277.

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tudes which seem to be servitudes in gross, capable of existing in the absence of a dominant tenement, and the problem of "negative servitudes" is somewhat lightly skimmed over; in the chapter on mandate, no mention whatever is made of the *mandatum post mortem*, and in the same chapter no reference is made to the revolutionary change in the concept of *interesse* which Sabinus introduced when he invented the *mandatum qualificatum*. Again, he deals with intestate succession in the traditional manner after first giving an account of testamentary succession, although many of the rules governing the latter (e.g., the rules as to disherison) are only explicable if one has already mastered the rules of intestate succession. But, whatever its imperfections, there is no doubt that the book is comprehensive, scholarly, clear, well-informed and useful.

Professor Thomas's *Institutes* is not quite so successful. It gives the text of the *Institutes* in parallel columns, Latin and English, and then provides a short commentary on each title. However, there are two defects. The first is that the commentary is so short and compressed as to be too vague and imprecise for the serious scholar and too allusive and fragmented for a student coming to Roman law for the first time. The second is that the English translation is, all too often, simply not good English. Why, for example, translate "*quadruplum*" in 4.2.pr. as "the fourfold"?

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