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An Introduction to Roman Law, by J. K. B. M.
Nicholas. London: Oxford University Press, 1962.
Pp. xv, 281.

Walter J. Wadlington III

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BOOK REVIEWS

An Introduction to Roman Law, by J. K. B. M. Nicholas. London: Oxford University Press, 1962. Pp. xv, 281.

With several notable exceptions the course in Roman law is absent, and not even noticeably so, from the curriculum of the average United States law school. The latest edition of West's Directory of Law Teachers did not even include Roman law or civil law as a category in its separate listing of teachers according to subject. Though some Roman law coverage may be afforded in courses labeled "Comparative Law," I cannot help but recall that at a meeting held by the Parker School at Columbia last fall a substantial and interested group of professors devoted three days to panel discussions on the teaching of comparative law and international business transactions and during this period the subject of Roman law was hardly touched. In fact it appeared that most of those assembled considered Roman law outside the scope of comparative law studies today, or else that there simply was not time to teach it in a two- or three-hour course to students who want to learn about foreign legal systems so that they can use them in business.

Under conditions such as this, the need for a basic text which can be used for self-teaching as well as in the classroom becomes stronger than ever. And Professor Nicholas' *Introduction to Roman Law* is one of the best answers which could be provided for such a need.

Departing somewhat from the traditional Roman law textbook approach of simply expanding and commenting on the Institutes of Gaius or Justinian, Professor Nicholas, who is All Souls Reader in Roman Law in the University of Oxford, gives in his own clear and readable style an explanation of the principal features of the Roman law system. Regularly interspersed in the text are contrasts with the English common law and also observations on where the Roman inheritance in modern civil law (particularly French and German law) may be found. The result of this approach is to make the book far more palatable as well as understandable for the reader who has had no prior Roman law background.

The first fifty or so pages are almost too concise, containing

a constitutional and historical background, an explanation of the sources of law, an outline of the work of Justinian, and an account of the revival of Roman law in the West. The remainder of the text is divided into four parts: Persons, Property, Obligations, and Successions. The part on Obligations is particularly well done, though it is unfortunate that greater space could not have been devoted to the area of quasi-contract.¹ There is little or no reference to the early Roman law, and no separate treatment of the law of actions (which is covered briefly in the introductory part under sources of law). But these omissions should not detract from the value of the text as an introductory work; and if it is used in conjunction with a class, such material can easily be filled in by lecture.

One characteristic of the book that may perturb some readers, but which is clearly in keeping with the author's purpose, is the lack of any extensive footnoting or cross-referencing either to institutes or digest or to other basic sources. It must be remembered that this is a basic text and that its great contribution lies in the author's own thorough understanding and clear expression of his ideas on the principal features and characteristics of Roman law. Because of this, it clearly deserves a place on the shelf of both the beginner and the expert.

*Walter J. Wadlington III**

Constitutionalism in Germany and the Federal Constitutional Court, by Edward C. McWhinney, with an Introduction by Gerhard Leibholz (Leyden: A. W. Sythoff, 1962). Pp. 71.

In the seven short chapters of this excellent study Professor McWhinney explores the salient features and growing trends in German constitutionalism, with particular attention to the new institution of Judicial Review and its relation to traditional German legal concepts and practices. This book represents McWhinney's most recent effort in his comparative studies of judicial review and constitutional change. The reader can only profit therefore from the broader setting in which an analysis of the Federal Constitutional Court of West Germany is made.

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1. Readers who are interested in the field of unjust enrichment would be well advised to read Professor Nicholas' comprehensive, two-part article on this subject, *Unjustified Enrichment in Civil Law and Louisiana Law*, 36 *TUL. L. REV.* 605 (1962), 37 *TUL. L. REV.* 49 (1962).