might have provided a more apposite case study. As it is, H.'s efforts to integrate Tacitus, by noting his late-antique readers (pp. 143–4), struck me as forced. The material on Tacitus surely deserves an audience, but is this the right place for it?

A final chapter summarizes H.'s theses on history and silence in the context of Flavianus' rehabilitation. By emphasizing certain aspects of his career and disgrace, and passing over others in silence, the inscription represents a renegotiation of a painful episode in the senate's recent past. As such, it encapsulates the complex processes of transformation that characterize late antiquity as a whole. Thus H.'s conclusion vindicates his project as a whole: he has taken a brief text and made it speak volumes on issues of profound importance. It is refreshing to find a book on late antiquity that so honestly uses insights drawn from modern literary theory and semiotics, and does so, for the most part, without descending into obscure verbiage. Readers may not agree with all of H.'s conclusions, not least because in seeking to recover what has been passed over in silence he must resort repeatedly to speculation; but this book is so packed with interesting ideas that anyone who reads it will do so to their considerable benefit.

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THE THEODOSIAN CODE

J. F. MATTHEWS: *Laying Down the Law. A Study of the Theodosian Code*. Pp. xvi + 314. New Haven and London: Yale University Press, 2001. Cased, £27.50. ISBN: 0-300-07900-1.

At the outset of *Laying Down the Law*, John Matthews states that his book will attempt to provide 'an understanding of the nature of the [Theodosian] Code and how it was produced', and that it will be 'about the Code itself and not about the Roman Empire portrayed in its pages' (p. vii). The nervous reader might anticipate dry exegesis of legalistic minutiae, particularly when M. goes on to express the concern that this will be his 'least "popular" book' (p. xi). Neither M. nor the nervous reader should be concerned. *Laying Down the Law* is quintessentially a Matthewsian book, sharing many of the virtues and much of the style of his *Western Aristocracies and Imperial Court A.D. 364–425* (Oxford, 1975) and *The Roman Empire of Ammianus* (London, 1989). Just as *Western Aristocracies* began with the deportment of the Roman élite in the 380s and *Ammianus* with Ephrem of Nisibis pouring scorn on Julian's corpse in 363, so *Laying Down the Law* begins (Chapter 1) with a vivid evocation of a moment in time: the visit to Constantinople in 437 of Rufius Antonius Agrypinus Volusianus and Anicius Acilius Glabrio Faustus, distinguished envoys from the Senate in Rome. Before they could return home in 438, Volusianus died, so it was left to Faustus to present to the Senate a copy of the Theodosian Code that he had received from the hands of the eastern emperor Theodosius II himself. M.'s exposition of this event takes in others. Volusianus and Faustus were not the only westerners at Theodosius' court in 437–8: the western emperor Valentinian III was there, too, for his marriage to Theodosius' daughter Eudoxia. Soon afterwards, Theodosius' empress Eudocia embarked on a pilgrimage to the Holy Land, thereby fulfilling a vow she had made before her daughter's wedding. By placing these diverse happenings side by side, M. argues that they are not 'proof only of the obvious fact that Constantinople was a great capital city in which all sorts of events took place'; rather 'They are expressions of the complex cultural setting in which the Theodosian

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Code was conceived and implemented, and of the still more complex world that is reflected in its contents' (pp. 8–9). From the outset, then, M. makes his agenda plain: the Code is as much a document of cultural as legal history. Furthermore, and contrary to M.'s warning, the reader will find out much about the 'about the Roman Empire portrayed in [the Code's] pages'—although not in the terms of the way the Code is usually exploited, as a source for late Roman administrative history. Instead, M. focuses on the manner of the Code's conception, compilation, and dissemination. *Laying Down the Law* is no dry as dust history of law, but a riveting illumination of the place of law and its codification in the culture of the late empire.

M. seeks to explain why the work of codification (which originally envisioned a broader project than that represented by the Code on its own) should have taken place at all in the reign of Theodosius II. He suggests a variety of stimuli (e.g. interest in the unity of the empire, a concern to preserve Latin as the language of law and administration, the presence of interested and qualified individuals in Constantinople) that, as with his analysis of the circumstances in which the Code was promulgated, emphasize how embedded the project was in fifth-century culture (pp. 19–30). Chapter 3 provides a thorough and illuminating analysis of the astonishing acclamations that greeted the Code's promulgation at Rome in 438. Such acclamations, which M. roots firmly in the discourse of late antique urban life and politics, expressed a public desire to maintain the integrity of the Code's text. The manner in which laws were drafted, issued, and displayed is the focus of Chapter 7. By drawing on a wide range of evidence (both from earlier periods, and from sources not usually exploited by Roman historians, such as Rabbinical commentaries), M. demonstrates the manner in which law was made and communicated. In particular, he highlights the shortcomings of the Code as a source for the form in which laws were actually delivered.

None of this means that M. shies away from the complexities usually associated with the study of Roman law; indeed, his analyses of law as a cultural phenomenon depend on detailed studies of several difficult cruces. The first part of Chapter 2 considers the distinctions between *leges* and *ius*, and the status of (for example) imperial judgements, decrees, and rescripts as law. Chapter 5 addresses the question of how we come to have a text of the Code at all. Here, and in his study of the Sirmondian constitutions (Chapter 6), M. stresses the complex manuscript history of late Roman legislation. A related matter is the patent reality that the texts of laws contained in the Code were often heavily edited prior to their inclusion. Hence the work of the Code's editors looms large. M. emphasizes the difficulties facing the editors (Chapter 4). These are amply demonstrated by M.'s comparison of the texts of those Sirmondian constitutions that have parallels in the Code (Chapter 6) and of four texts from the Code that are preserved in different (and more extensive) versions elsewhere (Chapter 9). Such comparisons prompt suggestions about the methods used by the editors (Chapter 8). M. stresses the difficulties they encountered in assembling the Code from a wide variety of documentary sources from diverse geographical provenances. In so doing, M. suggests solutions for why the Code contains errors and inconsistencies even where the same law is cited in different places within it.

The book is admirably produced given the complexity of the presentation of parallel texts required by Chapters 6, 8, and 9. It might have been helpful, however, if there had been a list of the various tables in which M. summarizes several of his more involved arguments. Similarly, there is no forewarning that there are plates at pp. 14–15 and pp. 174–5. But these are minor quibbles with an outstanding volume. M. is an excellent guide to how the texts in the Code came to be there. *Laying Down the Law* will prove indispensable to anyone seeking to use the Code as a source, above all in its

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clear warnings that the texts of individual laws have undergone metamorphosis in the interval between their promulgation and their incorporation into the Code. By situating the Code so firmly in its cultural context, and by making it a manifestation of that culture, M. rescues the work from becoming the preserve of primarily legal historians, and emphasizes the extent to which it can reveal by its very existence the attitudes and conduct of late Roman government generally.

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A JURISTIC FESTSCHRIFT

L. De Ligt, J. De Ruiter, E. Slob, J. M. Tevel, M. Van De Vrugt, L. C. Winkel (edd.): *Viva vox iuris Romani. Essays in Honour of Johannes Emil Spruit*. Pp. xi + 440, ills. Amsterdam: J. C. Gieben, 2002. Cased, €98. ISBN: 90-5063-308-0.

For the last fifteen years Jop Spruit of Utrecht has been supervising a translation of the *Corpus Iuris Civilis* into Dutch while also serving as the principal translator. This Festschrift to Spruit includes thirty-nine studies relating to the *CIC*, and ordered according to the *CIC*. Some of the studies focus on the legal texts themselves and are therefore concerned with the classical law or the law of late antiquity. Other studies focus on the use of the texts in later ages. As reviewer, I acknowledge my limits and select certain studies for mention; that I praise certain studies while omitting even to mention others means nothing.

G. C. J. J. van den Bergh combines law and life wonderfully in an essay on grape picking ('Legal trouble concerning a vintage'). In the text under review (D.19.1.25, Julian 54 *dig*.), the owner of a vineyard hinders his buyer from picking the grapes he had sold him, but the buyer's remedies recited by Julian are not easy to explain. The condition of the text, van den Bergh argues, was wrongly criticized by an earlier generation of scholars who simply did not understand how grapes were bought and sold. On the understanding that these grapes were sold by auction, that the seller set the terms, that the terms were construed against the seller, and that the seller's interference damaged the reputation of the buyer—all of these points amply supported in the sources—the text becomes beautifully clear.

The study of Roman law has benefited enormously from the discovery of a banker's archive of legal documents from Puteoli: the documents date from the 1st century A.D., and though discovered in 1959, it is only recently that they have been edited with the care they deserve. One document, treated in a study outside this collection (D. Monteverdi, in *Labeo* 42 [1996], 245), challenges current opinion on the *iussum domini*, an act by which a master renders himself liable *in solidum* under a contract made by a slave or son-in-power. The *iussum* has usually been regarded as a kind of 'authorization', issued to the dependant and enabling him to make contracts that bind the *paterfamilias*, but a Puteoli tablet shows the *iussum* being issued as the contract is concluded. This suggests the *iussum* was not an authorization, but a kind of guarantee, given to assure the third party. From these findings, L. de Ligt ('The Early History of the *actio quod iussu*') concludes that the *actio quod iussu* could not have been introduced by the Praetor before the *actio de peculio*—an action whose shortcomings the *actio quod iussu* partly remedies—thus confirming that Ulpian (29 *ed*., D.15.1.1.1) has indeed recited these actions in their historically correct order.

In the court procedure of the late republic and early empire ('formulary procedure'),

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