Restitution, G.H.L. Fridman and James G. McLeod, Toronto: The Carswell Company Limited, 1982. Pp. *lxviii*, 649. $85.00 (cloth).

This book is *not* about *resitutio in integrum* which is a rule defining contract and tort damages as "that sum of money which will put the party who has been injured, or who has suffered, in the same position as he would have been in if he had not sustained the wrong for which he is now getting his compensation or reparation".[1]

Rather it is about claims for restitution which arise in situations in which the law deems it just and equitable that one party should make some payment or transmit some object to another party because otherwise the former will gain an unjustified benefit at the expense of the other. The origins of this idea derive from the Roman principle *nemo ex aliena iactura locupletior fieri debet* of which the authors seem unaware.

The claim for restitution is based not on a promise or contract, nor on any implied undertaking or agreement to pay, but solely on equity, on the unfairness and unreasonableness of permitting one party to take the benefit of another's efforts without a duty to restore the balance. The principle is no more complex than that and its technical applications are examined exhaustively in this volume.

The restitutionary remedial claim may take a number of forms: it may be a claim for specific objects, for the recovery of cash, for the recouping of expenses incurred, for compensation for volunteer services or for reward for assistance rendered in necessitous circumstances.[2]

In short, the restitution principle is of Roman origins and was adopted by the Common Law, that most eclectic of the world's major systems, and has grown within the inherent equitable jurisdiction of the Courts and has developed along with the traditional common law remedies of damages and judicial orders.

The writers are to be congratulated on compiling this volume which is an expository text of value for students and members of the Bench and Bar. It tells all that is known about restitution between St. John's and Victoria leaving out the Province of Quebec. The book is not a pioneering work since that was done by Dawson and Palmer[3] in the United States and by Goff and Jones[4] in the United Kingdom. Also the writing has neither the intellectual strength nor the vigour of the restitutionary sections of Dan Dobb's excellent treatise.[5] Nevertheless it does give us an examination in

[1] *Livingstone* v. *Rawyards Coal Co.* (1880), 5 A.C. 25, 39 per Lord Blackburn.

[2] Walker, Civil Remedies (Edinburgh. 1974).

[3] Cases on Restitution (Indianapolis. 1969).

[4] The Law of Restitution (2nd ed. London. 1978).

[5] Remedies (St. Paul. 1973).

one volume of all of the Anglo-Canadian cases. Thus the leading authorities are wrung out for every drop of dicta, the judgments cited again and again throughout the text. This is inevitable when the numbers of leading cases are relatively few. So *Can. Aero, Delgman, Re Diplock, Fibrosa, West Coast Securities, More* v. *University of Ottawa, Nicholson, Pettkus, Sinclair* v. *Brougham* and a few others are dutifully examined and re-examined. In other words, with better organization the volume could have been two hundred pages shorter.

The authors' grasp of the modern authorities is surer than their undersstanding of the civilian origins of the principle and it is just as well that they decided not to venture into the law of Quebec. However, any serious student of restitution would be well advised to examine not only the Roman beginnings but also should trace the development of the notion in the codified systems of Quebec and Louisiana and read the growth of the idea in the uncodified common law influenced systems such as Scotland and South Africa. In this manner the earnest student would comprehend the civilian mode of operation from principle to decision and contrast it with the common law method of evolution from precedent to rationale. In this area of restitution the civilian tradition is clearly superior.

In conclusion, as an expository text the book is acceptable but it fails to offer a profound analysis of what is recognized today as a vibrant principle of our modern law.

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