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## IN MEMORIAM: PETER BIRKS 1941-2004

Ph J Thomas (University of Pretoria)

Peter Birks, the Regius Professor of Civil Law at the University of Oxford and Fellow of All Souls College, was a versatile jurist. Amongst the many positions he held was membership of the editorial board of *Fundamina*, while his passion for legal education fueled his commitment to the Society of Public Teachers of Law, which culminated in his presidency of the Society of Legal Scholars (as the Society is now known).

Described as an intellectual giant of his generation, Peter Birks will be remembered for his profound and prolific legal scholarship. His international reputation originated in his championship of Roman law in Great Britain and his contributions at the conferences of the Societe d'Histoire du Droit and the Societe Internationale "Fernand de Visscher" pour l'Histoire des Droits de l'Antiquite. For the latter group he organised a superb conference at Oxford in 1993 and nobody enjoying his hospitality there will forget the visit to the Ashmolean Museum or the chamber music concert at All Souls.

Birks was educated at Trinity College (Oxford) and University College London. From 1985 to 1988 he was Professor of Civil Law at the University of Edinburgh and from 1988 to 1989 Professor at the University of Southampton. In 1989 he was called to Oxford to the Chair of Roman Law. In 1987 he published together with Grant McLeod a translation of the *Institutes* of Justinian. His career validates the long-forgotten belief that the better the foundation one has in Roman law, the better jurist one becomes, since Birks' *fama* will be based on his contributions to contemporary English law.

His scholarship in Roman law led to his interest in comparative law and his passion for unjust enrichment. Birks shared the opinion of Gaius that obligations have three possible sources: in Birks' view consent, wrong or unjust enrichment. He thus became a protagonist in the development of a new area of English law, the law of restitution, and the Romanist in him based his creation on principles. His latest book *Unjust Enrichment* (2003) reverts back to the civilian approach (*sine causa*) which he had previously rejected, and shows that far from being calcified in his own opinions, Peter Birks retained his open mind after sixty and never ceased his quest for knowledge. As he wrote: "Almost everything of mine now needs calling back for burning. St Paul was relatively lucky. In one flash of blinding light he knew that he must change sides. In the university the awful sense of having been wrong comes on more slowly and with it the still more awful realization that one must befriend those whom one has persecuted and persecute those who are one's friends. But universities are for getting to the bottom of things, come what may."