Zeitschrift des Max-Planck-Instituts für europäische Rechtsgeschichte

Rechts Rg geschichte

Rechtsgeschichte

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http://www.rg-rechtsgeschichte.de/rg9
Zitiervorschlag: Rechtsgeschichte Rg 9 (2006)

Rg 9 2006 232 – 234

Abstracts

A Christal Palace for New York
Cultural Transfer and National Identity in the USA before the Civil War (p. 12)

On July 14, 1853 the second World Exhibition opened its gates in New York. Regarding architecture and themes a simple transfer of the London concept was intended. The shift from London to New York was based on a series of more or less successful translations and transfer-processes. The concept of World Exhibition had to be adapted according to organisation, administration, town planning and in general according to the social, economic and cultural settings of the young republic of the USA. The essay analyzes how processes of adaptation worked, which essential changes they produced and how successful they were in the end. Therefore it works out the specific example of a European-American transfer-process in the 19th century and intends to underline the inherent laws and specific paths of development of such processes.

Ursula Lehmkuhl

The Grandchildren's Journey to the Fathers
Rethinking the Concept of Reception (p. 36)

Although the concept of »reception« is being applied again and again to the history of law, it always seems to shy away from a coherent theoretical understanding. Even in recent studies positivist ideas of »reception« as a kind of transfer dominate the discussion and traditionally have a huge impact on the view how Greek and Roman law are related to each other.

An exceptionally striking example of a Roman »reception« of Greek law is presented by the story in 3.33 of Livy's monumental history of Rome, »Ab urbe condita«. Here, a Roman legation is sent into Greek territory to familiarize itself with Greek law in order to advise the newly founded Roman legislative council, the Decemvirate.

The essay attempts to bring forward an aesthetic reading of Livy's story in order to establish an understanding of the »reception« of law as a performative »staging« of history; that is a »staging« that works by creating a complex interplay of aesthetic techniques and political interests.

Benjamin Kram, Andree Michaelis

Between Rhetoric and Encyclopaedia
Medieval Jurists and their Linguistic Ontologism (p. 46)

The juridical reflection on origins clearly took place in a context dominated by a culture that was both of theological extraction and rhetorical formation. The »textual« culture of the theologians soon became the practice of interpretation of the jurists, who substituted the Justinian text for the Biblical one in their exegetic attitudes, but who nevertheless – at least initially – maintained intact the essentially rhetorical nature of their interpretative *accessus* to the textus of the Justinian *corpus*. It was with that interpretative tendency that the central role reserved for the maxim »nomina sunt consequentia rerum« emerged, which postulated the existence of a system of necessary correspondences between the *nomina iuris* and empirical reality which the jurist strove to fit into the interpretative structure of his own analytic discourse. Originally, mediaeval man considered the *nomina iuris* as the immediate and direct consequence of their ontological basis. To his eyes, the names of things were precisely the key to the privileged awareness of reality; knowing single physical entities meant first discovering their names. This also held true for the activity of the jurist, who essentially depended precisely on the *nomina iuris* of his work of constructing a normative system.

Besides, the etymological logic of the mediaeval *derivatores*, from the Pisan Uggucione to the Genoese Balbi, to Papias vocabulista, had as its characteristic note precisely this essential basis in the field of sensory perception: the process of making names was not simply a formal, linguistic matter but was above all material and concrete. As in the hierarchy of being one thing derived from another, and similarly, consequently – and almost as a mirror image – in the structure of the language one name derived from another.

The *derivatio* was the final fruit of the specific mutation of practical reality, the organisation of which was expressed in each single nomen. And the names were considered real and proper »normative objects«, as they might be called, which functioned as in the world of things and everyday experience.

And the premise of that embryo of ideology lay precisely in this: that the jurist and the rhetorician, while »etymologising« and discussing the *nomina iuris*, seemed rather to be describing the autonomous semantic content of the nomina themselves, while in reality they were manipulating them – and without excessive scruples – and so were passing off as objective and incontrovertible normative prescription what was, in truth, the pure fruit of their conceptual elaborations.

Mario Montorzi

Conversation with Gaius, Jurist in Asia Minor
Based on manuscripts left by Cn. Pompeius Mela
(part 1) (p. 60)

The only book that has survived the »classical age« of Roman law (between 50 B.C. and 250) as the relic of an extremely productive period in legal history is the introduction to private law published by Gaius under the title *Institutiones* during the reign of the Emperor Marcus Aurelius. Our knowledge of this jurist who became more famous in his afterlife than amongst his contemporaries, having a considerable impact on codification in 18th and 19th century Europe, is extremely limited; thus the question arises: Who is Gaius? Theodor Mommsen, after collecting scarce evidence, pleaded for Gaius being a scholar in the remote provinces far from Rome – probably in Asia minor – being in close contact with a small but powerful group of Roman jurists. The text is a variant of this theory: »Conversation with Gaius« is scientific fiction at its best: abundant in material, most plausible in the setting – and maybe the best possible depiction of a scholarly chat in a paradise garden for all those who want to get into conversation with Gaius.

Johannes E. Spruit

Westeastern foundations
On this side and beyond (p. 88)

Foundations are an old dream. Not only religions but also lawyers dream this dream. The latter have suffered from natural law's resigning and the loss of an earthly or heavenly order of values leaving behind nothing but positive law. These modern laws, reinterpretated again and again and once again are the expression of formalistic, relativistic, contradictory way of existence. Apart from politics, law is the second important social communication area, in which the uncertainty remains so persistent. These are reasons why ideas and literature come up in a time – that is simultaneously facing the upsurge of fundamantalism – and are filled with the longing for absolute, plain and uniform principles in law; a longing that deserves closer examination.

Rainer Maria Kiesow

The Rhetoric Ensemble (p. 125)

While it is trivial to state that law is communicated by means of media, it is not trivial to state that the media of law is neither the proper nor the improper of laws' *proprium*. The considerations on the limit of juridicial sense, once dominated by hermeneutics, are nowadays altered by a focus on the speciality of a media – e. g. the printing revolution, the rise of newly founded journals and the oral tradition. There is an old, always renewed conflict around the borders of legal systems. The thesis that modern rational abstraction of law is threatened by the postmodern iconic turn and its invasion of images has become very popular and widespread. The essay argues that humanistic instructions are the key scripts in the genealogy of media – and leave us with a better understanding of the iconic turn. The categories to understand medial transformation of law are to be found in the intersections of rhetoric and system – rooted in humanism. The essay therefore introduces a historical enquiry by Heiner Mühlmann on Leon Battista Alberti. It is to give an example from the horizon on which the ideas about media of law are to be seen.

Fabian Steinhauer

Periods of Life and Law (p. 138)

Within the Max Planck Society numerous projects are now concerned with questioning »age« from variant perspectives. As a part of this »network on aging« a group of scholars in Frankfurt is examining relations between law and age in history. Even natural sciences have no definite answer to the question how and why men grow old. Thus disciplines in science and in historical and social research have realized that there ist no aging in laboratory: Aging is a matter of social context – resulting in the question: »Why do we grow old?«. Legal historians can blend in well with their questions like: »What is it that *makes* us old?« We are inclined to believe that law and political framework have a great part in deciding who is old and who is young in society. Legal historians look out for age limits, age groups and the legal design of timespans in life. Social aging is not linear but comes in steps, age limits and age-specific norms are dramatic turning points. The Frankfurt research group thus focuses on legal aging since the end of the 18th century up until today.

Stefan Ruppert

The Historical Grand Narrative
New Editions on Constitutional History (p. 148)

In the course of the past three years no less than seven works have been added to the syntheses of European and German constitutional history which were published around the millennium. These new works include three one-volume editions intended for the use of colleges, two multi-volume editions in print and in microfiche form, and two compact discs. Two larger projects document German and European constitutional texts of the »long« 19th century; one of these projects plans to expand to the point of offering a complete edition of the constitutions of the modern world. This article analyses the criteria for the inclusion of the different constitutions, their presentation, the comments and the indices. It looks at the respective scholarly value of the various editions and it touches on the question of the editing format. In addition the reasons behind this significant upsurge in editions of constitutions are discussed.

Ewald Grothe