DAUBE NOSTER ESSAYS IN LEGAL HISTORY FOR DAVID DAUBE

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Engaging with Foreign Law Bloomsbury Publishing Mainstream historians in recent decades have often treated formal categories and rules as something to be 'used' by individuals, as one might use a stick or stone, and the gains of an earlier legal history are often needlessly set aside. Anthropologists, meanwhile, have treated rules as analytic errors and categories as an imposition by outside powers or by analysts, leaving a very thin notion of 'practice' as the stuff of social life. Philosophy of an older vintage, as well as the work of scholars such as Charles Taylor, provides fresh approaches when applied imaginatively to cases beyond the traditional ground of modern Europe and North America. Not only are different kinds of rules and categories open to examination, but the very notion of a rule can be explored more deeply. This volume approaches rules and categories as constitutive of action and hence of social life, but also as providing means of criticism and imagination. A general theoretical framework is derived from analytical philosophy, from Wittgenstein to his critics and beyond, and from recent legal thinkers such as Schauer and Waldron. Case-studies are presented from a broad range of periods and regions, from Amazonia via northern Chad, Tibet, and medieval Russia to the scholarly worlds of Roman law, Islam, and Classical India. As the third volume in the Legalism series, this collection draws on common themes that run throughout the first two volumes: Legalism: Anthropology and History and Legalism: Community and Justice, consolidating them in a framework that suggests a new approach to rule-bound systems.

Borkowski's Textbook on Roman Law Walter de Gruyter

Aulus Gellius originated the modern use of 'classical' and 'humanities'. His Attic Nights, so named because they began as the intellectual pastime of winter evenings spent in a villa outside Athens, are a mine of information on many aspects of antiquity and a repository of much early Latin literature which would otherwise be lost; he took a particular interest in questions of grammar and literary style. The whole work is interspersed with interesting personal observations and vignettes of second-century life that throw light on the Antonine world. In this, the most comprehensive study of Gellius in any language, Dr Holford-Strevens examines his life, his circle of acquaintances, his style, his reading, his scholarly interests, and his literary parentage, paying due attention to the text, sense, and content of individual passages, and to the use made of him by later writers in antiquity, the Middle Ages, the Renaissance, and more recent times. It covers many subject areas such as language, literature, history, law, rhetoric, medicine; light is shed on a wide range of problems in Greek as well as Latin authors, either in the main text or in the succinct but wide-ranging footnotes. In this revised edition every statement has been reconsidered and account taken of recent work by the author and by others; an appendix has been added on the relation between the literary trends of Latin (the so-called archaizing movement) and Greek (Atticism) in the second century AD, and more space has been given to Gellius' attitudes towards women, as well as to recurrent themes such as punishment and embassies. The opportunity has been taken to correct or excise errors, but otherwise nothing has been removed unless superseded by more recent publications.

Dalhuisen on Transnational and Comparative Commercial, Financial and Trade Law Volume 3 Martinus Nijhoff Publishers

The delict of iniuria is among the most sophisticated products of the Roman legal tradition. The original focus of the delict was assault, although iniuria-literally a wrong or unlawful act-indicated a very wide potential scope. Yet it quickly grew to include sexual harassment and defamation, and by the first century CE it had been re-oriented around the concept of contumelia so as to incorporate a range of new wrongs, including insult and invasion of privacy. In truth, it now comprised all attacks on personality. It is the Roman delict of iniuria which forms the foundation of both the South African and-more controversially-Scots laws of injuries to personality. On the other hand, iniuria is a concept formally alien to English law. But as its title suggests, this book of essays is representative of a species of legal scholarship best described as 'oxymoronic comparative law', employing a concept peculiar to one legal tradition in order to interrogate another where, apparently, it does not belong. Addressing a series of doctrinal puzzles within the law of assault, defamation and breach of privacy, it considers in what respects the Roman delict of iniuria overlaps with its modern counterparts in England, Scotland and South Africa; the differences and similarities between the analytical frameworks employed in the ancient and modern law; and the degree to which the Roman proto-delict points the way to future developments in each of these three legal systems.

The Structure of Tort Law OUP Oxford

Ars Docendi et Scribendi: Essays in honour of Johan Scott Edited by the Faculty of Law, University of Pretoria ISBN: 978-1-920538-76-7 Pages: 243 Print version: Available Electronic version: Free PDF available About the publication "Festschrift" - a collection of articles by the colleagues, former students, etc. of a noted scholar, published in his or her honour. During his travels abroad Johan Scott built up a wide network of international scholars who over time became a valued circle of friends, many of whom spent enriching moments in his company and who contributed to this Festschrift. Contributors were requested to write in their home language, and furthermore

to submit their contributions for publication in other journals worldwide, specifically accrediting this Festschrift in order to expand access worldwide to the wonderful contributions written in honour of our colleague. Great scholars like Johan never retire. They might go fishing more than they could in the past, but his calling of being a true teacher will never fade. Scholars like Johan understand that the present and the future are inevitably linked to the past, and although education depends on talent and performance, it should always serve to build character and a vision for future generations. Table of Contents Dedication Acknowledgments Publications of Johan Scott Essays Sessie en subrogasie Susan Scott Revisiting the maxim imperitia culpae adnumeratur in context of medical negligence – can the maxim be extended to include the application of luxuria? Pieter Carstens The Omissions in Oppelt Duard Kleyn & Emile Zitzke Skeepshouer-geboue – roerend of onroerend? I Knobel Wrongfulness: derailed or on track? Johann Knobel Fremdsprachige Rechtsbegriffe und Auslegung von internationalen Verträgen Gabriele Koziol Die actio de deiectis vel effusis in Südafrika und Österreich Helmut Koziol, Wien/Graz Die regsrelevansie van owerspel: quo vadis? Johann Neethling & Johan Potgieter Die impak van die Nasionale Kredietwet op die Sakereg en Saaklike Sekerheid JM Otto How the European Court of Human Rights changed the life of surrogacy children Prof Dr Walter Pintens De Nederlandse Natuurschoonwet: voorbeeld voor Zuid-Afrika? Prof Sebastiaan Roes Borgstelling, saaklike sekerheidsregte én die verpligtinge van ’n medehoofskuldenaar – ’n werklik merkwaardige uitspraak JC Sonnekus The Hopeless Case of Climate Change: Can we still keep the floodgates shut? Jaap Spier & Daniël Witte Die Consumer Protection Act: Laaste spyker in voetstootsbedinge se doodskis? Philip N Stoop Protection of trust beneficiaries through the application of basic trust principles Anton van der Linde Taming the chimera: The treatment of “wrongfulness” in South African delict scholarship Daniel Visser Enkele aspekte rakende ’n retensiereg en ’n verhuurder se stilswyende hipoteek Dr M Wiese Personal tributes André Boraine Christof Heyns Aeenna Malan Chris Pretorius Neil van Schalkwyk Caroline Van Schoubroeck Bibliography

Thinking Like a Lawyer Oxford University Press

In classical scholarship, the presence of legal language in love poetry is commonly interpreted as absurd and incongruous. Ovid's legalisms have been described as frivolous, humorous, and ornamental. Law and Love in Ovid challenges this wide-spread, but ill-informed view. Legal discourse in Latin love poetry is not incidental, but fundamental. Inspired by recent work in the interdisciplinary field of law and literature, Ioannis Ziogas argues that the Roman elegiac poets point to love as the site of law's emergence. The Latin elegiac poets may say 'make love, not law', but in order to make love, they have to make law. Drawing on Agamben, Foucault, and Butler, Law and Love in Ovid explores the juridico-discursive nature of Ovid's love poetry, constructions of sovereignty, imperialism, authority, biopolitics, and the ways in which poetic diction has the force of law. The book is methodologically ambitious, combining legal theory with historically informed closed readings of numerous primary sources. Ziogas aims to restore Ovid to his rightful position in the history of legal humanism. The Roman poet draws on a long tradition that goes back to Hesiod and Solon, in which poetic justice is pitted against corrupt rulers. Ovid's amatory jurisprudence is examined vis- à -vis Paul's letter to the Romans. The juridical nature of Ovid's poetry lies at the heart of his reception in the Middle Ages, from Boccaccio's Decameron to Forcadel's Cupido iurisperitus. The current trend to simultaneously study and marginalize legal discourse in Ovid is a modern construction that Law and Love in Ovid aims to demolish.

The Oxford Handbook of European Legal History Bloomsbury Publishing

The dislocations of the worldwide economic crisis, the necessity of a system of global justice to address crimes against humanity, and the notorious 'democratic deficit' of international institutions highlight the need for an innovative and truly global legal system, one that permits humanity to re-order itself according to acknowledged global needs and evolving consciousness. A new global law will constitute, by itself, a genuine legal order and will not be limited to a handful of moral principles that attempt to guide the conduct of the world's peoples. If the law of nations served the hegemonic interests of Ancient Rome, and international law served those of the European nation-state, then a new global law will contribute to the common good of all humanity and, ideally, to the development of durable world peace. This volume offers a historical-juridical foundation for the development of this new global law.

An Index to Common Law Festschriften BRILL

Volume one, Stoicism in classical Latin literature (09327-3), approaches its subject from the standpoint of intellectual history, examining how Stoicism was used by Roman thinkers, for what purposes, and how they correlated it with their other sources. Volume two, Stoicism in Christian Latin thought through the sixth century, (09328-1), focuses on how a particular Latin Christian author used Stoic ideas, to what ends, and how they were associated in his mind with the other doctrines he had to work with. Annotation copyrighted by Book News, Inc., Portland, OR

Legalism Bloomsbury Publishing

This book brings together a wide range of contributors from across the common law world to identify and debate the principal moral and systemic challenges facing private law in the remaining part of the twenty-first century. The various contributions identify serious problems relating to complexity and overload, threats to research and education, the law's unintelligibility, the unsatisfactory nature of the law reform process and a general lack of public engagement. They consider the respective future roles of statutes, codes, and judge-made law (in the form of both common law and equitable rules). They consider how best to organise the private law system internally, and how to co-ordinate it externally with other public and economic systems (human rights, regulation, insurance markets and social security frameworks). They address the challenges for private law presented by new forms of technology, and by modern demands for the protection of new and intangible forms of moral interest, such as interests in privacy, 'vindication' and 'personal choice'. They also engage with the critical contemporary debates about access to, and the privatisation of, civil justice. The work is designed as a source of inspiration and reference for private lawyers, as well as legislators, policy-makers and students.

Legalism: Anthropology and History University of Michigan Press

The recent financial crisis has questioned whether existing contracts may be adapted, terminated or renegotiated as a result of unexpected circumstances. The question is not a new one. In medieval times the notion of clausula rebus sic stantibus was developed to cope with such situations, and Germany introduced the theory of Wegfall der Gesch ä ftsgrundlage. In England, the Coronation cases provided one possible answer. This comparative study explores the possibility of classifying jurisdictions as 'open' or 'closed' in this regard.

The Aramaic and Egyptian Legal Traditions at Elephantine Bloomsbury Publishing

Previous editions published : 2nd (2004) and 1st (2000).

The Historical Foundations of Grotius ’ Analysis of Delict Edinburgh University Press

The Historical Foundations of Grotius ’ Analysis of Delict explores the origins of the generalised model of liability for wrongdoing presented in the writings of Grotius, analysing the extent to which earlier civilian and theological doctrines shaped his views.

The Stoic Tradition from Antiquity to the Early Middle Ages, Volume 1. Stoicism in Classical Latin Literature Penn State Press

Originally published in 1984, Literature and Law in the Middle Ages is a comprehensive bibliography on the subject of literature and law in the Middle Ages. The collection was composed with the notion that early society regarded literature, law and religion from the same single point of view. It discusses how for many medieval poets, their art existed primarily to enforce obedience to God and king and suggests that society viewed law as a chief instrument of the divine will in human affairs. The book ’ s comprehensive introduction argues that eventually, these areas of diverged and became separate; this bibliography covers the broad period of the Middle Ages from the 5th to the 15th century and examines this period of transition during which, the process was not yet complete. This bibliography will be vital resource for those studying medieval studies, both in literature and history.

Principle and Pragmatism in Roman Law BRILL

Dealing specifically with the Roman roots of the civilian tradition, this book confines itself to the traditional core areas of the law

of obligations and its subject matter is purely the substantive private law.

Law and Love in Ovid Clarendon Press
This volume contains Birks' notes on a series of lectures on the Roman law of obligations delivered in 1982. They give a comprehensive insight into his views on the topic, which are relevant in both a Roman context and also from a modern English perspective. The book examines, in turn, the law of contracts with its general principles and rule applications to the transactions mentioned in the Institutes; the law of delicts; and finally the miscellany of residual obligations from which the later categories of quasi-contracts and quasi-delicts, but also the modern law of unjust enrichment, emerged.

Methods of Comparative Law Rowman & Littlefield
This book presents a developed theory of how national lawyers can approach, understand, and make use of foreign law. Its theme is pursued through a set of detailed essays which look at the courts as well as business practice and, with the help of statistics, demonstrate what type of academic work has any impact on the 'real' world. Engaging with Foreign Law thus aims to carve out a new niche for comparative law in this era of globalisation, and may also be the only book which deals in some depth with both private and public law in countries such as England, Germany, France, South Africa, and the United States.

The Stoic Tradition from Antiquity to the Early Middle Ages Cambridge University Press
Raymond Westbrook (1946 – 2009) was acknowledged by many as the world ' s foremost expert on the legal systems of the ancient Near East and a leading scholar in the study of biblical and classical law. This collection brings together the 44 most important articles that Westbrook published in the 25 years following the completion of his Ph.D. at Yale University in 1982. The first volume, The Shared Tradition, contains 16 articles that lay out Westbrook ' s theory of a common legal tradition that spanned the ancient world from Mesopotamia to Israel and even to Greece and Rome. The second volume, Cuneiform and Biblical Sources, provides 28 articles that demonstrate Westbrook ' s unique method of legal analysis that he applied to the numerous texts he worked with as an Assyriologist and biblical scholar, from law codes to contracts to narratives. Each volume contains its own comprehensive bibliography, as well as subject, author, and text indexes. Together, they represent the life ' s work of one of the most important legal historians of our era.

Aufstieg und Niedergang der r ö mischen Welt: Principat. v Cambridge University Press
" It stands alone in its field not only due to its comprehensive coverage, but also its original methodology. Although it appears to be a weighty tome, in fact, in light of its scope, it is very concise. While providing a wealth of intensely practical information, its heart is highly conceptual and very ambitious... likely to become a classic text in its field. "
(American Journal of Comparative Law)
Volume 3 of this new edition deals with the transnationalisation of contract law. It compares common law and civil law concepts, noting the origin of the one in commercial law and of the other in consumer law, and identifies the different attitudes to protection, risk management, and risk distribution. The volume also explores future directions in international commerce and finance, as well as the potential, effects, and challenges of e-commerce, the blockchain, and the emergence of the smart contract. The complete set in this magisterial work is made up of 6 volumes. Used independently, each volume allows the reader to delve into a particular topic. Alternatively, all volumes can be read together for a comprehensive overview of transnational comparative commercial, financial and trade law.

Ars Docendi et Scribendi: Essays in honour of Johan Scott Oxford University Press
In this collection of essays, contributors act on John Crook's injunction to 'think like lawyers' about Roman law and Rome—and also ancient Greece, Persia, and the modern world. A literary strand runs through the book alongside its legal and historical strands.

The Law of Obligations Cambridge University Press
This edited collection presents an interesting and original series of essays on the roles of principle and pragmatism in Roman private law. The book traverses key areas of Roman law to examine the explanatory power of - and delineate interactions between - abstract, doctrinal principle, and pragmatic, real-world problem-solving. Essays canvassing sources of law, property, succession, contracts and delicts sketch the varied roles of theoretical narratives - whether internal to Roman doctrine or derived from external influence - and of practical, policy-based solutions in the jurists' thought. Principled reasoning in Roman juristic argument ranges from safeguarding commerce, to the priority of acts or intentions in property transactions, to notions of pietas, to Platonic conceptions of the market. Pragmatism is discernible in myriad ways, from divergence between form and substance, to extension of legal rules for economic, social or political utility, to emphasis on what parties did rather than what they said. The distinctive contribution of the book is its survey of different manifestations of principle and pragmatism across Roman private law. The essays - by eminent as well as emerging academics - will stimulate debate about the roles principle and pragmatism play in juristic argument, and will be of interest to both scholars and students of Roman law.

Private Law in the 21st Century Bloomsbury Publishing
Borkowski's Textbook on Roman Law provides a clear and concise overview of Roman private law and civil procedure, supported by numerous extracts in translation from the Digest and Institutes. The book has been written with undergraduate students in mind and covers all key areas commonly taught on Roman law courses at undergraduate level.