The Formation and Transmission of Western Legal Culture

150 Books that Made the Law in the Age of Printing
Studies in the History of Law and Justice

Volume 7

Series editors
Georges Martyn
University of Ghent, Gent, Belgium
Mortimer Sellers
University of Baltimore, Baltimore, Maryland, USA

Editorial Board
António Pedro Barbas Homem, Universidade de Lisboa
Emanuele Conte, Università degli Studi Roma Tre
Gigliola di Renzo Villata, Università degli Studi di Milano
Markus D. Dubber, University of Toronto
William Ewald, University of Pennsylvania Law School
Igor Filippov, Moscow State University
Amalia Kessler, Stanford University
Mia Korpiola, Helsinki Collegium for Advanced Studies
Aniceto Masferrer, Universidad de Valencia
Yasutomo Morigiwa, Nagoya University Graduate School of Law
Ulrike MüBig, Universität Passau
Sylvain Soleil, Université de Rennes
James Q. Whitman, Yale Law School
The purpose of this book series is to publish high quality volumes on the history of law and justice.

Legal history can be a deeply provocative and influential field, as illustrated by the growth of the European universities and the *Ius Commune*, the French Revolution, the American Revolution, and indeed all the great movements for national liberation through law. The study of history gives scholars and reformers the models and courage to question entrenched injustices, by demonstrating the contingency of law and other social arrangements.

Yet legal history today finds itself diminished in the universities and legal academy. Too often scholarship betrays no knowledge of what went before, or why legal institutions took the shape that they did. This series seeks to remedy that deficiency.

Studies in the History of Law and Justice will be theoretical and reflective. Volumes will address the history of law and justice from a critical and comparative viewpoint. The studies in this series will be strong bold narratives of the development of law and justice. Some will be suitable for a very broad readership.

Contributions to this series will come from scholars on every continent and in every legal system. Volumes will promote international comparisons and dialogue. The purpose will be to provide the next generation of lawyers with the models and narratives needed to understand and improve the law and justice of their own era.

The series includes monographs focusing on a specific topic, as well as collections of articles covering a theme or collections of article by one author.

More information about this series at http://www.springer.com/series/11794
Serge Dauchy · Georges Martyn · Anthony Musson
Heikki Pihlajamäki · Alain Wijffels
Editors

The Formation and Transmission of Western Legal Culture

150 Books that Made the Law in the Age of Printing

In collaboration with Naoko Seriu

Springer
Preface

It was around five years ago that we all first met together in Helsinki and later Ghent to discuss our mutual proposal to edit a volume, the first of its kind on an international scale, introducing a ‘canon’ of legal works that have most influenced Western legal culture and that best represent the legal literature genres of the periods covering its development. We envisaged it providing a resource for researchers working in various fields, such as law, legal history, general history, book history, history of mentalities, communications sciences, and law and literature as well as something that students and practitioners interested in learning about the roots of their trade would equally find stimulating and invaluable.

Since we could not hope to complete such an undertaking on our own we first needed to enlist the support of a scientific committee comprising eleven distinguished European and American legal historians, who together with the editors would form the steering group of the project. Prof. Martin Avenarius (University of Cologne), Prof. Emanuele Conte (University of Roma Tre), Prof. Gero Dolezalek (University of Aberdeen), Prof. Thomas Duve (University of Frankfurt, Director of the Max-Planck-Institut für europäische Rechtsgeschichte), Prof. Jean-Louis Halpérin (École Normale Supérieure, Paris), Prof. em. António Manuel Hespanha (New University of Lisbon), Prof. Dirk Heirbaut (Ghent University), Prof Michael Lobban (London School of Economics), Prof. Aniceto Masferrer (University of Valencia), Prof. Dag Michalsen (University of Oslo), Prof. Matthew Mirow (Florida International University, Miami) and Prof. Peter Oestmann (University of Münster) kindly agreed to serve and we are sincerely grateful for their generous time and input. Convening in Lille, the committee was responsible for drawing up a long list of key books that made the law and for suggesting a bank of potential contributors who could write the individual entries. The criteria for the entries were themselves the subject of much debate and suitably honed to provide a template for each contributor to write to.

While recognising the cosmopolitan and multilingual background of both legal book authors and contributors, we considered it crucial for the volume to be in English and for the focus not to be on the legal authors as such (other than a brief biography), but their prime contribution to the field. The significance of each book
was to be measured not only from today’s point of view (influenced by hindsight and posterity) but also its contemporary significance. We also wanted the project to be more than a compilation of book entries: so in addition to individual articles on the works chosen, the tome includes general introductory articles on the different genres of legal literature, treating their subject not from a national but a more global angle, including not only Europe but also the Americas and other colonial outposts of former imperial powers.

As the completed entries emerged so too did further editorial headaches, but we soldiered on and refined the volume during successive plenary meetings in Ghent, Exeter, Oslo and Oxford and via that invaluable tool of the modern communications revolution, email, and working closely with our publishers, Springer, have finally brought this massive undertaking to fruition. In addition to our dedicated team of 119 contributors, we are indebted to a number of institutions for their financial support and administrative assistance which we gratefully acknowledge here: the Academy of Finland, CNRS France, the Finnish Cultural Foundation, Ghent University, University of Exeter, University of Helsinki and University of Lille.

We would also like to thank Dr. Naoko Seriu (formerly University of Lille) for coordinating the first period of our activities, as well as Prof. Anne Simonin of the Maison Française in Oxford and Prof. Dag Michalsen of the University of Oslo for hosting one of our meetings.

Summer 2016

Serge Dauchy, CNRS – University of Lille
Georges Martyn, Ghent University
Anthony Musson, University of Exeter
Heikki Pihljamäki, University of Helsinki
Alain Wijffels, Universities of Leiden & Louvain-la-Neuve, CNRS – University of Lille
List of Contributors

AGÜERO Alejandro, CONICET-CIJS – Universidad Nacional de Córdoba (Argentina): 94
AKASHI Kinji, Kyushu University, Fukuoka (Japan): 75
ALONSO María Paz, Universidad de Salamanca (Spain): 23
AMEND-TRAUT Anja, Universität Würzburg (Germany): 113
ARABEYRE Patrick, Ecole Nationale des Chartes, Paris (France): 45
AUDREN Frédéric, CNRS – CEE, École de droit de Sciences Po, Paris (France): 131
AVENARIUS Martin, Universität zu Köln (Germany): 138
BALDUS Christian, Universität Heidelberg (Germany): 99
BARÓ Pazos Juan, Universidad de Cantabria (Spain): 92
BECK VARELA Laura, Universidad Autónoma de Madrid (Spain): 58, 111
BEHRENS Okko, Georg-August-Universität Göttingen (Germany): 121
BERCOVICI, Gilberto, Universidade de São Paulo (Brazil): 140
BIROCCHI Italo, Università Sapienza di Roma (Italy): 69, 82
BJÖRNE Lars, Turun yliopisto (University of Turku) (Finland): 137
BRIESKORN Norbert, Hochschule für Philosophie München (Germany): 48
BRYSON William Hamilton, University of Richmond (United States): 49, 135
CAÑIZARES NAVARRO Juan, Universidad CEU Cardenal Herrera, Elche (Spain): 80
CAPDEFERRO Josep, Universitat Pompeu Fabra, Barcelona (Spain): 47
CASAGRANDE Agustín, Universidad Nacional de La Plata (Argentina): 44
CAZALS Géraldine, Université de Rouen (France): 30
CHALMERS James, University of Glasgow (United Kingdom): 97
COCKS Ray, Keele University (United Kingdom): 115
CONDORELLI Orazio, Università degli Studi di Catania (Italy): 11
CONETTI Mario, Università degli Studi dell’Insibia (Italy): 9
CONTE Emanuele, Università degli Studi Roma Tre (Italy): 2, 77
CORDES Albrecht, Johann Wolfgang Goethe Universität Frankfurt am Main (Germany): 148
DANWERTH Otto, Max-Planck-Institut für europäische Rechtsgeschichte, Frankfurt am Main (Germany): 41
DAUCHY Serge, CNRS – Université de Lille (France): 84
DEBAENST Bruno, Universiteit Gent (Belgium): 134
DE BRUIN Niels, Vrije Universiteit Amsterdam (The Netherlands): 38
DE CHAMPS Emmanuelle, Université de Cergy-Pontoise (France): 95
DECOCK Wim, Katholieke Universiteit Leuven (Belgium): 24, 40
DE RUYSSCHER Dave, Vrije Universiteit Brussel (Belgium): 31
DESCAMPS Olivier, Université Paris II Panthéon-Assas (France): 101
DHONDT Frederik, Vrije Universiteit Brussel - Universiteit Gent - FWO (Belgium): 88
DILCHER Gerhard, Johann Wolfgang Goethe Universität Frankfurt am Main (Germany): 118
DOZHDEV Dmitry, Moscow School of Social and Economic Sciences (Russia): 123
DU PLESSIS Paul, University of Edinburgh (United Kingdom): 62
DURELLE-MARC Yann-Arzel, Université Paris 13 – Sorbonne Paris Cité (France): 136
DYSON Matthew, University of Oxford and Corpus Christi College, Oxford (United Kingdom): 127
FIORAVANTI Maurizio, Università degli Studi di Firenze (Italy): 139
FIORE Antonia, Università Sapienza di Roma (Italy): 1
FORD John, University of Aberdeen (United Kingdom): 68
FREDA Dolores, Università degli Studi di Napoli Federico II (Italy): 74
GARLATI Loredana, Università degli Studi di Milano Bicocca (Italy): 39
GIARO Tomasz, Uniwersytet Warszawski (Poland): 129
GIULIANI Adolfo, Università degli Studi di Perugia (Italy): 22, 37
HAFFERKAMP Hans-Peter, Universität zu Köln (Germany): 110
HALPÉRIN Jean-Louis, École Normale Supérieure, Paris (France): 124, 132, 142, 146
HARMS Andreas, SWKH Rechtsanwälte, Berlin (Germany): 143
HEIRBAUERT Dirk, Universiteit Gent (Belgium): 4, 119
HESPANHA António, Universidade Nova de Lisboa (Portugal): 60, 96
HEWETT Margaret, University of Cape Town (South-Africa): 65
HOEFLICH Michael, University of Kansas (United States): 93, 107
HUGHES Jula, University of New Brunswick, Fredericton (Canada): 125
IBBETSON David, University of Cambridge (United Kingdom): 76, 83
JOHNS Neil, University of Cambridge (United Kingdom): 13, 16
KIM Marie Seong-Hak, St. Cloud State University (United States): 20
KOCH Arnd, Universität Augsburg (Germany): 98
KOCH Sören, Universitetet i Bergen (Norway): 78, 81
LEPSIUS Susanne, Ludwig-Maximilians-Universität München (Germany): 18
LESAFFER Randall, Tilburg University (The Netherlands) and University of Leuven (Belgium): 56
LEUWERS Hervé, Université de Lille (France): 100
LITZINGER Heike Kathrin, formerly Max-Planck-Institut für europäische Rechtsgeschichte, Frankfurt am Main (Germany): 130
LOBBAN Michael, London School of Economics and Political Science (United Kingdom): 106, 109, 126
MACMILLAN Catharine, King’s College London (United Kingdom): 122
MACNAIR Mike, University of Oxford (United Kingdom): 87
MAIHOLD Harald, formerly Universität Basel (Switzerland): 26
MARTYN Georges, Universiteit Gent (Belgium): 10, 61
MARZAL Pascual, Universitat de València (Spain): 85
MASFERRER Aniceto, Universitat de València (Spain): 28
MATSUMOTO Naoko, Sophia University, Tokyo (Japan): 141
MAZZACANE Aldo, Università degli Studi di Napoli Federico II (Italy): 64
MCGLYNN Margaret, Western University, London-Ontario (Canada): 34
MEYER Christoph H.F., Max-Planck-Institut für europäische Rechtsgeschichte, Frankfurt am Main (Germany): 73
MEYER-PRITZL Rudolf, Christian-Albrechts-Universität Kiel (Germany): 89
MEYER-PRITZL Rudolf, Christian-Albrechts-Universität Kiel (Germany): 89
MIROW Matthew, Florida International University, Miami (United States): 112
MICHALSEN Dag, Universitetet i Oslo (Norway): 103
MILETTI Marco Nicola, Università degli Studi di Foggia (Italy): 21
MILLARD Eric, Université Paris-Ouest, Nanterre – La Défense (France): 149
MINNUCCI Giovanni, Università degli Studi di Siena (Italy): 42
MIROW Matthew, Florida International University, Miami (United States): 112
MODEER Kjell, Lunds Universitet (Sweden): 66
MUSSON Anthony, University of Exeter (United Kingdom): 52
OABARRO Juan, Universitat de València (Spain): 67, 70
OEstmann Peter, Westfälische Wilhelms-Universität Münster (Germany): 36, 43
Oosterhuis Janwillem, Universiteit Maastricht (The Netherlands): 117
PADOVANI Andrea, Università di Bologna (Italy): 12
PARISE Agustín, Universiteit Maastricht (The Netherlands): 105
PASCUITA Beatrice, Università degli Studi di Palermo (Italy): 7
PÉREZ MARTÍN Antonio, Universidad de Murcia (Spain): 54
PHILAJAMÅKI Heikki, University of Helsinki (Finland): 55, 120, 147
POldnikov Dmitry, National Research University Higher School of Economics, Moscow (Russia): 114
PORWANCHER Andrew, University of Oklahoma, Norman (United States): 133
PREST Wilfrid, University of Adelaide (Australia): 91
PrÉvost Xavier, Université de Bordeaux (France): 29, 46
QuadIOni Diego, Università degli Studi di Trento (Italy): 35
RAMOS VÁZQUEZ Isabel, Universidad de Jaén (Spain): 90
RAMSAY Nigel, University College London (United Kingdom): 5
REID Charles, University of St. Thomas, Minneapolis (United States): 104
ROWAN Steven, University of Missouri, St. Louis (United States): 15
RudokvAs Anton, St. Peters burg State University (Russia): 128
List of Contributors

SCHMOECKEL Mathias, Rheinische Friedrich-Wilhelms-Universität Bonn (Germany): 17, 27
SCHRÖDER Jan, Eberhard Karls Universität Tübingen (Germany): 71, 79, 102
SEIPP David J., Boston University (United States): 19
Serna Vallejo Margarita, Universidad de Cantabria (Spain): 145
STEBBINGS Chantal, University of Exeter (United Kingdom): 108
STOLLEIS Michael, Max-Planck-Institut für europäische Rechtsgeschichte, Frankfurt am Main (Germany): 59
TAMM Ditlev, Københavns Universitet (Denmark): 53, 150
TAU ANZOÁTEGUI Victor, Academia Nacional de la Historia de la República Argentina: 33
THOMAS Philip, University of Pretoria (South-Africa): 72
TREGGIARI Ferdinando, Università degli Studi di Perugia (Italy): 8
TWINING William, University College London (United Kingdom): 144
Vallejo García-Hevia José Maria, Universidad de Castilla – La Mancha (Spain): 86
Van NIFTERIK Gustaaf, Universiteit van Amsterdam (The Netherlands): 32
Van RHEE C.H. (Remco), Universiteit Maastricht (The Netherlands): 63
WAELKENS Laurent, Katholieke Universiteit Leuven (Belgium): 6
WIFFELS Alain, Katholieke Universiteit Leuven/Université Catholique de Louvain/CNRS-Université de Lille (Belgium-France): 3, 14, 50, 51
WURCH Nils, formerly Albert-Ludwigs-Universität Freiburg, now judge at the Landgericht Freiburg (Germany): 57