

ABSTRACTS

Wolfgang Brücher und H. Peter Dörrenbächer

TRANSBORDER RELATIONS BETWEEN THE SAARLAND AND LORRAINE – EXPRESSION OF A MIXED CULTURE?

Lorraine and the Saarland have an unusual potential for transborder relations. Is that the breeding-ground for a mixed culture? After an analysis of transborder commuting, relocation and investments, but also of contacts in arts and education, the answer is negative, because the relations investigated have not so far been founded primarily on a mutual interest in the neighbour's culture but on the difference of economic level between the two regions. On the one hand, this will be balanced by the influence of the European Union, but on the other, the disappearance of the Germanic dialect will cause a convergence of the language boundary with the national border. Consequently there will be an evolution to a more pronounced face-to-face of French and German culture, but also to closer contacts providing a new and, in view of increasing globalisation, attractive identity.

Alfons Bürge

THE MIXTURE OF LEGAL TRADITIONS AS A PROBLEM OF THE HISTORY OF LAW

The internal point of view within a legal tradition tends to underestimate influences of foreign legal traditions. Often continuities and discontinuities are not seen: a caesura is assumed where there isn't any and on the other hand sudden breaks in the development are overlooked. An historical and comparative approach is helpful in analysing the complexity of the situation and in better understanding contemporary law.

The first example begins with the original concept of liability in the *Code civil* of 1804 gradually being superimposed by the idea of fault. Here German legal thinking contributed considerably to a more subtle understanding. The legal treatment of labour accidents shows how the original concept bordering on an objective responsibility, and therefore favourable to the employee, was not recognised any more in the course of time. Instead of seeing the objectivisation of liability as a continuum inherent in the legislation it was wrongly interpreted as an innovation running counter to the spirit of the codification. Upon closer scrutiny from an external point of view, however, the relationship between tradition and innovation turns out to be inverted. This new perspective will have consequences for the analysis of problems in industrial and social history.

The second example, the granting of compensation for any moral or non-economic harm incurred through invasion of the right of personality [Persönlichkeitsrecht] in Germany, derives from the widely held assumption that this is a reaction to the unconstitutional Nazi state. An