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Although this text has been suspected of interpolation on the grounds that Julian could not have endorsed such a populist notion, it is difficult to see how such a view would have been any more attractive to his successors. However, many of Julian's opinions were cited by later jurists, especially Ulpian, with approval, and jurists of the caliber of Marcellus and Paul published notes on his text.

[See also Praetorian Edict.]

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PRIMARY WORKS

Puppet inscription ILS 8973; Dig. 40.2.5 (Julian's Digesta); Dig. 37.14.17pr.; D.1.2.2.53; C.Th. 11.36.26.4; C.Th. 4.4.7.9; N.Th. 21.1.5; C.J. Const. Tanta 18; C.J. 4.5.10; Jerome PL xxvi: 617–8; Ecl.iga legum; Scriptores Historiae Augustae Hadrianus.

SECONDARY WORKS


ANDREW LEWIS

JURISPRUDENCE OF CONCEPTS. Begriffsjurisprudenz (jurisprudence of concepts) is a polemical and negative German sobriquet for a jurisprudence that is removed from real life and limited to the mathematical application of terms and concepts. No jurist ever called himself a "Begriffjurist." Even though there seems to be general agreement that Begriffsjurisprudenz is something objectionable, a definition has not been agreed upon to this day.

Terminology. Three interrelated basic positions are imputed: (1) the given law has no gaps; (2) the given law can be reduced to a purely logical system of concepts ("pyramid of concepts"); and (3) new laws can be logically deduced from superior legal concepts arrived at through induction ("method of inversion"). The objections raised against these positions cite epistemological and logical naivety, obfuscation of valuations, removal from real life, and lack of consideration for legal principles governing positive law.

History of the Term. The term Begriffsjurisprudenz was used for the first time in 1884 by Rudolf von Jhering against contemporary Pandektistik (pandectism). By using the term, Jhering took aim at exaggerations far removed from reality in the coining of concepts ("construction") and the insistence on antiquated solutions ("cult of mummies"). His polemic was based on new directions in contemporary theories of science. After 1860, the rightness of a systematic connection of knowledge under the headline "Back to Kant" (first used by Otto Liebmann) was questioned just as much as the usefulness of historical research for the existing law. Furthermore, the fact that Begriffsjurisprudenz was declared the enemy illustrates the pressure for modernization that legal scholarship, which was still working with antique sources, was subjected to after 1871. The demand for values, for taking into account the "demands of commerce" and the "facts of real life," expressed certain antiformal tendencies that can be detected throughout the Western world after 1900. For example, comparable tendencies may be found in the French and Belgian criticism of the école d'exégèse (school of exegesis) and the discussions there about the abus de droit (abuse of rights); or in the realm of common law in the consequential criticism of the organic logical concept of law of the so-called classical period by O.W. Holmes and Roscoe Pound.

After 1900 in Germany, it was no longer the scholarly legal work on the casuistic antique sources that formed the centerpiece of the criticism of Begriffsjurisprudenz, but rather the work of the judge with the conceptually clear Bürgerliches Gesetzbuch (civil code). In this context, Philipp Heck criticized a development of the law that concentrated only on certain terms and concepts as Begriffsjurisprudenz. His alternative model was the use of the interests underlying the law and their values (Interessenjurisprudenz, jurisprudence of interests); the Freirechtsschule (school of free law), which came into existence at the same time, went further and demanded free and transparent values.

After 1918, the accusation inherent in Begriffsjurisprudenz changed again. Julius Binder criticized the lack of consideration of the material ties in the system of pandects as a "pyramid of concepts." Inverted according to contemporary tendencies, now the idea was an antiliberal imposition of the legislative on superpositive law. During the time of the National Socialists and into the 1960s, this perspective on Begriffsjurisprudenz was dominant, promulgated in Germany especially through the work on methodology of Karl Larenz. Regarding the judge's work, the rightness of traditional dogmatics was now countered by a view upon the "objective spirit of the order of values"
Jurisprudenz has been inextricably connected to central basic questions of methodology and legal philosophy to this day.

Did Begriffsjurisprudenz Exist? Historically, Begriffsjurisprudenz is usually located within the "historical school of law" and the "pandectism" of the nineteenth century, and the names most frequently mentioned are Georg Friedrich Puchta and Bernhard Windscheid. Obviously, the accusations were felt to be self-evident for a long time. Only in 1958 did Wilhelm anchor the image more precisely in the sources. Against his results, there has been increasing opposition, although a comprehensive examination is still to come.

First of all, it is noticeable that none of the detailed examinations of legal dogmatics support the finding of Begriffsjurisprudenz. It cannot be deduced that its application led to a lack of justice from the examination of methodological programs. A look into the history of dogma cannot confirm the supposed lack of reality, without regard to single exaggerations. It was the legal science of the nineteenth century that created important foundational concepts, therefore, was seen as a complex hermeneutic interplay between the thinker and the thought, the contemporary term being Anschauung (observation).

Behind the systematic work on concepts of legal scholarship in the nineteenth century, there are clear legal-political positions that are easily overlooked when the nonpolitical language of the interpretation of antique sources is employed. At the beginning of the century, the goal was the establishment of a consistent national dogma that could be applied with certainty, with consideration of the older ius commune. The partners of legal scholars were first the judges, and after 1871 the legislature as well. Freedom was supposed to be the "germ cell" of law: in other words, the goal was a society with free commerce and private autonomy against throne and altar.

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JURISTS. Roman jurists, known as iurisperiti, iurisprudentes, or iurisstudiosi—men skilled, wise, or learned.