STANISŁAW GRODZISKI

Aristocratic Professor. A Sketch on the History of Cracow Conservatism

Summary

The article is based on the source that has hitherto not been exploited. The source which is a fragment of the diary that was taken down by professor Stanisław Tarnowski. The fragment covers the years 1846–1873 and makes up so called Dzików Chronicle that had survived the fire that broke out in Dzików in 1927. It functions as a supplement to the biography of this eminent scholar whose research was focused on the history of Polish literature.

The described developments as seen by the representative of big landowners, were juxtaposed with another known diary, that written by Jan Słomka, a peasant who was the inhabitant of the aforementioned Dzików. What is interesting is the comparison on opinions of two individuals: the one who was the inhabitant of the Palace and the other who was his subject and who lived in the village that belonged to the Palace. The comparison in question referred to the developments of 1846, 1848 and 1863. In a lot of details the opinion uttered by the two coincided. The present contribution is therefore a slight supplement to the history of conservatism in Galicia.

JAN HALBERDA

The Evolution of the Doctrine of actio personalis moritur cum persona in English common law

Summary

Pursuant to the maxim that actio personalis moritur cum persona, the claims and debts of the party become extinct on the day of its death. That is the reason why in English common law the successors could not sue their predecessor’s debtors; on the other hand, they were protected against the creditors of the deceased. It is difficult to exaggerate the importance of doctrine for the legal relations, especially within the scope of contract law.

In the early years (12th–13th centuries) of the functioning of the doctrine nearly all personal actions came into play. However, lawyers began to create more and more exceptions that narrowed the maxim’s impact. As a result, at the beginning of the 17th century (the Pynchon’s case, 1611) the court had in fact transformed the doctrine of actio personalis moritur cum persona into the exception.

It is worthwhile to note that the maxim’s history may act as an example of the peculiarity of English law and the domination of its procedural rules. Throughout the centuries the most important reason against the transmission of rights and duties was the practical impossibility of the wager of law’s application. In that case lawyers could only modify rules of evidence. Instead, in England it was decided
to treat the claims and debts of the deceased as extinct. As a result, the consequences of the *actio personalis moritur cum persona* doctrine went much too far.

**GRZEGORZ M. KOWALSKI**

„The Persons Affiliated with the Court. The Requirements that They Should Fulfill.” The Perfect Jurist as Outlined on the Basis of the Selected Works Written by Jurists of the Old-Time Poland

Summary

It was in the patrimonial state that the lawyers began to function as a professional group. In the course of time they began to make up an elite of the population of the nobiliary Commonwealth. Soon however there appeared the negative aspects of their activities. The authors of the Polish works on law were concerned with the professional and moral qualifications of lawyers. This referred particularly to the municipal law. The fragments devoted to this question may be found inter alia in the 16th century translations of the sources of the Magdeburg Law, the translations being of Barłomiej Groicki’s (1519/1534–1605) and Paweł Szczerbic’s (1552–1609) authorship. The heavy professional and the ethical demands made on lawyers referred in particular to the judges. What the authors of works on municipal law condemned was the judges’ poor knowledge of law, partiality, corruption, vulnerability to emotions on occasion of producing judgments and desire for distinctions. On the other hand there functioned many requirements that had to be fulfilled by the candidate to the position of the judge. Among these requirements there were inter alia those referring to faith, health, age, sex and social status. The deficiency of the right educational background in law and the weaknesses in the right conducting of the proceedings were particularly visible in case of the penal law. The judges were brought to severe liability for the inappropriate performing of their profession. The high requirements in the area of the perfect knowledge of law, as well as in the area of ethics, applied also to the lawyers other than judges, mostly to the representatives of the parties (referred to by the phrase procurators) and to the lay assessors.

**MARcin Kwiecień**

The Doctrinal Roots of the Church’s Reforms in Tuscany under the Rule of Grand Duke Peter Leopold (1765–1790)

Summary

Under the rule of Grand Duke of Tuscany Peter Leopold there were undertaken in this Duchy some reforms of relationships between the State and the Church. The reforms reached their climax an occasion of the Synod of Pistoia. It has been for a long time now that the historians had a concern in them. What makes up a particularly interesting but simultaneously controversial problem are the doctrinal
roots of the discussed reforms. What is in dispute is the question of Italian Jansenism. The Italian historians usually emphasize that such Jansenism existed, this opinion being challenged or even rejected by some English and French historians. The latter argue that Jansenism, as fully developed theological doctrine, was detectable only in France. Likewise, these historians claim that in case of the reception of Jansenism we in fact deal only with the shallow and primitive substitution of the views articulated by the bishop of Ypres. The article tries to demonstrate that it is not possible to speak of only one intellectual tendency that decidedly affected the shape and the course of the discussed reforms. It was sometimes fairly incidental and not perfectly coherent mélange of various political, legal, theological and economic tendencies, not infrequently distant one from another, that made up the intellectual basis of the work that was focused on the change of the Church relationships in the Grand Duchy of Tuscany.

IZABELA LEWANDOWSKA-MALEC

_Vicarius regis. The Role Played by the Archbishop of Gniezno in the Elective King’s Absence_

Summary

The Archbishop of Gniezno who was the first senator of the Polish-Lithuanian Republic, played one of the most significant roles in the State. His significance was due to this rights of _vicarii regis_ that were granted to him as early as during the reign of Władysław Jagiełło. These rights were however not precisely formulated. The Archbishop of Gniezno performed the function of _vicarious regis_ only sporadically, when this was indispensable. His position in this respect was subjected to legal regulations during the elective King’s era. The emergencies of the hour lead to the regulation of the Archbishop’s competence on occasion of Sigismund III’s trip abroad. Archbishop as Primate of Poland was authorized to call the Senate (but not the Seym) in order to receive the legations arriving in Poland (but only those arriving from Turkey, Tartar State or Muscovy). Also, if the State was threatened by an unexpected attack of the enemy the Archbishop could call the Senators to facilitate their joint proclaiming the third summons to arms addressed to levy in mass. According to the common belief, Primate Stanislaw Karnkowski exceeded his competence. Therefore in 1598, before the next trip of the monarch there was a tendency toward limiting his power to take the decisions unipersonally. The Archbishop however decidedly oppose the idea of limiting the power that he exercised in the King’s absence. The developments of the 1590s (organization of the assemblies of the nobles who protested against the poll-tax) as well as those of 1593–94 and of 1598–99, testify to the emancipating efforts as made by the Primate in order to arrive at the specific political goals.
DOROTA MALEC, JERZY MALEC

Wincenty Szpor (1796–1856) and His Program of the Lecture on Political Skills. Some Remarks on the History the Chair of Political Skills in the Jagiellonian University

Summary

Wincenty Szpor (1796–1856) was a Cracow advocate and the Senator of the Free City of Cracow in the years 1848–1850. Likewise, he lectured on political skills and statistics at the Law Faculty of the Jagiellonian University. In the years 1827, 1830, 1834, 1847 he repeatedly entered the competition for the Heard of the Chair of Political Skills. On the successive competitions he unsuccessfully rivalled with Ferdynand Kojsiewicz. As a result it was only after the Kojsiewicz's death that he arrived at the position of the deputy professor. After 1848, due to political reasons, the Austrian authorities did not agree to stabilize his position. It was in 1828 that W. Szpor, while fulfilling the competition requirements for the Chair, submitted to the Commission his ample program of the lecture on political skills. The program suggested by Szpor was well prepared and clear in its form and contents. It was based rather on the assumptions of the Enlightenment era and only to a slight extent it drew upon the assumptions of the spontaneously developing administrative sciences. Therefore in such form the lecture doubtless fell short of the expectations of the mid-19th century which was the time when Szpor eventually started his much desired academic career. That way or another, Szpor's program – particularly when viewed from the perspective of the programs prepared at similar time by M. Hoszowski, F. Kojsiewicz and P. Bartynowski – makes up an interesting document illustrative of the history of the world of learning and instruction in law. It is also illustrative of the situation of administrative sciences in the first part of the 19th century.

MARIAN MAŁECKI

Ideological Basis of Theresian-Josephian Reforms

Summary

The author of this work presents ideological currents which led to establishing, in the second half of the 20th century in Habsburg monarchy, a strong current of reformist ideology in the Church called Theresianism and Josephinism. The author describes Jansenism which appeared in the Netherlands and then in France in the 17th century, Gallicanism, Episcopalism dating back to medieval Concilliarism and also Febronianism. These currents were established in different countries and led to the “The New Thinking” in Austria which resulted in the reforms carried out in relations between the State and the Church in Galicia. They had diverse character in the reign of Maria Theresa and Joseph II and were characterized by considerable radicalism.
ŁUKASZ MARZEC

The Roman Law in the Former Bohemian Kingdom According to Arthur Duck

Summary

*De Usu et Authoritate Juris Civilis Romanorum in Dominis Principum Christianorum*, the work by Artur Duck was published in London in 1653. In his work he analysed the position and influence of Roman Law in fifteen countries of the 17th-century Europe. Apart from England, Scotland and Ireland, he researched the German Empire, France with Belgium, Italy, Sicily and Naples, Poland, Hungary, Bohemia, Spain, Portugal, Denmark and Sweden. Although Duck was an Englishman, he admired Roman Law and believed it could unify and consolidate the legal systems of Christian Europe. His work shows deep knowledge of how the legal systems of the 17th-century Europe were organized and influenced by Roman Law. Although his work has remained forgotten for centuries, contemporary scholars are attempting to restore it to its proper position. Although the chapter concerning the Kingdom of Bohemia appears relatively short, it gives basic and true information on the Bohemian state and legal system. Duck used over twenty books of various authors, to mention only Goldast, Dubravius, Arumaeus, Besold, Mynsinger, Gail, Muscorn and Kromer. In his view, German emperor did not have a direct power over Bohemians, though Bohemian kings were not entirely independent. He stresses that Bohemians never accepted being a part of the German Empire. They had their own laws, to some extent based on the Roman Law, particularly in the field of the municipal laws, derived from *ius saxonicum*. Duck believes that the Roman Law was the Bohemian *ius commune*, as it was said to be in Germany.

MACIEJ MIKUŁA

The Subject-of-Law Scope of Testamentary Succession in the Lithuanian Statutes

Summary

The testamentary disposition was subjected to the regulation in the Lithuanian Statutes (of 1529, 1566, 1588) which were tantamount to the codification of law in the Grand Duchy of Lithuania. In the First Statute (of 1529) the regulation was not much extended but in the next Statutes it developed. When compared with the First Statute, the regulations found in the Statutes that followed were responsible not only for the increase in questions that were subjected to regulations but also for the deep modification of the subject-of-law scope of testamentary succession. This was due to the general tendency detectable in the evolving Lithuanian law. The tendency consisted in the facilitating of the conclusions of *inter vivos* legal transactions referring to the real property. This had positive effects on economic development. At the same time the control of the monarch over the alienation of real property was dropped (1566). On the other hand there was imposed the ban on the testamentary
dispositions referring to the real property. This inter alia was designed to protect the family property against the legacies made for the benefit of Church institutions. As a result, the Lithuanian testament, which preciously followed the German pattern and was a collection of legacies, became, upon the Second Lithuanian Statute, the instrument designed to dispose exclusively of the movables.

TOMASZ PALMIRSKI, KAROL ZAWIŚLAK

Freedom of Forming Associations in the Polish Law as Wieved from the Perspective of the Roman Principle: tres facere existimat collegium (tres faciunt collegium)

Summary

Today, by applying various diverse criteria to a wide range of legal persons, certain types thereof can be distinguished. The classical distinction, which is based upon the fact of participating in organizational structures of legal persons, is the division into two: legal entities of foundation (non-profit) vs. legal entities of corporation type. In the first part of the case study contained herein, the subject of principal considerations will be the freedom of association in the perspective of legal provisions enacted in Poland. If therefore the membership accounts for a distinctive factor of corporations, a definite number of members constituting the corporation is equally vital for the formation and functioning of the above-mentioned legal persons’ types. This however appears to be a way of limitation of the freedom of association. In this context the distinguished point of reference for the respective considerations in the second part of the article is the Roman law rule of tres faciunt collegium.

MAGDALENA PIOTROWSKA

Cassation or Appeal against a Judgment? The Influence of the Opinion Adopted by Franciszek Ksawery Fierich and Published in 1923 on the Final Shape of Provisions Specifying the Cassation Proceedings as Found in the Code of Civil Procedure of 1930

Summary

Franciszek Xawery Fierich (1860–1928) was one of the most highly qualified Polish lawyers of the period of twenty years of independence after the World War I. He was the Professor at the Jagiellonian University, the civil procedure specialist, the President of the Codification Commission. His legal opinions influenced the form of code of civil procedure of 1930. Franciszek Xawery Fierich was the reporter of the Civil Procedure Section in the Codification Commission, who worked out (among other things) the part of code of civil procedure concerning proceedings before the Supreme Court. He was the supporter of the cassation system.
JAROSŁAW RESZCZYŃSKI

The Witch Subjected to the Ordeal of Water and Burned at the Stake in the City of Delhi in 1340. The Study of the Cultural Universals and Their Role in Penal Law

Summary

Among the historians there are often disputes about the origin of a legal norm. The establishing of this origin is particularly significant when the norms that are binding in the given communities resemble those that are known to have been binding in other periods of time and on other territories. The resemblance of the norms results from various forms of legal culture diffusion (including the resemblance resulting from the reception of law provisions). Likewise, the resemblance may result from the parallel evolution (cultural convergence). What plays an essential role in a certain field of law are also the primeval common elements or the cultural universals, derived from the most remote stages of the development of mankind. What offers interesting examples in this respect is the analysis of the principles of penalizing the magic practices as well as the analysis of types of evidence designed to prove the truthfulness of facts presented at the trial whenever the reality of witchcraft and its effects are acknowledged. In the present paper the starting point is the story told by Arab traveller Ibn Battuta about the trial of the witch accused in 1340, in India, of putting on a form of the hyena and killing a young boy. In the evidentiary proceedings the ordeal of water was applied and the accused, when found guilty, was condemned to death by being burned at the stake. The description in question includes numerous elements characteristic of the trial of witches in Europe at the beginning of modern era. It may be found that the belief that human beings may be transformed into animals and that women, while putting on a magic form, may kill young men, was widely spread in all remote cultures and is confirmed by numerous sources. The penalizing of witchery appears in the oldest relicts of law, those that are four thousand-year old story. This penalizing has survived until now in the customary law of many peoples of Africa, Asia and Oceania. This is not witchery as such that is penalized (the useful magic is accepted) but only such practices which – according to the opinion of the groups and communities – cause harm and are “socially noxious”. In the oldest communities the "spontaneous primeval norms" protect above all life and health of human beings as well as the basis of their existence. As the structures of state power develop the norms of the law impose the punishments also for the witchery that hits the basic system and doctrinal values (including the penalties for behaviour challenging the recognized religion).

In the medieval trials of witches, Christianity and the late Roman understanding of the crime of apostasy were invoked as justification. In Hindu law, in its turn, the primeval values (life) were pointed to as what was mostly defended. The need to arrive at the national establishing of the trial facts, visible in all cultures, contrasted, in case of crime of witchcraft, with the irrationality of matter and the impossibility of applying the objective criteria for the evaluation of fact situations. Hence the evidence that was commonly applied in the trials was the one that is considered irrational today
(ordeal as well as the oath). Also the ordeal were to the varying extent applied in all known cultures of the past and they are still applicable in the present day cultures that are of traditional nature. The ordeal however were alien to the Roman law and they in fact contradicted also the Christian doctrine. In Europe their origin was Germanic. The medieval influential position of the Germanic states, and the Church which cooperated with them, led to the spreading of ordeal within the orbit of Western Christianity. The renaissance of Roman law and the development of Canon law as well as the strengthening of theology, were responsible for the withdrawal of the Church’s acceptance of them. This is what eventually happened after Lateran Council IV. The Roman-Canonical trial provided for further possibility of penalizing witchcraft in the context of the crime of apostasy. In its evidentiary proceedings this trial therefore resorted later to witnesses and to confessio extorted by tortures. In this respect the evident attempts at turning the evidentiary proceedings into the rational ones had paradoxically its source in Roman law. It is striking however that from the most remote time the ordeal of the same type as those detectable among the Germanic peoples were applied – in similar matters – also in India. In this respect it is hard to avoid the association of the discussed phenomenon with the “proto-Indo-European community”. Yet it should be remembered that the loss of contact between the Germanic peoples and the Aryan ancestors of the Hindu population is what occurred 5–6 thousand years ago.

What is interesting is that the "legal culture universals" are found above all in the area of penal law, both substantial and procedural. These universals are bound with the deep areas of human subconsciousness that, on a large scale, are common among the present day communities despite the differences in their cultures. These universals continue their existence, arousing surprise. The present day witchcraft trials in which ordeal are still applied and which are detectable in India, testify to this.

**JANUSZ SONDEL**

**The University Career as a Method of Achieving Social Advancement in the Old-Time Poland**

**Summary**

What was characteristic of the Cracow Academy in the second half of the 16th century was its being boycotted by the students of nobiliary extraction. As a result the Academy became the place of remarkably plebeian nature. The point was that the townsmen desired learning that would be suitable in their economic and commercial activities. The peasants, in their turn, while sending their sons to the Academy tried to secure social advancement to them, particularly their entrance into the estate of clergy or, sometimes, that of the townsmen. The students of lower social extraction sometimes made a university career. Those who followed that line were for instance Antoni of Napachania (1494–1561) who was the professor of theology and rector of Cracow Academy. The same may be said about Piotr Proboszczowic (c. 1509–1565) who was the professor of astrology, town astrologer of Cracow and,
since 1548, astrologer of Sigismund August. Among other individuals who made similar career one may mention Jan Brożek, an outstanding mathematician of the first half of the 17th century and Stanisław Mareniusz (c. 1532–1580) who was Magister Iuris and Dean of the Faculty of Philosophy as well the lecturer on Greek and the defender of the rights and privileges of the Academy at the Sejm held in Warsaw in 1578. The list might include many other individuals. Being fully aware that the disrespect demonstrated by the nobility toward the Academy was due to the low social extraction of the academicians, King Sigismund I made the decision to confer on the professors the prerogatives of the estate of the nobles. He did it in 1535 in recognition of their merits in educating the youth „for the enlargement of the glory of God, for the benefit of the Church and for the fame of the Kingdom.”

Despite its imperious tone, the idea that the nobiliary privileges should apply to the professors of Cracow Academy had little chance to be implemented in practice. The resistance of the nobles was in the way of such implementation. The problem was eventually solved in favour of the professors at the Sejm held in Grodno in 1793. This was possible thanks to the efforts made by Śniadecki as well as the support of the king and good will shown to the concept by Russian Deputy Sievers. The success was however of a short-lived nature because Poland soon lost its independence.

MAREK STUS

Revolution in the Shackles of Tradition. A Sketch on the Reform of the Matrimonial Property Law in the First Half of the 20th Century in Europe

Summary

One of the features characteristic of the development of the western legal culture in the previous century were extensive changes of the family law. A reform of the matrimonial property relations was necessary, as the legislation of the most of the European states at the beginning of the 20th century retained old property systems and institutions, very often derived from the customary laws of the Middle-Ages. The paper analyses two main tendencies appearing in the first half of the 20th century. The first one aimed at making equal the legal positions of the husband and wife in relation to property. The second tendency aimed at giving them freedom to shape the property relations during the marriage. The analysis of the reforms conducted in the period demonstrates that the changes were very slow and introduced not without difficulties, which makes relevant the question whether they were inspired by the changes of the society or rather because the state decided on the form of the reforms and tried to promote and enforce specific customs and standards of behaviour.
PAULINA ŚWIĘCICKA

*Communis Opinio Doctorum as ius commune universale? Reflection on the Idea of Common Legal Culture of Medieval and Modern Europe*

**Summary**

The aim of the study is to present and revise critically one of the well-known concepts used to explain the march of Roman law through the history, starting from the Justinian’s Compilation, *i.e.* the idea of common legal culture as an outcome of the Reception, named by some as “the second life of Roman Law” (P. Vinogradoff), and by some as “the resurrection of Roman Law” (J.A.C. Thomas).

It must be emphasize that these attitude does not necessarily mean the negation of the concept of continuity of human history as a whole, emphasized, *inter alia*, by Franz Wieacker, and in particular – a continuity in legal development. It is only an attempt to show some aspects of the history of Europe as a space and a community, shaped by many traditions including the legal one. This legal tradition is “traditionally” bound up with successive interpretation and reinterpretation of one of the most important legal monuments, *Corpus Iuris Civilis*, the interpretation done in order to adopt this “source-book” to the new circumstances, to match local needs, to form new blend of law. There is no denying the fact that this tradition exists, although one should understand it properly, what can be achieved only on the way of critical revision of some old schemas, patterns of thought, even clichés.

It is than perfectly well known that one can speak about a renaissance of Roman law after 12th century, when in Bologna a period of so-called “first reception of Roman law” had begun. A direct cause of this process and also its major force was a famous rediscovery of Justinian’s Digest and its scientific transformation and actualization made by Italian and French jurists during the next centuries. Elaborated in such way, the so-called “learned law” became a second *ius commune* of late-medieval Europe. Nevertheless, all this does not mean that the whole Western Europe adopted a particular homogenous body of law, as far as many local and regional variations of customary law existed and were continuously applied and evoked in the courts, as well as used in daily practice. What is more, very soon, by way of humanistic and naturalistic negative attitude and criticism, a weakness of the *communis opinio doctorum*, understood after all as a legal system (sic!), and supposed to grant a certainty of law, was exposed and questioned as being unsuitable for the demands of national countries and societies. As it was proved by Douglas J. Osler, one can observe such particular disintegration also in the, so-called, “common world of teaching,” regarded as universal and homogeneous, which started with the coming of new religious and national trends, as well as with the beginning of the particular history of each country. So than, it seems that a broad examination from different perspective, not only legal, but also political or social one, that is a research taking into account different aspects of human culture, can show a partial inadequacy of the paraphrase of well known *dictum: Europa Medioevalis et Moderna vivit lege Romana*, because this Europe saw meetings, adoption but also
On the Advantages of the Frame of Mind of “the Hedgehog.” Some Reflections on the Essays by Isaiah Berlin

Summary

The paper refers to sir Isaiah Berlin’s famous essay concerning differences between two types of human personality. Using a metaphor whose authorship is ascribed to an ancient Greek poet, Archilochus, “The fox knows many things, but the hedgehog knows one big thing,” Berlin argues that writers and thinkers of one kind (“hedgehogs”) relate everything to a single, central vision or principle, while those of another kind (“foxes”) expand their thinking in many autonomous directions. As this opposition became famous, Berlin himself was almost unanimously numbered among those who are claimed to “lead lives, perform acts and entertain ideas that are centrifugal rather than centripetal.” However, by taking a closer look at his work as a whole, we can see a different pattern of Berlin’s attitude. On the basic level of his intellectual presumptions the author of “The hedgehog and the fox” seems to have much of a hedgehog – encouraging us to share his quite coherent outlook of the history of our culture and values attached to it. This paper attempts to trace crucial features of Berlin’s “hedgehogness” and demonstrate their presence in his writings on German romanticism, concepts of freedom, value-pluralism, and other topics.

On the Efficiency of Advice as Given by Herakliusz Lubomirski

Summary

The political thought of Stanisław Herakliusz Lubomirski (1642–1702) has hitherto been viewed from the perspective of the ideas of the Enlightenment era as contained in the treaty On the Efficient Advice written by Stanisław Konarski, the treaty being the reply to the 17th century dialogue On the Inefficient Advice written by Polish Salomon. The hitherto accepted interpretation of Lubomirski’s thought, despite being strongly solidified, seems to be false. Lubomirski was the author who, while adopting the Catholic perspective of the description of human being, simultaneously emphasized the complexity of social and political area within which the man was naturally active. It was exactly due to the complicated nature of human community that creating everything in an universal way proved impossible. What was possible was the understanding of the existing order, its analysis and, eventually, the selection of the right path by the specific individual who was planning to reach the desired political goal.
KRYSTYNA CHOJNICKA

Peter the Great’s Reforms Referring to the Eastern Orthodox Church

Summary

In 1701 tsar Peter I resigned from appointing anybody to the throne of patriarch and, in 1721, he subjected the Orthodox Church to the secular office of higher rank, the Office being additionally supervised by Oberprocurator as one of the highest officers of the state. There appears a question: what was the cause, the aim and the sense of the reform thus carried out. Did Peter exploit the Protestant patterns. Or did he try to reach only economic, but perhaps also social, objectives. What additionally requires answering in whether the Orthodox Church benefited from the reform or whether the reform led to its fall. Was the subjecting of the Orthodox Church to the secular power only the next step upon the road that led to the strengthening of the patrimonial system in Russia or was this maneuver tantamount to the adoption of the Western model of absolute power? What is also of importance is the significance that Peter the Great attached to the legal form of his reforms. The answer to the aforementioned questions is not always unambiguous. The very formulation of these questions may however contribute to better understanding of Russia in one of the most important stages of its history.

ANNA CITKOWSKA-KIMLA, PIOTR KIMLA

Klaus Mann – the Opponent of Nationalism, the Spokesman for Anti-Fascism

Summary

The aim of the article is to describe Klaus Mann’s political and social views, especially two of them – his critique of nationalism and his activity as the spokesman for anti-fascism. Mann’s anti-nationalist attitude is connected with his cosmopolitanism inspired not only by count Coudenhove-Kalergi but by the vision of pan-Europe and pacifism as well. The political standpoint of Mann is influenced strongly by his early political experience. The roots of his leftist way of thinking can be also seen in connection with the influence on him of André Gide. Generally the French impacts on his thought are considerable and reflect in his emphasizing individual freedom as well as in the idea of French-German alliance because France and Germany constitute “almost Europe.”
MICHAŁ JASKÓLSKI

Some Remarks On the War

Summary

The present essay is concerned with the Clausewitz's arguments devoted to the relationships between the civil authorities and the military command. While starting with the known assumption made by the author of the treaty On the War, according to which the war is the continuation of policy which is only pursued with the use of different measures, the author of the present essay tries to show to what extent this assumption was timely at the moment of the writing of the treaty and what may be its significance in more universal sense. The author of the essay exploits the examples that draw upon the Prussian tradition, he exploits the concept of Preussentum as well as historical exemplifications based on the Frederician reforms, activities of K. Stein and K.A. Hardenberg, and eventually the conflict between O. Bismarck and H. Moltke during the Prusso-Austrian and French-Prussian wars. The author tries to show the major factors formative of the policy conceived of in that way and the gradual disaster of this policy in the history of the Second and Third Reich. What does not escape from the range of vision of the author is the philosophical and political layer of Clausewitz's treaty. He emphasizes that it is that layer and not the military one that preserved its relevance to today.

Starting from 1960s there has begun the process of studying and interpreting afresh the Clausewitz's treaty. As a result various messages addressed to the present time were identified in the treaty in question. Of course the present essay is only the contribution to the aforementioned research. We must accept the fact that in Polish literature, despite republishing the inter-war edition of the treaty On the War and despite several fairly precious translations of this work, the interest taken in it seems to be relatively small.

DOROTA PIETRZYK-REEVES


Summary

The aim of this article is to analyze Rousseau's concept of the social contract in terms of the categories of consent and public discourse. What type of agreement (consent) could give a firm foundation to the just social order that Rousseau was seeking? Is there any room for public discourse and, if so, what norms should it be based on, and what would be its goal? Does the departure from individualism towards some collective unity of a political community allows for any meaningful application of the term discourse? In order to answer these questions I discuss various aspects of the theory of the social contract and the problems it inevitably involves when used as an explanation of a desirable
social order. I also try to shed some light on the Rousseau’s affinity with the ideals of classical republicanism and his failed attempt to apply them to the context of his time.

ARKADY RZEGOCKI

„To Become Aware of One’s Own Identity...” How Can It Be Accomplished?

Two Answers in the Times of Poland’s Partitionings: Maury cy Mochnacki and Stanisław Witkiewicz

Summary

Polish political thought is closely connected with the dates that marked historical moments in the life of the state. The fall of the Polish-Lithuanian Commonwealth in 1795 was a moment that marked a shift in the Polish political thought from the idea of freedom and state reform to the idea of regaining independence. The collapse of a state led to the redefinition of national identity by the Poles. Maury cy Mochnacki and Stanisław Witkiewicz suggested in their theoretical writings that the problem of self- and national identity is the most burning issue in the times of the partitioning of Poland. According to Maury cy Mochnacki the main task the Poles had to accomplish in the new political context was to gain the awareness of their own identity (”uznanie się w jestestwie swoim”). Mochnacki used an old Polish phrase to stress the vital importance of appreciating one’s cultural and historical heritage as well as gaining a sense of identity both individually and nationally.

BARBARA STOCZEWSKA

National Autonomy as the Proposed Solution for the Issue of National Minorities in Polish and European Political Thought of the 19th and 20th Century

Summary

Proposals to solve to the issue of national minorities by means of providing these groups with differently understood autonomy began to emerge in the second half of the 19th century. These concepts owed their popularity to the nation-building processes which were at their most dynamic at the time, the shaping of nation states as well as the increase in the aspirations of dependent nations of the Eastern and Central Europe. The article presents different concepts of national autonomy both in the context of Poland and of Europe, and comments on controversies regarding the definition of national minorities formulated in the context of Poland’s constitutionalism, as well as the vision of national autonomy shaped in the framework of political thought at the turn of 19th and 20th centuries and the interwar period in Poland.

In conclusion the Author claims that national autonomy, as a concept of solving the issue of
national minorities, proved to be a highly unrealistic project, which never became more than a subject of debate. The Author does not conduct a comparative analysis of earlier visions of national autonomy with contemporary ones. One may, however, presume that the notion as formulated in the 19th and 20th century and in the interwar period was mainly aimed at protecting national minorities, while the contemporary understanding sees the autonomy of national minorities as a preliminary stage for establishing their own independent state.

BOGDAN SZLACHTA

The Christian Political Thought of the First Centuries (An Introduction to the Study of the Ecclesiological Aspect)

Summary

An attempt to present a few ideas conditioning the thought of the early Christians; the ideas concerning primarily the ways of conceptualizing the Church as a universal community of the faithful. The author shows the perspectives of St. Peter, St. Paul and St. John; discusses the theories of Justinus, Ignatius Antiochenus, Irenaeus of Lyon, Cyprian, Clement of Alexandria, Eusebius of Caesarea, and Leon I the Great in order to expose the conditioning of birth in the first five centuries after Christ’s reflection on the foundation of unity in the community of the faithful in the East and the West (the picture of Church as the Body of Christ, including the tendencies characteristic of the so-called Eastern Christian Hellenism); the position of Christ as its “head,” and bishops as “endowed with the Spirit,” in particular the bishop of Rome, and compared to the Apostles, who worked as a replacement of Christ.

MICHAŁ ŚLIWA

The Opinions of Polish Socialists on the Necessity to Implement the Democratic and Parliamentary Constitutional System in Poland of the Future

Summary

It is not possible to ignore the intellectual and organizational effort of the Polish socialists who, as early as the 1870s, tried to promote the idea that the best circumstances facilitating the implementation of the aims pursued by the workers could be found in the national state organized on the basis of democratic constitutional instruments. The socialists argued that only in the state of parliamentary democracy the workers and other working social strata may successfully fight for their objectives and rights while selecting the peaceful and democratic methods. Likewise, they argued that only the parliamentary democracy enabled them to arrive at full rights that should be accessible to them as citizens and nationals. By promoting these ideas they aroused among the workers and in the entire society of partitioned Poland the sense of citizenship and democracy. This, in its turn, allowed to base
the concept of potential national independence upon the broad and solid social foundations. Likewise, this allowed to secure the democratic constitutional system to the restored state, and consequently to modernize social relationships in Poland along the peaceful and democratic lines.