ENGLISH SUMMARY

THE LEGAL PERSON

This introductory contribution mainly tends to show that lawyers developped their own version of the legal person, one which may not be reduced to that of philosophers, but which is not unified in so far as they use the concept in at least three different meanings, according to the context. The real difficulty lies in establishing a link between these three hypostasis of the legal man. This problem is deepened because each meaning reveals itself as the primitive term of a small conceptual system and therefore rebel to any attempt of definition.

The author distinguishes Occam positivism and his individualism and shows the roots of his political theory and of his conception of subjective law in the occamian theory of knowledge.

When rereading Calvin after Ricœur, the protestant interrogation about the notion of legal person unreels itself on one hand toward a universal principle but rather negative of "non-contradiction" in which the subject is just responsible in front of God, and on the other hand toward a principle of "singularity", in which the subject gives his practical and totally positive interpretation of law, but one amid the many other possibilities and respectfully of an irreducible plurality of rules.

The author distinguishes two meanings of the notion of legal person: the person as medium of rights; the person as subjected to a souveraign. From this interlinkage, he then rebuilds the political doctrines of Hobbes, Locke and Rousseau.

The kantian inspiration of justice as equity : choosing justice may rationaly come before choosing utility. J. Rawls taking his inspiration mainly from moral, also claims for an empirist interpretation of the kantian formalism. However the *Doctrine of Law* highlights a critical reformism ensuring the priority of liberty and the consideration of the least favoured in the treatment of economical inequality.

Hegelianism, often presented as a – stately – limitation of Law itself, rather underlines in it the positive realisation of liberty and ensures its ethical-stately recognition by concretising it as this right of the social individual thanks to which the citizen does not only have duties but also rights.

The theme of the right to resist runs along the works of jusnaturalists and the text fundators of the liberal legal systems. It seems to confer to the subject of law an essential prerogative if confronted to an abuse of law. However, proclaming the right to resist does not go without ambiguity, and the french debates of 1789 and uppermost 1793 are a good witness of this point. Justification of past quarrels or of uproars to come, each time one is confronted to the essential contradiction between the obligatory vocation of the rule of law and the possibility of insubordination, as well as to the impossibility to determine how and who is to determine the reality of the oppression and the form taken by the resistancy.

In reference to the traditions at the same time parallel and converging of Grece and Rome, of modern humanism and judeo-christianism, et in accordance with the semantic and mythique triad, *φersu-προσωπον-persona*, three conceptions of the person emerge and mingle. According to the first one, the person is nothing but the appearance of a character played through his mask, his part or his status, the substance determining it, being in the things... According to the second, the person identifies with the nature of man itself substantified and understood as a groupment of qualities generically conceptualisable... According to the third one, the person reveals itself as a substance under the nature-substance of man which was thought exclusive : it points to the universally individual in its act of existence under the universally similar in its uniform abstraction.

The author analyses, on – corrected – kantian basis, the notion of "legal person" and of juridical personality. He mostly deals with the issue of the moral person and that of the personality which may be given to certain animals.

In the light of the progress of genetics and biology, the author analyses the rise of the legal person from the issue of the personality of the embryo. For him, due to the liberalisation of abortion, embryo and foetus have to be distinguished, as scientists do.

The author firts studies the impact of the modern ideal of techno-science and liberal economy on the legal person of which they reinforce the individualistic and "desiring" tendencies. Speaking of the mothers of substitution, he then deals with the logic of subjective rights streched to its limits, and contrasts french and american solutions.

A fundamental ethical legitimation of responsibility has to distinguish several levels of responsibility, that it tries to base on each one advantage, following the model of exchange.

It is not certain that it might be possible to define the non-legal person as something existing, but it remains useful to make touchable the relativity and fragility of the concept of legal person.

LATIN AMERICA

The author make a complete survey of the several trends of legal philosophy in Argentina since 1945 while replacing them in a national and international, political and intellectual context. He gives a special attention to the three more important movements, thomism, egology and trialism. As a conclusion, he assesses respectively these tendencies.

The author draws a general and assessive picture of legal philosophy in Brazil from its independence to the contemporary tendancies. He particularly emphasizes the major role of Miguel Reale thought.

MISCELLANEOUS STUDIES

This article offers an examination of the linguistic and semiotic presuppositions of the theories of Hart and Dworkin. Notwithstanding its apparent endorsement of a traditional semantic view of meaning, Hart's theory is basically rooted in a pragmatic and extensional view. Dworkin's vision of the legal system, on the other hand, is that of an intensional system of legal propositions, akin to the model of structural semantics. Though both appeal to ordinary language for confirmation of their view that gaps may, or may not, exist within the legal universe, their theories manifest quite different discursive structures, as may be seen from the fact that Hart's argument may be formalised in termes of the logic of Blanché, while that of Dworkin is more akin to the semiotic square of Greimas. It seems, therefore, that Hart and Dworkin are really giving accounts of different forms of legal discourse : gaps may appear in the discourse of legislation or interpretation, but not of adjudication.

A persuasive definition is a definition attempting, consciently or not, to change the evaluative associations linked to the objects it concerns. A typology of such definitions used in texts of laws or in juridical litterature is presented, as well as the socio-political effect of using persuasive definitions in the field of law.

The author studies some logical paradoxes inherent to the structure of law. He examines several differing attitudes toward it, in particular the critical legal studies movement. He chooses the side of the fecondity of circularity, even when showing that the rising complexity of modern societies and the growing independence of its sub-systems (economy more specially) are dangerous for the autonomy of law and traditional values (unity and previsibility). At the end of his paper, he applies theses analysis to contract.

The contemporary reorganisation of the map of knowledges has profondly modified the meaning of metaphysics. In the past, the first philosophy, and therefore the hierarchical rector of all philosophical or positive sciences, it became a particular mode of philosophy in general; here considered as a branch of legal philosophy : legal ontology. This new disciplin, competing with legal doctrinal philosophy which is normative, is descriptive. It is itself divided between regional legal ontology and historial legal ontology. Describing the historial supervision of historicity is its main task.

From two examples of Roman history, it is shown that moral and law are linked, as well as theory and practice. These examples remain valid nowadays if one accepts to see, in Decius case, an illustration of aritmetical equality and in Regulus case, an illustration of geometrical equality, double type of equality that, according to Aristotle, caracterises law.

When confronted to the provocation represented by philosophical anarchy, may State and Law be legitimised? This is an attempt to justify social constraint, by showing the difficulties faced by a justice only natural. The distributive advantage (or personal interest, only mobile accepted by a "demon") serves as a premiss to the argumentation.

The author, a disciple of Carlos Cossio, offers a critic of analytical thought. On one hand, from general considerations about method, on the other hand by using a particular notion as an example, the notion of sanction, about which he underlines the irreductibility of the anthropological elements that constitue it.

INTERNATIONAL CHRONICLES

REPORTS

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