

ALLGEMEINE STAATSLEHRE

VON

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EXLITET PROFESSOR DER RECHT AN DER UNIVERSITÄT
BRISLIN

DEUTTE AUFLAGE

UNTER VERWEITUNG DES HANDSCHRIFTLICHEN NACHLASSES
DURCHGESEHEN UND ERGÄNZT

VON

DR. WALTER JELLINEK

PROFESSOR DER RECHT AN DER UNIVERSITÄT KIL

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RECHT UND DAS STILLEN VON 1911



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The State of the Political Duncan Kelly, 2003-10-16 The State of the Political challenges traditional interpretations of the political thought of Max Weber Carl Schmitt and Franz Neumann Focusing on their adaptation of a German tradition of state legal theory the book offers a scholarly contextualized account of the interrelationship between their political thought and practical political criticism Dr Kelly criticizes the typical separation of these writers and offers a substantial reinterpretation of modern German political thought in a period of profound transition in particular the relationship between political theory and conceptual change Alongside its focus on German political and juridical thought the book contributes significantly to the history of European ideas discussing parliamentarism and democracy academic freedom and cultural criticism political economy patriotism sovereignty and rationality and the inter relationships between law the constitution and political representation

The Life and Death of States Natasha Wheatley, 2025-12-02 An intellectual history of sovereignty that reveals how the Habsburg Empire became a crucible for our contemporary world order Sprawled across the heartlands of Europe the Habsburg Empire resisted all the standard theories of singular sovereignty The 1848 revolutions sparked decades of heady constitutional experimentation that pushed the very concept of the state to its limits This intricate multinational polity became a hothouse for public law and legal philosophy and spawned ideas that still shape our understanding of the sovereign state today The Life and Death of States traces the history of sovereignty over one hundred tumultuous years explaining how a regime of nation states theoretically equal under international law emerged from the ashes of a dynastic empire Natasha Wheatley shows how a new sort of experimentation began when the First World War brought the Habsburg Empire crashing down the making of new states Habsburg lands then became a laboratory for postimperial sovereignty and a new international order and the results would echo through global debates about decolonization for decades to come Wheatley explores how the Central European experience opens a unique perspective on a pivotal legal fiction the supposed juridical immortality of states A sweeping work of intellectual history The Life and Death of States offers a penetrating and original analysis of the relationship between sovereignty and time illustrating how the many deaths and precarious lives of the region's states expose the tension between the law's need for continuity and history's volatility

Carl Schmitt's State and Constitutional Theory Benjamin A. Schupmann, 2017 Can a constitutional democracy commit suicide Can an illiberal antidemocratic party legitimately obtain power through democratic elections and amend liberalism and democracy out of the constitution entirely In Weimar Germany these theoretical questions were both practically and existentially relevant By 1932 the Nazi and Communist parties combined held a majority of seats in parliament Neither accepted the legitimacy of liberal democracy Their only reason for participating democratically was to amend the constitution out of existence This book analyses Carl Schmitt's state and constitutional theory and shows how it was conceived in response to the Weimar crisis Right wing and left wing political extremists recognized that a path to legal revolution lay in the Weimar constitution's

combination of democratic procedures total neutrality toward political goals and positive law Schmitt's writings sought to address the unique problems posed by mass democracy Schmitt's thought anticipated constrained or militant democracy a type of constitution that guards against subversive expressions of popular sovereignty and whose mechanisms include the entrenchment of basic constitutional commitments and party bans Schmitt's state and constitutional theory remains important the problems he identified continue to exist within liberal democratic states Schmitt offers democrats today a novel way to understand the legitimacy of liberal democracy and the limits of constitutional change

The Language of Constitutional Comparison Venter, Francois, 2022-03-04 In this incisive and thought provoking book Francois Venter illuminates the issues arising from the fact that the current language of constitutional law is strongly premised on a particular worldview rooted in the history of the states around the North Atlantic Ocean Highlighting how this terminological hegemony is being challenged from various directions Venter explores the problem that all constitutional comparatists face that they all must use the same words to express different meanings

Max Weber's Theory of the Modern State A. Anter, 2014-02-19 Andreas Anter reconstructs Max Weber's theory of the modern state showing its significance to contemporary political science He reveals the ambivalence of Weber's political thought the oscillation between an statist position mainly oriented to the reason of state and an individualistic one focussed on the freedom of individuals

The Cambridge Companion to Legal Positivism Torben Spaak, Patricia Mindus, 2021-02-04 The book brings together 33 state of the art chapters on the import and the pros and cons of legal positivism

The Gentle Civilizer of Nations Martti Koskenniemi, 2001-11-29 International law was born from the impulse to civilize late nineteenth century attitudes towards race and society argues Martti Koskenniemi in this extensive study of the rise and fall of modern international law In a work of wide ranging intellectual scope now available for the first time in paperback Koskenniemi traces the emergence of a liberal sensibility relating to international matters in the late nineteenth century and its subsequent decline after the Second World War He combines legal analysis historical and political critique and semi biographical studies of key figures including Hans Kelsen Hersch Lauterpacht Carl Schmitt and Hans Morgenthau he also considers the role of crucial institutions the Institut de droit international the League of Nations His discussion of legal and political realism at American law schools ends in a critique of post 1960 instrumentalism This book provides a unique reflection on the possibility of critical international law today

Allgemeine Staatslehre Georg Jellinek, 1914 *Law as Institution* Massimo La Torre, 2010-08-13 This book which is the result of several years of research discussion writing and re writing consists of three parts and eight chapters The first part is given by the two first chapters introducing the issue of validity and facticity in law The second part Chapters 3 4 and 5 is the core of this study and tries to present a theory based on a specific view about language and social practice The third part deal with the issue of value judgments and views about morality and consists of Chapters 6 and 7 Chapter 8 should naturally serve as epilogue In the first chapter a discussion is started about the relationship between law

and power seen as a presupposition for an assessment of the nature of law As a matter of fact as has been remarked general theories of law struggle to do justice to the 1 multiple dualities of the law Indeed law has a dual nature it is a fact but it also a norm a sort of ideal entity Law is sanction but it is also discourse It is effectivity or facticity but it is also a vehicle of principles among which the central one is justice But this duality is not only a phenomenological or a matter of justification and implementation as two separate moments

The World's Legal Philosophies Fritz Berolzheimer, 2002 A Solid Introduction to Legal Philosophy This lucid wide ranging account traces the evolution of the philosophy of law and offers an introduction to its primary authors Berolzheimer is especially interested in the law's ability to serve as a progressive humanitarian force This is evident for example in the contribution it has made to the emancipation of repressed social classes These fundamental questions are discussed by Dr Berolzheimer in a work of remarkable learning I have before me as I write the works of Stahl Krause and Lasson dealing with the Philosophy of Law They are not comparable with this volume in point of research Sir John Macdonell Introduction xxix Fritz Berolzheimer 1869 1920 was a German legal philosopher and author of the five volume System der Rechts und Wirtschaftsphilosophie 1904 07 This work is the second volume of that set He was managing editor of the important philosophy of law journal Archiv f r Rechts und Wirtschaftsphilosophie and president of the International Society of Legal and Economic Philosophy in Berlin Rachel Szold Jastrow d 1926 was a suffragist and sister of Henrietta Szold founder of Hadassah the Women's Zionist Organization of America Her husband Joseph Jastrow was a professor of psychology at the University of Wisconsin Sir John Macdonell 1846 1921 was an eminent British jurist and Quain Professor of Comparative Law at University College London Albert Kocourek 1875 1952 was a Professor of Law at Northwestern University CONTENTS Introduction Ch I Origins of Oriental Civilization Ch II The Ancient Commonwealth Greek Civilization Ch III The Civic Empire of Ancient Rome and the Moralization of Roman Law Ch IV The Bondage of Medievalism Ch V Civic Emancipation The Rise and Decline of Natural Law Ch VI The Emancipation of the Proletariat Encroachment upon the Philosophy of Law by Economic Realism Ch VIII The Sociological Reconstruction of Legal Philosophy

Totalitarianism and Political Religions Volume III Han Maier, 2008 *I metodi della nuova dottrina generale dello Stato* Peter Badura, 1998 **Full Protection and Security in International Investment Law** Sebastián Mantilla

Blanco, 2019-10-24 This book provides a comprehensive study of the standard of full protection and security FPS in international investment law Ever since the Germany Pakistan BIT of 1959 almost every investment agreement has included an FPS clause FPS claims refer to the most diverse factual settings from terrorist attacks to measures concerning concession contracts Still the FPS standard has received far less scholarly attention than other obligations under international investment law Filling that gap this study examines the evolution of FPS from its medieval roots to the modern age delimits the scope of FPS in customary international law and analyzes the relationship between FPS and the concept of due diligence in the law of state responsibility It additionally explores the interpretation and application of FPS clauses drawing particular

attention to the diverse wording used in investment treaties the role ascribed to custom and the interplay between FPS and other treaty based standards Besides delivering a detailed analysis of the FPS standard this book also serves as a guide to the relevant sources providing an overview of numerous legal instruments examples of state practice arbitral decisions and related academic publications about the standard Twentieth-Century German Political Thought Peter M. R.

Stirk,2006-03-13 Germany as Europe s most powerful state has a political significance which underlines the importance of twentieth century German political thought Yet this tradition has been poorly represented in academic literature This book offers an account of German political thought emphasising its diversity and contested nature an overview of the subject that allows access to relatively unknown figures as well as the names of the tradition Weber Schmitt Arendt Habermas a demonstration of the political significance of figures better known in other disciplines including law and sociology The book is organised chronologically with a series of recurrent themes providing analytic unity i the nature of politics including political vocation and leadership and definitions of politics ii collective identity iii the rule of law iv the role of the state v the role of political parties and the nature of parliamentary democracy vi state intervention in society and the economy and vii the international order Pedagogical features include a glossary of German terms and a substantial set of biographical notes identifying the major theorists referred to in the text **The Reconstruction of the Juridico-Political** Ian Bryan,Peter

Langford,John McGarry,2015-12-22 Hans Kelsen and Max Weber are conventionally understood as the original proponents of two distinct and opposed processes of concept formation generating two separate and contrasting theoretical frameworks for the study of law The Reconstruction of the Juridico Political Affinity and Divergence in Hans Kelsen and Max Weber contests the conventional understanding of the theoretical relationship between Kelsen s legal positivism and Weber s sociology of law Utilising the conceptual frame of the juridico political the contributors to this interdisciplinary volume analyse central points of affinity and divergence in the work of these two influential figures Thus the chapters collected in The Reconstruction of the Juridico Political offer a comprehensive reconsideration of these affinities and divergences through a comparison of their respective reconstruction of the notions of democracy the State legal rights and the character of law From this reconsideration a more complex understanding of their theoretical relationship emerges combined with a renewed emphasis upon the continued contemporary relevance of the work of Kelsen and Weber

The Remnants of the Rechtsstaat Jens Meierhenrich,2018 This book offers an intellectual history of Ernst Fraenkel s classic The Dual State 1941 recently republished by OUP and one of the most erudite books on the theory of dictatorship ever written It was the first comprehensive analysis of the nature and rise of Nazism and the only such analysis written from within Hitler s Germany

Der souveräne Verfassungsstaat zwischen demokratischer Rückbindung und überstaatlicher Einbindung

Christian Seiler,2005 English summary Using the Federal Republic of Germany as an example Christian Seiler examines the repercussions of the integration of international and European law on the constitutional state He traces the main concepts of

state and constitution back to their actual meaning in order to systematize them to put them in the right order in the evolution of contemporary history and to ensure their continuity in a manner which will preserve their meaning Seen from the point of view of jurisprudence almost all those elements which have had a formative influence on the nature of the constitutional state will not be affected by the current developments or they can be modified and continued It is democracy which is weakened by a partial transition from a parliamentary legislative procedure to a supranational decision making process geared towards consensus and compromise a development for which there is presently no compensation but which can be curbed by the autonomous interpretation of the principle of subsidiarity German description Christian Seiler widmet sich aus staatsrechtlicher Perspektive den Rückwirkungen der völker und europarechtlichen Integration auf den Verfassungsstaat betrachtet am Beispiel der Bundesrepublik Deutschland Die oftmals überladenen Kernbegriffe von Staat und Verfassung werden auf ihren eigentlichen historisch gewachsenen Bedeutungsgehalt zurückgeführt um sie dergestalt systematisierend erfassen in die zeitgeschichtliche Evolution einordnen und in sinnwahrer Kontinuität fortführen zu können Rechtswissenschaftlich betrachtet bleiben nahezu alle die Verfassungsstaatlichkeit prägenden Elemente von der aktuellen Entwicklung unberührt oder können jedenfalls modifiziert fortgeschrieben werden So weisen die Staatlichkeit als solche sowie die sie kennzeichnende Eigenschaft der Souveränität eine spezifische Wechselbezüglichkeit von Staat und Recht auf die ersteren an der Beweglichkeit des letzteren teilhaben die Staatlichkeit mithin als von vornherein entwicklungsoffen deutlich werden lässt Auch die am autonomen zur sittlichen Selbstgesetzgebung befähigten Individuum ausgerichteten Grundprinzipien der Verfassung können in ihren Grundgedanken weitgehend kontinuierlich beibehalten werden Lediglich die Demokratie die Selbstorganisation einer Gemeinschaft Zugehöriger wird durch einen partiellen Übergang vom parlamentarischen Gesetzgebungsverfahren zur konsens und kompromissorientierten überstaatlichen Entscheidungsfindung geschwächt eine Entwicklung die sich derzeit weder auf völker noch auf europarechtlicher Ebene kompensieren wohl aber durch ein eigenständig interpretiertes Subsidiaritätsprinzip massigen lässt

German Political Philosophy Chris Thornhill, 2007-01-24 This book combines philosophical intellectual historical and political theoretical methodologies to provide a new synoptic reading of the history of German political philosophy Incorporating chapters on the political ideas of Luther and Zwingli on the politics of the early Enlightenment on Idealism on Historicism and Lukács on early Twentieth Century political theology on the Frankfurt School and on Habermas and Luhmann the book sets out both a broad and a detailed discussion of German political reflection from the Reformation to the present In doing so it explains how the development of German political philosophy is marked by a continual concern with certain unresolved and recurrent problems It claims that all the major positions address questions relating to the origin of law that all seek to account for the relation between legal validity and metaphysical and theological superstructures and that all are centred on the attempt to conceptualise and reconstruct the character of the legal subject

The Cosmopolitan State H Patrick Glenn, 2013-05-23 The

idea of the nation state has failed Glenn argues and a major shift in our understanding of the state is needed He provides an original approach by situating cosmopolitanism in its historical context and demonstrating that the state is necessarily cosmopolitan in character and has always been subject to transnational law making **Published Essays** Eric Voegelin, 2003 Eric Voegelin 1901 1985 was one of the most original and influential philosophers of our time Born in Cologne Germany he studied at the University of Vienna where he became a professor of political science in the Faculty of Law In 1938 he and his wife fleeing Hitler immigrated to the United States They became American citizens in 1944 Voegelin spent much of his career at Louisiana State University the University of Munich and the Hoover Institution at Stanford University During his lifetime he published many books and more than one hundred articles The Collected Works of Eric Voegelin will make available in a uniform edition all of Voegelin s major writings In some thirty four volumes the Collected Works will include the monumental never before published History of Political Ideas important published essays not previously collected in book form or published only in German previously unpublished essays selected correspondence translations of seven books four of them never before available in English and the five volume Order and History

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