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## German Association of Comparative Law: Bibliography of German Law

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## RECENT BOOKS

BIBLIOGRAPHY OF GERMAN LAW. Edited by the *German Association of Comparative Law*. Karlsruhe, Germany: C. F. Müller. 1964. Pp. lv, 584. \$20.00. (Distributed in U.S.A. and Canada by Fred B. Rothman & Co., South Hackensack, New Jersey.)

It is not often that legal bibliographies are reviewed in the *Michigan Law Review* and even less frequently have German publications been brought to the attention of its readers. The *Bibliography of German Law*, however, is of special interest and is, actually, more than a bibliography. The book is not merely a listing of German legal publications, but also a concise introduction to German law. Even though published in Germany, it is aimed toward the Anglo-American reader with its text in both English and German. The book's stated purpose is to provide the foreign reader with a representative cross-section of German legal literature.

The initiative for compiling the *Bibliography* originated with the International Association of Legal Science. In 1949, this body recommended that bibliographies of the laws of different countries be prepared by the national sections to serve the purposes of comparative law. Under this plan, a number of national bibliographies have been published in English or French in cooperation with the International Committee for Social Sciences Documentation and with the aid of UNESCO.<sup>1</sup> The bibliographies in this series are, however, not the only ones serving comparative legal studies. The United States Library of Congress deserves credit for having first recognized the need to furnish American jurists with bibliographical guides in English to foreign legal materials. Under the direction of Edwin M. Borchard, it published, as early as 1912, a *Guide to the Law and Legal Literature of Germany*, which was followed by a number of valuable guides to other legal systems.<sup>2</sup> Borchard's *Guide* to German law may be considered a forerunner of the new German legal *Bibliography*, and, although it is now quite out of date, one can still consult it advantageously for older German literature.<sup>3</sup>

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1. Such bibliographies have appeared for the laws of France, Spain, the United Kingdom, Poland, India, Lebanon, Yugoslavia, Czechoslovakia, the Soviet Union, the Scandinavian countries and Israel (cf. BIBLIOGRAPHY at LV).

2. U. S. Library of Congress Guides have appeared to the Laws of Spain (1915), Argentina, Brazil and Chile (1917), France (1931) and to the Laws of the Latin American Republics (1943-48). Furthermore, the Mid-European Law Project, part of the Law Library of the Library of Congress, issued a series: LEGAL SOURCES AND BIBLIOGRAPHY OF EASTERN EUROPE in which volumes have been published for the Baltic States (Estonia, Latvia, Lithuania) (1963), Bulgaria (1956), Czechoslovakia (1959), Hungary (1956), Poland (1964), Rumania (1964), and Yugoslavia (1964).

3. U. S. LIBRARY OF CONGRESS, GUIDE TO THE LAW AND LEGAL LITERATURE OF GERMANY (1912) might therefore be added to the "Additional works in English" listed as being helpful for a common-law lawyer (BIBLIOGRAPHY at 2, 4). A further work useful for finding English literature, including periodical literature, is SZLADITS,

Another, more modern, American contribution of similar nature is the *Guide to Foreign Legal Materials—French, German, Swiss* (1959), by C. Szladits, sponsored by the Parker School of Foreign and Comparative Law of Columbia University.<sup>4</sup> In spite of covering three legal systems and, therefore, none of them exhaustively, this book, too, is of immense help to Anglo-American lawyers engaged in comparative studies involving German law.

The German Association of Comparative Law took up the suggestion of the International Association of Legal Science and, in 1952, began its preparation of a German legal bibliography with the active cooperation of a number of well-known legal scholars. That this book is only now appearing in print gives some indication of the vast amount of work and great difficulties the project entailed. The original plan of having individual introductions to each section had to be dropped in favor of a condensed general introduction to German law which now takes up the first part of the book. However, the main emphasis lies on the bibliographical lists in the second part, prepared by different experts in their respective fields. These bibliographies have been coordinated, updated and edited by the German Association of Comparative Law. The German Federal Ministry of Justice helped to finance the publication.

A brief description of the scope and arrangement of the work is indicated. The *Bibliography* does not attempt to give a complete coverage of German legal literature. It includes only publications in book and serial form and not articles from periodicals or essays published in collections. It is selective, giving preference to works which have been influential in the development of the law or which are representative of current German legal thought. For specific problems at least one pertinent work is listed. Only the more recent legal literature is covered, namely those works which have appeared from 1918 up to the end of 1963. The *Bibliography* is confined to works published in Germany, including some important legal material from the German Democratic Republic. It is to be noted, however, that these limitations have not been applied mechanically. The compilers have made occasional exceptions in cases where the inclusion of other material aids in a fuller understanding of certain legal institutions.

The preliminary organization of the book is as follows: A "Foreword" by Professor Ernst von Caemmerer, Head of the German Association of Comparative Law, outlines the history and purpose

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A BIBLIOGRAPHY ON FOREIGN AND COMPARATIVE LAW—BOOKS AND ARTICLES IN ENGLISH (1955) (kept up to date by supplements).

4. A second volume in this series has now been added: GRISOLI, GUIDE TO FOREIGN LEGAL MATERIALS—ITALIAN (1965).

of the project. There follows an extensive and detailed "Table of Contents" covering thirty pages (in English and German) which is the key to the systematic arrangement of the material. Next is the list of "Abbreviations," especially helpful since in German legal writings, abbreviations are frequently used and often puzzle the foreign reader. There is also an enumeration of the existing bibliographies for other foreign legal systems published at the instance of the International Association of Legal Science.

The two main parts of the publication are the "Introduction" by Professor Fritz Baur and the bibliography itself. In the "Introduction," which takes up about one quarter of the book, Professor Baur briefly sketches the growth of German law, its sources, the political structure of the Federal Republic, and the organization and procedure of its courts. He then outlines the German substantive law in its various aspects. In his concluding remarks the writer points out some of the most significant problems and trends of modern German law, *e.g.*: (1) the expansion of public law at the expense of private law; (2) the tendency toward a "Justizstaat," *i.e.*, a state where the judiciary is more powerful than the executive; and (3) the need to adapt the domestic German law to the new legal order that is now being developed by supranational organizations, such as the Common Market. In this masterly presentation, Professor Baur succeeds in giving a clear and yet penetrating first orientation to the complex German legal system and his admirable panorama of German law is well worth reading as such, independently of the bibliographical part of the book.

As previously indicated, the text is bilingual, the English and German versions appearing on opposite pages, facilitating comparison by readers familiar with both languages. The accurate and yet readable English translation was prepared by Professor Courtland H. Peterson of Boulder, Colorado. The translator, familiar with both the English and German legal systems, also prepared useful footnotes for American readers that give additional information of a comparative nature and indicate the common-law parallel for German technical terms which have no precise English equivalent.

Part II of the book comprises the bibliography and is preceded by a "Preface" which explains its use. In the "Bibliography" the material is systematically organized into fifteen headings according to the traditional categories of German law. These headings, in turn, are subdivided into smaller classes representing more specific topics. The particulars of the systematic organization appear from the detailed "Table of Contents." Under each topic the publications are group together according to form, such as statutory materials, general treatises, and monographs. The doctrinal writings included

are relatively numerous since they carry far more weight in the civil law systems than in Anglo-American law. The "Bibliography" comprises approximately four thousand entries, some of which are cross-references to books cited elsewhere. Entries are numbered and arranged alphabetically within each group under author or title; they contain full bibliographical information and useful annotations in English indicating, for example, loose-leaf publications and reprints. All headings are in English and German while the book titles are in German only. For important statutes in force, however, an English version is also given followed by the official German citation.

Two indexes are added to the work: the "Author Index" lists all authors included in the "Bibliography," as well as works cited by title only. The "Subject Index" refers to all key words used in the "Introduction" and in the headings and subheadings of the "Bibliography" and includes also the important statutes listed in the "Bibliography." It does not, however, cover the individual book titles. An unusual feature of the "Subject Index" is that it constitutes a combined English-German register of the most commonly used terms of the German and the Anglo-American legal languages.

At first glance this "Bibliography" may not seem easy to use for a lawyer trained in the common law. Its systematic arrangement corresponds to the structure of German law, often unfamiliar to him. For example, he will look in vain for "inheritance and succession" in connection with the "Law of property," and will find it instead as a separate section after "Family law" in accordance with the system of the German Civil Code. It may also surprise him to find that "International administrative law" is classified as a subsection of "Conflict of laws." But in a classified system much is left to the classifiers' discretion, and differences of opinion must be expected, particularly when a book covers several topics. A thorough and thoughtful scrutiny of the "Table of Contents" is therefore necessary, together with some thumbing back and forth, to locate the desired information. If all pertinent literature is to be found, the search will normally have to extend into more than one topic. In particular, the user must remember to check the periodical section, since specialized periodicals are grouped with periodicals of a general nature rather than with the literature in that particular field. Moreover, the non-German jurist will have to turn to the first part of the book whenever he seeks general background information since the original plan of having introductory comments together with the specific subjects was, unfortunately, abandoned. Despite its scholarly advantages, the classified bibliography is thus not as simple a research device as a dictionary-type reference tool. However, as previously indicated, the editors of the book under review have

provided a bilingual "Subject Index." While this index does not bring out all information contained in the "Bibliography" (since it omits individual book titles), it nevertheless will be of tremendous help to the American lawyers accustomed to alphabetical subject listings, such as those used in the *Index to Legal Periodicals*.

It would serve no useful purpose to call attention to inaccuracies or omissions in the *Bibliography*. They are unavoidable in a work of this kind. Suffice it to say, a cursory glance disclosed virtually no faults; to mention minor details would detract from the great overall value of the work. Rather, an attempt will be made to point out the special significance of this publication from a bibliographer's point of view.

Bibliographies in general are becoming increasingly important. Without them it is now virtually impossible for researchers to master the literature in their field in view of the enormous increase in book production. They are needed particularly for foreign literature where there is often a lack of general background and linguistic abilities. Therefore, it may be absolutely essential to have scattered or inaccessible bibliographical information compiled in one volume.

It is needless to stress the growing interest in foreign and comparative law. There has been, however, no general and up-to-date bibliography for German law in English, although this is one of the most interesting foreign legal systems. We know that German legal scholarship and the great German codifications have had worldwide influence. In recent years there has been a wave of new legislation and literature reflecting certain post-war changes in Germany's economic and social structure which are of significance for other countries as well. Moreover, there are close political and economic contacts between the United States and the Federal Republic of Germany.

The *Bibliography* under discussion combines all the qualities of an excellent bibliography. Since the output of German legal publications is even greater than that of other countries, the book is, of necessity, selective. And this selectivity is the very reason for its usefulness. The selection was made by German specialists who are obviously better qualified for this task than non-Germans. The work combines the efforts of a number of scholars, which is preferable to the selection by a single compiler and indispensable to a truly authoritative evaluation. The different contributions are well coordinated and the bibliographical data are uniform in style and remarkably accurate and detailed, as already mentioned. The currency of the *Bibliography* (to December 31, 1963) is significant in that the latest developments are not only the most interesting, but also the most difficult to ascertain. Whether it is contemplated to keep the publication up to date with future volumes is not known,

but for the period covered the work will always be an indispensable reference tool.

It should be apparent from all this that the *Bibliography of German Law* fills a long felt and vital need. It will be consulted not only by Anglo-American jurists, for whom it was primarily written, but also by German lawyers and those in other parts of the world as well. For law librarians, the book will prove an invaluable aid in building up a collection of German law and also for reference work and cataloging. There is without doubt a corresponding need, especially outside the United States, for more bibliographical information on American law. It may therefore be of interest that a publication is forthcoming, entitled *The Law in the United States of America—A Selective Bibliographical Guide*, by New York University Press. This book is meant primarily for the use of librarians outside of the United States and may well be an American counterpart to the *Bibliography of German Law*.

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