



BOOK REVIEWS

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BIBLIOGRAPHY OF LEGAL FESTSCHRIFTEN

Titles and Contents: Germany, Switzerland, Austria^{}**

Volume 10, 1997–1999,

including Festschriften Register 1864–1999

established by Helmut Dau

Compiled by Dietrich Pannier and Anja Aulich

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AN INDEX TO COMMON LAW

FESTSCHRIFTEN

FROM THE BEGINNING OF THE GENRE UP TO 2005^{}***

Edited by Michael Taggart

with the assistance of Roslyn Smith and Bernice Cole

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In 1985 I reviewed the first five volumes (1864–1979) of Dau’s important bibliography.¹ By now five more volumes have appeared (1980–1999).² Helmut Dau wrote the first nine. Dietrich Pannier and Anja Aulich³ have undertaken to continue Dau’s backbreaking work and have produced the latest volume.

The arrangement of books and contributions devised by Helmut Dau is again used in this, the tenth volume. It was described in the earlier review⁴ and there is no need to repeat that here. A new feature, which first appeared in the eighth volume, is a register of all the Festschriften covered in earlier volumes. The editors have indicated that some structural changes in future volumes are likely. The flow of Festschriften literature continues at an increasing pace in the German-speaking zone of Europe. With its 879 pages, this volume is longer than any of its predecessors. Like most of the earlier volumes, it covers a three-year period (1997–1999). Understandably, the editors abandoned their original plan to include the year 2000 as well.

The volume covers 184 Festschriften in honour of named individuals and 97 celebrating particular events. Many of the latter are concerned with an anniversary of important legislation or of a court, an administrative agency or an institution. Random examples are the centenary of the German Civil Code and the centenary of the Tegel Prison, famous for the incarceration and execution of political prisoners during the Nazi period.

In the 1985 review, I pointed out that Dau’s work contained many contributions of interest to common lawyers.⁵ This is no less true of the tenth volume than it was of the others. As Taggart has explained:

English language contributions to continental European legal *Festschriften* were a rarity in the nineteenth century, but as the twentieth century progressed they became more common. It used to be only common lawyers who wrote in

¹ (1985) 10 *Adelaide Law Review* 267–269. These volumes covered the following periods vol 0: 1864–1979 (1984, 567 pages); vol 1: 1945–1961 (1962, 166 pages); vol 2: 1962–1966 (1967, 195 pages); vol 3: 1967–1974 (1977, 546 pages); vol 4: 1975–1979 (1981, 638 pages). The numbering of these five volumes is not entirely clear. I have followed the numbering adopted by the Law Library of the University of Bonn.

² Vol 5: 1980–1984 (1987, 630 pages); vol 6: 1985–1987 (1989, 629 pages); vol 7: 1988–1990 (1992, 661 pages); vol 8: 1991–1993 (1995, 828 pages), vol 9: 1994–1996 (1998, 784 pages); vol 10: 1997–1999 (2006, 879 pages).

³ Dr Pannier: librarian, *Bundesgerichtshof* (Karlsruhe). Ms Aulich: librarian, Fifth Senate (Criminal Jurisdiction) of the *Bundesgerichtshof* (Leipzig).

⁴ Above n 1, 269.

⁵ ‘If one remembers further that much of the literature digested in Dau’s work has an historical, philosophical or comparative orientation, it becomes clear that this bibliography is of world-wide interest.’ – above n 1, 269.

English when invited to contribute to non-common law legal *Festschriften*, but today it is becoming more common for continental European scholars to write their contributions in English.⁶

In the tenth volume the segment on international law alone contains 72 English language titles, almost 20% of all the contributions.⁷

Around the world Dau's bibliography is recognised as an indispensable reference tool. In German-speaking countries it is often simply referred to as 'Der Dau' ('the Dau').⁸ In 1991 a *Festschrift* was published in honour of Dr Dau.⁹ The present editors would not have added these editorships to their many other responsibilities had they not known the work to be of the highest quality and usefulness.

The Dau has inspired Michael Taggart of the Law School of the University of Auckland to attempt to render a similar service to the common law world.¹⁰ There is much in this *Festschriften* bibliography of the common law which underlines the pre-eminent position of the Dau, including its significance for common lawyers. Taggart and his assistants found approximately one thousand English language contributions in the first nine volumes of the Dau. They have included references to all of these in their index.¹¹ These entries simply refer to 'Dau', without indicating their exact places in the many Dau volumes. To find the *Festschrift* reference for such titles, the reader is referred to the expanded internet version of the Taggart work. Taggart and his assistants found fewer, though no less important, English language contributions in the Scandinavian Strømø and Kongshavn bibliography¹² and have included these in the same way as they have the Dau references.

⁶ Michael Taggart, *An Index to Common Law Festschriften. From the Beginning of the Genre up to 2005* (2006) xxi.

⁷ Under this heading one would admittedly expect more English language contributions than under many others. Under the heading 'European Law', 34 out of a total of 470 contributions are written in English.

⁸ See the review of volume 10 in *Mitteilungen der Vereinigung Österreichischer Bibliothekarinnen & Bibliothekare* 59 (2006) no 2, 75, 76.

⁹ Ralph Lansky and Raimund-Ekkehard Walter (eds), *Im Dienste des Rechts und der Rechtsliteratur* (In the Service of Law and Legal Literature), *Festschrift für Helmut Dau* (1991); I was privileged to have been asked to contribute to this publication – see H K Lücke, 'The Honoratores of the Common Law' *ibid* 175–214.

¹⁰ Above n 6.

¹¹ Volume 10 was not available in New Zealand at the time Taggart's index went to press – above n 6, xxi fn 36.

¹² Hanne E Strømø and Halvor Kongshavn, *Nordic Legal Festschriften: A Bibliography of the Essays written in English, German and French until 1999* (1999). The authors have since published a comprehensive Scandinavian *Festschriften* bibliography covering the period 1998–2002, but this was not available to Taggart – above n 6, xxviii fn 3.

Taggart's introductory comments are entitled 'Turning the Graveyard of Legal Scholarship into a Garden', suggesting that, before the publication of bibliographies, making a contribution to a Festschrift, however great its quality, was tantamount to its burial.¹³ The introduction contains an interesting account of the growth of the Festschrift genre in common law countries, of the different types of Festschriften and of his own criteria for in- and exclusion. Unlike Dau, Taggart has excluded Festschriften which were published as special issues of legal journals. Thus one searches in vain for our own Adelaide Law School Festschrift, published on the occasion of our centenary in 1983.¹⁴ Taggart's practice is understandable, for, as he points out, such commemorative issues are already indexed in journal indices.¹⁵ A little more than five pages (xxvi–xxx) are devoted to instructions on how to use the index. That is followed by a list of honorands, the actual subject index and an author index with page references.

Common lawyers may find the idea of honouring an event, institution or a prominent piece of legislation a little odd, but this Continental peculiarity has also found its way into English-speaking countries. Taggart has included 49 such Festschriften (about 16% of the total of 296). No fewer than 27 of these have celebrated law schools and/or their universities. Nine have been dedicated to important statutes and other legal instruments, including Magna Carta, the Code Napoleon, the US Constitution, the Torrens legislation in New Zealand and the Indian Penal Code. Three are devoted to the International Declaration of Human Rights. Three have celebrated courts, including the Indian and the Ghanian Supreme Courts.

Taggart lists 158 subject headings from 'Access to justice' to 'Women's rights'.¹⁶ The compilers of such bibliographies must often wonder how to deal with contributions spanning more than one subject. Taggart has provided cross references to related subjects. For example, under the subject heading 'Celtic law' (three entries) one finds cross references to Ancient law (two entries), Anglo-Saxon law (four entries), Legal History (121 entries), Medieval law (36 entries) and Welsh law (19 entries). A conscientious researcher needs to look at these additional titles. Relief on seeing only three entries under 'Celtic law' will turn to dismay when the cross references render another 182 titles potentially relevant.

A further problem which Taggart had to master was that a subject might carry one label in Commonwealth countries, but quite another in the United States. A further

¹³ See also Michael Taggart, 'Gardens or Graveyards of Scholarship? Festschriften in the Literature of the Common Law' (2002) 22 *Oxford Journal of Legal Studies* 227–252.

¹⁴ Adelaide Law School Centenary Essays (1983) 9 *Adelaide Law Review* v, vi, 1–228.

¹⁵ Above n 6, xviii, xix.

¹⁶ Some may find subject headings such as 'Canon law' (23 entries) or 'Electronic commerce' (one entry) unexpected, but Taggart had to be guided by what he actually encountered in the Festschriften literature.

list (xl–xliii) informs the reader of Library of Congress subject headings and juxtaposes these and Taggart’s headings.

By creating these research tools, Dau and Taggart have added to the responsibilities of legal researchers. It is no longer enough to examine relevant books and journal indices. One might miss important publications if one fails to check the relevant subject headings of these bibliographies. Festschriften literature is often of very high quality and deserves to be provided with this kind of transparency. Lawyers in all the branches of the profession, particularly legal academics and law students involved in legal research, have every reason to be grateful to those who have shouldered the enormous burden of creating these indispensable research tools.