

Xavier Martin

Mythologie du Code Napoléon

Aux soubassements de la France moderne

Le Code civil français, à son état naissant de « Code Napoléon » (1804 et alentour), est sujet, après coup, à deux types de méprise.

On peut penser d'abord, qu'il est, par hypothèse, pure affaire de juristes. Or la classe politique qui l'a élaboré, au lendemain du séisme révolutionnaire, a vu là beaucoup plus. Elle a vu en lui un instrument déterminant de définitive restructuration *sociopolitique* de l'État français. Au fondement de ce Code, on a donc une idée directrice impliquant, en dernière analyse, tous les aspects de la vie humaine individuelle et collective. Les vrais ressorts de l'entreprise, en conséquence, sont *culturels* et ils se rattachent à une ample *histoire des mentalités*.

On a pensé ensuite, et l'on enseigne encore, que les auteurs du Code civil ont eu de la nature humaine une vision très haute et « spiritualiste ». La réalité apparaît différente. Ils héritent des Lumières une image appauvrie de la nature humaine (tendances mécanistes et matérialistes). Et cette image est de surcroît très assombrie par l'expérience traumatisante des années difficiles de la Révolution, que voulait clore, précisément, le Code civil, en irriguant d'autorité toutes les veines du corps social.

Il y a donc sur ces deux points, et spécialement quant au second, une réelle *mythologie du Code civil*, dont le présent ouvrage, abondamment nourri aux sources de l'époque, a voulu proposer une élucidation.

L'auteur, universitaire des Facultés de Droit, a donné une quinzaine d'ouvrages, dont plusieurs sont régulièrement réédités, sur l'approche réductrice de la nature humaine dans l'esprit des Lumières, sous la Révolution, et durant la période napoléonienne. Lors de la première parution du présent ouvrage, il était membre du Comité scientifique pour la célébration du bicentenaire de la promulgation du Code civil.



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Mythologie Du Code Napoleon Aux Soubabements De La France Moderne

Andrew J. Counter



Mythologie Du Code Napoleon Aux Soubabements De La France Moderne:

Mythologie du Code Napoléon Xavier Martin, 2022-12-22 **Inheritance in Nineteenth-century French Culture**

Andrew J. Counter, 2017-07-05 The transmission of wealth between generations was not only a narrative commonplace in nineteenth century France but also a topic of considerable cultural anxiety and intense political debate In this study Andrew J Counter draws on a wealth of previously unexplored material to show how the theme of inheritance in literature and beyond acquired ethical historical and ideological connotations and was vital to nineteenth century French conceptions of the family and of the legacy of the Revolution Weaving together fiction drama legal texts historiographical thought and political writing *Inheritance in Nineteenth Century French Culture* teases out a complex leitmotiv that gives us a new understanding of nineteenth century France's sense of its own place in history It also proposes innovative readings of writers as familiar as Honore de Balzac George Sand Guy de Maupassant and Emile Zola while drawing attention to a range of neglected authors and works

Languages of Reform in the Eighteenth Century Susan Richter, Thomas Maissen, Manuela Albertone, 2019-10-18 Societies perceive Reform or Reforms as substantial changes and significant breaks which must be well justified The Enlightenment brought forth the idea that the future was uncertain and could be shaped by human beings This gave the concept of reform a new character and new fields of application Those who sought support for their plans and actions needed to reflect develop new arguments and offer new reasons to address an anonymous public This book aims to compile these changes under the heuristic term of languages of reform It analyzes the structures of communication regarding reforms in the 18th century through a wide variety of topics

A Short History of European Law Tamar Herzog, 2018-01-08 *A Short History of European Law* brings to life 2 500 years of legal history tying current norms to the circumstances of their conception Tamar Herzog describes how successive legal systems built upon one another from ancient times through the European Union Roman law formed the backbone of each configuration though the way it was used and reshaped varied dramatically from one century and place to the next Only by considering Continental civil law and English common law together do we see how they drew from and enriched this shared tradition A remarkable achievement sure to become a go to text for scholars and students alike A must read for anyone eager to understand the origins of core legal concepts and institution like due process and rule of law that profoundly shape the societies in which we live today Amalia D Kessler Stanford University A fundamental and timely contribution to the understanding of Europe as seen through its legal systems Herzog masterfully shows the profound unity of legal thinking and practices across the Continent and in England Federico Varese Oxford University Required reading for Americanists North and South and indeed for all of us inhabiting a postcolonial world deeply marked by the millennia of legal imaginings whose dynamic transformations it so lucidly charts David Nirenberg University of Chicago

France in the World Patrick Boucheron, Stéphane Gerson, 2019-04-09 Short essays offer a kaleidoscopic provocative history of France and its place within the world from its prehistoric frescoes to Coco Chanel

to the terrorist attacks of 2015 New Yorker A major work exhaustive controversial and fresh and entirely relevant to Anglophone readers that redefines how we write about national and world history Guardian Bringing together an impressive group of established and up and coming historians this bestselling French history conceives of France not as a fixed rooted entity but instead as a place and an idea in flux moving beyond all borders and frontiers shaped by exchanges and mixtures Presented in chronological order from 34 000 BC to modern day each chapter covers a significant year from its own particular angle the marriage of a Viking leader to a Carolingian princess proposed by Charles the Fat in 882 the Persian embassy s reception at the court of Louis XIV in 1715 the Chilean coup d tat against President Salvador Allende in 1973 that mobilized a generation of French left wing activists France in the World combines the intellectual rigor of an academic work with the liveliness and readability of popular history With a brand new preface aimed at an international audience this English language edition will be an essential resource for Francophiles and scholars alike *Multinationals and the Constitutionalization of the World Power System* Jean-Philippe Robe,Antoine Lyon-Caen,Stéphane Vernac,2016-06-03 This collection offers a powerful and coherent study of the transformation of the multinational enterprise as both an object and subject of law within and beyond States The study develops an analysis of the large firm as being a system of organization exercising vast powers through various instruments of private law such as property rights contracts and corporations The volume focuses on the firm as the operational unit of governance within emerging systems of globalization whilst exploring in depth the forms within which the firm might be regulated as against the inhibiting parameters of national law It connects through the ordering concept of the firm in globalization the distinct regimes of constitutionalization national and international law The study will be of interest to students and academics in globalization and the regulation of multinational corporations as well as law economics and politics on a global scale It will also interest government leaders and NGOs working in the areas of MNE regulations *The French Revolution and the Creation of Benthamism* C. Blamires,2008-07-10 The first study of how Genevan Etienne Dumont and his traumatic experience of the French Revolution shaped the reception and presentation of Benthamism and masked the true face of Jeremy Bentham one of the architects of modern society who visualised a new world based on the values of transparency accountability and economy **The Cambridge History of the Novel in French** Adam Watt,2021-02-25 This History is the first in a century to trace the development and impact of the novel in French from its beginnings to the present Leading specialists explore how novelists writing in French have responded to the diverse personal economic socio political cultural artistic and environmental factors that shaped their worlds From the novel s medieval precursors to the impact of the internet the History provides fresh accounts of canonical and lesser known authors offering a global perspective beyond the national borders of the Hexagon to explore France s colonial past and its legacies Accessible chapters range widely including the French novel in Sub Saharan Africa data analysis of the novel system in the seventeenth century social critique in women s writing Sade s banned works and more

Highlighting continuities and divergence between and within different periods this lively volume offers routes through a diverse literary landscape while encouraging comparison and connection making between writers works and historical periods

The Making of the Civil Codes Michele Graziadei, Lihong Zhang, 2022-11-21 The book provides in depth analysis of the new perspectives on codifications and of the related reforms that give recognition to new ideas new needs and new techniques The contributions from several jurisdictions collected in this book provide a much needed evaluation of the current impact of codification on the law and are a first essential reference for assessing the importance of civil law codifications in the contemporary world

The Architecture of European Codes and Contract Law Stefan

Grundmann, Martin Schauer, 2006-01-01 The nineteen outstanding contributors to this deeply insightful book concur in envisioning a fundamentally new systematic concept of contract law that while preserving the essential and architecture and of the existing European codes would nonetheless find cogent ways to integrate such modern developments as mass transactions chains and networks of contracts regulation of markets and contracts to protect consumers and service and long term contracts into an optional European code The book is organised along three major avenues and the systematic arrangement of a contract law code how it deals with core questions of formation and performance or breach of contract such as mistake and misrepresentation standard contract terms and remedies in the case of breach of contract and the apparent necessity to merge consumer contract law i e such issues as product safety and liability warranties and consumer debt and insolvency with traditional core contract law concepts and and the importance to substantive contract law of the pre contractual phase in which information duties are becoming steadily more paramount The authors perspectives cover a wide range of jurisdictions including new EU Member States The book and s commitment to an integration of comparative law EC law and the debate on European codification offers practitioners and academics fertile ground for the development of a new model of contract law that is more than a common denominator of what has been in force so far This model may serve as a basis for Europe wide and perhaps even worldwide discussion

A Treatise of Legal Philosophy and General Jurisprudence Damiano Canale, Paolo Grossi, Hasso Hofmann, Patrick Riley, 2009-08-11 TO VOLUMES 9 AND 10 OF THE TREATISE I am happy to present here the third batch of volumes for the Treatise project This is the batch consisting of Volumes 9 and 10 namely A History of the Philosophy of Law in the Civil Law World 1600 1900 edited by Damiano Canale Paolo Grossi and Hasso Hofmann and The Philosophers Philosophy of Law from the Seventeenth Century to Our Days by Patrick Riley Three volumes will follow Two are devoted to the philosophy of law in the 20th century and the third one will be the index for the entire Treatise which will therefore ultimately comprise thirteen volumes This Volume 9 runs parallel to Volume 8 A History of the Philosophy of Law in the Common Law World 1600 1900 by Michael Lobban published in 2007 Volume 10 for its part takes up where Volume 6 left off which appeared under the title A History of the Philosophy of Law from the Ancient Greeks to the Scholastics edited by Fred Miller Jr in association with Carrie Ann Biondi likewise published

in 2007 and which is mainly a history of the philosophers philosophy of law let us refer to this philosophy as A **Citizen Emperor** Philip Dwyer,2013-11-26 In this second volume of Philip Dwyer s authoritative biography on one of history s most enthralling leaders Napoleon now 30 takes his position as head of the French state after the 1799 coup Dwyer explores the young leader s reign complete with mistakes wrong turns and pitfalls and reveals the great lengths to which Napoleon goes in the effort to fashion his image as legitimate and patriarchal ruler of the new nation Concealing his defeats exaggerating his victories never hesitating to blame others for his own failings Napoleon is ruthless in his ambition for power Following Napoleon from Paris to his successful campaigns in Italy and Austria to the disastrous invasion of Russia and finally to the war against the Sixth Coalition that would end his reign in Europe the book looks not only at these events but at the character of the man behind them Dwyer reveals Napoleon s darker sides his brooding obsessions and propensity for violence as well as his passionate nature his loves his ability to inspire and his capacity for realizing his visionary ideas In an insightful analysis of Napoleon as one of the first truly modern politicians the author discusses how the persuasive and forward thinking leader skillfully fashioned the image of himself that persists in legends that surround him to this day

Family Law and Society in Europe from the Middle Ages to the Contemporary Era Maria Gigliola di Renzo Villata,2016-08-04 This volume addresses the study of family law and society in Europe from medieval to contemporary ages It examines the topic from a legal and social point of view Furthermore it investigates those aspects of the new family legal history that have not commonly been examined in depth by legal historians The volume provides a new global interpretative key of the development of family law in Europe It presents essays about family and the Christian influence family and criminal law family and civil liability filiation legitimate natural and adopted children and family and children labour law In addition it explores specific topics related to marriage such as the matrimonial property regime from a European comparative perspective and impediments to marriage such as bigamy The book also addresses topics including family society and European juridical science Abundance, Generosity, and the State Jörg Guido Hülsmann,2024-03-11 Human

action is usually driven by the desire to obtain more for less and ideally something for nothing This has sometimes been called the economic principle The wish to get free stuff pervades all times and places all sectors of the economy all ages and all social backgrounds The very selfishness for which the market economy is often chided is at bottom a universal quest to obtain goods for free J rg Guido H lsmann sets out to explore the boundaries of this endeavor He investigates the nature forms causes and consequences of gratuitous goods and concludes that they thrive within a free economy But generosity and gratuitous abundance tend to be undermined and reversed by central banking and the welfare state Dr H lsmann is a professor of economics at the University of Angers in France He is also a Senior Fellow of the Mises Institute and a corresponding member of the Pontifical Academy for Life *Property, Power and Politics* Jean-Philippe Robé,2020-10-05 Globalization is an extraordinary phenomenon affecting virtually everything in our lives And it is imperative that we

understand the operation of economic power in a globalized world if we are to address the most challenging issues our world is facing today from climate change to world hunger and poverty This revolutionary work rethinks globalization as a power system feeding from and in competition with the state system Cutting across disciplines of law politics and economics it explores how multinational enterprises morphed into world political organisations with global reach and power but without the corresponding responsibilities In illuminating how the concentration of property rights within corporations has led to the rejection of democracy as an ineffective system of government and to the rise in inequality Rob offers a clear pathway to a fairer and more sustainable power system *Mythologie du code Napoléon* Xavier Martin,1993 *Redefining Codification* Dirk Heirbaut,2024-12-10 More than half of the world's population lives under law codes Yet defining the concept of codification remains elusive Rather than delving into abstract theories this book provides a rich and contextual comparative legal history of codes in France Germany the Netherlands and Belgium from the late eighteenth century to the present The author starts by examining the evolution of French German Dutch and Belgian codes in their political and comparative context thus challenging deeply rooted national narratives He covers the well studied civil codes and the often overlooked commercial and procedural codes and drafts that failed to become law Against this backdrop the book embarks on a comprehensive analysis of the factors contributing to the success or failure of codification efforts Employing an innovative method of comparative legal history *Redefining Codification* explores the key players and objectives behind codification revealing that traditional notions of codification are far removed from reality Following the deconstruction of some universal truths about codifications this volume offers fresh insights into the behind the scenes of the lawmaking machinery and an empirically based definition of codification **Pache maire de Paris (1793-1794)** Aurélien Larné,2025-02-12 Du 14 février 1793 au 21 floréal an II 10 mai 1794 Pache maire de la Commune de Paris défendit de concert avec le peuple parisien et des députés montagnards un projet de société fondé sur les droits naturels de l'homme et du citoyen l'existence l'instruction et la liberté individuelle et en société ou souveraineté populaire Suite la Révolution des 31 mai 2 juin 1793 la Convention montagnarde adopta ce projet et Pache et la Commune contribuèrent à sa mise en œuvre malgré les oppositions hétéroclites qu'ils rencontrèrent PROPOS DE L'AUTEUR Aurélien Larné est titulaire d'un doctorat en Histoire obtenu à l'université Paris 10 sous la direction de Marc Blassa Il exerce actuellement la profession d'archiviste au ministère de la Justice [Le dictionnaire du conservatisme](#) Frédéric Rouvillois,Olivier Dard,Christophe Boutin,2017-11-17 D'Abstraction Zouaves pontificaux ce Dictionnaire du conservatisme évoque des hommes De Gaulle ou Proudhon comme des valeurs quilibre ou Honneur des moments historiques monarchie de Juillet ou Révolution comme des institutions Institut ou Sénat des perspectives futures développement durable ou transhumanisme comme des mythes Antigone ou Pré-Juristes historiens ou littéraires ses auteurs dégagent ainsi une image du conservatisme divers mais cohérente la fois ternelle et actuelle pensée qui structure face au monde de l'homme et du relatif opposant d'indispensables certitudes la désagrégation moderne **François-Denis Tronchet** Philippe

Tessier, 2016-05-11 Une existence discrète ponctuée de moments décisifs avocat au parlement de Paris pendant plus de quarante ans sous l'Ancien Régime député aux États généraux de 1789 défenseur de Louis XVI lors de son procès en 1792 président de la commission de rédaction du Code civil en 1804 François Denis Tronchet joua un rôle déterminant plusieurs reprises lors de la Révolution française Le Code civil dont il fut l'un des principaux rédacteurs est encore en vigueur aujourd'hui Comment expliquer sa longévité et son rôle ces tournants cruciaux de l'histoire de France Hostile aux fictions juridiques et aux régimes d'exception Tronchet crut au pouvoir révolutionnaire du droit plutôt qu'à celui de la violence Solitaire parfois mais dvou au bien public il tenta de concilier l'art de gouverner avec le sens du droit une prudence où l'agressivité politique était omniprésente Homme de réflexion et d'action homme d'expression plutôt que de communication il fut soucieux d'humanité et d'équilibre rudiste sans être passéiste il fut partisan d'un droit absolument nouveau en 1804 sans perdre son pragmatisme Philippe Tessier retrace le récit d'une existence dense et singulière mais restée dans l'ombre au fil d'une biographie basée sur des sources d'archives inédites Philippe Tessier ancien élève de l'ENS Ulm docteur en histoire de l'Université de Lille III Charles de Gaulle est avocat au barreau de Paris

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