

*Comparative Law and the Legal Origins Thesis: “[N]on scholae sed vitae discimus”**

*Vivian Grosswald Curran***

Forthcoming, 57 American Journal of Comparative Law – (2009)

This essay offers some suggestions for comparative law’s discomfort with the Legal Origins Thesis. The Legal Origins Thesis then becomes the point of departure for a discussion of contemporary comparative law’s “existential angst.”

Introduction

In 2002, Thomas Dawson, the head of External Relations for the International Monetary Fund (IMF), gave a speech to the MIT Club of Washington in which he mocked Joseph Stiglitz,

* “[W]e learn not for school, but for life.” Latin motto inspired by Seneca’s *Epistula CVI, Libri XVII-XVIII*, in LUCIUS ANNAEUS SENECA, *EPISTULAE MORALES AD LUCIUM*, which on its face states the converse (“we learn not for life but for school”). No doubt because Seneca was writing ironically and disapprovingly, the motto inverting his words often is attributed to him. See *Id.*, available at <http://www.thelatinlibrary.com/sen/seneca.ep17-18.shtml> (last visited May 5, 2009) (translations are mine, unless otherwise noted).

** Professor of Law, University of Pittsburgh. My thanks to Professor Ralf Michaels for inviting me to participate in the January 2009 Comparative Law and Law and Economics AALS panel, and for his helpful comments on a previous draft of this essay. I also am grateful to Professor Richard Buxbaum for illuminating remarks on the generation of émigré comparatists which helped prevent me from making *fausse route* in this paper, and in particular for noting Stefan Riesenfeld’s interest in law and economics dating from the 1930s, as suggested by his Ph.D. dissertation, STEFAN-ALBRECHT RIESENFELD, *DAS PROBLEM DES GEMISCHTEN RECHTSVERHÄLTNISSSES IM KÖRPERSCHAFTSRECHT : UNTER BESONDERER BERÜCKSICHTIGUNG DER VERSICHERUNGSVEREINE AUF GEGENSEITIGKEIT* (1932), to which may be added Max Rheinstein’s edited book, *MAX WEBER ON LAW AND ECONOMY IN SOCIETY* (1954), cited in Curtis J. Milhaupt, *Beyond Legal Origin: Rethinking Law’s Relationship to the Economy—Implications for Policy*, 57 *AM. J. COMP. L.* this issue, at n.7 (2009). Finally, thanks to Curtis Milhaupt and John Reitz for kindly sending me drafts of their papers, and to Amalia Kessler for much appreciated assistance in getting me instant access to Jan Assmann materials from Stanford University’s library.

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