

Max Rheinstein: European

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All of you certainly know much better than I who Max Rheinstein, the American scholar, was. So I write to pay homage to Max Rheinstein, the European. There is no proprietary claim in saying this. In fact, Rheinstein seems to have been one of those rare cases where these characteristics blended perfectly without sacrifice to either one.

Rheinstein was born in Bad Kreuznach, Germany. He studied at and graduated from the University of Munich. He held his first post as a teacher of law at Berlin, joining the most prestigious law faculty in Germany of the time. And much later, when he was seventy, he was honored with a *Festschrift* whose contributors included (besides his American friends and colleagues — I am not going to make a head count here) German, French, Danish, Swedish, Finnish, Italian, and Czech writers—in short, Europeans.

Rheinstein's scholarly breadth, even before 1933, when he was a "young man," cannot possibly be overestimated. And it was internationally-oriented from the beginning. He got his S.J.D. in 1924 with a thesis on the English law of illegal third-party interference with free business activity. He was a staff member of the newly founded Kaiser Wilhelm Institute (today the Max Planck Institute for Foreign and Private International Law) from 1926 to 1933; his fields of activity ranged from the reform of Dutch maritime law to the comparative law of liability for animals. His professorial thesis (habilitation) in 1932 was on the "Structure of the Contractual Obligation in Anglo-American Law"; it still is ground-breaking, and at the time prompted an American reviewer's complaint: "If only an American lawyer could tell us as much about the German system of contract law."

Then there were the Nazis, emigration, the war. Rheinstein came back in 1945, a member of the Legal Division of the U.S. Military Government, entrusted with—among many other things—the renewal of the German law. What brought him the very personal thanks of many, and the deep recognition of all, was his unprejudiced ability to clearly distinguish between Nazi and German.

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Rheinstein had not limited himself to being a scholar at this point, and he did not later. He was active in many fields of "international" law (I do not use this term here in its technical but rather in its broadest practical understanding). I shall mention but one which I think will in the long run prove to be the most influential and beneficial. It was Rheinstein who—at the University of Chicago—initiated studies in American law for young continental European jurists. At Chicago there are now Master of Comparative Law and Doctor of Comparative Law programs. A number of German law professors have been Rheinstein's personal disciples. But his influence has been much broader. Other American law schools have followed suit, and today for a young European lawyer who wants to go into international law, it is almost *de rigueur* to have his American comparative law degree. In this way his sense for transcending national borders will—I am sure—remain Rheinstein's lasting contribution to European legal training, and thus, European law.

It is not without reason that Rheinstein has been awarded honorary LL.D.'s of the Universities of Stockholm, Basel, Louvain, Brussels, an honorary professorship at Freiburg; that he was made a member of the German Society of Comparative Law, of the Académie Internationale de Droit Comparé, of the Université Internationale at Luxemburg, of the Faculté Internationale at Strasbourg, of the Centre d'Etudes Universitaires; and that, last but not least, for his achievements in international legal cooperation he was awarded the German Federal Order of Merit as well as the French Palmes Académiques.

In the end, it turns out that with the passing of Max Rheinstein, we have lost several persons at the same time: you Americans, Rheinstein the American, we Europeans, Rheinstein the European; and all of us, Max Rheinstein one of the Founding Fathers of that international community—in law and everywhere else—which hopefully will be our future.