

Max Rheinstein

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Max Rheinstein completed his work on the article that follows during his annual visit to Munich in June of 1977. Characteristically, as soon as he mailed off this manuscript, he started work on another piece which was to have appeared in a *Festschrift* for an old Munich friend. At the end of June, as was their custom, he and his wife Lilly left Munich for Badgastein in the Austrian Alps where for many years he had spent the month of July reading, writing and enjoying the mountain air. There, on July 9, 1977, Max Rheinstein died, four days after his 78th birthday.

His career as comparatist and pioneering legal sociologist spanned over a half century from his Munich years as a student of Max Weber and assistant to Ernst Rabel, to the Kaiser Wilhelm Institute in Berlin where the promising career of the brilliant young *summa cum laude* from Munich was abruptly cut short in 1933, and to the University of Chicago Law School where for 42 years his teaching and writing gave a decisive impetus to American comparative law studies and his influence radiated throughout the world.

At Chicago, he trained American lawyers in French and German law, and foreign lawyers from everywhere in Anglo-American law. He brought young European scholars, many of whom have gone on to positions of eminence in governments, universities, or international organizations, to Chicago each year to be his teaching assistants. Like Rabel in his insistence that legal theory should serve practical needs, Rheinstein trained many lawyers who became prominent practitioners in the fields of international commercial and investment law. He also followed the Chicago tradition of being a "teacher of teachers." Always interested in broadening his students' conception of comparative law to embrace African and Asian legal systems, including customary law, he sent many of them to far corners of the earth to teach and to learn.

The prodigious accomplishments that brought Max Rheinstein recognition as one of the great scholars of our time have been recounted elsewhere, as have the many honors he received over the years.¹ Here, as a preface to this article, the last in our long collabo-

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¹ Most of the many honorary degrees, visitorships, titles and awards that Max Rheinstein accumulated are listed in the biographical essay by K. Duden, *Max Rheinstein: Leben und Werk*, in *Ius Privatum Gentium: Festschrift für Max Rheinstein 1* (1969). His books, articles

ration, it seems appropriate to remember some of his other qualities. The way that he spent the weeks during which this article was completed tells much about the kind of man he was, as this period was so much of a piece with his lifetime of devotion to the golden mean. Intellectually vigorous as ever, but beset by physical infirmities which had afflicted him for over 20 years, he divided his time in Munich among activities which he had always enjoyed—his work, excursions into the Bavarian countryside, concerts, long conversations with friends. A remarkable aspect of his personality was his gift for forming friendships with persons of all ages, from children to his own contemporaries and elders. His genuine liking for, interest in, and curiosity about people enabled him to bridge generational, cultural, racial, or religious differences with what seemed to be not only ease but enthusiasm.

One of his last excursions was to a chamber music concert at Nymphenburg Castle, outside Munich. His lifelong devotion to chamber music figures in an anecdote from the time when he returned to a defeated Germany as a member of the Legal Division of the American Military Government to assist in the denazification of German law and the reopening of the German courts and universities. The story comes from an Englishman, who had been at the Kaiser Wilhelm Institute before the war, and who was sent to Berlin in 1946 as a British military representative.² Immediately upon his arrival, the British officer chanced upon a notice of a "chamber music evening" and set out to locate it in a mood of depression which deepened as he moved through the stricken city. When he found the concert, there he also found Max Rheinstein. As the Englishman tells it, it was the sight of his old friend, sitting among the ruins of Berlin, waiting for the music to begin, that awakened in him the first rays of hope for the future.

One of the friends Max Rheinstein visited in Munich was Murad Ferid, who recently retired from the positions of professor of law at the University of Munich and director of the Munich Institute for International Law. The two men shared, among other interests, an intense love for their native Bavaria. It must have pleased Max that, unknown to Ferid, Max was beginning an essay for a collection to be presented to Ferid on that distinguished scholar's

and other writings as of 1969 are collected in the bibliography at the end of the second volume of that *Festschrift*. A definitive bibliography of over 350 items begins this issue of the *Review*. Professor Hans Leser of Marburg has assembled an 800 page volume of Max Rheinstein's selected writings. *M. RHEINSTEIN, GESAMMELTE AUFSÄTZE* (Leser ed., scheduled to be published by J. C. B. Mohr, Tübingen, in 1978).

² It is recounted by Duden, *supra* note 1, at 13.

seventieth birthday. As that essay was to have been a comparative examination of the treatment of pensions and other benefits upon divorce, I have incorporated into the present article some of its passages dealing with the approach of the new West German law to these matters.

Max took the Ferid manuscript with him to Austria at the end of June. An ardent and indefatigable sightseer, he had his favorite spots, and he was especially fond of the snow-covered mountains where he spent his last days. He liked to work outdoors, and whenever possible he would spread his books and papers out on a table in a garden or cafe. It is pleasant to think of him in Badgastein, seated on a balcony of the Hotel Schillerhof with Lilly reading nearby, his great white head bent over his work, the fragrance of Alpine flowers in the air, the luminous Radhausberg in the distance, and the sun shining down on those pages which this gracious traveler through the world left unfinished on a Saturday summer morning.