MATHIAS REIMANN

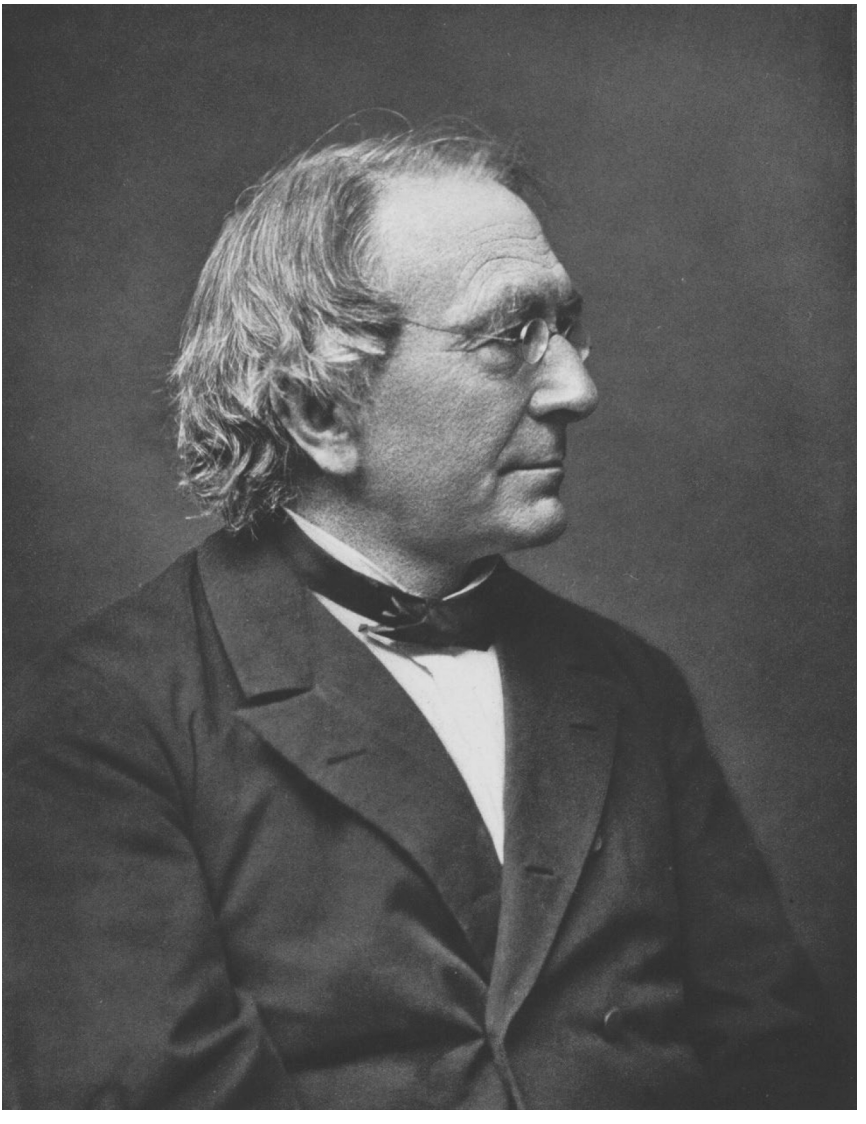
Rudolf von Jhering

From Roman Law to Modern Jurisprudence

Max-Planck-Institut
für ausländisches und internationales
Privatrecht

Beiträge zum ausländischen
und internationalen Privatrecht
146

Mohr Siebeck



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For Max

“Zuerst blendet und überwältigt er, dann erkennt man die zahlreichen Schwächen und auch mancherlei Blendwerk und lässt sich dadurch abstossen bis man schliesslich doch wieder zum eigentlichen Kern und Dauergehalt durchdringt und dessen hohe Bedeutung einsieht.”

“At first he dazzles and overpowers, then one recognizes the many weaknesses and a good deal of flashiness and is taken aback, until finally, one penetrates to the essential core and lasting substance and understands its great significance.”

Max Rümelin, Rudolf von Jhering (1922) 4.

Foreword

The idea to write this book arose in the context of a summer school I taught on Jhering, jointly with Professor Nils Jansen (University of Münster), for the Studienstiftung des Deutschen Volkes in July of 2016. Thus I owe a debt of gratitude to both my fellow-teacher and the students in that course. The weeks we spent together in St. Johann (in the Italian province of Südtirol/Alto Adige) provided not only an occasion to engage with Jhering and his ideas but also to undertake many vigorous hikes into the breathtaking mountain scenery of the surrounding Dolomites. I am also indebted to Bruce Frier and Reinhard Zimmermann for reading various parts of the manuscript and for reviewing my analyses of Jhering's engagement with Roman law. Michael Kunze, the author of a forthcoming (German) biography of Jhering, hosted me for an afternoon of discussion at his home in Hamburg and provided many valuable insights both on this and other occasions. Dr. Christian Eckl (Max-Planck-Institut, Hamburg) patiently provided diligent and invaluable editorial assistance. Sunita Ganesh carefully reviewed the manuscript and proofread the page-proofs. Last, but not least, I am deeply indebted to Keith Lacey from the University of Michigan Law Library for his tireless and unfailingly efficient help with finding even arcane sources and for speedily providing every piece of bibliographical information I requested.

Ann Arbor, December 2024 *Mathias Reimann*

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Introduction: About This Book

1. Why Jhering?

Rudolf von Jhering (or Ihering)[1] was, by any standard, one of the "great jurists of the world."[2] Certainly in terms of influence on nineteenth and twentieth century legal thought, he should be on anyone's list of the top ten – along with Savigny and Windscheid in Germany, Bentham and Maine in England, Holmes and

[1] Both of these spellings have been used. There is some debate over which spelling is correct, or rather, more appropriate. The issue arises in part because there was often no difference between (capital) "J" and "I" in the Gothic (Fraktur) font prevalent in German printing until the later nineteenth century. When his works began to be printed in the more modern Latin font, some publishers used "Ihering" (as in Der Kampf ums Recht, 1872) others "Jhering" (as in both volumes of Der Zweck im Recht, 1877/1883), both presumably with the author's approval. Apparently, the matter was not considered very important. Ultimately, however, "Jhering" must win out because Jhering himself signed in that fashion, as *Rückert*, Methodenorakel (2019) 460, has pointed out; see the facsimile in *Pleister*, Persönlichkeit, Wille und Freiheit im Werke Rudolf von Jherings (1982) (before the title page). It also makes more sense because it is commonly accepted that the name is pronounced, as Jhering himself stated, in two syllables, Jhering in Briefen (1913) 217 (i.e., "Je-ring," in English "Yeah-ring," instead or "Eering"). In any event, in the last couple of decades, "Jhering" has become broadly accepted (a major exception is *Fikentscher*, Methoden des Rechts III (1976) and this book adopts this now more common version. In a similar vein, the first name is sometimes spelled "Rudolf" (e.g., as the author of Der Kampf ums Recht (1872) and of Scherz und Ernst in der Jurisprudenz (1884), sometimes "Rudolph" (e.g., as the author of Geist des römischen Rechts (1852–1865) and of Der Zweck im Recht (1877/1883). Again, it was apparently not important. Since Jhering himself typically signed as "Rudolf" (see, e.g., his curriculum vitae, Jhering in Briefen (1913) 214; Jhering, Scherz und Ernst (1884) VI), this spelling is adopted here as well.

[2] See *MacDonell and Mason*, Great Jurists of the World (1914). The essay on Ihering (sic) was written by *MacDonell*, id. 590–599. His earliest German biographer, Ludwig Mitteis, himself a highly prominent and accomplished jurist, agreed; *Mitteis*, Jhering (1905) 664 ("one of the greatest of all times"), as did others, see *Jenkins*, Rudolf von Jhering (1960) (counting Jhering among "the giants of legal thought"); *Lange*, Die Wandlungen Jherings (1927); *Rümelin*, Rudolf von Jhering (1922) 80. Already during his lifetime, Jhering received a long list of honors including honorary doctorates (Dr. h.c.) from prestigious universities, memberships in learned societies, such as the Royal Dutch Academy of Sciences (where he succeeded Savigny), see *Heutger*, Rudolf von Jhering (2023) 46–47, and even the Japanese "Order of Merit of the Rising Sun" bestowed by the Tenno in 1892; for a more complete list, see *Behrends* (ed.), Jhering, Beiträge und Zeugnisse (1993) 80–81, 86–90.

Pound in the United States, Gény and Saleilles in France, and Kelsen in Austria. While reasonable people can of course differ about exactly who should be on such a list, no history of legal thought and no survey of jurisprudence can afford to bypass Jhering, and I know of none that does.[3]

Jhering was also a great jurist in terms of his impact on, and popularity with, a broader lay audience. Like Holmes, he was one of those rare jurists who have been widely read and quoted even by non-lawyers.[4] As in Holmes' case, his popularity has been due in no small part to his style as a writer which has captured the public imagination through aphorisms and wit – as well as through reckless simplification and exaggeration. In addition, unlike Holmes' typically sardonic, often cold, and bleak pronouncements, Jhering's writings are often playful, satirical, and hilarious – and thus much more fun to read.

What makes Jhering's work particularly fascinating is that it deeply engages *both* of the two most basic perspectives on law.[5] On the one hand, he took the internal point of view, dealing with law as a realm of fundamental principles and positive rules. Here, he *worked in* the law, so to speak. This side shows him as a great master of legal doctrine and an enthusiastic theoretician of legal method who was second to none even in nineteenth century Germany where such qualities were not in short supply. On the other hand, Jhering took the external perspective, dealing with law as a cultural and social phenomenon evolving throughout history. Here, he *looked at* law from the outside in order to explore its relationship with society and economy.[6] This side shows him as an audacious pioneer who broke vast new ground and arguably became the most important founder of modern legal thought.[7]

Jhering's long term significance is mainly due to his work according to the second, external, perspective. In particular, his view of law as a result of the struggle between social interests and as a "means to an end," i.e., an instrument for social governance and control, has become a dominant jurisprudential paradigm in the twentieth century and beyond. This was most clearly visible in socialist legal ideology, which is now largely defunct. It is also particularly pronounced in modern American legal thought since Holmes and Pound, in the

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[3] In a book written for an educated general audience, American author William Seagle (1898–1977) even listed Jhering in the august company of, inter alia, Hammurabi, Solon, Gaius, and Justinian; *Seagle,* Men of Law (1947).

[4] This has, of course, been noted by others, see, e.g., *Wieacker*, Gründer und Bewahrer (1959) 197; *Wieacker*, Privatrechtsgeschichte (1967) 450.

[5] See *Jansen and Reimann*, Begriff und Zweck in der Jurisprudenz (2018) 90–91.

[6] Roscoe Pound considered the transition from the internal to the external perspective the crucial progress of jurisprudence in the late nineteenth century; *Pound*, Spirit of the Common Law (1921) 212; see infra chapter VII.3., note 222 and text.

[7] In a similar vein, Wolfgang Fikentscher considered a jurist "great" if he combined work in positive law with the invention of a new methodology which has been accepted by posterity; *Fikentscher*, Methoden des Rechts III (1976) 101. As we will see throughout this book, Jhering passes this test with flying colors.

wake of legal realism, and especially under the dominance of law and economics.[8] It is palpable in European Union law as well where legal rules are almost exclusively employed to promote political agendas. More generally, today, an instrumental use of law is probably the prevalent approach in most legal systems of the Westernized world. It was Jhering more than anyone else who, a century and a half ago, first decisively pointed in that direction. Thus, Jhering stood, as Joachim Rückert aptly put it, "at the beginning of modern jurisprudence."[9]

Like Marx's economics, Nietzsche's philosophy, and Weber's sociology, Jhering's jurisprudence casts a long shadow. In Jhering's case, this is also true because during the last century or so, we have learned that conceiving of law primarily as a means to political ends can be both a blessing and a curse, depending on who gets to use it and for what purpose.

2. Goals and Limitations

Despite his great importance both for the history of jurisprudence and for our current understanding of law, access to Jhering and his ideas has been difficult for a global audience. While most of his important works have been translated into several languages,[10] trying to understand Jhering's writings on their own is anywhere from challenging to impossible. Not only are they written against the backdrop of a particular time and embedded in the larger context of nineteenth century German legal scholarship, their often poor organization, inconsistent terminology, and idiosyncratic style also tend to confound even the determined reader. Of course, there is an extensive literature on Jhering in German, and there are numerous publications about him in several other major languages[11] but most of these writings are linguistically inaccessible to most readers in most jurisdictions. The main exception is the literature in English as the current global lingua franca in legal scholarship. The English-speaking literature on Jhering, however, is either fragmentary, dated or both. What has been missing is an up-to-date, book-length, study of Jhering that can be read by most legal (and other) scholars in the world today.

This book seeks to make Jhering and his work more accessible to a worldwide audience by providing an English introduction to the man and his work. It is primarily aimed at the reader who is no expert on Jhering but wants to learn about him and his ideas, but who lacks the mastery of German required to read the pertinent legal scholarship.[12] It will also be helpful to those who can actually

[8] See infra chapter IV.2., note 367 and text.

[9] *Rückert,* Methodenorakel (2019) 457.

[10] See infra chapter VII.2.

[11] See the extensive bibliography in *Kunze*, Lieber in Gießen (2018) 63–85

[12] Some of the essays about Jhering written two generations ago by German scholars such as Franz Wieacker and Erik Wolf (in the 1950s and 1960s) are brilliant in their own right and

read German but who are, for lack of training in German jurisprudence and legal history, insufficiently familiar with the background and context of Jhering's work. Yet, in order to forestall false expectations, three particular limitations of this enterprise need to be clearly stated.

First, while this book provides a broad and wide-ranging portrait of the man and his work, it is in no sense a fully comprehensive study. Jhering's *oeuvre* was so rich and varied that a complete rendition and assessment would require a multi-volume effort. Nor does the book attempt to refer to, never mind integrate, all the existing publications about him. Such an undertaking would get bogged down in a mass of literature and quickly lose sight of the forest before the trees. While not limited to bare essentials, this book should be read as an introduction that highlights its topic's most salient aspects. It focuses only on Jhering's most significant works, and even with regard to those, it emphasizes mainly the elements that are of continuing interest today.[13]

Second, the book does not claim to present an entirely new interpretation of the man and his work. To be sure, in many respects, it presents profiles which sometimes deviate from the existing ones. It not only proffers ideas and arguments that go beyond what other authors have written but sometimes also challenges established views. Yet, more often than not it builds on existing scholarship. In short, the book's primary goal is not originality but accessibility.

Third, the book does not attempt a single, overarching, interpretation of Jhering's work. Given the multifaceted character of the man, the extreme diversity of his scholarship, and its significant shift of focus over time, it is a serious question whether a coherent interpretation of the whole is feasible. Some scholars have claimed that it is or have even attempted such a feat,[14] others have rejected the

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have attained quasi-classical status, but they are scarcely suitable as a first introduction because they assume that the reader is already familiar with Jhering's work at least in great outline; they also do not make for easy reading – even for a German native speaker. While this is less true for the slightly more recent work of Wolfgang Fikentscher (published in 1976), its inherent complexity still makes digesting it a challenge. In a similar vein, much of the most recent German scholarship on Jhering (written in the late twentieth and early twenty-first century), especially by Okko Behrends, Christoph-Eric Mecke, Wolfgang Pleister, and Joachim Rückert, is not cast in simple language. The forthcoming biography by Michael Kunze, entitled "Das unsichtbare Recht" ("The Invisible Law"), promises to become the most accessible work on Jhering in German but the book is aimed primarily at a German readership, i.e., an audience familiar with much of the background information many foreign readers will lack, and its primary goal is a personal biography and portrait, not an academic interpretation of Jhering's scholarship.

[13] It does not directly focus on the essays which Jhering published (mostly anonymously) in the Literarische Zeitung 1842–1846; many of his smaller doctrinal articles which appeared in the Jahrbücher für die Dogmatik des heutigen römischen und deutschen Privatrechts as well as in other periodicals; *Jhering*, Plaudereien eines Romanisten, a series of about a dozen essays in Juristische Blätter 1880, republished in *Jhering*, Scherz und Ernst (1884) 21–243; as well as the plethora of occasional pieces about a broad range of legal and non-legal subjects which Jhering published throughout his life in various venues.

[14] The most important examples are *Behrends*, Durchbruch zum Zweck des Rechts (1987)

idea[15] or at least remained highly skeptical.[16] As we shall see, Jhering himself was ambivalent; while he loved to announce all-encompassing theories with great fanfare, he also often unabashedly recognized the tensions and contradictions in his thought. This book does not take a position on the issue whether a single, coherent reading of Jhering's work is possible. Instead, it is based on the view that even if that were the case, constructing such a reading would miss much of what is most valuable. What makes engagement with Jhering's *oeuvre* so fascinating and rewarding is exactly that it is riddled with tensions and contradictions which, ultimately, reflect the very tensions and contradictions within law itself. Jhering constantly forces the reader to think about the law from different perspectives – as a system of doctrines and a political instrument, as a theoretical construct and a practical craft, as a product of history and a reflection of present-day conditions, as a construct of power and a search for justice.

3. A Roadmap and a Summary

Jhering's work is virtually impossible to grasp without am understanding of the man, both as an individual and as a scholar. The book thus opens, in chapter I, with a biography and a portrait. It sets the stage by looking at the environment in which Jhering lived and worked, i.e., nineteenth century Germany, especially the prevailing trends in jurisprudence, philosophy, society and economy, as well the dominant political questions of the time. It then traces the waystations of Jhering's academic life which was divided into three major periods, each spent at a different university (Gießen, Vienna, Göttingen) and each associated with an emphasis on a particular kind of jurisprudence (doctrinal/methodological, po-

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and *Fikentscher*, Methoden des Rechts III (1976) 274–279; Rückert also appears to find considerable overall coherence in Jhering's theory of law and method, *Rückert*, Geist des Rechts (2004); id., Methodenorakel (2019). Others have at least emphasized pervasive themes, see, e.g., *Smith*, Four German Jurists XII (1897) 41 (law as an expression of social utility); *Schelsky*, Das Jhering Modell des sozialen Wandels ((1971) 59 ("law as a guideline and essential social factor for social change"); see also *Dreier*, Jherings Rechtstheorie (1996) 232; *Hurwicz*, Rudolf von Jhering und die deutsche Rechtswissenschaft (1911) IX. Wieacker found "internal unity" ("innere Einheit") in Jhering's overall *oeuvre* – though not in an objective manner but in the subjective sense of being rooted in a "mighty will" and a consistent personal experience, see *Wieacker*, Jhering (1969) 12; what exactly that means remains unclear, however.

[15] See, e.g., *Wolf*, Große Rechtsdenker (1963) 661; *Jenkins*, Rudolf von Jhering (1960) 169–170; Larenz (justly) emphasized Jhering's tendency to "oscillate between extremes," *Larenz*, Rudolf von Jhering (1970) 141 – a habit that Jhering himself openly admitted, see his letter to Windscheid of July 29, 1856, Jhering in Briefen (1913) 64, 65.

[16] See, e.g., *Wieacker*, Rudolf von Jhering (1969) 11; *Helfer*, Rudolf von Jhering als Rechtssoziologe (1978) 560–561 (pointing to multiple contradictions in Jhering's work most of which appear irresolvable).

lemical, sociological). Along the way, it briefly touches on Jhering's most important works, all of which are then discussed in greater depth in the following chapters. We will also consider two of Jhering's most important professional friendships which shed additional light on the man and the scholar. The chapter concludes with a close-up-and-personal portrait of Jhering as a private individual, a thinker in general, and a jurist in particular, including a look at his station in society and his political convictions.

The rest of the book is organized mainly by following Jhering's path as a scholar through his three major phases rather than by focusing on particular substantive themes in a cross-sectional fashion. One could, of course, provide chapters that discuss his views of Roman law, historical evolution, the nature and function of law, legal methodology, theory and practice, Darwinism, etc., and readers looking specifically for such aspects might find that helpful. Yet in these, as well as in many other, regards, Jhering's views constantly evolved and sometimes changed so substantially over time that each of these chapters would have to revisit his intellectual development in its particular context. It thus seemed more advisable to look at Jhering's dozen or so signature works in roughly chronological order; each is used as a platform for discussing that element of Jhering's thought and that stage of his intellectual development for which the respective work is most representative. In that regard, the core of the book has features of a field guide to Jhering's principal publications.[17] While these chapters are not entirely free-standing, they are sufficiently self-contained to be read separately by those interested (only) in a particular aspect of Jhering's work. Making such a separate reading possible sometimes required repeating information and arguments discussed in other chapters and to provide numerous cross-references.

As mentioned, Jhering's academic life and work can be divided into three major phases: an earlier period (ca. 1845–1860) marked by an emphasis on an internal, i.e., doctrinal and methodological, perspective; a transition characterized by polemical attacks on the very methodology developed in the first phase and by a reorientation towards a new approach (ca. 1860–1870); and the development of that new, external and sociological, jurisprudence (ca. 1870–1890). An overarching topic, running through all these periods, is Jhering's historical perspective on law.

Chapter II explores the first of Jhering's jurisprudential modes, i.e., his internal perspective on law. Here, we see him engaged with law as a field of doctrine (*Dogmatik*) which lay at the very core of nineteenth century German legal scholarship. Jhering's engagement with legal doctrine had five dimensions. In his first *magnum opus*, "Geist des römischen Rechts auf den verschiedenen Stufen seiner

[17] For reasons of authenticity, I frequently quote, rather than paraphrase, the language in his books and essays. Thus, the reader can often hear Jhering speak in his own voice, albeit of course in (my own) English translation. Where it is difficult to capture his (nineteenth century) German in English, or where he uses key terms with connotations that a translation cannot fully convey, I provide the original German as well.

Entwicklung" ("Spirit of the Roman Law at the various Stages of Its Development") (1852–1852), Jhering sought to lay the foundations for a new jurisprudence. Here, his ultimate goal was to extract the essence from Roman law to then transcend its substance, i.e., to proceed, in his own, famous words, "through the Roman law beyond the Roman law" ("durch das römische Recht über das römische Recht hinaus"). This, however, meant no less than replacing the dominant Historical School founded by Savigny with its focus on the classical Roman sources with a new, more up-to-date, legal science. Second, in pursuit of this project, Jhering presented a specific methodology. His (in)famous "natural-historical method" ("naturhistorische Methode") was a peculiar technique that took the conceptual and logical approach, which dominated German jurisprudence at the time, to new heights, as illustrated by Jhering's essay "Unsere Aufgabe" ("Our Task," or "Mission") (1857). Third, as part of his project, and seeking to demonstrate his method, Jhering produced several important law review articles of doctrinal scholarship. By way of example, we will take a close look at an article that demonstrates his doctrinal mastery with particular force, i.e., his essay on *culpa in contrahendo* (1861). The piece has not only had a lasting influence on private law doctrine but has also become a classic in its own right. Fourth, despite his high-flying methodology, Jhering always kept a keen eye on the concerns of legal practice. That was true not only in his academic work but also a busy advisor to courts as well as an expert consulted by parties to high-profile legal disputes. Last, but not least, Jhering had to focus on doctrine when he was in the classroom. He was a devoted and highly successful teacher who employed an interactive teaching-style long before Christopher Columbus Langdell introduced the "Socratic method" in the United States, and who pushed for clinical education long before it became fashionable in our own age. Chapter I concludes by situation Jhering in relation to the Historical School that he followed in some regards while fighting it in others.

Chapter III then discusses Jhering's famous "conversion" from the internal to the external perspective. Around the late 1850s, Jhering developed increasing doubts about his own "natural-historical method." When he had to advise a court in a concrete dispute involving the allocation of risk in a contract of sale, these doubts finally became overwhelming. Jhering was faced with a situation in which a strictly logical application of prevailing doctrine led to an outcome that was totally unacceptable to his sense of justice. As a result, Jhering lost faith in the highly abstract conceptual and logical method that he himself had celebrated up to that point. Almost suddenly, he felt the need to distance himself radically from this approach, attacking and ridiculing it in a series of articles published in the early 1860s. These pieces were later included in a book which also contained a satirical description of Jhering's fictitious but famous visit in the "Heaven of Concepts" ("Begriffshimmel"). The term nicely captured Jhering's mockery of "conceptual jurisprudence" ("Begriffsjurisprudenz") and became common coinage in the twentieth century. The chapter concludes by asking how decisive Jhering's turn away from his own erstwhile method really was. Some earlier schol-

arship regarded it as a radical experience and termed it Jhering's "Damascus."[18] A closer look, however, reveals that this overstates the case. As the modern literature has largely recognized, there was much continuity in Jhering's work: he significantly modified, but never entirely abandoned, his earlier approach, and he continued to publish doctrinal work. Thus, Jhering's internal perspective survived, though it was increasingly overshadowed by the external view which came to predominate his later work.

This later work, tackling law from the external perspective, is the object of chapter IV. It begins with a discussion of the slender volume in which Jhering first openly embraced a sociological approach: his world-famous 1872 tract "Der Kampf ums Recht" ("The Struggle for Law"). Jhering loudly proclaimed, against the great and late Savigny, that law did not evolve quietly on its own but is rather the result of constant (and often violent) struggle between competing (social) interests. From here, it was but a small step to a view of law as an instrument for social purposes. Jhering spent most of his later years exploring this instrumental conception, especially in what became his most influential work: "Der Zweck im Recht" (literally "The Purpose in Law," translated, however, as "Law as Means to an End"[19]) (1877/1883). Beyond its simple – and simplistic – motto: "purpose is the creator of all law" ("der Zweck ist der Schöpfer des ganzen Rechts"), the book covers an immense terrain reaching far beyond law proper. Fascinating in its vast range and originality of insights, but also maddening in its lack of focus and logical organization, the book is a tour de force of exploration and imagination but a disaster as an exposition of a coherent theory of law. Chapter IV finally turns to a key concept that had intrigued Jhering for decades: "das Rechtsgefühl" ("the feeling of justice"). Jhering tackled it in both "Der Zweck im Recht" and in a lecture he gave in 1884. Here, he struggled mightily to identify a normative perspective from which the justice of positive law could be judged – an endeavor in which he largely, and in a sense tragically, failed.

After tracing Jhering's work through its three major phases, chapter V turns to the overarching topic of Jhering's Historical Perspective. As a "Romanist," Jhering delved deeply into the (early) history of Roman law. While he proffered some original and thought-provoking insights, his writing on ancient Roman law in and of itself is not the most interesting part of his historical work. What is more noteworthy from a long-term perspective is his critique of contemporary historiography and his (quasi-Hegelian) conception of history as a process of progress. The latter idea was part of a larger fashion at the time, also involving scholars from other countries, especially Henry Sumner Maine in England and Oliver Wendell Holmes in the United States.

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[18] *Wieacker*, Privatrechtsgeschichte (1967) 451. Wieacker later revised his views, see infra chapter III.3., note 103.

[19] *Jhering*, Law as a Means to an End (Isaac Husik transl., 1921).

In his later years, Jhering increasingly strayed beyond jurisprudence in order to satisfy broader interests. Chapter VI looks at the two main topics he tackled in his last decade – as well as at the price he paid for pursuing them. The first topic was custom. It was the object of his ire in the 1882 essay "Das Trinkgeld", a diatribe, more entertaining than profound, against the custom of tipping. Custom also become a major focus of the second volume of "Der Zweck im Recht" (1883); here, Jhering left jurisprudence almost completely behind and delved into a hodgepodge of non-legal topics, especially social norms such as custom, decency, and courtesy. The second, very different, topic of his last years was the pre-history of the Indo-European race. In his "Vorgeschichte der Indoeuropäer" (translated as "The Evolution of the Aryan")[20] (1894) Jhering sought to trace and define some of the earliest foundations of European culture, especially, of course, of Roman law. Jhering's explorations of both social norms and of pre-history bring his strengths and weaknesses as a scholar into sharp relief. On the one hand, he was an endlessly curious mind and a creative thinker who courageously ventured beyond his field of expertise. On the other hand, he got himself involved in tasks for which he admittedly lacked the requisite training. In that sense, his non-legal work illustrates the boon and bane of amateurism. Ultimately, Jhering set himself up for failure: both "Zweck*"* and "Vorgeschichte" remained amateurish – as well as unfinished.

Chapter VII moves beyond Jhering's lifetime and explores his impact on twentieth century legal thought. That influence was profound in his homeland, i.e., Germany, especially through the "Interessenjurisprudenz" ("jurisprudence of interests") emerging in the century's early decades. Yet, Jhering's influence is also notable in many other jurisdictions in the world as the more than 150 translations of his work into more than a dozen languages illustrate. Jhering's impact was particularly strong in the United States, where he became the recognized "father of sociological jurisprudence," i.e., of one of major strands of twentieth century American legal thought. We will also take a look at Jhering's influence on three particular sub-disciplines of jurisprudence, i.e, Roman legal history, legal sociology, and modern comparative law.

The Conclusion returns to the claim discussed in this Introduction, i.e., that Jhering's work is best understood not by squeezing it into one comprehensive theory but by acknowledging how riddled it is with inherent tensions and inconsistencies. The Conclusion does, however, highlight some pervasive features that seek to clarify the kaleidoscopic nature of Jhering's *oeuvre*. In particular, it shows how Jhering worked in a variety of basic modes which can be grouped into five sets of opposite perspectives: an internal versus an external form of jurisprudence, an individualist versus a social conception of law, a strictly juristic method versus a variety of other approaches, a scientific versus a philosophical outlook, and a positivist versus an idealist stance. At the end of the day, most of the resultant contradictions remained unresolved.

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[20] *Jhering*, The Evolution of the Aryan (A. Drucker transl. 1897).

What makes engaging with, and perhaps even reading, Jhering so timely is his intrepidity: he always had the courage candidly to speak his mind and openly to state what he saw as the truth – no matter how unpopular or even upsetting that truth might be. With his combination of personal fortitude and intellectual honesty, Jhering provides an important model in times when public discourse is becoming ever more inhibited by the demands of political correctness and restricted by the erection of social taboos.

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(Works by Jhering in *Italics*)