

ERNST-JOACHIM MESTMÄCKER

A Legal Theory
without Law

Walter Eucken Institut

*Beiträge zur Ordnungstheorie
und Ordnungspolitik*

174

Mohr Siebeck

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A Legal Theory without Law

Posner v. Hayek on Economic Analysis of Law

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Preface

The language of economics is English. Legal scholarship is for obvious reasons tied to the language of the applicable law. Even studies in comparative law are mostly directed towards the author's own legal order that is to learn from foreign experience. This division of languages and labour leads to regrettable gaps in scholarly discourse. Even contributions by famous authors like Richard A. Posner and F. A. von Hayek are frequently interpreted in national isolation. I publish this essay on Posner v. Hayek in English because the underlying controversy is accessible in English only.

I am grateful for comments by Anne van Aaken, Heike Schweitzer, Manfred E. Streit and Viktor J. Vanberg. Remaining errors are mine.

Hamburg, March 2007

Ernst-Joachim Mestmäcker

