2011年3月15日

〔百年校庆寄语〕

清华法学之品格		
——庆祝清华大学百年华诞	王振民	• 5 •
[论 文]		
论广义刑事政策的基本内涵	魏东	.9.
解读"非法证据"		
——兼评"两个《证据规定》"	万 毅	• 24 •
强奸罪与嫖宿幼女罪的关系新论	劳东燕	• 33 •
侵权之"权"的认定与民事主体利益的规范途径		
——兼论《侵权责任法》的一般条款	王成	• 48 •
董事注意义务与董事过失研究		
——从英美法与大陆法比较的角度进行考察 陈本寒	艾围利	• 71 •
〔论 评〕		
相对集中行政许可权的价值与路径分析	徐继敏	· 79 ·
论股东代表诉讼中公司的地位		
——法制史的观察与当代的实践	钱玉林	. 88 -
中国国际私法立法的现代化		
——兼评《中华人民共和国涉外民事关系法律适用法》的得与失	陈卫佐	• 97 •
排污权转让法律问题研究	邓海峰	· 106 ·
论劳动法上的劳动者	李海明	• 115 •
〔外国法治研究〕		
当事人主导与法官权限		
——辩论主义与效率冲突中的诉讼指标与实质阐明 罗尔夫 ··	拖蒂尔纳	· 130 ·
日本的行政指导:理论、规范与救济	闫尔宝	• 141 •
芬兰群体性纠纷解决机制介评	钱颖萍	· 158 ·
〔案例分析与法理〕		
群体案件的诉讼形式及其价值取向		
——以大庆联谊虚假陈述案为例	杨严炎	· 167 ·



Tsinghua Law Journal

Volume 5 Number 2 Bimonthly

March 15, 2011

CONTENTS

Tsinghua Centenary Celebration Remarks

Quality and Style of the Legal Science at Tsinghua University		
-Celebrating the Centennial Anniversary of the Founding of Tsinghua University (19	11 ~ 2011)	
	Wang Zhenmin	• 5 •
Articles		
On the Basic Connotations of Criminal Policy in a Broad Sense	Wei Dong	.9.
Interpreting "Illegal Evidence"	_	
-With a Concurrent Comment on the Two Rules Relating to Evidence	Wan Yi	· 24 ·
New Remarks on the Relationship between the Crime of Rape and the Crime of Whoring w	rith	
a Girl under the Age of 14	Lao Dongyan	• 33 •
The Ascertainment of "Rights" in the Infringement of Rights and the Manner of Regulating	g the	
Interests of Civil Subjects		
-With a Concurrent Discussion of the General Clause of the Chinese Statute on Torti	ious Liability	
	Wang Cheng	• 48 •
A Study of the Duty of Care for Directors and the Negligence of Directors		
-An Investigation in the Perspective of Comparisons between Anglo - American		
Common Law and Civil Law Chen	Benhan & Ai Weili	• 71 •
Discussions & Comments		
Analysis of Value and Approach of the Relatively Concentrated Power of Administrative Per	mission Xu Jimin	• 79 •
On the Status of Companies in Shareholders' Derivative Actions		
—A Review of Legal History and Contemporary Practice	Qian Yulin	- 88 -
Modernisation of China's Private International Law Legislation	-	
-With a Concurrent Comment on Success and Failure of the Statute of the PRC on the	he	
Application of Laws to Civil Relationships Involving Foreign Elements	Chen Weizuo	• 97 •
A Study of Legal Issues on the Transfer of Emission Rights	Deng Haifeng	· 106 ·
On Workers under the Labor Law	Li Haiming	• 115 •
Studies of Rule of Law in Foreign Countries		
Party Rule versus Judges' Power		
-Material Litigation Direction and Facts Clarification in the Conflict Area		
between the Debate Principle and Efficiency	Rolf Stürner	· 130 ·
Administrative Guidance in Japan: Theory, Regulation and Remedy	Yan Erbao	
Comments on the Group Disputes Settlement Mechanism in Finland	Qian Yingping	· 158 ·
Case Analysis and Legal Principles		
On the Litigation Form and Value Orientation of Group Actions		
—Taking the Daqinglianyi False Statement Case as an Example	Yang Yanyan	• 167 •
Translator	Chen Wei	2110