

Die Schenkung, §§ 516 ff. BGB

- Einseitig verpflichtender Vertrag
- Zuwendung eines Gegenstandes = Entreichung des Schenkers und Bereicherung des Beschenkten
- Abgrenzung zu unentgeltlichen Überlassungsverträgen durch Dauerhaftigkeit – eine Schenkung ist nur dann anzunehmen, wenn der Schenkungsgegenstand dem Beschenkten dauerhaft zufließt
- Bei der Schenkung geht es um die unentgeltliche Überlassung von Vermögensbestandteilen, deren dingliche Zuordnung sich ändert
- Unentgeltlichkeit grds. Dann (+), wenn keine Gegenleistung zu erbringen ist, wenn also kein synallagmatisches Austauschverhältnis besteht
- Gemischte Schenkung (entgeltlicher und unentgeltlicher Teil) möglich:
 - * Kombinationsmethode (früher) → zwei unterschiedliche vertragliche Teile
 - * Zweckwürdigungstheorie (h.M.) → entscheiden, welcher der beiden Vertragsteile überwiegt
- Formbedürftig, § 518 I, Heilung durch Bewirkung § 518 II → notarielle Beurkundung, Schutzzweck vor Übereilung
- Schenkungsvertrag gem. § 518 I begründet einen Primärleistungsanspruch, welcher später erfüllt werden muss. Die Zuwendung erfolgt nach Vertragsschluss
- Handschenkung, § 516 I : Mündlicher Schenkungsvertrag und Übereignung der Sache in einem Akt
 - es kommen zwei Rechtsgeschäfte zustande, wobei die Parteien sich erst beim Vollzug der Zuwendung auf die Schenkung einigen
 - es werden keine Primärleistungspflichten begründet
- Haftung des Schenkers gem. §§ 521, 523, 524 für Vorsatz und grobe Fahrlässigkeit; Haftung für Mängel nur bei arglistigem Verschweigen
- Widerruf der Schenkung:
 - § 530 : durch schwere Verfehlung groben Undanks schuldig
 - schwere Verfehlung des Beschenkten
 - → grober Undank = die Verfehlung „Ausdruck einer Gesinnung des Beschenkten ist, die in erheblichem Maße die Dankbarkeit vermissen lässt, die der Beschenkte erwarten kann“; Widerrufsrecht des Erben gem. § 530 II bei Tötung oder Verhinderung des Widerrufs

Die Schenkung Harle

Franz Darpe



Die Schenkung Harle:

Güter- w. Einkünfte-Verzeichnisse der Klöster Marienborn und Marienbrink in Coesfeld, des Klosters Varlar sowie der Stifter Asbeck und Nottuln Franz Darpe,1907 Vermischte juristische Aufsätze mit Erkenntnissen und Gemein-Bescheiden des Civil-Senats des königl. Württembergischen Ober-Tribunals H.E.F. Bolley,1831 **Die Urkunden des Bisthums Minden vom J. 1201-1300** Hermann Hoogeweg,1898 **Die älteren Urkunden des Klosters Blandinium und die Anfänge der Stadt Gent** Otto Alexander Oppermann,1928 **Kölner Madonnen** Reiner Dieckhoff,2009 **Abhandlungen und Vorträge zur Geschichte Ostfrieslands** ,1965 **Westfälisches Urkunden-Buch: Die Urkunden des Bisthums Minden vom J. 1201-1300, bearb. von H. Hoogeweg. 3 v** ,1898

Bijdragen van het Instituut voor Middeleeuwse Geschiedenis ,1924 **Wanderfahrten durchs Friesland** Carl Woebcken,1921 **Veröffentlichungen der Historischen Kommission für Westfalen** ,1961 *“Die” freie Gemeinde* ,1866 Güter- u. [i.e. und] Einkünfte-Verzeichnisse der Klöster Marienborn und Marionbrink in Coesfeld, des Klosters Varlar sowie der Stifter Asbeck und Nottuln Franz Darpe,1961 **Oldenburgische Friedens und der benachbarten Oerter Kriegshandlungen ... Wie auch eine wahrhafte Beschreibung der Grafschaften Oldenburg und Delmenhorst (etc.) In 5 Thl** Johann Justus Winkelmann,1671 **Adel - Kirche - Stiftung** Edeltraud Balzer,2006

Codex traditionum Westfalicarum ,1958 Die wirtschaftlichen Verhältnisse des Praemonstratenser-Klosters Füssenich vom 12. - 18. Jahrhundert Heinz Lubberich,1926 **Westfälisches Urkundenbuch** ,1975 Westfälisches Urkunden-Buch: Die Urkunden des Bisthums Minden vom J. 1201-1300, bearb. von H. Hoogeweg ,1898 **Der Grundbesitz des Mindener Domkapitels** Wilfried Dammeyer,1957 **Die Benediktinischen Mönchs- und Nonnenklöster in Hessen** Regina Elisabeth Schwerdtfeger,Friedhelm Jürgensmeier,Franziskus Büll,2004

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Die Schenkung Harle Introduction

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