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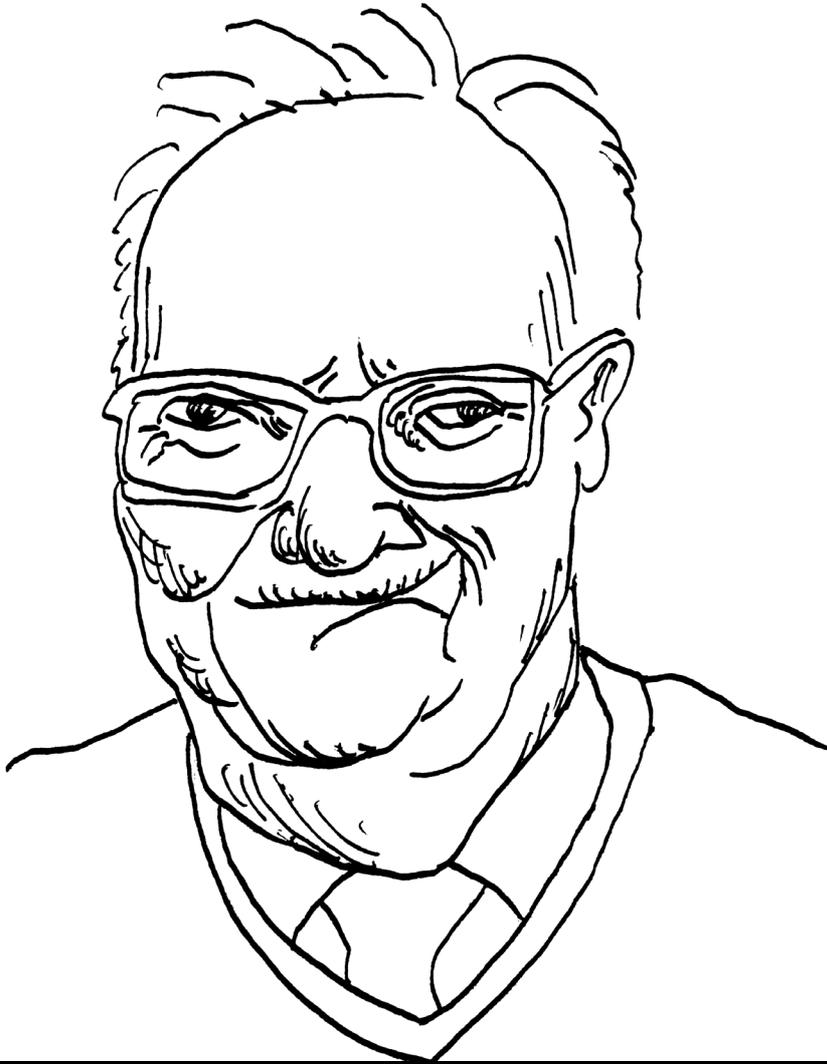
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Legal historians I have known: a personal memoir

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Raoul C. van Caenegem

Legal historians I have known: a personal memoir

Introduction. It is not my purpose here to present and discuss the achievements of some outstanding twentieth-century legal historians whom I have personally known and who have departed from this life, but to offer some memories of their character and personal idiosyncrasies: human beings as well as eminent scholars.

I am well aware that their *opera* are more important than the anecdotes I am telling here. Nevertheless, it is normal for posterity to wonder what the celebrities were like in everyday life. It may be argued that knowing about Johannes Brahms's not so reputable private life is irrelevant when admiring his sublime *Deutsches Requiem*, just as Anton Bruckner's uneventful existence as a devout organist tells us nothing about his passionate Fourth Symphony, but we still want to read their biographies and find out what sort of people they were. Equally, I presume that the reader will be happy to see the legal historians whom he has only known through reading their learned books come to life. What was the Ganshof of *Qu'est-ce que la féodalité* like in every-day life, or the Ullmann of *Lucas de Penna*? Personal memories concern anecdotes rather than events. According to the *New Shorter Oxford English Dictionary on Historical Principles* an anecdote is »a narrative of an amusing or striking incident«, to which the Dictionary adds rather deprecatingly »orig. an item of gossip«. An event, on the contrary, is something serious, i. e. an occurrence »that is significant or noteworthy«. This being said, I hope that the reader will find at least some of my anecdotes noteworthy and that he will agree with the words of Professor Laurent Waelkens:

»Quel plaisir de se retrouver parmi les savants de la génération précédente«.¹

Helmut Coing (1912–2000), eminent legal historian and professor. After law studies at various universities Coing became *doctor iuris* in Göttingen in 1935 under Wolfgang Kunkel and obtained his habilitation in Frankfurt in 1938 under Erich Genzmer, whose assistant he was. His thesis, on the *Rezeption* in Frankfurt, was published the following year. In 1940 he became professor extraordinarius of Roman and German civil law in Frankfurt. After service in the German army he was, in 1948, appointed ordinary professor of Roman and German civil law and legal philosophy in Frankfurt, where he stayed till the end of his career, having been rector from 1955 till 1957. In 1964 he founded the Frankfurt Max-Planck-Institut für europäische Rechtsgeschichte, whose director he was till 1980. The Institute, with its large staff and admirable library, its periodical and its series of monographs, is till this day the mecca for all European legal historians.

Coing's learned writings were as extensive as they were varied. Although he worked also on contemporary German law and on legal philosophy, I shall limit myself here to his activities as a legal historian. His personal contributions concerned the role of Roman law in medieval Europe, with a voluminous fascicule in Genzmer's *Ius Romanum Medii Aevi* and with studies on the »reception« of the *ius commune* in late medieval and modern Germany.

After his retirement, when he was in his seventies, he had the time to publish his *Euro-*

¹ Reviewing H. HETZENECKER, Stephan Kuttner in America 1940–64, Berlin 2007, in: *The Legal History Review* 76 (2008) 468.

päisches Privatrecht in two volumes. Volume I, devoted to the *ius commune* and the *usus modernus* between 1500 and 1800, is of particular importance as it is one of the rare works where one finds the contents of this important European system of learned law, as opposed to its more common external history. Here we find analysed, in priceless detail, the law on persons and family, property, obligations, commerce and inheritance. Vol. II is devoted to the nineteenth-century development in the countries that used to belong to the area of the *ius commune*.² Although Coing was primarily at home in the lands of the civil law, he was very knowledgeable about the history of the English common law. He spent a year in Oxford as visiting fellow of All Souls College and directed, with K. W. Nörr, a series of comparative studies devoted to the history of Anglo-American and European continental law, which can boast of some twenty volumes.³

Coing's most impressive contribution is no doubt his editorship of the encyclopaedic »text-book« on the sources and literature on European private law from the Middle Ages to the end of the nineteenth century. It is a vast collective work, mostly written by collaborators of Coing's Max-Planck-Institute and devoted to jurisprudence, case law and legislation.⁴ This ambitious enterprise is still incomplete, and its counterpart, to be devoted to public law, never materialized. Coing usually wrote for a learned readership, but he did not shun *haute vulgarisation*. His *Epochen der Rechtsgeschichte in Deutschland* of 1967, based on a series of radio talks and written in an elegant and limpid style, reached a wide public, which was not otherwise acquainted with either law or history. Coing lectured and wrote on law as an element of European civilization.⁵ His immense merits were internation-

ally recognised so that numerous memberships of academies, honorary degrees and a Festschrift came his way.⁶

I have met Coing on many occasions, *inter alia*, at the meetings of the *Wissenschaftliche Beirat* of his Institute. I also, by sheer good luck, spent a few weeks with him at the Villa Linda in Fiesole, when we were both lecturing at the Istituto Universitario Europeo. We spent several cosy evenings talking and discussing. He was more relaxed there than at his Institute, where he was responsible for so many activities. It was at the Villa Linda that he told me about his collaboration with Professor Walter Hallstein, who had been rector of Coing's university from 1946 to 1948, before entering German and European politics. Hallstein was president of the European Commission from 1958 till 1967. Coing told me with some sadness about Hallstein's bold plans for a full-scale European University in Florence, which were scaled down to the Institute at the Badia.

Helmut Coing was a tall, elegant man, with an engaging smile, even if his bearing could have something military – possibly because of the genes of his Huguenot ancestors who were officers: his own father was killed as an officer in the First World War. There were, however, legal genes at work also, for Coing's paternal grandfather had been President of the Senate at the Oberlandesgericht in Celle, in northern Germany (and an honorary doctor of Göttingen). Coing was that rare figure, an administrative genius, running his Institute and its numerous endeavours, combined with a creative and profound scholar and writer.

Coing clearly was an Establishment figure, who had connections with German industrialists and their foundations, which supported scholarly enterprises. He even became chancellor of

2 Europäisches Privatrecht 1500 bis 1800, I: Älteres Gemeines Recht, II: Europäisches Privatrecht 1600 bis 1914, 19. Jahrhundert, Munich 1985–89, 665 and 678 pp.

3 Comparative Studies in Continental and Anglo-American legal history, Berlin 1985 ff.

4 H. COING (ed.), Handbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte, I, Munich 1973 ff. Vol. I

contains a Presentation of the general plan by Coing. It is noteworthy that vol. III, 2 (1982) concerns legislation, *inter alia*, in nineteenth-century England and Russia.

5 See: Recht als Element der europäischen Kultur, in: Historische Zeitschrift 238 (1984) 1–15.

6 N. HORN (ed.), Europäisches Rechtsdenken in Geschichte und Gegenwart. Festschrift für Helmut

Coing zum 70. Geburtstag, 2 vols., Munich 1982. There also was, in the same year, a *Festgabe*, as Sonderheft 17 of *Ius Commune*.

the Ordre pour le Mérite, Germany's highest distinction. Yet, he wore his eminent status very lightly and was an amusing, down to earth conversationalist. I found it typical that he did not himself chair the meetings of the Beirat in his Institute, but invited a foreign member – Professor Robert Feenstra – to lead the discussions. When the honorary degrees began to come his way, he at first added in his letters the formula *Dr. iur. h. c.* to his usual *Professor Dr. iur.*, but with the second honorary degree this became *Dr. iur. h. c. (bis)*, and then *Dr. iur. h. c. (ter)*. However, when numbers four, five and six turned up, he signed *Dr. iur. h. c. (multotiens)*, which amused his friends and no doubt himself.

His contact with Ghent had come about in an unexpected way. In the spring of 1945 he was defending his fatherland on the Rhine, while his Ghent colleague, F.L. Ganshof, was advancing with the allied forces and so it came about that – as they later discovered – they had been shelling each other from across the river – fortunately without dire consequences.

Like many of my heroes, Coing came from the law to history, but unlike them, he remained a fully-fledged lawyer, who followed and commented on the norms and doctrines of his own time.⁷

René Dekkers (1909–1976) was an outstanding civilist, Romanist and legal historian. He was appointed ordinary professor at the University of Brussels in 1941 and in 1946 at the University of Ghent, where in 1949 he was dean of the Faculty of Letters (to which he initially belonged) and dean of the Law Faculty in 1958–59 and 1965–66. From 1966 till 1970 he also was rector of the University of Elizabethville (Lubumbashi) in the Belgian Congo. Dekkers's scholarly work led, *inter alia*, to his election to

the Royal Flemish Academy of Sciences and Arts in 1948 and an honorary degree in Groningen in 1969. Although to the legal profession he was mainly known as a civilist – author of fundamental textbooks on Belgian civil law – he was also an outstanding Romanist and legal historian. In 1938 he published a book on legal humanism in the Low Countries, in 1951 his *Bibliotheca belgica juridica* and in 1953 his *Droit privé des peuples*, a brief outline of world legal history.⁸ His course on Roman Law, which I attended in 1947, was more a history than an analysis of Roman doctrine.

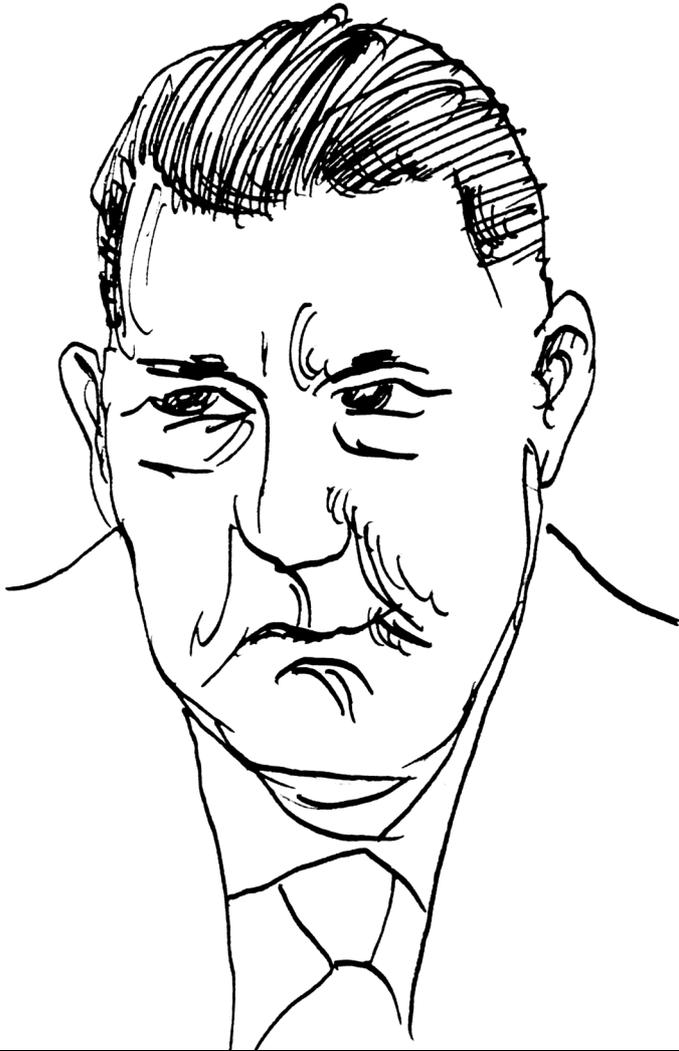
Dekkers worked hard and with regularity. In one of my oldest recollections I see him arriving early every morning at the medieval Seminar in order to compile the aforementioned *Bibliotheca*. He sat down by the reference works and copied relentlessly the necessary biographical data for his overview of the jurisprudence of the Low Countries from the earliest times to 1800. Dekkers's lessons were clear and methodical and he welcomed questions. I have a special memory of his optional class for the last-year students, where we (i.e. Jules Dhaenens who became a judge in the Court of Cassation and myself) read Justinian's Digest in a lively exchange of ideas and suggestions for translations.

As a person René Dekkers was perceived by his students as severe and even stern, but outside the class-room he was most friendly: I warmly remember the lunch he gave for my wife and myself on my appointment at the University. He also sent me, a few days before my marriage, a charming letter about »life in a family which keeps mind and heart young and fresh, which is everyone's vocation« (12 August 1954). Dekkers loved his independence; he came from a prosperous Antwerp family and married a rich woman – a happy union full of (cello) music. He was not

⁷ See the In Memoriam by Klaus Luig in *Savigny Zeitschrift für Rechtsgeschichte*, R. A. 119 (2002) 662–678. For bibliographies see the one in the aforementioned *Festschrift* of 1982, II, 605–34. See also *Max-Planck-Institut für europäische Rechtsgeschichte Frankfurt am Main. Gesamtverzeichnis der Veröffentlichungen*, Frankfurt (1996), 73–91 and the List at <https://portal.d-nb.de/>

[opac.htm?method, from the Katalog der Deutschen Nationalbibliothek](https://portal.d-nb.de/portal/opac.htm?method,from%20the%20Katalog%20der%20Deutschen%20Nationalbibliothek).

⁸ See the bibliography in *Hommage à René Dekkers*, Brussels 1982, 5–19.



René Dekkers

easily moved: I remember intervening as his colleague in favour of a student who had missed an appointment, but the professor refused to accept the boy's excuses. In appearance Dekkers was upright, slim and elegant, a sportsman who played football in the team of his Faculty and always looked fit and young.

The learned man took a lively interest in ideology – he taught legal philosophy in Ghent – and particularly in the great political currents of his time. A professor in the Freethinkers' University of Brussels, his sympathy inclined to the left which, by the way, cost him the rectorship of Ghent University. Indeed, although he was the first candidate on the list submitted by the teaching staff, the minister (this was at the time when the government in Brussels appointed professors and rectors in Ghent) preferred professor Albert Kluyskens, the second candidate, who belonged to the minister's own Christian-democratic party (and was also an eminent civilist).

Students and colleagues suspected Dekkers had Marxist sympathies, and it is a fact that in his fifties he developed an admiration for what was then called socialist law and for the Soviet Union in particular. He even learnt Russian and translated Russian legal texts for the benefit of Western lawyers. But after a few years his love of the Soviets cooled down and he found a new target for his enthusiasm in communist China. He praised that country's traditional love of justice and aversion to law courts and legal procedure. He visited China and reported daily to his wife: his communications were published in 1956 in his still very readable *Lettres de Chine*. These ideological vagaries puzzled students and professors alike. Was Dekkers a naive liberal fellow-traveller? Many found him an amazing and even unfathomable person. This impression was heightened by some personal

idiosyncrasies. When lecturing in the classrooms of the Legal History Seminar he always ordered every single window to be wide open, so that in mid-winter the secretary fled with her typewriter to a warm abode. He also puzzled students and staff by his need for reflection which caused him to lie on the floor of the Seminar in order to meditate.

François Louis Ganshof (1895–1980), eminent legal historian, medievalist and professor. Studied History and Law in Ghent, where he heard Henri Pirenne as a first-year student in 1913–14. Doctor in History in 1921 and in Law in 1922, he started teaching in Ghent in 1923, becoming Ordinary Professor in 1932 in the Faculty of Letters, dean of which he was in 1937–38. He taught, until his retirement in 1961, a variety of courses on general medieval and Byzantine history and on legal history in the Faculty of Letters and also, succeeding the renowned civilist A. Kluyskens, from 1955 onwards in the Faculty of Law, where he gave a compulsory course on the history of civil law.

Ganshof held no posts outside the world of scholarship, except as *attaché* of the Belgian delegation at the Peace Conference of Paris, as an expert in historical geography, and service as officer in the Belgian army during the two World Wars.

Right from the start Ganshof published detailed studies on various aspects of medieval law. There was a continuous stream of articles and books, such as on the *ministeriales* in Lotharingia of 1926 and his *Tribunaux de Châtellenie* of 1932. Many concerned particular elements of feudal law or Carolingian legislation, leading up to his *Qu'est-ce que la féodalité* of 1944 and his *Recherches sur les capitulaires* of 1958 (original Dutch version 1955). Meanwhile he published

path-breaking work on the history of medieval Flanders and its institutions. The general history of the period was presented in 1953 in a book in the series *Histoire des relations internationales* directed by Pierre Renouvin, and his research on town history resulted in 1941 in a book on urban development between Loire and Rhine. His numerous articles on the Frankish realm, and especially on Charlemagne, belonged mainly to the years after the Second World War.

Notwithstanding these learned and widely acclaimed books and articles, the picture is not one of undivided success. Indeed, in the 1950s and 1960s the world of scholarship was eagerly waiting for two great syntheses, but unfortunately in vain. Ganshof was preparing a book on the institutions of the Western Middle Ages, based on many years of teaching. Its publication in Dutch by the renowned Standaard Boekhandel of Antwerp was even announced in the press causing real excitement. An English version was on the way thanks to Geoffrey Barraclough to whom Ganshof had sent his text and who in 1948 approached Blackwell in Oxford, but at the last moment Ganshof felt that the book was still not ripe for publication, so that neither the Dutch nor the English version materialized. The other book that never was, concerned the long expected biography of Charlemagne. Numerous *Vorarbeiten* prepared the way – and even the book on the capitularies could be seen as one – but when the moment of writing and publishing the *magnum opus* arrived, Ganshof hesitated, recoiled and finally gave up. I remember him telling me sadly that he had waited too long and had grown too old to accomplish the daunting task, i. e. an authoritative biography of the *pater Europae*, the first great European since the fall of Rome to enter world history, who ruled for forty-six years from 768 to 814 over what is now

France, western Germany, the Benelux countries, Switzerland, most of Italy and part of Spain. In a letter of 1965 Ganshof wrote to his American friend, Bryce Lyon: »If I am not able (and I fear I will not be able) to write the book I always wanted to write on the subject [i. e. the life of Charlemagne], I shall have given the essential features about the subject«. He referred to his chapters in *Karl der Grosse. Lebenswerk und Nachleben*, edited by H. Beumann (I, Düsseldorf 1965), which Bryce and Mary Lyon translated. He should have heeded the advice of the Oxford medievalist H. E. Salter, whom he quoted himself in the Preface to the book on the *capitulaires*: »Those who are long passed middle age should print their material, if it can be of use to others, and not wait to make it more perfect«.

When Ganshof wrote to Bryce Lyon he was seventy, so maybe he had waited too long in order »to make his work more perfect«. He was a perfectionist who was not satisfied until he had studied every aspect, but when would that point be reached? How perfectionist he was was revealed when he wrote to me in the early 1950s that he had destroyed the first text of his contribution to F. Lot and R. Fawtier's *Institutions françaises au Moyen Age* because, on rereading, he found it not up to his usual standard. So he rewrote the whole eighty-three pages ab ovo. They were published in 1957 in vol. I of the series, which was called *Institutions seigneuriales*, a title to which Ganshof rightly objected, because Flanders, Normandy and the other French provinces were principalities and not seignories.

Another explanation why *Charlemagne* never was written, besides advanced age, might be the learned man's preference for detailed in depth research close to the safety of the sources rather than imaginative wide-sweeping construc-

tions. Whatever the reason, Ganshof's disappointment was history's loss, for one may doubt that another *érudit* of his calibre will appear to write the great book. Ganshof never wrote about methodology and was averse to theory and sociology. Philosophy was alien to him. I remember him referring to his colleagues in the Philosophy department, whose offices were above ours: »There sit the philosophers, dreaming and musing, like spiders which get the stuff of their webs out of their own bellies«: his material was the facts, as could be ascertained from trustworthy charters and chronicles.

Professor Ganshof's achievements were widely recognized. He lectured in many countries and belonged to numerous academies and other learned bodies, *inter alia*, from 1939 onwards the Royal Flemish Academy of Sciences in Brussels and, from 1932, of the Royal Commission on Ancient Laws, also in Brussels (he was its president from 1953 to 1968). He received thirteen honorary degrees, three British and ten French, the latter in a steady stream from Montpellier in 1936 to Algiers in 1959. There was a real outburst in the one year 1953 – Lille, Paris and Strasbourg – followed by doctorates in 1955, 1957, 1958 and 1959 – four in five years!

The learned man steadfastly refused a classic Festschrift: he could not be budged on that point, as generally speaking he was not inclined to change his mind. When I suggested to him a collection of his articles, published in numerous – sometimes unlikely – places, he asked for a week's time to consider. But here again the answer was negative and the motivation: »I do not want articles of mine to be reprinted unchanged and not brought up to date, because they have been overtaken by recent research, and I do not have the time to revise them as thoroughly as would be required«.

Nevertheless two volumes of collected articles were published. In 1968 three studies on Carolingian institutions appeared in an English translation by Bryce and Mary Lyon under the title *Frankish Institutions under Charlemagne*. And in 1971 a collection of sixteen articles came out, again in an English translation, by Janet Sondheimer and without revision, under the title *The Carolingians and the Frankish Monarchy*. Also, following a well established tradition, six members of the Editorial Committee of the *Legal History Review* dedicated in 1963 a collection of articles to their illustrious fellow member.

I have known Professor Ganshof for many years, as a student from 1946, and later as his assistant and colleague. After his retirement I sometimes saw him at his home in Brussels, where he sat in his office on the first floor, surrounded by books and periodicals that kept arriving but which his poor eyesight made them very difficult to read.

Ganshof was an inspiring teacher who expressed himself clearly and forcefully. He had an imposing physique. Female students were scared of him, but he had a warm character: when one of his students apologized for missing a class because her grandmother had died, he consoled with her in heartfelt terms and told her that he knew by experience how distressing the loss of a beloved grandma was.

Ganshof belonged to a well-to-do family of bankers, international merchants and barristers from Bruges, where he was born. His paternal grandfather, François Ganshof, came from Werdén and was married to Wilhelmina Birken, from Krefeld (both in the Rhineland). Grandfather François was in banking and imported wood, mainly from Russia. His son Arthur, Ganshof's father (1867–1929), was a barrister, first in Bruges and from 1921 onwards in Brus-

sels. François Louis Ganshof's maternal grandfather was the barrister August Van der Meersch, who wrote on Flemish history and inspired his grandson's love of Flanders and its past.

Ganshof was attached to the place of his birth. One day in the medieval seminar he showed me with indignation the page in a new volume of the *Monumenta Germaniae Historica* where he was thanked for his advice on Flemish chronicles and referred to as Franciscus Ludovicus Ganshof Bruxellensis, instead of Brugensis, which he truly was. He also wanted to be buried in Bruges, but because of various circumstances he was laid to rest in Brussels.

Professor Ganshof had a good rapport with several German medievalists and published some of his work in German. He was, however, worried by the rise of national socialism: he happened to be staying in Berlin in 1933 and saw the frightening spectacle of the march of the torch bearing brownshirts on 30 January. In 1937 he was in Göttingen for the celebration of the two-hundred year existence of the University and talked to Magda Goebbels, who, to Ganshof's surprise, spoke good French, as she had been to a finishing school in Brussels. In the summer of 1940 Franz Petri, a medievalist from Bonn, came to see Ganshof at the Faculty in Ghent in order to explain that the German army had come to liberate Belgium, but Ganshof made it clear to his colleague that he was completely on the wrong track. A few years later, as Ganshof told me himself, he had late in the evening an unexpected visitor: his younger brother, Walter Ganshof van der Meersch (1900–1993), a distinguished lawyer, had come to say goodbye, as he was about to leave the country illegally in order to join the Belgian government in exile in London.

Some of Ganshof's courses were given ex cathedra to hundreds of students, but even in

seminars with two or three students he spoke apodictically: there was no desultory chatting, and we were there to listen to the professor's voice. He, to be sure, did pose questions, but the right answer was already on his pile of slips, and he could be taken aback when some unexpected translation or interpretation was offered. Those seminars were devoted to close reading of the sources such as Einhard's *Vita Karoli*, a painstaking business advancing at the slow pace of one phrase per lesson.

A Ganshof seminar could be a chastening experience. I can still hear his powerful voice telling a student who made a somewhat fanciful translation: »Dat staat er niet, meneer« (i. e. that is not what the text says). But even to his colleagues he could be overpowering. One day a medievalist from Paris was giving a guest lecture in Ghent in the small room of the medieval seminar and offering an interpretation of a Latin text with which Ganshof disagreed. So, in front of the students, the two scholars engaged in a technical discussion which only ended when Ganshof produced Du Cange's dictionary and proved his case. I should add that afterwards Ganshof confessed to me that he was sorry for reacting as he did on the spur of the moment.

To younger colleagues he could occasionally give some blunt advice. When Professor Robert Boutruche, a specialist of medieval feudalism, had been appointed in Paris and asked his older colleague from Ghent, addressing him as »cher maître«, what advice he had for him, the brief reply was: »Apprenez l'allemand monsieur, apprenez l'allemand«.

At a conference in Paris, Professor Jean-François Lemarignier gave a paper on some aspects of Charlemagne's reign and, venturing into the realm of hypotheses, he imprudently asked Ganshof, sitting on the front row, what

he thought of them; the straightforward answer was – predictably – »Il n’y a pas de texte«. And even when the speaker tried to defend the legitimacy of a reasonable assumption, the answer was an immutable: »Il n’y a pas de texte« – so what was the use of fantasizing?

The international conferences of Spoleto on the early Middle Ages were the occasion for lively exchanges. A German scholar who maintained that no exemplar of a particular type of Frankish weaponry survived was told that one was on display in a particular room of a particular museum. At Spoleto Ganshof also got involved in a lively discussion with another authority on feudalism, Professor Claudio Sanchez-Albornoz, resulting in an intellectual firework which was relished by the congressists and talked about for years afterwards.

Ganshof’s encyclopaedic knowledge could be upsetting to guides who took tourists around. On one occasion in a church in southern France, the warden pointed at a tomb as being that of Count Raymond V, but Ganshof corrected him: it was Raymond VI. And when the guide, taken aback, said: »Vous en savez long, monsieur«, the Professor simply replied: »C’est mon métier«.

Ganshof was always ready to help colleagues without any fuss. He read the manuscript of Bryce Lyon’s biography of Pirenne and sent him chapter by chapter his appreciation, corrections and suggestions. He did the same for my own edition of the sentences of the Parlement of Paris on Flemish appeals, going carefully through the Latin texts and the French summaries.

Ganshof was extremely polite in an old-worldly fashion that astounded his younger colleagues: his congratulations or words of thanks went on forever and it was embarrassing to put an end to them. He even sent me a postcard

announcing that he was going to ring me up: calling somebody at home without any warning was a breach of privacy. Another relic from a bygone age was Ganshof’s notion of the status of a University professor. When he was invited to lecture at Berkeley and needed an American visa, he was told that he had to undergo a medical examination. This he at first refused because it was beneath the dignity of a professor and he only gave in after learning that the same rule applied to American scholars visiting Europe.

Ganshof’s knowledge of Latin was profound and he expected the same of his students, in the days that Latin was required to enter University. So he was shattered, as I remember vividly, when his first-year students could not explain offhand what the *Kalendae*, *Nonae* and *Idus* were.

He loved order and punctuality, in himself and in others. So, when on a Sunday morning (!), the Royal Library in Brussels opened five minutes late or when the train from Brussels to Ghent left with a two minutes delay, letters of protest were the prompt result.

Ganshof was a very serious person, whose ambition it was to teach his students, not to amuse them. Yet, he was an entertaining conversationalist and not averse to a good joke. On one occasion, however, this misfired and led to some embarrassment. When he was about to receive an honorary degree in London, he was told that his insignia would be given him by the Queen Mother, whose hand he was expected to kiss. So when he arrived in London and the immigration officer asked him what the reason of his visit was, he replied he had come to kiss the Queen Mother’s hand. The dumbfounded officer did not know what to make of this: was this foreigner – horresco referens – trying to ridicule the monarchy? Could he let this strange indivi-

dual enter the United Kingdom? He consulted his superior who fortunately understood what was going on, welcomed Ganshof and congratulated him on the honour he was about to receive.

The learned man enjoyed great prestige in his own University. Quite often, at the end of a lengthy disorderly Faculty meeting he produced a suitable draft letter or note, which was greeted with relief all round. He played a lively part in the elections of candidates for the rectorship of the University.

Professor Ganshof found a life-long support in his wife Nell, née Kirkpatrick. Although she was a small woman, without her husband's imposing physique, she had a strong character and her own pronounced views and judgment. This was particularly manifest in religious matters, where the spouses were at loggerheads. The irony was that Ganshof, who traditionally grew up as a Catholic, became an active and devoted Protestant, whereas his wife, descending from a Scottish Calvinist family, became an equally active and devoted Catholic. This state of affairs could cause ripples and caustic remarks. One day the two went to a funeral in a church in Veurne, where the congregation were noisily talking and greeting each other. So when the learned man remarked on this undisciplined behaviour in a place of worship, his wife replied that their deportment was only natural because they felt happy and at home in their own familiar church. On another occasion Mrs. Ganshof was quite amused. In June 1962 her husband was given an honorary degree in the Senate House in Cambridge at a ceremony where I was present, and the Orator made a speech in Latin about Ganshof's eminence. All went well along predictable lines until we suddenly heard the Orator call the new doctor an *Ecclesiae Romanae filium fidelem*. Philip Grierson, an old family friend

who was sitting by me, was shocked by this *gaffe*, but Mrs. Ganshof was smiling broadly, possibly thinking that that was what her husband ought to have remained. Afterwards, at a garden party in Trinity College, the archbishop of York, Dr. Coggan, who had just received an honorary degree in Divinity, upon being told of this mishap ordered new copies of the Speeches to be printed, omitting the offending misinformation. I imagine that those two versions would be labelled *rarissimes* by the book-trade.

Books waiting to be read or written by the learned man were Mrs. Ganshof's lifelong rivals. What she was up against was revealed early on, during their honeymoon in Venice, where her young scholar husband discovered a bookshop full of reasonably priced volumes of the *Monumenta Germaniae Historica*. Ganshof found them irresistible, purchased a good supply and was so keen to read and place them in his home library that the visit of the city of the doges was cut short. Many years later, when Mrs. Ganshof told my wife this anecdote, the trauma was clearly not yet healed. It must, however, have been a consolation to her that her patience allowed her husband to achieve the tasks for which his innumerable pupils and scholars in many lands were truly thankful. No one who met Professor Ganshof will ever forget his forceful personality or fail to admire his exceptional achievements.⁹

Jean Gaudemet (1908–2001) was an eminent legal historian who taught in Grenoble, Strasbourg and Paris after becoming a licentiate in Letters and Law in Strasbourg and obtaining a doctorate in Law in Paris in 1934. In Paris he taught from 1950 till 1978.

His immense oeuvre covered Roman, canon and secular law from Antiquity to his own day.

⁹ See the In Memoriams by R. C. VAN CAENEGEM in: *Jaarboek 1980. Koninklijke Academie voor Wetenschappen, Letteren en Schone Kunsten van België* 241–251 (with a bibliography 248–251) (English translation in R. C. VAN CAENEGEM, *Law, History, the Low Countries and Europe*, ed. by L. MILIS et al., London and Rio Grande 1994, 179–89), by C. VAN DE KIEFT in: *Jarboek van de Koninklijke Nederlandse Akademie van Wetenschappen*, Amsterdam 1980, 1–5, by R. C. VAN CAENEGEM in: *The Legal History Review* 49 (1981) 5–12, by A. R. LEWIS, R. S. LOPEZ and B. LYON in: *Speculum* 56 (1981) 195–196, by L. MILIS in: *Belgisch Tijdschrift voor Filologie en Geschiedenis* 59 (1981) 518–528 and by J. GILISEN in: *Handelingen van de Koninklijke Commissie voor de*

Uitgave der Oude Wetten en Verordeningen van België 30 (1982) V–VIII. See also the articles on Ganshof by R. C. VAN CAENEGEM in: *Nationaal Biographisch Woordenboek* 12, Brussels 1987, col. 263–73 and by A. VERHULST in: *Nouvelle Biographie Nationale* 5, Brussels 1999, 171–174. See also the evaluation of Ganshof's work by D. HEIRBAUT and A. MASFERER in: J. AURELL and F. CROSAS

Uitgave der Oude Wetten en Verordeningen van België 30 (1982) V–VIII. See also the articles on Ganshof by R. C. VAN CAENEGEM in: *Nationaal Biographisch Woordenboek* 12, Brussels 1987, col. 263–73 and by A. VERHULST in: *Nouvelle Biographie Nationale* 5, Brussels 1999, 171–174. See also the evaluation of Ganshof's work by D. HEIRBAUT and A. MASFERER in: J. AURELL and F. CROSAS

His *Institutions de l'Antiquité* (1967) is an outstanding textbook, not only on Greece and Rome, but also on Egypt and Mesopotamia and Hebrew law. It contains chronological tables, an index rerum and a list of legal and narrative sources. The Preface explains that the author decided to publish his *manuel* »en pensant aux étudiants«, but one wonders what student was expected to manage this »handbook« of 990 pages! In his special field of canon law Gaudemet wrote the authoritative *L'église dans l'empire romain (IV^e–V^e siècles)* (1958), the *Histoire du droit canonique* (1994), from the earliest times to the codes of 1983 and 1990, and a reference work on *Les sources du droit canonique (VIII^e–XX^e siècle)* (1993).

Gaudemet, author of heavy erudite tomes, could also present complex problems in short, lucid articles. I refer, for example, to his *Quelques opinions des docteurs médiévaux sur le rôle du peuple dans le gouvernement* (1991), where he refers to Roman, canon and customary law, but also to theology and philosophy as well as the experience of the Italian city-states.

Gaudemet's interest in the problems of his own time became manifest when he joined the Pontifical Commission for the revision of the code of canon law and the code of the oriental Churches (1969–1980) and succeeded Gabriel Le Bras as Counsellor for Religious Affairs at the Quai d'Orsay.

He naturally was a member or president of numerous learned bodies, *inter alia* of the Royal Flemish Academy in Brussels and received many honorary degrees, stretching from Cracow in 1964 to La Sapienza and the Pontifical University in Rome in 1992 and 2000.

Jean Gaudemet was lucky in many ways. He descended from a Burgundian family of University professors – a tradition continued by his

own offspring. He was very tall, elegant and upright and enjoyed excellent health well into his old age. Even at this late stage he thought nothing of an eye operation, which he jokingly talked about as if he had been to a tea party. Few scholars are lucky enough to be offered a Festschrift on their ninetieth birthday, aptly entitled *Nonagesimo anno*.¹⁰

Nevertheless, the learned man received his share of »the slings and arrows of outrageous fortune«. In 1940, when he had been happily teaching in Strasbourg for three years – and married for two years – disaster struck, when he was made a prisoner of war and spent five years in an *Oflag*. In the meantime, Alsace having become German again, his University was germanized and he lost his house and his library. After his return, as he told me himself, he would find some of his books in local second-hand bookshops. Gaudemet himself recovered from those shocks thanks to his courage and stamina, but his wife had suffered a lasting trauma.

I met Jean Gaudemet on numerous occasions and we became real friends. Each time a new book came out, he sent me a copy with the inscription »A mon collègue et ami Van Caenegem en très cordial hommage«. I felt thankful for my good luck in knowing this distinguished scholar so well. I first met him at the Canon Law Conference at Boston in 1963. His friendly manner and *ad rem* interventions made a great impression on everyone. It was, if an anecdote is allowed here, on that occasion that Professor Luigi Prosdocimi, the well known editor of medieval canon-law books (Huguccio!), made a lapsus that caused a (rare) moment of mirth. He had written his lecture on Gratian's *Duo sunt genera Christianorum* in Italian, but Stephan Kuttner told him that too few participants under-

(eds.), *Rewriting the Middle Ages in the Twentieth Century*, Turnhout 2005, 223–241 (with a bibliography). A more personal note is struck in R. C. VAN CAENEGEM, F. L. Ganshof: persoonlijke herinneringen, in: *Tijdschrift voor Geschiedenis* 119 (2006) 616–619 and in B. LYON (†), *François Louis Ganshof: Medieval Historian and Friend*, in: *Handelingen van de Koninklijke Commissie voor Ge-*

schiedenis, 173 (2007) 5–14. In 1946 Ganshof himself published a detailed list entitled *Bibliographie des Travaux Historiques de François L. Ganshof*, following a systematic order.

¹⁰ C. BONTEMS (ed.), *Nonagesimo anno. Mélanges en hommage à Jean Gaudemet*, Paris 1999, containing *Eléments bibliographiques*, 13–20. An earlier bibliography appeared in his *Etudes de droit*

romain of 1979, IX–XXVIII. For a detailed presentation, see J. MELEZE-MODRZEJEWSKI's *In Memoriam* in: *Revue historique de droit français et étranger* 79 (2002) fasc. 4, III–X. A posthumous collection of Gaudemet's articles, published in Strasbourg in 2008 under the title *Formation du droit canonique et gouvernement de l'Eglise de l'antiquité à l'âge classique*, contains a

stood Italian, so that French would be more helpful. Prosdocimi had no time to rewrite his text and gave a running French translation from his Italian script. All went well till he reached the passage where Gratian explains that the right half of the body of the Church is the clergy and the left part the laity. His Italian »la parte sinistra sono I laici« became not »la partie gauche«, but »la partie sinistre de l'Eglise sont les laïcs«, causing a (subdued) ripple of amusement.

I also met Gaudemet regularly at the congresses and directors' meetings of the Société Jean Bodin, whose president he was. We also met at Frankfurt where we both were members of the *Wissenschaftliche Beirat* of the Max-Planck-Institute: his interventions were listened to with great interest and concerned French and European law in a wide variety of periods. And while he was writing his fundamental *Le mariage en Occident*, which came out in 1987, he lectured for the Law students in Ghent at my invitation on the *error in persona* in canon law and the role of Roman law in the elaboration of the ecclesiastical doctrine. The lecture was so well presented and so well structured that his young audience liked it very much. On that occasion we had dinner in our home, where the learned man was full of stories about his beloved Burgundy and Alsace and their wines.

Erich Genzmer (1893–1970), University Professor and eminent specialist of medieval Roman law, was, like so many of my heroes, a lawyer turned historian. Genzmer, whose father was a judge in the Prussian administrative courts, studied Law in Berlin from 1912 to 1914, after two semesters in Lausanne. He spent some time as a civil servant, and entered his academic career in 1919, when he became the assistant of Professor Seckel in Berlin, who

turned his attention to the medieval *leges*, the »second life of Roman law«. In 1921 Genzmer obtained his doctorate and the following year his habilitation. He almost immediately started teaching Roman law in Königsberg, where in 1934 he was promoted to ordinary professor. The following year he moved to Frankfurt, where he (in the Nazi-era) belonged to the liberal wing of the teaching staff. In 1940 he went to Hamburg, where he taught till his retirement (in Frankfurt as well as in Hamburg he was dean of the Faculty). The academic year 1937–38 he spent as guest professor in Rome, with his wife whom he had married in 1922. The happiness of those years was brutally ended when an allied bombardment of Hamburg, in the night of 24–25 July 1943, destroyed Genzmer's house, his library and all his notes (including priceless material from his teacher Emil Seckel). The professor eventually overcame this tragedy, but his wife never recovered from the trauma and lost all zest for life.

Genzmer's path-breaking work was devoted to medieval Roman law. It took the form of editions of treatises, but also of fundamental monographs. I refer here, for example, to his *Justinianische Kodifikation und die Glossatoren* of 1934, which was ostensibly a paper read at a congress, but in fact amounted to a book of 185 pages and a breakthrough for the study of the first School of Bologna. It was therefore fitting that the University of Bologna granted him, in 1963, an honorary degree.

It was natural that the historian of the supranational neo-Roman law was a convinced European, with many international contacts, particularly in Italy and France. It is therefore understandable that he was active from the start in the vast European undertaking of the »New Savigny«. It was in 1815–1831 that Friedrich

28 pp. systematic bibliography of his oeuvre.

Karl von Savigny published his *Geschichte des römischen Rechts im Mittelalter* (second ed. 1834–1851), so by the middle of the twentieth century it was obvious that this fundamental pioneering – but never replaced – work was in need of a thorough overhaul. It was equally obvious that this vast work, covering the whole of medieval Latin Christianity, could not be undertaken by a single scholar, as the massive research of the past hundred years was too daunting. A collective enterprise was the obvious answer, and that is what was proposed in 1953 to the Société des Droits de l'Antiquité. Genzmer's programme was accepted and he was invited to be its general director. He spent the rest of his life on finding and guiding some sixty collaborators from numerous countries, editing the fascicules and negotiating with the publishers. His *Ius Romanum Medii Aevi* may be considered Genzmer's life's work.¹¹

It is with nostalgia and even some sadness that one looks at the ambitious *Einteilung des Gesamtwerkes*, in 11 volumes, of September 1960 and the footnote announcing that the »final detailed table of contents would appear at the completion of the work«. ¹² There is sadness because the enterprise was never completed and IRMAE is a torso, consisting of disjointed essays on disconnected topics, written by specialists who happened to be working on the *Edictum Theoderici*, the *Breviarium Alarici*, the School of Montpellier or the University of Basel in the fifteenth century. There were also monographs on Roman law in various countries, varying from 27 pp. on Normandy to 212 pp. on Germany.

There is no doubt that those 39 fascicules greatly enhanced our knowledge of medieval Roman law, one of the pillars of European civilization, as they were the work of such

eminent specialists as Robert Feenstra, François Louis Ganshof, Jean Gaudemet, André Gouron, Peter Stein, Giulio Vismara, Franz Wieacker or Jean Yver. Nevertheless, these *membra disjecta* were a far cry from Genzmer's grandiose plan.

It is an interesting question why this happened. The death of Genzmer in 1970 was surely a fatal blow, as no scholar with his erudition, dedication and charm was forthcoming to continue his work. Some twenty fascicules appeared in the seventies and (the last) in 1981, which had been planned before, but then the curtain fell. Another blow was the fact that the fundamental extensive sections on the Schools of Bologna failed to materialize: what was published concerned the periphery rather than the heartland of the *ius romanum medii aevi*. I do not know if there was a financial problem, but I can imagine that the absence of any remuneration may have discouraged some potential authors. It is also possible that, generally speaking, the enthusiasm for this sort of vast international project had diminished. The unfortunate result was that we still have to live without a »New Savigny«.

Another initiative of Erich Genzmer was born under a luckier star. Indeed, he took the first steps that led to the foundation of the Max-Planck-Institute for European legal history in Frankfurt. As the late Professor Helmut Coing, who was for many years its Director, explained, it was Genzmer who drafted the first memoranda and convinced the leaders of the Max-Planck-Gesellschaft that the Institute made sense and was even necessary: it became a great and lasting success.¹³

I first met Erich Genzmer in the 1950s at the Brussels home of Professor Fernand De Visscher, the President of the Société des Droits de l'Antiquité. The Director of IRMAE invited me to contribute to his enterprise and our talk took

11 For some details on the planning of the enterprise and the role of the famous Leiden professor E. M. Meijers, who proposed Genzmer as director, see the Préface by F. DE VISSCHER in Pars I, 1 a–d of IRMAE, Milan 1961, 5–9. See also Genzmer's own account: *Das römische Recht als europäischer Kulturfaktor und der Plan einer neuen »Allgemeinen Geschichte des römischen Rechts*

im Mittelalter«, in: *Acta congressus Madvigiani*, I, 1958, pp. 267–279.

12 Op. cit. (n. 11) 13–24.

13 See on all this H. COING, In memoriam Erich Genzmer, in: *Savigny Zeitschrift R. A.* 88 (1971) 574–588, with a bibliography compiled by E. Immel.

place in an informal atmosphere, *inter alia*, because our host also came from my home city of Ghent, where his family used to live in the same street as my father. Genzmer was a tall, elegant, quiet and patient man, with whom it was easy to come to an understanding. When I casually asked him whether this was his first visit to Brussels, he gave a negative reply and changed the subject, as if he was reluctant to expatiate. Much later I discovered that he in fact had, from June 1915 till May 1917, lived as a young lawyer in Brussels, as assistant to the Governor General for the *Zivilverwaltung* (civil administration) of occupied Belgium. Afterwards we kept in touch about my contribution and I was always glad to receive his off-prints with their friendly inscriptions.

John Gilissen (1912–1988), distinguished legal historian, professor and magistrate. He studied history and law at the University of Brussels, where he became a licentiate in history in 1934 and a doctor in law in 1935 and where he started teaching in 1938, being appointed ordinary professor in 1948. He taught legal history and the general history of the nineteenth and twentieth centuries for students in law and in history. He lectured in French in the Université Libre de Bruxelles and in Dutch in the Vrije Universiteit Brussel. He, moreover, taught a course on the history of art, one of his earliest fields of research.

Gilissen might well have said: »Zwei Seelen sind in meiner Brust« for he had two diploma's, two careers and two languages. Indeed, he was born in the Flemish town of Dendermonde, in the northern Dutch-speaking part of Belgium and had his first schooling in his Dutch mother tongue, but when the family moved to Brussels, he went to school there in French. His studies in

Brussels were all in French, at that time the only language of the University there, but when after the war, a Dutch-speaking Free University of Brussels was founded, Gilissen had a full teaching load in both universities in both languages. Nobody asked him whether he was a Fleming or a francophone until he retired in 1982 when, as he told me with a wry smile, the competent bureaucrat told him that he could only be entered as a pensioner on one of the two registers, the French or the Dutch. So at that late stage John Gilissen decided that he was really a Fleming, which accorded with where he was born.

During all these years Gilissen had a second, equally active career as a magistrate. Already in 1938 he started in the office of the public prosecutor in Brussels and in 1945 in that of the supreme court martial in the same place, where in 1965 he became General Auditor. In normal times the military courts are not very busy, but in the post-war years, with the repression of acts of collaboration under the German occupation of Belgium, they had a full schedule. Gilissen did all this practical work, while at the same time conducting research on the procedure of the military courts and its modernization. Gilissen's careers both came to an end upon his retirement in 1982.

Gilissen, the professor and the magistrate, was first and foremost a scholar, who published or edited some 8.000 printed pages of studies and reference works. In his earlier years he confined his interest to the legal history of the Low Countries in the Middle Ages and the sixteenth century. His teaching in history also led to studies on the recent history of Belgium. Although already in the thirties his teacher, Jacques Pirenne, a son of the famous medievalist, widened his horizon to lands and civilizations far beyond his native country, it was only in 1950,

when Gilissen accepted the job of General Secretary of the *Société Jean Bodin pour l'histoire comparative des institutions*, that he entered the international and even world-wide scene. Indeed, as secretary and eventually president of that Society, he organized congresses, invited papers from around the world, wrote the »synthesis« – a sort of summing up of the lectures – and got them published. Each congress had a particular theme – the law of evidence, for example – and heard papers on numerous countries and civilizations from tribal Africa to modern democracies. Some of these congresses covered no less than 170 papers which were published in no less than six stout volumes in the *Recueils* of the Society. With Gilissen as secretary, from 1951 to 1984, forty volumes covering twenty congresses saw the light of day.

The crowning achievement of his encyclopaedic endeavour came with the publication, in 1979, of his *Introduction historique au droit* (Dutch edition in 1981). The book of some 800 pp. contains three parts, beginning with a world history of law, followed by a presentation of the sources of Belgian law from the thirteenth century onwards and concludes with the analysis of select topics of private law. Each one, such as marriage, property, inheritance, evidence or obligations, is situated in Roman, Germanic, Frankish, canon, feudal and customary law, as well as modern jurisprudence. Each topic is illustrated with extracts from select sources.

John Gilissen was not only preoccupied with his own achievements and his reputation as a creative author, he was also, altruistically, determined to put reference works at the disposal of his fellow scholars. He undertook the compilation of bibliographies – that most ungrateful of endeavours. A good bibliography is a priceless

instrument for all prospective authors, showing what has already been achieved, what the lacunae are and where they can find the necessary sources and secondary literature. Gilissen undertook the herculean task of editing a world bibliography of legal history and ethnology (in the footsteps of the fantastic undertaking of his compatriots P. Otlet and H. Lafontaine). It was a mind-boggling and even reckless endeavour, which he undertook while being the director of the *Centre d'Histoire et d'Ethnologie juridiques* of the Institute for Sociology of the University of Brussels. It was his task to invite dozens of scholars to compile selective booklists on their respective fields, to edit the volumes and to deal with the publisher. This reference work would from 1965 onwards see the light of day in eight volumes totalling 125 bibliographies.

A comparable enterprise for Belgian legal history was less lucky. Undertaken and supervised by Gilissen and compiled by a team of six young scholars, the work was accomplished in four years and contained some 8.500 titles, as well as an introduction by Gilissen, written in 1965. Financial problems unfortunately prevented the completion and publication, but a photocopied version of the typed slips was made in two volumes in 1985 and sent to various libraries and scholars under the title *Bibliographie de l'histoire du Droit des Provinces Belges*.¹⁴

Gilissen clearly was a globalist avant la lettre, who gave lectures in numerous countries on all continents. Among the official recognitions he received are his membership of the Royal Flemish Academy of Sciences and honorary degrees in Lille, Strasbourg and Paris.

I knew John Gilissen very well. We met regularly on the Board of Directors of the *Société Jean Bodin*, at the meetings of the Belgian Royal Commission of Ancient Laws, on the Editorial

¹⁴ Gilissen's publications are listed in: *Liber Amicorum John Gilissen. Code et constitution, mélanges historiques. Wetboek en grondwet in historisch perspectief*, Brussels 1983, XV–XXXI. Addenda for the period 1983–88 are to be found in PH. GODDING, In Memoriam John Gilissen, in: *The Legal History Review* 57 (1989) 18–19.

Committee of *The Legal History Review* and the meetings of the *Wissenschaftliche Beirat* of the Max-Planck-Institute in Frankfurt. It is, if an anecdote is allowed here, at one of those gatherings that I consulted him, as a wise older man, on the question whether I should accept the invitation of the dean of my Law Faculty, Professor Spanoghe, in 1968 to start a new course on the history of public law. I hesitated because I already had a full workload in two Faculties and was wary of more examinations. Gilissen strongly advised me to accept, as a duty to our discipline and because of the importance of the subject matter (which he taught in Brussels). Afterwards I was thankful that I took his advice, as I came to enjoy teaching that course, which eventually led to my *Historical Introduction to Western Constitutional Law*. Gilissen also, with characteristic generosity, gave me his Brussels course, which was a great help for the modern part, with which as a medievalist I was not familiar.

John was a most friendly person, always good humoured and dying to be of help: he found it very difficult to say »no«. He could have a good laugh at himself: one evening he appeared for dinner in our house wearing the most unexpected uniform of a general in the Belgian army. Greatly amused by our puzzlement, he explained that he came straight from a Te Deum in the cathedral of Brussels, which he attended in his capacity of General Auditor. Not being fond of military show, he quickly went upstairs and reappeared in civilian attire, ready for dinner.

John also was a good raconteur. One day he told my wife and me in graphic detail how he and the art historian Leo van Puyvelde in 1945 found Van Eyck's missing Mystic Lamb from Ghent cathedral in a salt mine in Austria. One

can imagine the two scholars' astonishment when suddenly, armed with a torch and crouching in a dark underground corridor, they looked upon the famous Madonna of Michelangelo from the Lady church in Bruges and a moment later the – intact – Ghent altarpiece (afterwards Gilissen made a written note of his recollection of this remarkable event).

The most striking thing about him was his capacity for work. After a day in the law courts or the University he worked deep into the night on his other occupations. He told me that he used to write his General Synthesis at the end of each Jean Bodin conference all through the night in order to present it, based on dozens of papers, the following morning (these nightly drafts were later reworked and published in the *Recueils* of the Société Jean Bodin). It was often said that he had a great gift for organization, but I believe that this so-called gift was quite simply the outcome of hard work and attention to detail. When people praise someone's gift for organization, they often feel they are lucky to find someone else to do the hard job.

John was happily married to the historian Suzanne Valschaerts, a charming lady from Ostend and his life-long support. They lived near the Observatory of Ukkel, a prosperous part of Brussels, in an attractive villa. She died in 1978, leaving him a widower for ten years, during which he had a Moroccan housekeeper, a devout Moslem who kindly sent him on errands to the local department store – which pleased and amused him.

He never talked to me about politics. He taught in the Freethinking University of Brussels and I supposed his sympathies lay with the Liberal Party. Extreme ideologies were not his business. He was a realist who, as a magistrate, had seen life as it actually was.

Gilissen was not interested in system-building. Although he disposed of an immense reservoir of data, he never worked out a set of models after the fashion of Max Weber (whom, by the way, I never heard him mention). So, no »laws of history« or »lessons from the past«. He was a positivist who went on collecting building materials without ever turning them into a building. But the data he collected are there for everyone to use and I doubt if any scholar nowadays is even thinking of emulating him.

The question will be asked what inspired him. Of course, there was intellectual curiosity and personal ambition. But more was needed to keep him going day and night. He believed in the legal order as the only alternative to anarchy: law could bring peace between individuals and nations. So the profound study of law, in time and in space, was useful to enlighten our understanding of the legal order and improve its chances of success. What also drove Gilissen on was his aversion to war and his hope for peace, in Europe and the world. As a boy, he fled with his parents from his native land to England under the onslaught of the German invasion in 1914. Twenty years later he witnessed the atrocities of another European (turned world wide) war, so he tried ceaselessly to bring people of different countries and nations together and to help them to understand each other. After 1945 dreams of universal brotherhood and a world order under the aegis of the United Nations were very much in the air.

Every life has its disappointments and Gilissen had his fair share. Time was not granted him to write a book, which he often mentioned to me, about the post-1944 repression of World War II collaboration in Belgium. It was never written, which is a great pity because John as General Auditor was in the unique position of having

control of and full access to the relevant archives. The dream of universal brotherhood was bitterly shattered by the cold war and the difficult relations with eastern Europe. Time and again Soviet scholars who were registered for John's conferences had to cancel their trips at the last minute because of some obscure problem.

On a more personal level John suffered some financial disappointment. In the glorious sixties he had bought a manor house somewhere near Libramont, which was built for one of Napoleon's generals. It was a pleasant place, although in need of repair. The Editorial Committee of *The Legal History Review* occasionally met there, and one day a local farmer turned up with a cartload of wood for the open fire. So, when John said he had not ordered any, the farmer explained that as lord of the manor the professor was entitled – in true medieval fashion – to a yearly cartload of wood. John had planned to renovate this summer residence after he retired, counting on two substantial pensions to defray the cost. Unfortunately by the time he was 65 the law was changed, the combination of his two pensions – as a magistrate and as a professor – was abolished and the amount of the remaining pension reduced, so the ambitious renovation plan was shelved.

In the intellectual field Jean Bodin also held some disappointments. The massive tomes of the *Recueils* contained no real comparisons. Each specialist contributor wrote about his own terrain without reference to his neighbour; the speakers usually did not even know or talk to each other. This meant that Jean Bodin did not get much further – the saving ground being to some extent John's summaries – than the famous *Buchbindersynthese*. Also disappointing was the fact that the treasures of information contained in those volumes were seldom cited by legal

historians or lawyers – I and my fellow directors of the Society had the unhappy impression that the learned world did not make adequate use of that unique goldmine. I have already mentioned the sad fact that Gilissen's Belgian bibliography found no publisher. The world bibliography has been overtaken by technology, as we now have unlimited on line information which is constantly brought up to date.

That John Gilissen brought so many scholars together was positive, although its enduring effect is hard to assess. What remains of his oeuvre are his detailed studies, which will never be repeated, and his encyclopaedic Introduction to Legal History, which will be read and consulted for many years to come.

Stephan Kuttner (1907–1996) was an eminent historian of canon law and University professor. In 1930 he received his Law degree from the University of Berlin, where he had Ulrich Stutz as a teacher. Kuttner was born in Bonn from Jewish ancestors, but raised as a Lutheran and became a Roman Catholic in 1932. The following year he left Nazi-Germany for Rome, where he had done manuscript research since 1930, and worked at the Vatican Library and taught at the Lateran University. In 1940 he emigrated to the United States and taught at the Catholic University of America in Washington until 1964, when he moved to Yale, until, from 1970 to 1988, he was Director of the Robbins Collection in Roman and Canon Law at Berkeley where, after 1988, he continued as emeritus professor of Law until his death.

While in Washington, he founded the Institute of Medieval Law over which he presided for twenty-five years. The Institute was devoted to textual scholarship in medieval canon law, which at once indicates his own special field of

research. Indeed, Stephan Kuttner saw as his life's work tracing and identifying the (mainly unprinted) sources, rather than writing learned monographs on canonical doctrine. He was, as Domenico Maffei put it, a *muratore* rather than an *architetto*.¹⁵ He felt that it was premature to study the contents of ecclesiastical law before one disposed of the instruments to trace and know the relevant sources, identify their authors, locate the manuscripts and register the best modern editions, if any. That Kuttner was well equipped to go beyond this self-denying task, was demonstrated by his *Kanonistische Schuldlehre* of 1935, but then he decided that his manuscript studies, creating the necessary infrastructure for the historians of canon law, was a legitimate priority. It is in this context that he founded the series *Monumenta Iuris Canonici* and the *Bulletin of Medieval Canon Law*, an independent journal which as from 1971, continued the information published as from 1955 in *Traditio*.

Kuttner's innumerable studies on treatises, decretal collections, canons of Church councils and problematical manuscripts, as well as his editions of sources, stretching from 1931 to 1966, have completely renewed canon law studies and placed them altogether on a more solid basis.¹⁶ His work was an immense help to all his fellow historians, to whom, as Jean Gaudemet put it, he »gave generously the fruit of his labour«. ¹⁷ One great enterprise proved too much for Stephan's »labour«. At a meeting with some twenty specialists in Rome he outlined a project for a new edition of Gratian's *Decretum*, to replace Friedberg, but even the Institute he founded in Washington in 1955 could not realize this ambitious plan which, in Gaudemet's words »se révéla de plus en plus complexe, aléatoire et sans doute irréalisable«, *inter alia*, because no

15 Savigny Zeitschrift für Rechtsgeschichte K. A. 84 (1998) 684. See also the memoir on Stephan Kuttner by R. BRENTANO, R. SOMERVILLE, B. TIERNEY and T. N. BISSON, in: *Speculum* 72 (1997) 929–931. For Kuttner's life and work in Washington, see A. HETZENCKER, *Stephan Kuttner in Amerika 1940–1964*, Berlin 2007 (doctoral dissertation, Munich).

16 For a complete bibliography see www.kuttner-institute.jura.uni-muenchen.de.

17 J. GAUDEMET, Un grand historien: Stephan Kuttner, in: *Revue historique de droit français et étranger* (1997) 1.

one knew where to find »un mythique *Ur-Gratian*«. ¹⁸

His erudition and dedication were recognized by thirteen honorary degrees, beginning with Bologna in 1952, and by his appointment in 1967 by Pope Paul VI to the Pontifical Commission for the Revision of the Code of Canon Law. He was also interested in the plans for a *Lex Ecclesiae Fundamental*, which failed to materialize. He liked discussing the reasons for this failure and blamed the fact that the canonists found no historical ground for a title on »the faithful and their rights« and no suitable ecclesiastical terminology in traditional canon law, but the theologians also had grave doubts: was not the gospel the one and only constitution of the Church? I found this sort of conversation with Stephan Kuttner most enlightening.

I met him several times beginning with the Second International Congress of Medieval Canon Law at Boston in August 1963, which he organized. He was at the height of his powers and his extensive network of international connections allowed him to invite scholars from many parts of the world and bring them together in a very successful congress (and to edit its proceedings, with 29 papers, in collaboration with Mgr. Joseph Ryan). The congress was enlivened by various functions and a final banquet. After the reception at the State House in Boston a group photo of the congressists was made on the steps in front of the House. It was there that I overheard an amusing altercation between Father Leonard Boyle (who later went to the Vatican Library and is buried at San Clemente) and Professor Christopher Cheney. The learned Dominican tried to move his Protestant Cambridge colleague up a few steps, saying »so you will be a bit nearer to heaven« but adding »not that you will ever get there«, to

which Cheney replied: »Thank you, Father Boyle, for this authoritative pronouncement«.

At another reception the congressists were introduced to Cardinal Cushing, the archbishop of Boston (of Irish descent), who on shaking hands with Cheney and hearing that he came from England, exclaimed: »Who would have thought that such a great train robbery could take place in such a small country?« (this was, of course, the year of Ronald Briggs's famous coup).

At the final banquet (if the reader permits me another *petite histoire*) the Cardinal made a speech ending with the words to Professor Kuttner: »I say, Stephen, get the papers of the congress printed and send the bill to me«. When eventually the papers had come off the press, Kuttner went to the archbishop's palace with the bill and was promptly given a cheque by a secretary. Remarking that it was not signed by the cardinal himself, the secretary explained that his master never signed cheques for less than 50.000 dollars, far beyond the expense of the canonists. When Stephan Kuttner told me this story, it struck me as very American.

After the congress Stephan Kuttner invited me to his home in Washington, where he was teaching. It was a welcoming place full of his numerous children. In the middle of our conversations I managed to be given a fair number of his off-prints which I still treasure. On a more personal note, he complained that his students in Washington were not really interested in research, as many of them were nuns, who just wanted to obtain their degree in order to go back home to teach in some Catholic school where they were eagerly awaited. Years later he occasionally had a meal at our house when he was negotiating at the Press of De Meester in Wetteren, where his *Bulletin of Medieval Canon Law*

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was being printed (Stephan was not only a scholar but was also a bit of a businessman). Around that time he also gave a lecture in Ghent at the invitation of Professor Strubbe. On all those occasions I learnt a lot from Professor Kuttner and found him a most friendly and inspiring person.

Gabriel Le Bras (1891–1970), professor, historian of canon law and religious sociologist. Born in Paimpol, a small fishing port in Brittany, he called himself Le Braz when he felt Breton and Le Bra when (more often) he felt himself French. Studied at the University of Rennes from 1908 to 1911 and the University of Paris (1911–14), where he obtained a doctorate in Political Science in 1922. He taught in Strasbourg from 1923 to 1929 (where he knew Lucien Febvre and Marc Bloch) and from 1929 to 1964 in the Paris Law Faculty, where he held the Chair of the History of Canon and Roman law and was dean from 1959 to 1962. At the same time, from 1922 to 1964, he remained a professor at the Institute for Canon Law at Strasbourg University.

I knew »le doyen Le Bras« – as he later became generally known – as my professor of legal history in the old Faculté de Droit on the Place du Panthéon in 1951–52. His class, for about twenty post-graduate students who prepared doctoral dissertations, was very lively and the professor was always ready to talk to us about our various fields of interest. He had a somewhat theatrical way of lecturing and could get emotional, as when he said with great emphasis: »It says in Scripture *omnis potestas a Deo*, but I say *omnis potestas a diabolo*«, words he repeated in his address of 20 February 1965 (about which more later): he knew about the temptation of power and hubris of »les monstres dont nous sommes victimes, les Etats« (*ibid.*).

In the same vein he often referred to »la grande patience du peuple chrétien«. Le Bras dominated his audience in a paternal way, astonishing us with his knowledge of the most obscure corners of his subject: one student who had a question on the Councils of Braga (A.D. 561 and 572) was given an impromptu lecture on their proceedings and canons. This left us perplexed and convinced us that the professor had the whole history of medieval canon law in his head and had only to sit and write it down.

The learned man received me occasionally in his apartment on the Place du Panthéon for a conversation and guidance (I was working at the time on medieval criminal law, which had obvious connections with canon law). As we were talking, surrounded by books, his children were playing with marbles on the floor: Le Bras was married late to a student of his, hence the young company. As we discussed medieval law, some young woman would turn up to talk about her thesis on religious sociology. This was a reminder to me that the Law professor was also a leading sociologist, who organized a vast enquête on religious practice in modern France. I remember a large map of the country where various regions were coloured according to church attendance. Some were still clearly Catholic, but others were almost »heathen«. The interpretation of the map was open to debate. It struck me that the more outlying parts (Brittany, Flanders, Alsace) tended to be more Catholic than the old, truly republican areas, but this did not seem to strike my interlocutors as significant.

Le Bras was full of attention for his students. One day early in 1952 he told me I should go in the spring to Toulouse to attend the conference of the Société d'Histoire du Droit, and when I referred to the cost involved and my limited



Gabriel Le Bras

budget, he at once produced an allowance so that I happily went to the first of my many conferences organized by this Paris based Society. An American fellow-student who was also scheduled for Toulouse eventually cancelled his registration because he was »travelling to Italy with his mother«. He asked me to inform Le Bras and apologize. But when given this message the professor snorted sarcastically »with his mother?« and clearly had his doubts (which I myself had naively not entertained) about the identity of the student's companion.

On another day the learned man said to me »Van Caenegem, I want you to come with me to Royaumont where I am giving a lecture«. So off we went together to this charming old Cistercian abbey north of Paris which was a popular cultural centre. Le Bras's lecture was brilliant, and he was so carried away that he was oblivious of the late hour, so late that we missed the last train at Royaumont station to take us back to Paris. Not a bit disconcerted the professor explained to the stationmaster that we had to get back to the capital that evening, pointing out that he was a professor in the Law Faculty there. The railway official was duly impressed, but could only repeat that the last train had already left. The situation seemed hopeless, but salvation was nigh: we perceived a distant rumble on the railway line: »What about this train that is approaching?«. »But, Monsieur le Professeur, it is a goods train«. »Well, stop it here!« So the stationmaster put the light on red and the goods train duly gave us a lift to Paris and eventually to a taxi home.

Le Bras was first and foremost an historian of medieval canon law: with Paul Fournier he visited innumerable libraries tracing manuscripts of conciliar canons and papal decretals and wrote authoritative studies on many aspects of

the law of the Roman Church. The great history of canon law, that we students expected him to write (something comparable to the famous book by Hans Erich Feine), never saw the light of day (I often thought of a similar fate that befell Ganshof's biography of Charlemagne). Le Bras did, however, initiate and supervise the imposing series of monographs *Histoire du droit et des institutions de l'Eglise en Occident*, in which he wrote himself, in 1965, with Charles Lefebvre and Jacqueline Rambaud, vol. VII *L'Age Classique 1140-1378* (an indispensable overview of this cardinal period in some 600 pages). He also wrote, in 1955, the Introductory volume of *Pro-légomènes*, which was a disappointing generalizing compensation for the great History that we hoped for.

He occasionally wrote to me on letter-paper of the Ministère des Affaires Etrangères, which intrigued me until I found out that he had been since 1946 a Counsellor for Religious Affairs at the Quai d'Orsay. The Vatican had to consult the French government about the appointment of bishops and Le Bras was the government's man of confidence and trusted by both parties to play a role – not widely known or discussed – in the composition of the episcopal hierarchy of his country.

Le Bras's human qualities and scholarly achievements received the recognition they deserved. He was made an honorary doctor of the Universities of Liège, Louvain, Milan and Bologna and became member of several academies abroad and in France, where in 1962 he was elected to the Académie des Sciences morales et politiques of the Institut de France. I had the privilege of assisting to the ceremony of the *remise de l'épée d'académicien* in the Law Faculty in Paris on 20 February 1965. One of the ten speakers was the new academician himself, who

looked very happy and gave one of the best speeches I have ever heard, full of surprises and humour and presented in a most beautiful language. He told his eminent colleagues who one day («soon, because of my age») would be invited to pronounce his *éloges funèbres* that in order to spare them the extra work, he had decided to present his own *In Memoriam*: after all, who knew Le Bras and his work better than Le Bras himself? His address began as follows: «Notre collègue naquit en 1891 à Paimpol, dans une famille qui n'avait point quitté la mer depuis son périlleux embarquement sur l'Arche de Noé.» And in an amusing passage he recalled that he had given many lectures in foreign lands, where he had noticed that «the less the audience understood his French, the greater was his success». Or, in his own words: «Il avait obtenu des succès d'autant plus grands que l'auditoire ne comprenait pas notre langue» – adding, tongue in cheek «nouvelle preuve éclatante du prestige intellectuel de la France». In the same self-deprecatory vein he said that «although he had talked a lot and written a lot» his «merits did not surpass, if even they equalled those of a good labourer».¹⁹

The evening after the ceremony Professor and Mrs. Le Bras invited a few foreign guests to dinner in their apartment, i. e. Professor and Mrs. F. L. Ganshof, Professor and Mrs. Giulio Vismara and my wife and myself: it was an enjoyable occasion, with an unforgettable old Meursault.

Around the same time Gabriel Le Bras received a Festschrift in two volumes entitled *Etudes d'Histoire du Droit Canonique dédiées à Gabriel Le Bras*, Paris, 1965 (with a bibliography, pp. IX–XXXIII). How I came to write in it is an amusing story. In 1963 I was walking with Le Bras in the corridors of a conference in

Bologna when he (being rather short) pulled me by my lapel and whispered in my ear: «Do you write in my Festschrift?» And when I replied that I did not, because I had not been asked, he said: «I want you to. I will see to that». And indeed, when my wife and I were back home the following week, there was a letter from Pierre Timbal inviting me to contribute. So practical was the great canonist that he even organized (part of) his own Festschrift.

The *doyen* Le Bras is still remembered vividly and gratefully which was demonstrated at the much attended *Journée Le Bras* held in Paris at the Fondation del Duca on 6 April 2006, and where one of the speakers was the great scholar's widow.

Bryce Lyon (1920–2007), eminent legal historian and medievalist. After four years with the United States Army Air Force in the Pacific Lyon studied medieval history under Carl Stephenson at Cornell University, where he received his doctorate in 1949. After a short spell at Colorado he was an Assistant Professor of History at Harvard from 1951 to 1956. After three years in the University of Illinois he was Professor of History at Berkeley from 1959 to 1965, when he moved to Brown University in Providence, Rh. I., and taught there until his retirement in 1986.

Bryce Lyon published important and innovative studies on various aspects of medieval feudalism in England and on the Continent, starting with his 1951 dissertation on the use of the money fief by the English kings, followed by work on the *fief-rente* in the Low Countries and the Indenture System. At the same time he was interested in medieval constitutional texts such as Magna Carta (1951) and in the comparative study of English and Belgian constitutio-

19 For the full text see: *Remise de l'épée d'académicien et des Etudes d'histoire du droit canonique à Gabriel Le Bras, doyen honoraire de la Faculté de Droit et de Sciences économiques de Paris le 20 février 1965 à la Faculté de Droit de Paris*, Paris, 1965, 47 pp.

nal law (1956). His crowning achievement was his fundamental and thoughtful *Constitutional and legal history of medieval England* (New York 1960, 2nd. ed. 1980).

His interest in the Low Countries went back to his mentor Carl Stephenson, who had studied in Ghent under Henri Pirenne in 1924 and to Bryce's reading of *The Low Countries and the Hundred Years' War* by Henry S. Lucas, one of the few American medievalists who mastered the Dutch language (as did Bryce himself later on).

Professor Lyon worked on the financial institutions of the English monarchy and edited *Wardrobe Books* in collaboration with his wife Mary. This interest led to his much broader book of 1967, published in the series of the Ghent Faculty of Letters under the title *Medieval finance. A comparison of financial institutions in northwestern Europe* and written in collaboration with his colleague Adriaan Verhulst, who was an authority on the financial administration of the counts of Flanders.

Professor Lyon taught the general history of the Middle Ages, which led to the textbook *Medieval history: Europe from the second to the sixteenth century*, originally written by C. Stephenson and edited and revised in a fourth edition in 1961 by his pupil. Although the Brown University Professor worked mainly on the later Middle Ages, this textbook showed his familiarity with earlier periods, as did the translation he and his wife made of a selection of Ganshof's articles on the impact of Charlemagne on Frankish government and law, published in 1968 under the title *Frankish Institutions under Charlemagne*.

Already as a student Bryce Lyon became familiar with the writings of Henri Pirenne, which was natural for a young medievalist and a pupil of Carl Stephenson. In the course of the

years Lyon's admiration steadily grew and he became interested in the famous medievalist, not only as an historian of western Europe but also as a prominent figure in Belgian public life. And so it came about that already in 1960 he published an appreciation of Pirenne's oeuvre in the leading periodical *Le Moyen Age*. It was around the same time that Lyon met count Jacques Pirenne, the only surviving son of the medievalist, to whom Bryce had been introduced by a letter from Professor Ganshof. Jacques Pirenne encouraged his American colleague to write a biography of his father and put the latter's *Nachlass* at his disposal. So Bryce and Mary went to work on, *inter alia*, the letters received in Ghent – some 800 from Maurice Prou alone – which Jacques had carefully pasted into more than 200 volumes. For more than ten years the two American scholars devoted their time and attention to this vast undertaking, not only going through the Pirenne archives, but tracing all over the place letters sent by Pirenne. They also had to enter into the intellectual and political life of a bilingual European country, no mean task for citizens from across the Atlantic. The result was a stout and very detailed volume, published in Ghent in 1974 under the title *Henri Pirenne. A Biographical and Intellectual Study*. Nor was this the end of the Lyons's involvement with their hero, as they went on to publish a stream of articles on Pirenne and his correspondents and to edit his *Journal de Guerre* in 1976 and his *Réflexions d'un solitaire* in 1994.

Writing on Pirenne did not mean the end of Bryce's older interests in legal history, but it reduced his output in that field. *Gelehrten-geschichte* is a respected pursuit – and I am doing it myself in these very pages – but it is not the mainstream of original research. We can only speculate what Professor Lyon would have pro-

duced in his original line if he had not spent so much time and energy on the biography of »the man from Ghent«. He had, for example, the capacity and the depth of vision to write a constitutional history of the European Middle Ages, possibly under the title of the Variorum Edition of his selected articles of 1978, *Studies of West European Medieval Institutions*. Whether this would have been a more worthwhile pursuit is a moot point and who are we to question Bryce and Mary's priorities ?

Bryce's achievements received widespread recognition. Not only was he a member of numerous learned bodies, *inter alia*, of the Royal Flemish Academy of Sciences, but he was granted honorary degrees by Baldwin-Wallace College and Ghent University, and a Festschrift edited in 1990 by Bernard S. Bachrach and David Nicholas under the title *Law, Custom, and the Social Fabric of Medieval Europe* (with a bibliography, pp. XV–XXII). Bryce and Mary also greatly enjoyed being received in a private audience by King Baudouin upon publication of their biography of Pirenne, who in 1924–25 had been a teacher of his father, King Leopold III, in Ghent.

I knew Bryce very well. I met him on numerous occasions and our two families became close friends. In 1962 my wife and I were having dinner in Brussels with Bryce and Mary at the time of the Cuba crisis, when the learned man expected any moment to be called up for military service as a reserve officer. At that time the Lyons were going through the Pirenne correspondence during a prolonged stay in the Belgian capital. The following year I stayed with them in Berkeley, where they were most friendly hosts. In 1974 our family and our friends the Van Houttes (both with three children) spent a month's holiday at East Alstead, where Bryce and Mary had a sum-

mer house: their hospitality was warm and full of kindness. I kept corresponding frequently with Bryce till the year he died.

Professor Lyon gave numerous guest lectures in Ghent and we had common friends there. Bryce and Mary spent some time at the house of Professor and Mrs. Marcel Storme in Ghent. Bryce also had warm contacts with Dr. Carlos Wyffels, who assisted him in his work in the archives of Ghent and Brussels, and with Professor Adriaan Verhulst, with whom, as I mentioned before, he wrote a book on financial institutions. Bryce and Mary also became close friends of the Ganshofs. Bryce knew Professor Ganshof from 1951 onwards, when he was a Belgian-American Educational Foundation fellow. I vividly remember a tea party the Lyons gave in September 1973 at the hotel in Deurle where they spent a memorable summer month. Bryce already had invited Professor Ganshof to give guest lectures on Frankish institutions in Berkeley, where the Ganshofs spent the academic year 1963–64, pampered by their hosts. The Lyons had two distinct circles of friends in Belgium, one in Brussels around the Pirenne family and one in Ghent around the medievalists in the archives and the University.

Bryce was a typical American intellectual, with his bald head, heavily rimmed glasses, colourful clothes, boundless energy and direct style in meeting people. His love of Europe was deeply felt and concerned all aspects of its culture and social life. He was a lively conversationalist and could be outspoken in his criticism (of some politicians in his own country, for example). His friendships were sincere and lasting. He was a brilliant teacher, who spontaneously and directly engaged his students with questions or provocative asides. Bryce also was a dedicated family man, devoted to his two children and his

wife Mary, herself a classical scholar and his life-long support. His numerous friends and students remember him warmly.

Theodore Frank Thomas Plucknett (1897–1965) was an eminent historian of English law and professor at the University of London. Whereas most of my heroes went from Law to History, Plucknett went the other way, starting life as an historian before turning into one of the most learned authorities on the English common law. Having matriculated at London University in 1913, he graduated in history in 1915, obtaining his M. A. degree in 1917. The following year he went to Cambridge, where in 1920 he obtained a bachelor's degree in Law (without legal training) with a thesis published in 1922 under the title *Statutes and their interpretation in the first half of the fourteenth century*. With a Harvard fellowship he in 1921 attended the Law School there, first as a student and soon afterwards as a member of the staff. It was on the initiative of Roscoe Pound that he started teaching legal history, the beginning of a career of forty years, not all of them in America, however, for in 1931 the Assistant Professor of Legal History in the Harvard Law School returned to England. The story goes that an eminent English historian and politician, Harold Laski, since 1926 professor of Political Science in London, visited Harvard and was surprised to find a brilliant young countryman there, whom he enticed to come back home and accept the new chair of legal history at the London School of Economics. In this way Plucknett became one of the four full-time professors in the Law Faculty of the University of London.

Plucknett wrote several monographs on aspects of English law, betraying a special interest in constitutional history (government, Parlia-

ment, state trials, Bonham's case). He also edited medieval case law (Year Book of 13 Richard II in 1929), but he is generally best known for his excellent *Concise History of the Common Law*, which was written in his Harvard days, first published in New York in 1929 and went through five editions between that year and (London) 1956. As an introduction to the subject it is unparalleled because of its logical structure, analytical power and comprehensiveness, as it includes extensive chapters on private law, i.e. real property, contract, equity and succession. Not the least of its merits is that the author found it »necessary to place the history of English law in its setting of canon, civil, and general European law« (Preface to fifth edition) – not self-evident to specialists of English law.

Editions of the original sources provide the historian's indispensable materials, as they consist not only of transcripts of old manuscripts, but also of introductions, commentaries and indexes. It is therefore as literary director of the Selden Society that Plucknett deserves our profound gratitude. He became one of its three directors in 1937 and remained alone at the helm after the death of G. T. Turner in 1946. He continued this ungrateful but indispensable task until shortly before his death, which meant that he had a hand in some twenty volumes.²⁰ Professor Plucknett's merits were duly recognized. He was a member or president of learned societies and received honorary degrees at Glasgow, Birmingham and Cambridge.

Plucknett's character combined extreme kindness with extreme reserve, even elusiveness. Although he was most friendly, he did not go in for many friendships. He was rather small, had a round pale face and was always impeccably and formally dressed, wearing a bow-tie. He was a quiet man, whom one could not imagine gesti-

²⁰ For a presentation of Plucknett's oeuvre see S. F. C. MILSOM, Theodore Frank Thomas Plucknett 1897–1965, in: Proceedings of the British Academy 51 (1965), London 1966, 505–19.

culating or being exuberant. I often thought of him as a typical Oxford or Cambridge don and I wondered why he stayed at LSE, until I realized how important the proximity of the Public Record Office was. His life in Wimbledon was secluded. He left in the morning for Aldwych or Chancery Lane (doing his crosswords on the train?) and returned home quite late (he had an evening as well as a day class) and went straight to his study and his books and manuscripts. My old friend Howard Drake, the librarian of the Institute of Advanced Legal Studies in London, told me that when, after the professor's death, he went to his house, he found that the son did not really grasp what his father's job had been and what he had achieved.

What a contrast with Walter Ullmann, another of my heroes, continental exuberance versus English phlegm! The one uprooted and in exile, constantly on the move from one international meeting to another, the other firmly rooted in the solid English soil, moving for more than 30 years between Wimbledon and London (with a yearly holiday in France), but never returning to America. I have often wondered if they ever met (possibly at some function of the Royal Historical Society?), as their interests were so different. We know, however, of one function when their roads – unwittingly – crossed. When Ullmann had finished his first book, on Lucas de Penna, he sent the manuscript to the Cambridge University Press, which rejected it. Blackwells in Oxford similarly turned it down. Walter then contacted Methuen, who accepted it after a most favourable report by Plucknett.²¹

Plucknett betrayed no interest in theory or generalization and I had no idea what his politics or religion were. I knew him in his dual role of teacher and supervisor. I arrived in London in 1952 hoping to do research on English medieval

law. On the Continent I had worked on Flemish criminal law and been struck by some similarities between the modernisation of the legal system in England under King Henry II and in Flanders under Count Philip of Alsace. Wanting to find out more about the English side, I thought some research in that country was called for. Professor Ganshof encouraged me and suggested Plucknett as the specialist par excellence. So from 1952 to 1954 I took his advanced class on English legal history in a small room at the London School of Economics, where we were two students, an English cleric, whom I never got to know, and myself. Only one other continental student had gone – before the Second World War – to this class, a young Hungarian, George Bonis, who later became a professor in his own country.

Plucknett lectured in a quiet, rather distant way on thirteenth-century private law (*maritimum*, inheritance, the curtesy of England, dower *ex assensu patris*) on the basis of his intimate knowledge of the court rolls (although Bracton was never far away). He also welcomed our questions.

It was, however, as my supervisor that I came to know Plucknett better. When I asked him to direct my research on the common law, he did not throw his hands up in despair at the thought of a young continental student engaging on the arcana of Glanvill's Treatise, but was welcoming and encouraging for, although the professor was firmly rooted in England and its history, he was not insular. He knew the Continent, had married a French wife and spent his holidays in her country. He had moreover studied canon law in his Cambridge days and kept a lively interest in the subject. Transnational work did not put him off. When we talked about a suitable subject, I mentioned legal fiction in the common law (a suggestion of Professor René

21 E. ULLMANN, Walter Ullmann. A Tale of Two Cultures, Cambridge, 1990, 39.

Dekkers, who had written a book on *La fiction juridique*), but Plucknett found it too vague and difficult and proposed instead that I work on the writ procedure under Henry II, the core of the early common law. He was personally interested because of a possible continental and especially canon law influence: was the writ of novel disseisin modelled on the *actio spoliū*? He thought that as I had heard the canonist Gabriel Le Bras the previous year, I was better placed than most English legal historians to look into these questions. I accepted his suggestion because I knew I could always consult him if some stumbling block arose. So I saw him regularly and was lucky to have such a learned and patient guide. He occasionally overcame my doubts, as when some historian had written an article which went so much against my own vision that I was upset, but when I mentioned it to my supervisor he said, with a wry smile: »I think the author had had too much good English ale when he wrote that.«

As my project involved going through all the relevant narrative and non-narrative texts of the Anglo-Norman and Angevin period, Plucknett made the practical suggestion that I should make a note of every lawsuit I came across – whether royal writs were involved or not – in view of a new edition of Bigelow's *Placita Anglo-Normannica* of 1879, a pioneering work that needed to be overhauled. His initiative led eventually to my *English Lawsuits* in the Selden Society volumes 106 and 107 – alas well after Plucknett's death. He lived long enough, however, to see the publication of my *Royal Writs* in 1959, the result of research undertaken under his guidance. As it was a Selden Society volume and he was its literary director, he read every line of my thesis before it went, with his *imprimatur*, to the printer. His seal of approval was a huge relief for

a continental scholar who ventured into the (treacherous?) territorial waters of the English common law, »where angels fear to tread« (the reader familiar with Alexander Pope's *Essay on Man* will remember that the full line reads: »For fools rush in where angels fear to tread«).

Wilfried Roels (1926–2007) was a legal historian and professor of Roman law. After studies in Ghent and Brussels he obtained, in 1958 in Brussels, his habilitation in Roman law under René Dekkers, whose assistant he was from 1953 onwards. He started teaching in Brussels in 1958 and in Ghent in 1960 where, in 1972, he was promoted to ordinary professor of Roman law in the Law Faculty. In Ghent he had become, in 1949, a licentiate in History and, in 1951, obtained his doctorate in Law.²² Roels's scholarly output was not extensive, which belied the promise of his early, outstanding thesis on the use of Roman law in the sixth-century *Lex Romana Burgundionum*.²³ It established Roels's reputation as a most erudite scholar and a courageous man, not afraid of tackling obscure periods and awkward problems concerning, *inter alia*, the date of the *Lex*, where Roels refuted the *herrschende Lehre*. His book was extensively used by G. Chevrier and G. Piéri in their fascicule *La loi romaine des Burgondes* in Genzmer's *Ius Romanum Medii Aevi*. I refer the reader here to what the eminent legal historian Robert Feenstra has written about Roels's impact on Chevrier and Piéri in his review of Genzmer's enterprise.²⁴

I knew Wilfried very well, as we were students together in History and in Law and were afterwards for many years colleagues in the University of Ghent. He was highly intelligent and very independent. In Ganshof's seminar on Charlemagne's *capitularia*, Wilfried's fellow students were astonished when he, unimpressed

22 See the In Memoriam by D. HEIRBAUT and B. DEBAENST, in: *The Legal History Review* 75 (2007) 437–438.

23 *Onderzoek naar het gebruik van de aangehaalde bronnen van Romeins recht in de Lex Romana Burgundionum*, Antwerp 1958.

24 *Savigny Zeitschrift für Rechtsgeschichte R. A.* 87 (1970) 558–559.



Wilfried Roels



Egied Idesbald Strubbe

by the great specialist's authority, stubbornly begged to differ and defended his own understanding of the *precaria* (on which he was writing his licentiate thesis with Ganshof as promoter). I vividly remember how at a particular lesson Wilfried brought along a book that went against the professor's views, whereupon the latter, the following week, came along with a couple of books that supported his interpretation. However, the next week Wilfried turned up with an even bigger pile of books, on his side. The students eventually felt that Ganshof won the match, but only on points, and Wilfried was not convinced.

My learned friend was a real eccentric of a type that one associates with England rather than the Continent. Thus he surprised his students with the suggestion that they should give each other examination-marks – an innovation they decidedly rejected as they feared a lot of ill feeling and thought the examiner should do his own work. On another occasion Professor Roels told his students that they could, in small groups, write a common essay, which would serve as an examination paper. This innovation unfortunately also misfired when three students came to me, as chairman of the examining board, to express their bafflement when they found that their professor had, for one and the same essay, given one student a high mark, another a pass and had failed the third. The friendly talk I had with Wilfried quickly helped this »misunderstanding« out of the world. At another time the professor annoyed his students by announcing in the middle of the academic year that he disagreed with what he taught them the previous months so that they could forget it: bad luck for the diligent youngsters who had done their best to absorb and memorize it all. But the climax of Wilfried's eccentricities was reached when, quite

formally during the monthly meeting of the council of the Faculty, he suggested to the dean that one of the Law chairs should be abolished. To everyone's amazement it turned out that it was his own chair he wanted to be the victim, Roman law having lost its relevance in the modern world. The Faculty did not follow him and Roman law remains till this day a compulsory course for first year Law students. It was, however, noticeable that Wilfried became less enthusiastic about teaching the course himself.

My learned friend had well known left-wing sympathies and gave wholehearted support to the revolting students in the seventies. He held no religious beliefs but was curious about theology, posing intriguing and even awkward questions about the more obscure tenets of the Christian faith, baffling some people who were supposed to know about them. None of this, however, detracted from the esteem and warm feelings of the colleagues, staff and students towards this most friendly and learned man.

Egied Idesbald Strubbe (1897–1970) was born in Bruges and studied Law in Leuven, where he obtained his doctorate in 1921. He practised at the Bar of his native city till the Second World War, but spent a good deal of time doing historical research. Already as a student he used his summer holidays to copy charters in the archives of Bruges, teaching himself palaeography and diplomatic. Without ever obtaining a degree in History he became an outstanding historian of law and political institutions. On the strength of his early publications he started teaching an unpaid course on national legal history in the University of Ghent in 1931 and was in 1935 appointed docent for General Legal History. By Decree of the Regent of 14 April 1945 he was made an ordinary professor with

retroactive effect to 1 January 1944. He also taught, *inter alia*, Political Institutions of Modern Times and in 1962 started teaching Historical Introduction to Civil Law, a compulsory course for all Law students.

Egied Strubbe wrote numerous books and articles on the history of law and institutions, mainly in Flanders and Brabant, as well as an indispensable reference work, compiled in collaboration with Dr. L. Voet, on the Historical Chronology of the Low Countries.²⁵ His merits were rewarded with memberships of such learned bodies as the Royal Commission for Ancient Laws, the Royal Historical Commission and the Royal Flemish Academy of Sciences and Arts.

Of all the legal historians in my gallery Egied Strubbe was the most amiable and good-natured. He was a happy man, at peace with himself and the world, a good and simple person, who often reminded me of the Gospel promise: »Blessed are the meek, for they shall inherit the earth«. Strubbe felt secure. Money meant nothing to him, as he had more than enough, and his wife Ida owned farms in West-Flanders (where their maids used to come from). After his death his publisher contacted me: the professor had never bothered to sign and return his royalty statements and had therefore not been paid, but what was the publisher to do now – did I know Strubbe's heirs?

Time meant nothing to him either – the great authority on chronology! Most people are the slaves of their watches, but not the professor. One day we students were waiting at 10 a. m. for a lesson on diplomatic, but he did not turn up until ten to twelve. All that time we could see him in the building across – the philological department – in deep discussion and oblivious of time. Eventually he arrived and taught us till 1 p. m.

Neither did people in authority and official honours mean anything to him. One day when the Editorial Committee of *The Legal History Review* was meeting in my house, I congratulated Strubbe on his election to the Royal Historical Commission in Brussels – a real honour. It turned out that he had not said a word about it to Ida, who expressed her displeasure about this omission. The professor led his own life and went his own way. He protected his free time by various – sometimes devious – ways. He thus maintained that he had no telephone and when he rang people up, he said he was ringing from the central post office of Bruges. In fact he had a telephone at home, but it was registered in the name of his brother-in-law – a well kept secret.

After lunch he liked having a nap in his office in the Law Faculty and told his secretary that on no account was he to be disturbed. But one afternoon Strubbe was urgently needed, as a member of the jury, for the public defence of a doctorate, and failed to turn up. Everyone was waiting and the dean of the Faculty was getting nervous. He had no clue where the missing professor could be contacted, until I (who knew) decided that in this emergency Strubbe had to be awakened and I told his secretary. Soon afterwards, somewhat dishevelled, he hurriedly arrived and the proceedings could start.

Strubbe worked hard and with great concentration, so he rightly avoided all possible distraction. He had, for example, his own way of dealing with the mail (of which he received vast quantities). Indeed, as we read in the History of the Bruges Bar, it was known that »Strubbe kept his correspondence in two piles, one marked ›urgent‹ and the other ›not urgent‹. The ›not urgent‹ pile disappeared after a while from his desk into the wastepaper basket, while the ›urgent‹ moved up to the ›non urgent‹.«.²⁶

25 See his bibliography in EG. I.
STRUBBE, De luister van ons oude recht. Verzamelde rechtshistorische studies, Brussels 1973, 627–638.

26 A. VAN DEN ABEELE, De balie van Brugge, Bruges 2008, 67.

His philosophy was that »most problems sort themselves out after a while, so why bother?« Telegrams and express-letters were put into one of his pockets, ready to be considered eventually. This was all well and good until disaster almost struck. One day a friend of his, who worked for the Inland Revenue, came to warn him that unless he paid his taxes the bailiff would arrive and proceed to a confiscation. The professor had not bothered to fill in his declarations (they were in the waste paper basket), so he had been taxed *ex officio*. One morning I was reading in my room in the Faculty of Letters, which was next to Strubbe's, when two distinguished looking gentlemen from the Law Faculty of Leiden wanted to see me. Their problem was that their Faculty had decided to grant my learned neighbour an honorary degree, but he had never replied to their letters. What was his problem and could I help? I explained what happened to Strubbe's mail, was convinced that he would be delighted and advised them to write to Mrs. Strubbe, a most careful person, who would do what was necessary. Strubbe accepted the honour, but not without some hesitation because of his aversion to being in the limelight, and went to Leiden. The ceremony was a great success, but an even greater success was the evening he spent with the students: he made such an amusing and warm speech that they gave him a standing ovation.

Strubbe's agreeable personality had much to do with his sunny youth in a large, prosperous and respected family in beautiful Bruges. His father was a successful businessman and politician, member of the Town Council and of the Belgian Parliament and one of the founders of the Port Authority of Zeebrugge, aimed at reviving Bruges's ancient maritime aspirations. My learned colleague was born, lived and died in his

home town, and even in the same parish: he was baptized in the St. Gillis church, where his funeral also took place, close to his large, early nineteenth-century house in the St. Gilliskerkstraat.

Strubbe, whose marriage was childless, loved children for whom he always carried a supply of sweets in his pockets. He smoked a pipe and when I had driven him to Leiden, the car was so full of tobacco that my children could smell it for days afterwards. On one occasion my wife and I were invited to his house in Bruges, where he took our children to the May Fair to buy them toys. When they returned to Strubbe's garden, the children were taken aback by a little old man with a pipe who was looking over the garden wall. It was, however, not a nosy neighbour but a statuette which Strubbe had bought and put there to surprise and amuse our kids.

The professor also liked his students and they felt that. He would not be ironic, let alone sarcastic at their expense. On one occasion, however, he could not help it. Strubbe, who taught a course on the history of historiography, asked a student what he knew about Voltaire. The boy replied that he did not like to talk about a man who had worked against his own country during the First World War and had to flee to Switzerland, clearly confounding Voltaire with the pro-German French author and pacifist Romain Rolland, author of *Au-dessus de la mêlée* of 1915. The dumbfounded examiner exclaimed that »he had learnt something new«. Some time later the boy's father came to see him, expressing amazement that his son had failed after such a good examination, and when Strubbe maintained the contrary, the father objected »but, professor, you even admitted that my son had told you something you did not know!«. But Strubbe himself was also capable of surprising

pronouncements. Thus he told my wife, who is English, that English was but badly pronounced *Brugs* (the Bruges dialect of the Dutch language), for which the justification was slender, although not altogether absent.

His practice as a barrister had taught him some practical subterfuges, which turned up from time to time. At some defence of a doctorate he asked a few questions from some slips and then declared, pointing at a whole pile of them, that he would refrain from the other questions on the slips to save time. However, I then discovered that all those slips were blank.

Older people who remember him always refer to his absentmindedness, which was real enough, even if he sometimes feigned it as a defence-mechanism. Two examples should be sufficient here. During the brief period that Strubbe drove a car (he almost invariably used his strong old bicycle, bought with his first advocate's fee), he went to Lille with his wife to do some research in the Archives Départementales du Nord. Egied went there, while Ida did some shopping and they met on the terrace of a café for tea. Suddenly the learned man remembered a detail in some charter that he wanted to go and check, leaving Ida behind for a while. But what he found was so intriguing that he drove straight home to confirm his suspicion. Later that evening the maid asked what he wanted for supper, to which he replied: »ask my wife«. »But she left for Lille with you this morning!« So, off went Strubbe back to Lille to find his wife, patient and understanding, still waiting on the terrace.

On another occasion it was rumoured that the learned barrister, fetched from behind his medieval charters, turned up out of breath at the law court just in time to hear the conclusion of a colleague. In his haste he told the judge that

he was in full agreement, too late to realize that his colleague was the advocate of the opponent of Strubbe's client, who duly lost his case. On yet another occasion Strubbe had invited Professor Peter Stein to lecture in Ghent. He had prepared everything: posters announcing the lecture for a Thursday at 11 a. m., messages to colleagues and advanced students. The lecture hall was booked and the usual arrangements made for the speaker's honorarium. We all were full of expectation, when a few days before the great day I happened to be in Brussels where I saw a poster announcing a lecture in Brussels by Professor Peter Stein on the very day and hour he was supposed to be in Ghent. Something had seriously gone wrong and when I asked my learned (and absent minded) friend about it, he was full of confusion: he had arranged everything, except telling the guest lecturer when he was expected to speak! The oversight was irreparable, as Prof. Stein (unlike some characters in Henri-Lévy-Bruhl's *Mentalité primitive*) could not be in two different places at the same time.

That Egied Strubbe was all goodness and friendliness was true enough, but there was also a steely side to his character. He could not have taken on the painstaking work on the 550 pages of his *Chronologie*, with its endless lists of princes and bishops and its meticulous analysis of the medieval calendar, without will power and self control. He sometimes took a firm stand on matters of principle. When in 1960 Dr. M. Gyseling presented his *Toponymisch Woordenboek* as a dissertation for his habilitation, Strubbe objected that a dictionary was unacceptable, being a reference work and a compilation. He stood his ground, but was overruled by the Faculty (with some bad feeling as a consequence). He occasionally could be sharp when his self esteem was wounded. In those days the

examiners were paid per student and they each declared upon their word how many exams they could account for, so when a younger colleague suggested a mechanism to check those declarations, Strubbe became very angry at what he saw as a slur on his honesty. Also we were told that when the professor served from 1944 to 1946 as public prosecutor in the military courts that dealt with cases of collaboration, he could be quite severe. Thus he demanded the death penalty against Cyriel Verschaeve, a cleric who was a convinced nazi-supporter and who was duly sentenced in absentia (he died a few years later in exile in Austria).

Whereas Strubbe's main work concerned Flanders and Brabant, his scholarly interests were truly international. He had numerous Dutch friends, such as the famous professor E. M. Meyers, who already in 1932 praised him highly. He worked hard with Dutch colleagues on the calendar of the Great Council of Mechelen. He had numerous contacts in France and was active on the Committee that launched the vast enterprise of the edition of the *Libri Procuratorum* of the University of Orléans. I still remember our trip to that city to meet the rector of the reborn University there, when my absent-minded colleague boarded the wrong train, so that we almost missed our appointment.

Strubbe also worked on Philip Wielant and Joost De Damhouder, whose Latin treatise on procedure became a household name from Coimbra to Cracow (already in 1930 he had published an article on Damhouder in a Polish periodical).²⁷ And above all I should mention his active role on the Editorial Committee of the Belgian-Dutch *Legal History Review*, which is a truly international organ, containing contributions from scholars in numerous countries and several continents. Finally I mention Strubbe's

leading role on the Committee that supervised the edition of the twelfth-century *Liber Floridus* and devoted an international colloquium to its study.

Egied Strubbe kept his interest in legal history right up to the end. I remember visiting him in his home a few days before his death, when we discussed the borough-charters of the Flemish Count Philip of Alsace.

Hans Thieme (1906–2000), eminent legal historian and professor who, after studying Law in Basel, Munich, Berlin and Leipzig, obtained his doctorate in Law in this latter city in 1929 and, in 1931, his habilitation in Frankfurt under Franz Beyerle. Became ordinary professor first in Breslau in 1938 and then, in 1940, in Leipzig. After the war, when he had served in the German army as an officer and ended in a British prisoner of war camp, he left Leipzig for the German Federal Republic to become, in 1946, professor at Göttingen and, in 1953, after a research semester in Basel in 1946–47, in Freiburg im Bressgau, where he stayed till his retirement in 1974 and where, in 1960–61, he was rector.

Thieme's scholarly output was considerable, but not so much in textbooks or monographs as in – sometimes lengthy – articles. He worked on German medieval and modern history, on European humanism, codification and the School of natural law. For more than twenty years he was an editor of the *Savigny Zeitschrift*.

His articles were conveniently gathered in volumes of collected studies. I refer here to the two volumes, of 1411 pages, of his *Gesammelte Schriften* of 1986, published under the title *Ideengeschichte und Rechtsgeschichte*, which aptly reflected his vision of legal history as a branch of intellectual history (but he was not interested in theory or philosophy).

27 Die Stellung Damhouders in der Rechtswissenschaft. Wielant-de Damhouder, in: Zeitschrift für Rechtsgeschichte, Lwow 1930, 219–226.

After the war Hans Thieme acted as a cultural ambassador of his country, which was keen on being readmitted into the *comitas nationum*. He was active on the board of the Société Jean Bodin and the Association Internationale d'histoire du Droit and he gave guest-lectures in several countries in German, French and English.

The professor's achievements earned him honorary degrees in Granada, Montpellier, Paris and Basel. In 1977 a collection of *Rechtshistorische Studien* »on his seventieth birthday« was published, with a bibliography by J. Winter, and in 1986 a Festschrift was edited on his eightieth birthday by Karl Kroeschell, who had also edited, in 1983, the papers of a colloquium held in 1981 on the occasion of Thieme's seventy-fifth birthday under the title *Gerichtslaubenvorträge*.²⁸

I knew Hans Thieme very well. We were together in Jean Bodin and in the Institute at Frankfurt. We met at conferences and he came to Ghent: his conversation was stimulating and informative. Our families became real friends: my wife arranged trips to English families for the Thieme children, and their parents lent us their house in Speicher for a Swiss holiday. On one occasion Ursel lent us money when we found ourselves without enough cash at the ticket office of the opera in Vienna, where we were attending a Jean Bodin conference.

Hans Thieme was a short, talkative and conscientious man, who understandably took his Protestant religion very seriously as his father was a Professor in Theology at Leipzig University. Hans had life-long connections with Switzerland and particularly with Basel where his mother, Jenny Respinger, was born: he published studies on Zasius, Amerbach and Althusius.

Hans Thieme's wife, Ursel, to whom he was married for sixty years, was also a lawyer and

came from Kulm in West-Prussia. She was a courageous woman who towards the end of the war walked with her children and a perambulator all the way from Stettin to Switzerland and safety.

On one occasion she disciplined her learned husband who, encouraged by excellent chianti, was in an exuberant mood. It was at a barbecue at Impruneta during an excursion from the conference commemorating Accursius, who had been born there. Here Hans felt inspired to stand on a table and tried to tell his fellow-legal historians about some adventure at the eastern front, where he narrowly missed being killed by a Russian bullet, when Ursel sternly said: »Hans, that will be enough«, cutting short what promised to be an entertaining story.

Walter Ullmann (1910–1983) was an Austrian jurist, who fled to England in 1938 and became a professor at Cambridge University. He wrote books on medieval Roman and canon law, the medieval papacy and political thought, and on Carolingian kingship. I met him in 1968, when he was Professor of Medieval Ecclesiastical Institutions and Fellow of Trinity College in Cambridge. He had organized the finances for my visiting professorship in the History Department and we became life-long friends. I had numerous conversations with him in his room in Trinity, in English and on scholarly topics, but occasionally we had dinner in the Garden House hotel, where we talked German. He then told stories about his days in Innsbruck University and took great pleasure in recounting student pranks and imitating his quirky professors. He clearly relished these impromptu conversations in his mother tongue. He was and remained a continental scholar. Although almost all his work was published in English, the German background often came through. I remem-

²⁸ See A. LAUFS, Nachruf auf Hans Thieme, in: *Savigny Zeitschrift für Rechtsgeschichte* 119, G. A. (2002) 15–26. See the bibliography in <http://c-nb.info/ghd/11862198X>, in *Katalog der deutschen Nationalbibliothek*.

ber reading to my wife the long first lines of one of his studies and being struck by the involved and lengthy phrase which, although written in English, had obviously been conceived and formulated in the author's continental language. Nor was this remarkable, if one realizes that when Walter first met W. W. Buckland in Cambridge, they conversed in Latin, neither of them knowing the other's mother tongue. Even in England Walter remained, as Elizabeth, his wife, put it, a continental scholar so that his life was »a tale of two cultures«.²⁹

In conversation Walter was an exuberant born teacher and quick to see the funny side of things; which again was out of step with the traditional English reserve: he was, even after many years in Cambridge, still an outsider at heart, but he loved his new fatherland and stood in awe of its leading figures. He was greatly impressed by the master of his college, the imposing and very large Lord Butler, and adored the whisky served by Lady Butler in their private apartments after dinner. Rab Butler, by the way, who had been an eminent Conservative politician, could be very entertaining. One evening, after dinner in Trinity, I asked him about his ambitions. »My earliest ambition, he replied, was to be the first President of the British Republic«. As this was clearly a pipedream, he would have liked to be Governor-General of Australia, enjoying a viceregal status as the queen's representative. When this ambition failed to materialize he had to be content with the mastership of Trinity.

Walter's love of ideas was notorious: he expounded and discussed them with infectious enthusiasm. It is no coincidence that the words *idea*, *thought* or *ideology* appear – right from the start in 1946 – in no less than five of his books (*theory* and *principles* appear in two more). This

struck me as another un-English predilection, as English academic historians tend to distrust ideas and abstract constructions, preferring to stick to the well-established facts which are »more venerable than the Lord Mayor«. As his widow notes: »Some intelligences will stand only for the facts, and be always distrustful of (or at a loss with) the theory; others will normally prefer theory to fact«.³⁰ Walter had no patience with colleagues who spent their time on factual detail and minutiae: he could be heard to mutter about »small ideas«. In the same vein he was critical, for example, of Stephen Kuttner who, he felt, spent too much time on tracing manuscripts and compiling catalogues, instead of writing the creative monographs of which this eminent scholar certainly was capable.

Like many learned men Walter was unworldly and naive, which made him very teasing. When in 1968 there was a small student demonstration in the Senate House in Cambridge and Lord Adrian, the Vice-Chancellor, asked two proctor's attendants to »escort these gentlemen out«, Walter wanted to know what the students had shouted. When we told him: »student power in, Middle Ages out!« he fell into the trap and was really upset. He could see great fun in small things. When in 1968 Monique Vleeschouwers, née Van Melkebeek, from Ghent, who later became a professor there, studied under him on her work on bishop's officials, he pronounced her name as »Flea Showers« and was greatly amused by the vision of showers of fleas, till I explained that Vleeschouwers could be literally rendered in German as *Fleisch-hauer* (cf. *Fleisch-bursche* or *Fleischesser*), i. e. butcher, a very prosaic name.

I do not remember discussing politics with Walter, who was a conservative Catholic, whose Jewish ancestors had converted to Christianity,

29 E. ULLMANN, Walter Ullmann. A Tale of Two Cultures, Cambridge, 1990.

30 E. ULLMANN (n. 29) 72.



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a lineage of which he seemed proud. Although universally known as a most friendly man, Walter did make enemies. Beryl Smalley, the Oxford specialist of the medieval Bible, was one of them. She spoke of Walter in a tone that took me aback by its sheer virulence, all the more so since I never knew what caused the rift. Walter also could write acerbic book reviews, in such sharp words that some personal animosity may have been involved.

Except for economic history there were few periods or aspects of medieval life with which Walter was unfamiliar. So, when I stressed his love of ideas, this did in no way detract from his knowledge of the facts and the sources. The amazing thing was that he had a degree in Law but not in History: in the latter discipline he was a self made man, who turned himself into one of the proverbial *monstra eruditionis* or »remorselessly erudite scholars« (D. Ibbetson) of his time.

That chance played a large part in Walter's eventful life comes as no surprise. One example should suffice here. On a surreptitious trip to Vienna in 1938 Walter, who was in hiding, »bought a copy of *The Times*, where he found that a certain D. Daube had been elected into a fellowship at Caius College, Cambridge« with a note attached »that he came from Freiburg, i. B. and had written on the *Lex Aquilia*«. So Walter wrote to Daube for help, and received an encouraging reply about the research facilities in Cambridge.³¹ As a footnote to all this I can here mention that my old friend Professor Philip Grierson, himself a fellow of Caius, had been instrumental, as he told me himself, in bringing the (later famous) David Daube (of All Souls) from Germany to safety in England.

One moving aspect of Walter's personality was that he was constantly troubled by the thought that his widow might not be financially

safe. That he felt so worried in spite of the royalties of his books reflected no doubt the existential uncertainty caused by the traumatic events of 1938, which left a lifelong scar.³²

Guido van Dievoet (1924–2008), eminent legal historian and professor. Studied Law and History in Leuven, his native town, where he obtained his doctorate in Law in 1947 and became a licentiate in History in 1948. His habilitation followed in 1951. From 1947 to 1956 he was a barrister in Leuven, but already in 1947 he entered academic life there as assistant to Professor Zeger van Hee. His appointment as ordinary professor followed in 1957. He taught, until his retirement in 1990, a variety of Law courses in five faculties, of Economics, Letters, Applied Sciences, Social Sciences and, of course, Law.

As a legal historian he worked mainly on the law and the institutions of Flanders and Brabant during the Middle Ages and the Ancient Regime. In 1951 he published his thesis on Jehan Boutillier, author of the *Somme rural*, written between 1393 and 1396 by a royal official in the Tournai area. Boutillier's lawbook focussed on regional customary law, but contained a fair amount of Roman and canonical doctrine. It was – both in the original French version and in the Dutch translation – a widely read authority in the Low Countries until the eighteenth century.

Van Dievoet's model monograph is a detailed and original analysis of the *Somme*, its sources, manuscripts and prints, and contents and influence.³³ Van Dievoet's research led him to work in the Archives Nationales on the registers of the Parlement of Paris, tracing cases mentioned by Boutillier.³⁴ Van Dievoet took a life-long interest in the sources of legal history: his edition of the customary laws of the Tournai

31 E. ULLMANN (n. 29) 19–20.

32 D. IBBETSON, Hermann Kantorowicz (1877–1940) and Walter Ullmann (1910–1983), in: J. BEATSON and R. ZIMMERMANN (eds.), *Jurists Uprooted. German-speaking Emigré-Lawyers in Twentieth-century Britain*, Oxford 2004, 269–298.

33 Jehan Boutillier en de *Somme rural*, Leuven 1951.

34 See G. VAN DIEVOET, *La Somme rural de Boutillier et la Jurisprudence du Parlement de Paris*, in: *Revue du Nord* (1974) 115–116.

area appeared two years before his death and fifty-five years after his book on Boutillier and the law of the same area.³⁵ All this did, of course, not stop him publishing studies on the contents of the law, both private and public, but the writings of the old jurists and the texts of the old customs of his country were clearly closest to his heart.

Van Dievoet devoted a lot of attention, in collaboration with colleagues from the Netherlands, to the quality of Dutch legal terminology, which is common to Flanders and Holland.³⁶

Boutillier was van Dievoet's steady companion, from the monograph of 1951 to the edition of some extracts from the *Somme rural* in the aforementioned *Coutumes du Tournaisis* of 2006 (pp. 25–31). Nevertheless, van Dievoet's modern critical edition of the *Somme*, which we still have to consult in the Paris edition of 1621, never materialized, although he had all the data at his fingertips and had announced its imminent completion several times. This was a disappointment to the historians of the Low Countries and, no doubt, to the learned editor himself. It is possible that he, like Ganshof with his promised biography of Charlemagne, waited too long to bring this arduous undertaking to fruition – a task that is not likely to be taken on soon by another scholar. In 2003 van Dievoet himself gave a detailed account of his life and work in an interview with his colleagues Louis Berkvens and Georges Martyn.³⁷

Guido van Dievoet was very much »our man in Leuven«. He was born there and his father, Emiel van Dievoet, was one of the leading lights of the Law Faculty from 1918 to 1955, besides being a politician and becoming Minister of Justice in 1939. In 1967 he was made a baron, which meant that his son Guido bore the title of *jonkheer* (esquire).

Professor van Dievoet jr. went to school and to University in Leuven, eventually becoming a busy teacher and administrator there, and dean of the Law Faculty from 1974 to 1978. He spent all his life in his native town and died there at home in his eighty-third year. He travelled for research in archives and libraries and for congresses but never far from home.

I have met Guido van Dievoet on many occasions, at conferences and in the Committee for Legal History of the Royal Flemish Academy of Sciences. Our most frequent meeting place was, however, the Belgian Royal Commission on Ancient Laws, which convened several times a year in Brussels. Van Dievoet was its assiduous secretary for many years and felt at home there, as it is devoted to the study and edition of historical sources. In spite of all those encounters I did not manage to really know him personally, possibly because he was reserved to the point of shyness. He was a discreet and modest man, although he had no reason to be. He will be remembered by his colleagues as an eminent *éruudit* and by his innumerable students as a devoted teacher, who was always ready to help them.

Franz Wieacker (1908–1994) was an eminent legal historian and professor. He studied in Freiburg im Breisgau, under Fritz Pringsheim and Otto Lenel, two leading specialists in ancient Roman law (I met Pringsheim in the early fifties in Landshut, during an excursion from a Deutscher Rechtshistorikertag in Munich and where he, by then in his seventies, made a brilliant table-speech). Wieacker's habilitation took place in 1933 and he soon started teaching in Leipzig, where he became ordinary professor in 1939. After military service during the Second World War he became, in 1948, professor of

35 *Coutumes du Tournaisis*, Brussels 2006.

36 See on all this F. STEVENS, In Memoriam Guido van Dievoet, in: *Pro Memorie. Bijdragen tot de rechtsgeschiedenis der Nederlanden* 10 (2008) 275–278, F. STEVENS, Bio-bibliografie van Guido van Dievoet, in: F. STEVENS and D. VAN DEN AUWEELE (eds.), »Houd voet bij stuk«, *Xenia Iuris historiae G. van Dievoet oblata*,

Leuven 1990, 23–30 and J. MONBALLYU, In Memoriam Guido C. E. van Dievoet, in: *The Legal History Review* 77 (2009) 295–298.

37 *Pro Memorie* 5 (2003) 227–244.

Roman law and modern legal history in his old University of Freiburg and, in 1953 and until his early retirement in 1973, in Göttingen.

Wieacker's earliest research was devoted to Antiquity and produced technical studies on aspects of Roman private law. In a following phase he concentrated on the problems of his own time, more particularly on property law, where he rejected the liberal notion of untrammelled individual ownership. This was in the thirties when young Wieacker, a German patriot and a socialist, was drawn to national socialism and collaborated, without ever being a party-member, in its plans for a *Volksgesetzbuch* that was to replace the nineteenth-century *Bürgerliches Gesetzbuch*. After the war, when he was in his late thirties, Wieacker regretted his discredited political past. He could easily have gone back to ancient Rome and found safe refuge in the arms of Ulpian and Modestinus, but instead he threw himself wholeheartedly into the study of modern Europe. It was in this third phase – having been a Romanist and a contemporary jurist – that he became a committed historian of modern Europe. I am referring, of course, to his *Privatrechtsgeschichte der Neuzeit*, first published in 1952 and followed by a much enlarged edition in 1967. This encyclopaedic book takes the reader from the revival of the *Corpus Iuris* in Italy around A.D. 1100 to twentieth-century Europe. The work was at once recognized as a classic and made the author world famous. It was translated into English by Tony Weir, a fellow of Trinity College, Cambridge, who showed real courage rendering Wieacker's literary but not always easy German into fluent English.

The book is truly European and full of accurate information, but places the law in a broad cultural context. What makes it into a work of genius is the insight into the meaning of past

events. I mention, for example, Wieacker's description of the three revivals of Roman law in Western Europe, the first being the jejune early medieval phase of Roman *Vulgarrecht*, the second the fascination with the *Corpus Iuris*, newly discovered and adored as Gospel, and the third the realization that Roman law was just a product of history and to be studied as such. It is amusing to read that the 659 pages of the book were presented as a *Hilfsbuch für das Studium* – poor students!

This great European period of Wieacker's middle years was followed by a return, in his old age, to Roman Antiquity. I refer, of course, to his monumental *Römische Rechtsgeschichte*, whose first volume appeared on the author's eightieth birthday. He unfortunately did not live to see the second volume through the press, for although the publisher had foreseen its publication by the year 1992, it was in fact produced posthumously in 2006 thanks to J.G. Wolf, U. Manthe and M. Bolten. Official recognition of Wieacker's work took many forms, such as honorary degrees in Freiburg, Glasgow and Uppsala.³⁸

I met Wieacker on many occasions, at international conferences and at the meetings of the Wissenschaftliche Beirat in Frankfurt. He also gave a guest lecture in Ghent. He had a warm, almost juvenile character, a very expressive face and was a voluble talker, always full of ideas. His intellectual curiosity was boundless, and so was his energy. I particularly remember our conversation – or rather his *privatissimum* – on the public law of nineteenth-century Germany. I was astonished that, although he clearly was a *privatiste*, he was so knowledgeable about constitutional problems. He had an engaging sense of humour and was amused to find that in France he was known as Franz Fiacre. In the summer of 1945 he found himself

38 See his bibliography on the website of the German National Library, <http://d-nb.info/gnd/118632345>. See the In Memoriam by DIETER SIMON, in: *Rechtshistorisches Journal* 13 (1994) 1–31 and by OKKO BEHREND, in: *Savigny Zeitschrift für Rechtsgeschichte R. A.* 112 (1995), pp. XIII–LXII.

in a British prisoner of war camp in Italy, where he promptly started teaching Roman law in the open-air-camp-University, eventually becoming dean of its Law Faculty (in the same war Jean Gaudemet was lecturing in his own prisoner of war camp in Germany – two unstoppable teachers!).

Jean Yver (1901–1988), eminent legal historian and professor. After studies in Law and History in the Faculty of Law and the Faculty of Letters at Caen, where he was born, Yver obtained his doctorate in 1926 and his *agrégation* in 1928. After a short spell teaching in Lille, he was, in 1927, back in Caen, where in 1931 he became professor and held the chair of French legal history till his retirement in 1974. He also taught from 1927 till 1967 at the Law Faculty of Rouen.

Some of my legal historians shone in the international limelight, but Jean Yver was content to teach and live in his native Normandy and to study its history. Numerous books and articles concerned the duchy in the Middle Ages and the Ancien Régime and in particular its customary law. Yver occasionally ventured into bordering areas such as Flanders, Anjou and Poitou, and he also had a lively interest in English history and law. That the ancient duchy produced William the Bastard and won the victory of 1066 was a title of glory for the whole of Normandy, even if the historic duchy is now replaced by a number of *départements* called after rivers, the Channel and even after a Spanish galleon.

Yver was so rooted and so centered on his native land that he could be called »insular«, a term more usually associated with an English state of mind. No wonder therefore that he refused calls to teach in Paris. His interest in all

things English presented some peculiar anomalies. I discovered, for instance, that although he seemed to have read every English book on *outré-Manche*, he did, as he told me himself, not speak the language and visited Albion for the first time when he was sixty-five. Another unexpected connection with great Britain was his course on ancient Norman feudal customs, that were still applied in the Channel Islands (where pleading on property was a lucrative line).

Yver had, of course, to go from time to time to Paris on official business and he occasionally left his country to attend congresses of the Société Jean Bodin or the Journées d'Histoire du Droit in Rome in 1938 or a conference in Spoleto in 1968. His eminent services as a scholar and citizen were duly recognized by a voluminous Festschrift published in 1976 under the title *Droit Privé et Institutions Régionales. Etudes historiques offertes à Jean Yver* and containing a bibliography of no less than six pages. In 1970 he became foreign member of the Royal Flemish Academy of Sciences in Brussels, and in 1974 Corresponding Fellow of the British Academy.

I knew Yver well and was on friendly terms with him, which was not surprising as the county of Flanders and the duchy of Normandy were old neighbours and we shared a common interest in English legal history. I also worked in the archives and libraries of Normandy, looking for information on the English »alien priories« of the abbeys of the Province of Rouen.

I have a vivid memory of Jean Yver as a short, vivacious man, who was the dynamic President of the Société d'Histoire du Droit et des Institutions des Pays de l'Ouest de la France from its foundation in 1951 onwards. I have amusing memories of a conference Yver organized in the 1960s and where he invited me, a very young visitor, to chair an afternoon session.



Jean Yver

I was impressed by the honour but slightly aghast when, looking down on the congressists from my presiding chair, I noticed that most of them promptly fell asleep (after a copious meal rounded off with a calvados). I wondered what was going to happen when the lecturer finished his talk on the Admiralty of Brittany, but to my surprise the audience at once woke up, applauded and fired questions at the speaker. Had they only shut their eyes while listening or had they prepared their questions knowing what the subject was? At the same conference Yver, who was a shy scholar, worriedly asked me how he was to introduce the famous Miss Helen Cam. »I can't possibly call her ›miss‹«, he said »for that refers to a girl and this is an eminent lady with a long career behind her«. I told him that everybody knew her as Miss Cam without any problem, but he was not convinced. So I suggested he call her Professor Helen Cam and he was pleased and relieved.

At the same congress Helen Cam had had a problem of her own. She heard French speakers talking of *immunités* and wondered what they meant, but when I referred her to the familiar English franchises, she understood and was satisfied.

My wife and I, our two families having become *très liées*, dined in the Yver's solid bourgeois home in the rue des Chanoines, where he told us about the tragic bombardment in the summer of 1944, when his then house was destroyed with all his books and papers, like most of the rest of Caen. Jean Yver was instrumental in rebuilding his city, being appointed in 1947 *Rapporteur* of the official Plan of Reconstruction and Urbanization. Our children also got to know each other and my wife and I sadly missed seeing Jean's widow who had a house in the Hohwald in Alsace, where she came from

and where we had hoped to find her while we were visiting that historic province.

I would now like to mention some legal historians I have met, but too briefly to write about their personality. I refer to Sam Thorne, the editor of Bracton. I also remember Joüon des Longrais, who lectured at the Ecole Pratique des Hautes Etudes in Paris on the sources and literature of English legal history (my first steps in that direction). I also met Bruno Paradisi at the congresses of the Società Italiana di Storia del Diritto of which he was one of the leading lights. I also met David Daube at a Deutscher Rechtshistorikertag in Munich and again in All Souls College, shortly before he left Oxford for America, and the historian of canon law Hans Erich Feine, whom I encountered at some Deutscher Rechtshistorikertag and whose *Kirchliche Rechtsgeschichte* I still find indispensable. I also briefly met Francesco Calasso, who gave a most vivid lecture at a conference in Bologna – he left us, much too soon, in 1964, just ten years after the publication of his excellent *Medio Evo del Diritto*, which I still often consult. Nor can I forget the charming but rather taciturn Bernard Schnapper, with whom I shared the year of our birth and our interest in the history of criminal law and in the geography of *litigiousité* and whom I best knew when he lived near Poitiers, where he had become professor after a career in Bordeaux and Paris. I would also like to mention two eminent Dutch legal historians with whom I sat on the Editorial Committee of *The Legal History Review*. P.W.A. Immink was a historian of public law and had some very personal views on the medieval origins of the modern State. Pieter Gerbenzon, who died in 2009 at the age of eighty-nine in his beloved Italy, was interested in Frisian antiquities and

language and in the history of canon law. I also was pleased to meet the Australian legal historian, Professor L. J. Downer, who taught in Canberra and was the editor of that elusive twelfth-century lawbook known as the *Leges Henrici Primi*. He and his wife stayed with us in Afsnee towards the end of a long European journey.

Reflections. Why legal history? For centuries the law stood between civilized life and chaos. Judges applied the law, scholars expounded it and lawmakers created and adapted it. There has been high drama and perversion of the law by fanatics who tortured and executed so-called witches. Some people have heroically fought for it, while others have detested it as a brake on free political action: they got rid of the *Rechtsstaat* and established their own *Unrechtsstaat*, i. e. the unlaw-state.³⁹

Legal historians tell the tale of all those endeavours and drama's in order to satisfy our curiosity and to show how our ancestors have, through trial and error, laid the foundations of the law as we know it. Legal history also widens our horizons and sharpens our critical sense of the rules of our own time.

But who were those legal historians as a sociological group? And what motivated them? All my subjects were driven by intellectual curiosity and tried to find out how previous generations coped with the problem of good government and harmonious relations among citizens. They realized that the law was not some pre-ordained set of rules dropped from heaven, but the product of experience. Their starting point was not some acute problem of their own day which needed elucidation from the past, but the origins and development of the major systems. Some of my heroes came from law to history, others from history to law, but all studied the law

in a wide context of time and space, and as part of our human destiny. For all of them study and research came before they were called upon to teach. They all became university professors: the time of the learned amateurs – à la Heinrich Schliemann – had long gone. They all had hundreds of students, but some enjoyed teaching more than others and they carried out important administrative tasks as heads of institutes of research. They obviously could have chosen other careers – as advocates or magistrates: some moved from the Bar to the cathedra or combined their professorship with a full-time job as magistrates.

Professors are powerless against their political masters, whether elected legislators or, a fortiori, dictators, as Hans Frank experienced when he lectured during the war on the virtues of the *Rechtsstaat*. That may explain why scholars tend to be loyal and obedient citizens, and not inclined to go against the dominant trend. They are generally politically correct and do not follow the example of Raymond Aron (1906–1983) who disagreed with the left-wing sympathies of the Parisian intelligentsia of his time.

Scholars shy away from value judgments: pronouncements about good or evil will seldom be found in their books and articles. Was the *Bürgerliches Gesetzbuch* a good or a bad thing for the common man and woman? This not unimportant question is not posed in Wieacker's twenty detailed and profound pages devoted to this major event of German history in his *Privatrechtsgeschichte der Neuzeit* (where we read that »als fachjuristische Leistung ist das Bürgerliche Gesetzbuch ein Meisterwerk« – a technical masterpiece, which is what clearly appeals to learned jurists).

Some legal historians not only abstained from value judgments, but went so far as to

39 I prefer this rendering of *Unrechtsstaat*, as *unlaw* is an Old English term, revived in the nineteenth century, according to the New Shorter Oxford English Dictionary on Historical Principles, II, Oxford 1993, 3495.

condemn them in so many words. I refer here to what Ganshof wrote: »Ce n'est pas à l'histoire, croyons nous, qu'il appartient de juger«. This was in 1941 in his review of de Moreau's *Histoire de l'Eglise en Belgique*, and was repeated in 1952 in his In Memoriam Ferdinand Lot, where he notes that the famous Parisian medievalist believed that »distinguer le bien du mal, séparer le faux du vrai est le premier devoir de l'historien«, adding, however: »il est permis de penser différemment«. ⁴⁰ This unphilosophical attitude stems from the positivist approach and the *Quellennähe* which gives the reassuring feeling of being as close to certainty as possible. But there is also the ambition to keep history out of the clutches of political ideologies, and we all know how those in power love to manipulate and rewrite the past: somebody had to present the historical truth to the people, who had a right to know *wie es eigentlich gewesen*, and that somebody was the unbiased professional historian.

My legal historians were an heterogeneous bunch. Although most belonged to professional or academic families, others – such as Plucknett – had no such exalted background. Nor did they belong to one particular ideological family, as their spectrum varied from ardent Catholic or Protestant to convinced atheist. And although the key note was liberal-conservative, there were some socialists among them – and even one national-socialist (in his young years). None of them was active in party-politics, although some were involved in the process of lawgiving. Kuttner was on the committee that drafted the new *Codex Iuris Canonici* and Wieacker, at the other end of the spectrum, played a role in the drafting of the *Volksgesetzbuch*. And Gabriel Le Bras played a minor role in French ecclesiastical politics. All my heroes were good patriots, quite a

few of them serving the fatherland on the battlefield (and spending some time in a P.O.W. camp). As scholars, however, they tended to look beyond their national frontiers, some were truly cosmopolitan and had world history as their playing field. In the latter camp we find Dekkers and Gilissen, whereas Strubbe, van Dievoet and Yver preferred to work on their home ground. Gaudemet and Wieacker were rooted in their national past, but went well beyond it, into Antiquity and the Church or into the European theatre. The work of canonists such as Ullmann was *ratione materiae* international.

The majority of my learned colleagues were medievalists. Even Wieacker, more at home in ancient Roman and modern Europe, devoted an extensive chapter of almost 100 pages to the medieval origins of the *ius commune* in the second edition (1967) of his classic European survey. Why did they spend so much time and energy on that age of notorious ignorance and superstition, when people believed the earth to be flat and knew so abysmally little about their own anatomy? The answer is that all ages were, of course, ignorant of the discoveries and inventions that had not yet been made. Our medieval ancestors were indeed ignorant of many things, but so were the great scholars of the nineteenth century, who had never heard of telephones or radios and were ignorant of some elementary rules of hygiene.

The medieval period, moreover, was a most creative time, when the English common law as well as the *ius commune*, still of fundamental importance in the present world, were founded. It was then also that our »ignorant« forebears founded the universities, the nation states, the parliaments, the constitutions and the basic idea of the *Rechtsstaat* – all innovations that are still happily with us.

⁴⁰ See on all this R. C. VAN CAENEGEM, In Memoriam F. L. Ganshof, in: Koninklijke Academie voor Wetenschappen, Letteren en Schone Kunsten van België, Jaarboek 1980, 235.

I said that my heroes were a heterogeneous group of people. In one respect, however, they were homogenous: they were all »dead white males«. The two female legal historians in my recollection – Helen Cam and Marie Theres Fögen – were eminent scholars, but I met them only too briefly to try to make an attempt at characterization. Why were they so few, and why, even to-day, when some outstanding women work in our field, are they still *rarae nantes in gurgite vasto*? See, for example, the editorial committees of the *Savigny Zeitschrift* and *The Legal History Review*. Answering this question will be much more difficult than posing it, but it is noteworthy that female lawyers tend to prefer entering the professions rather than undertaking years of research for a doctorate.

Were my colleagues' endless hours of teaching and writing worth while? What was the impact of their labours on society? The answer is that the scholars' influence was indirect. Their students, to whom they gave insight in the process of making and applying laws, became politicians, judges and barristers. The educated public came to understand how law and society had developed and what experiments had succeeded or failed. Societies do sometimes draw lessons from the past, as individuals learn through experience. Even though, in a sombre mood, we may get the impression that »people never learn« and that »history repeats itself« (and its errors), there are cases where past experience has led to better laws. I mention, as one example, the French criminal procedure of the early nineteenth century, which resulted from a deliberate attempt to read the history of the Ancient Regime and of the revolutionary innovations, in order to combine the best of the two

systems. In the same vein the constitutions of Great Britain and the United States of America have inspired constitutional lawgivers on the Continent of Europe in the nineteenth and twentieth centuries.

My legal historians were no systembuilders and did not look for »universal laws of history« – even though René Dekkers wrote some interesting pages about universal trends and recurrences. Nor were their books controversial, as they were careful to establish facts – about which there could be little dissension – rather than provocative ideas and interpretations, let alone blueprints for improving mankind.

I sometimes wonder who of my learned authors were the most inspiring, in other words, with whom would one like to spend a day on a desert island? It would, of course, depend on one's expectations. If one hoped for agreeable as well as interesting company, the name of Strubbe would come to mind. If one wanted a lively and enlightening privatissimum on nineteenth-century Germany, Wieacker would be a good choice. If a firework of ideas and critical comments, Walter Ullmann would fit the bill, and if amusing anecdotes, striking one liners and exquisite language were desired, Gabriel Le Bras would fulfil one's wishes. If, on the contrary, one felt in need of exciting revolutionary pronouncements, none of my learned colleagues would stand a chance. But that they all were honest men who strove to establish the historical truth and thus to enlighten their students and fellow citizens is beyond doubt – a fitting conclusion for my series of portraits.

R. C. van Caenegem