

LAUDATIO RAOUL VAN CAENEGEM

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It is an outstanding honour for me to present on this Sarton-day such an eminent scholar to such an eminent public.

But honour can be hazardous. How does one present a man whom everybody knows at this university, who not only frequently lectures in European universities, but who is also in Common Law countries regarded as an oracle of legal history ? What new can be said about a man who for years has been the flag-ship of our Law Faculty and became a living myth for students long before his retirement ?

After all, the scientific activities of Prof. Van Caenegem were and are so various and abundant that as an excuse for being incomplete, I refer to the Latin dictum "quae enumerare fastidium generaret".

Let this *laudatio* be confined to some main facts and lines.

As a good Fleming Raoul Van Caenegem was born in Ghent on the fourteenth of July — France's national holiday — in 1927. He studied Greek and Latin at St.Barbara College in Ghent and afterwards law and history at Ghent University. He became doctor in law in 1951 and doctor in history in 1953. He studied in Paris from 1951 to 1952 at the *Faculté de Droit*, the *Ecole pratique des Hautes Etudes* and the *Ecole nationale des Chartes*. From 1952 to 1954 he studied at the London School of Economics and at the Institute of Historical Research. In 1958 he obtained the degree of *geaggreerde voor het hoger onderwijs*.

He began his university career in 1954 as assistant in the Faculty of Letters. In 1958 he became *chercheur associé* in the *Nationaal Fonds voor wetenschappelijk onderzoek*. He was appointed to "geaggreerde" in the Faculty of Letters in 1959, *docent* in 1960 and ordinary professor of medieval history in 1964.

In 1967 he agreed to teach the historical introduction to Private Law and to Public Law in the Law Faculty. In both faculties, Letters and Law, until 1992, the year of his retirement, Prof. Van Caenegem *militavit* as a quasi-full time professor.

In these more than thirty years he was concerned with scientific activities as a member of learned societies, e.g. the Royal Commission for the History of Belgium, the *Wissenschaftlicher Beirat* of the *Max-Planck Institut für Europäische Rechtsgeschichte* (Frankfurt), the Selden Society, (Fellow of) the Royal Historical Society, (Corresponding Fellow of) the American Society of Legal History, the *Koninklijke Academie voor Wetenschappen, Letteren en Schone Kunsten van België* (*Klasse der Letteren*), Chairman of the Committee of Legal History in that Academy. He read papers in more than forty universities as visiting professor, e.g. in Cambridge, Oxford, Louvain, Leyden, Paris, Harvard and Princeton. He was Goodhart-professor in Cambridge in 1984-85 and in 1991, he was honoured with the "Erasmus Lectureship on the History and Civilisation of the Netherlands" in Harvard University. International recognition quickly followed: laureate of the Francqui Foundation, doctor honoris causa of Tübingen, Louvain and Paris and recently the Solvay-prize of the NFWO.

The harvest of publications is overwhelming: 27 items in bookform and 99 articles. The 99th article is significantly entitled: *Reflections on a Century of the "Ghent Historical School"*, as an introduction to a publication of the OSGG *Een eeuw Gentse historische school, 1891-1992*, Ghent 1993.

This rich production is the result of his career, interests and personality. At first he published critical editions of important sources, as the editions of the Great Charter of Philip of Alsace, the judgments of the Parlement of Paris (*Arrêts et jugés du Parlement de Paris*), and (concerning the Common Law) the *Royal Writs in England from the Conquest to Glanvill* with a fundamental introduction, and *English Lawsuits from William I to Richard I*, both edited by the Selden Society in 1959 and 1991 respectively. All these editions are indispensable for scholars of legal history.

Some great syntheses proceeded from his teaching: *Of Kings and Bureaucrats* (*Van Koningen en Bureaucraten*, Amsterdam-Brussels, 1987), *Historical Introduction to Private Law* and *Historical Introduction to Public Law* (*Geschiedkundige Inleiding tot het Recht. I. Privaatrecht*, Brussels 1989; *II. Publiekrecht*, Brussels 1988); *History of England* (*Geschiedenis van Engeland van Stonehenge tot het Tijdperk der*

Vakbonden, Leyden, Antwerp, 1984), and last but not least *Judges, Legislators and Professors. Chapters in European legal History*, CUP, 1987, the result of his Goodhart lectures in Cambridge in 1984-85. These syntheses found their way even into Japan and Italy.

As a third very important group, besides the bibliographical works, I want to present some well-known studies : *the History of Criminal Law and Criminal Procedure from the eleventh to the fourteenth century in Flanders* (*Geschiedenis van het strafrecht in Vlaanderen van de XIde tot de XIVde eeuw*, Brussels 1954; *Geschiedenis van het strafprocesrecht in Vlaanderen van de XIde tot de XIVde eeuw*, Brussels 1956), both studies were awarded a prize by the Royal Academy and are important not only for Flemish but also for the European history of Criminal Law. The same can be said about his studies on proof, prosecution of crime and civil procedure.

Mr. Chairman, it will be evident that the laureate of the Sarton-prize is a historian, and as a historian he was and is concerned with history, the sense of history, the experiment in history, the history of culture — his works speak for themselves —, but that he was and is especially engaged in legal history as appears from his *Government, Law and Society* (J.H. BURNS, ed., *The Cambridge History of medieval Political Thought*, Cambridge 1988, p. 174-210), or to put it in a modern jargon : the *Rule of Law, a European acquisition* (*De Rechtsstaat : een Europese verworvenheid*; lecture in the Colloquium Law and Power (Acta ed. by M. Storme, Brussels 1990, p. 269-277). Power and its exercise, power and Law, sources of Law : legislators' Law, professors' Law and judge-made Law; the relations between government and the citizen; control over power and men in power; the separation of powers; the judge and his power. Who is the "objective" keeper of the balance; what does he control and of whom is he the supreme guardian ? Which security of law does the citizen enjoy ? The whole *oeuvre* is concerned with the fundamental question : how could and can a human being pass his lifetime, between cradle and grave, in legal security and legal certainty ?

Mr. Chairman,

Today I have every reason to be happy : first of all because my

dear master and colleague is honoured for his merits and brilliant scientific career; but also because for the second time in four years a legal historian of our Law faculty is honoured by the Sarton Society. Legal history has a great and memorable tradition in our university. Recognition and reward for this fact are a guarantee for the future.

