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HESSEL E. YNTEMA

The Board of Editors wishes to express its gratitude to the Revue Internationale de Droit Comparé and to M. le Conseiller Marc Ancel for their kind permission to translate and reprint this article.

We were deeply moved to learn late in 1965 that Professor Yntema was the victim of a serious automobile accident. However, he seemed to recover, and we were confident that his robust constitution and extraordinary vitality would permit him to participate again soon in the many international scientific meetings at which his name and position of respect were so well established. Unfortunately, as a result of complications that developed, and after surgery that was first thought to be successful, he passed away peacefully on February 21, 1966. His passing is a great loss to the science of comparative law.

Hessel E. Yntema was born in Michigan on January 17, 1891, of a family of Dutch origin. It was at the University of Michigan, at the institution that he later made famous, that he carried through the greater part of his studies, which he also continued at Harvard Law School and from time to time in Europe as well. In 1915 he began his studies in Paris and The Netherlands, concluding his university career with brilliant success at Oxford in 1917. The same year he started his academic career at Michigan in the field of political science. In 1921 he began to teach Roman law and comparative law, two disciplines he always considered to be closely linked, at Columbia University, where he became full-time professor in 1928. In 1934 he was appointed professor of law at The University of Michigan; he held several visiting professorships as well, including one at Yale in 1947. He was appointed research professor of comparative law at Michigan in 1948, in which capacity he remained until his retirement in 1961. Throughout his tenure at Michigan he made substantial contributions to the program of the Law School through his teaching, the important legal research programs he initiated, and his editorship of numerous publications. He was the editor of the Michigan Legal Publications Series and the chairman of the Editorial Board of The University of Michigan Law School. In 1951 he founded The American Journal of Comparative Law, of which he remained editor-in-chief and guiding spirit until his death and to which he gave unlimited devotion. In
the main it was due to his indefatigable and vigilant activities, his constant desire to innovate, his talent for selecting and inspiring highly useful manuscripts, the remarkable openness of his mind, and his continual drive toward perfection that this Journal became one of the few essential publications and an incomparable working tool for all who are devoted to comparative legal science. All this was in the minds of the members of the Editorial Board of the Journal when they so fittingly undertook in celebration of his seventieth birthday to dedicate to him a volume, XXth Century Comparative and Conflicts Law, to which jurists from fifteen countries contributed in homage to the great American comparatist.

There is a list of works published to that date by Hessel E. Yntema at the end of this volume. The list has since been enlarged by other publications. These, however, we do not intend to enumerate here; even less do we intend to make an evaluation by choosing some from among them. These studies are divergent in topic, but all are equally valuable. In writing them all, Professor Yntema fulfilled a basic intellectual need. Even though he wrote much, and though in fact many of his studies were inspired by actual contemporary problems, Yntema never chose the easy way or yielded to complacency. Each of his contributions originated in his desire to research a question thoroughly or to develop new dimensions in a problem, whether the problem had been generally neglected or thoroughly discussed. This remarkable professor, whose influence has been so great on jurists he helped in their formative years, whose knowledge seemed inexhaustible, and whose authority was accepted as a matter of course by those who participated in his classes or who listened to his remarks at conferences, remained all his life an indefatigable seeker whose curiosity was never satisfied, and who always and eagerly sought to understand better and to explain to others the basic meaning of the "phenomenon that is law." In this he made a profound impact on comparative legal science, not merely in the United States where he raised this special field to new importance, but also in the international legal sphere.

In all these efforts he was aided by an extraordinary capacity for work, an astonishing capability to put forth continuous effort, a remarkable gift of ability to assimilate ideas, and a marvelous aptitude for understanding institutions and measuring the relative importance of things—and of men. He had a complete knowledge of European laws; whenever he spoke of the civil law system, and whenever he delved into the early sources of continental-Roman legislation to draw from them lessons that were astonishingly modern and lively in perspective, one felt that he had assimilated these two great legal cultures to the degree that he was equally at home in both. In this respect
he was a perfect comparatist. In addition, in our opinion, this perfection stemmed also from the importance he attached to those fundamental concepts that transcend transitory legislative efforts and that hold their place throughout history in spite of their subjection to the diversity of particularistic legislative techniques. It would be extremely useful for us to study his work, now so unfortunately at an end, to see the great contribution which he made to the science of law in general. It would be equally helpful to devote closer attention to his patient efforts to distill from its manifold positive applications a universal notion of justice satisfactory to all men, and particularly to all contemporary jurists. Unfortunately, however, it is impossible to pursue this thought within the brief limits of this note; we can only recall to our minds who he was.

In this respect it would be a grave error to picture him as a detached philosopher of the law, totally preoccupied with abstract or general notions. On the contrary. He showed interest in a great many concrete problems in the field of commercial law and in the most practical applications of the conflict of laws. Moreover, public authorities frequently requested his assistance on financial matters as well as on various questions of the administration of justice, legislation, and public international law. It is in great part because of his activities that the United States joined as an active participant in the Hague Conference on Private International Law and the work of the Rome Institute for the Unification of Private Law; he became a member of the Conseil de direction of the latter organization. His competence, so internationally known and solicited led to his nomination to the vice-presidency of the American Association for the Comparative Study of Law, of the American Foreign Law Association, the International Academy of Comparative Law, over the 1958 Congress of which he presided so brilliantly, and the International Association of Legal Science. This last organization, indeed, conferred on him the particular distinction of appointing him in 1962 honorary vice-president to keep him permanently a member of the International Committee of Comparative Law that acts as this organization's conseil de direction, and in which he played so important a part. In addition to his membership in the Louisiana Law Institute, he was also a member of the Centro Argentino de Altos Estudios Juridicos, and an honorary member of the Gesellschaft für Rechtsvergleichung. He was the recipient of various foreign orders and was doctor honoris causa of the University of Stockholm.

This enumeration of works, titles, and honors is of course inadequate to give an exact idea of the scholar and man that was Hessel E. Yntema. He was outgoing, cordial, and gay, but he could also be withdrawn, reserved and restless, frequently troubled by scruples and doubts. His
interest in research and his constant need to elucidate prompted him frequently to refuse the easy way out or to follow the usual course. Always ready and eager to understand others, he seemed at times to indulge in a kind of coquetry in order not to make himself understood. His style, precise but rewarding to those who took the effort to follow it, was not always easy to understand; sometimes his speech was even less so. It seemed as if at times he derived pleasure in seeking contradictions or complications. His presence at meetings did not always serve to smooth over difficulties or facilitate a compromise solution; nevertheless it was always an enriching and even exciting experience for others. On occasion we opposed him almost heatedly, but never were we sorry that he was present; our differences and disagreements, which were temporary only, never troubled our friendship. We recall with gratitude and admiration our many conversations, and his wonderful facility of resuming his conversations with those whom he honored with his friendship, even after a year or so had gone by, as though they had never been interrupted. His confidence, perhaps rarely accorded, but complete when given, was infinitely precious. Those few who truly knew him and to whom he gave his confidence valued him as a kind and warmhearted man who at times hid behind the façade of his complex intelligence. No doubt he was intransigent, but even in this quality he was a man courageous and sincere, one who refused all compromise. It was a rare privilege to work with him or near him, and it gave one a strange feeling of security to find him always true to himself in spite of hardships, difficulties, and griefs, always controlling himself with the same discipline that he exerted to control difficult situations. Those to whom he revealed his true character will never forget his captivating personality.

He encouraged us to start our Revue; he then immediately listed himself as a sponsor of the Revue and made valuable contributions to it. To his children and to his colleagues, who we know are deeply affected by their loss, the Revue Internationale de Droit Comparé conveys its deep sorrow and sympathy and acknowledges at the same time its sense of gratitude to the great comparatist who was Hessel E. Yntema.

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