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‘In Vlaanderen Vlaamsch!’ Translation Practices in Flemish Legal Journals: The Case of *Rechtskundig Tijdschrift voor Vlaamsch-België* (1897–98)

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ABSTRACT

The declaration of Belgian independence in 1830 constituted a major turning point in Belgian language history: French was almost instantly installed as the only official language in public offices and judicial cases, which left the majority of Flemish citizens unable to understand or reply to official documents. While the monolingual French authorities quickly recognized the necessity of providing Flemish translations of laws and decrees, numerous Flemish jurists and officials criticized these official translations for being inadequate, since they contained several errors in syntax and legal terminology. This criticism led to a flow of new translations and ideological commentaries, especially in newly created Flemish legal journals. My contribution seeks to point out the key role of these journals in the process of emancipation and standardization of the Flemish legal language and in the creation of a proper Flemish legal culture. My focus is on the first volume of the legal journal *Rechtskundig Tijdschrift voor Vlaamsch-België* (1897–98), which actively supported the coming into being of a Flemish legal language and identity. This journal published translations of important francophone judgements, annotated translations of laws and decrees as they appeared in the government journal *Moniteur belge*, and numerous discussions of jurists on the Flemish legal language.

KEYWORDS

legal journals, translation practices, Belgium, Flemish, the nineteenth century

The role of language in shaping ideas and views on citizenship in multilingual communities has constituted a key topic of interest for scholars across several disciplines, both in the past and present. Instituting one or more official languages, ideally those correlating with the languages spoken by the nation's citizens, as well as devising language policies adjusted to the needs of the language communities are acts of vital importance, since these ensure citizens' access to knowledge of public affairs and support the idea of equal participation for all language groups. Since the Enlightenment, in particular, citizens of modern nation states possess the democratic right to act as a check on the authorities and to communicate with them, to understand the laws made in their name, to understand official documents, and to develop feelings of national belonging and identity. Since questions of language and identity are closely interlinked, it is often naturally assumed that citizens identify with a shared national language and sustain the idea of monolingualism.¹ But what happens if more than one language is at stake and when one language is clearly dominant over the other?

For many decades, legal and language historians have studied the Belgian case. They have given a reasonable amount of attention to the development of a proper Flemish identity in this multilingual nation, most notably by researching the evolution of the language struggle between French and Flemish in the legal and administrative domains since the nation's inception in 1830.² The focus of these studies concerns, among others, the question of language rights for *all* citizens, the effects of the unequal status of French and Flemish for the Flemish-speaking community in the judiciary, the use of Flemish as a legal and administrative language, and the conception and consequences of the language laws granting more rights to Flemish which were passed from the 1870s to the 1890s. Nonetheless, these studies hardly touch upon the use of mediating procedures, such as translation and interpreting practices, in those cases where the gap between the monolingual ideal of the francophone authorities and the multilingual reality of the field became apparent.

In addition to studies into efforts that were made at the political and legislative level, there has been an increasing interest in the role of other — often non-official — initiatives in raising the status of Flemish in the legal domain and creating a shared Flemish identity in the nineteenth century. An important instance of these initiatives was the creation of Flemish legal journals at the end of the nineteenth century. As

- 1 Lieven D'hulst and others, 'Les Politiques en matière de traduction en Belgique de 1830 à 1914', in *Plurilinguisme et pluriculturalisme: Des Modèles officiels dans le monde*, ed. by Gilian Lane-Mercier, Denise Merkle, and Jane Koustas (Montreal: Les Presses de l'Université de Montréal, 2016), pp. 13–27.
- 2 Studies on the Belgian language question from both a linguistic and legal history perspective include Jan Clement, *Taalvrijheid, bestuurstaal en minderheidsrechten: Het Belgisch model* (Antwerp: Intersentia, 2003); *Tweehonderd jaar justitie: Historische encyclopedie van de Belgische justitie*, ed. by Margo De Koster, Dirk Heirbaut, and Xavier Rousseau (Bruges: Die Keure, 2015); Reginald De Schryver, Bruno De Wever, and Gaston Durnez, eds, *Nieuwe encyclopedie van de Vlaamse Beweging*, 3 vols (Tiel: Lannoo, 1998); Georges Martyn, 'Het Burgerlijk Wetboek en de evolutie van de "Vlaamse" rechtstaal in België', in *Napoleons nalatenschap: Tweehonderd jaar Burgerlijk Wetboek in België: Un héritage Napoléonien: Bicentenaire du Code Civil en Belgique*, ed. by Dirk Heirbaut and Georges Martyn (Mechelen: Kluwer, 2005), pp. 271–300; Guido Van Dievoet, 'Het Nederlands als wetstaal in de negentiende en twintigste eeuw', *Pro Memorie*, 5.1 (2003), 96–118; Herman Van Goethem, *De taaltoestanden in het Vlaams-Belgisch gerecht, 1795–1935* (Brussels: Koninklijke Academie voor Wetenschappen, Letteren en Schone Kunsten van België, 1990); Astrid von Busekist, *La Belgique: Politique des langues et construction de l'Etat de 1780 à nos jours* (Paris: Duculot, 1998); Ulrike Vogl and Matthias Hüning, 'One Nation, One Language? The Case of Belgium', *Dutch Crossing*, 34.3 (2010), 228–47; Roland Willems, 'Liever Hollandsch dan Fransch': Taalcontact en taalconflict in het negentiende-eeuwse Vlaanderen', *Verslagen en mededelingen van de Koninklijke Academie voor Nederlandse taal- en letterkunde*, no. 3 (2002), 381–425, www.dbnl.org; and Els Witte, 'La Question linguistique en Belgique dans une perspective historique', *Pouvoirs*, no. 136 (2011), 37–50.

yet, however, systematic studies of their role in the larger context of the Belgian legal world remain scarce.³

In the following paragraphs, I will address the gaps in current research on the Belgian language question by discussing the role of translation in Flemish legal journals in the process of the standardization of the Flemish legal language. More specifically, I will examine how translation was employed in the first volume of one of the first Flemish legal journals, the *Rechtskundig Tijdschrift voor Vlaamsch-België*, as it was created in 1897 following the announcement of the Equality Law of 1898. This journal constitutes an interesting case in the history of Flemish legal journals, since unlike its predecessors, *Het Vlaamsch Bestuur* (1889–1909) and *Bestuurlijk Tijdschrift voor Vlaamsch-België* (1889–99), it could rely on several influential jurists to contribute to the journal's content, and while it would suffer from an irregular publication rhythm, it was the only Flemish legal journal established in the nineteenth century that would exist until the late twentieth century.

First, I will situate my topic in the larger context of nineteenth-century Belgium by discussing the language conflict between French and Flemish throughout the nineteenth century. Then I will move on to a discussion of the official system of translations that was installed after Belgian independence, the criticisms these translations received from Flemish jurists and government officials, and the subsequent emergence of a system of private translations of official law texts. Before moving on to the case study of the first volume of the *Rechtskundig Tijdschrift*, in which I will discuss those sections that explicitly dealt with the creation of a proper Flemish legal language and the correct translations of French legal terms, I will briefly introduce the coming into being of Flemish legal journals from the 1880s onwards and the foundation of the *Rechtskundig Tijdschrift* in particular.

As this article will endeavour to show, the first Flemish legal journals played a crucial role in the advancement of a proper Flemish legal language and culture. They functioned as a mouthpiece for those jurists and lawyers advocating equal Flemish participation in the Belgian legal culture and were an essential 'vector', a carrier of ideas that diffused the views of the editors, in the creation of a functional legal vocabulary in Flemish.⁴ As such, this article can be considered as a first stepping stone towards more systematic and in-depth research on the role of language and translation in (Flemish) legal journals and their contribution to shaping notions of multilingual citizenship.

The Belgian Language Question in the Nineteenth Century

When we think of nineteenth-century Belgium, its complex language history immediately comes to mind. More particularly, the language conflict between French, the language of the political and cultural elite, and Flemish, the contemporary designation for the various dialects spoken by the people living in Flanders, was omnipresent in all domains of society, be it legal, administrative, or cultural. This conflict prevailed at least until the 1960s and was reinforced by the succession of several political regimes in Belgian history, which imposed alternately French and Dutch as the only official language in the legal and administrative domains.

From 1795 to 1814, the French authorities imposed the first far-reaching and systematic language policy of 'Frenchification' ['verfransing'] in Belgian history, as

3 Sebastiaan Vandenbogaerde, 'Als hamers op de Vlaamse nagel! De eerste Vlaamse juridische tijdschriften (1889–1935)', *Pro Memorie*, 16.1 (2014), 101–20 (p. 101).

4 Sebastiaan Vandenbogaerde, 'Vectoren van het recht: Geschiedenis van de Belgische juridische tijdschriften' (unpublished doctoral thesis, Ghent University, 2014), p. 6.

the inhabitants of the Southern Netherlands were considered citizens of the French Republic after the annexation. The goal of the French revolutionaries was to create a strong unity of language and, by consequence, of nation. From 1815 to 1830, when the Southern part was annexed to the Northern Netherlands, the Dutch king William I and his Minister of Justice Cornelis Felix van Maanen installed several language policies in favour of the Dutch language: Dutch was to be the only official language in Flanders and the use of French was to be prohibited.⁵ While these policies were implemented and observed relatively easily from 1 January 1823 on, the September Revolution of 1830 put an abrupt stop to the efforts to install Flemish as an/the official language.

Indeed, the declaration of Belgian independence on 4 October 1830 entailed important consequences for the status and use of Flemish. The Belgian revolutionaries adhered to the ideal of Jacobin state nationalism, which postulated the idea of one language for one community within one nation. Consequently, French, arguably the most suitable language for official affairs, was rapidly declared as the only official language of the new kingdom. The order of 16 November 1830 stipulated that the official government journal *Bulletin officiel des lois et actes du gouvernement* was to be published in French, with Flemish and German translations to be provided by the provincial governors. The law of 19 September 1831 stipulated that translations of laws and decrees had to be provided for those municipalities where Flemish or German was spoken, the French texts nevertheless remaining the only official ones. This led to the awkward reality of monolingual Flemish citizens no longer being able to understand a large number of official documents and communications originating from the administration. Even though article 6 of the decree of 16 November 1830 stipulated that citizens were allowed to use their own idiom in their dealings with the authorities, government officials — who were generally monolingual French, or bilingual French-Flemish — claimed in their turn the right to use their preferred language. This led to a stalemate for several decades, although the Flemish Movement, a cultural and political movement defending the interests of the Flemish people, made several efforts throughout the second half of the nineteenth century to gain more rights for the Flemish population. Language laws were gradually passed, granting concessions for the use of Flemish in official documents and in courts, most notably the law on the use of languages in criminal trials of 1873, the law on the use of French and Flemish in administrations of 1878, and the Equality Law of 1898, which installed Flemish as the second official language of the kingdom.⁶ Many francophone officials would still hesitate — or categorically refuse — to use the Flemish language, convinced that French remained the most suitable language for official concerns.

Nevertheless, the new Belgian authorities quickly recognized the need for translations of official legal documents such as laws and decrees, following the idea that all citizens should be able to understand and observe the laws made in their name. Official government journals and collections, the *Bulletin officiel des lois et actes du gouvernement*, the *Recueil des lois et arrêtés royaux de la Belgique*, and the province-specific *Mémoriaux* or *Bulletins administratifs* were charged by law with the publication of translations of laws and decrees. Only the official translation of laws and acts was regulated, which meant that a large number of official documents remained untranslated.

5 In this article, I distinguish Dutch, the language spoken in the Northern Netherlands, from Flemish, the Belgian variety of the language spoken in Flanders.

6 'Loi du 17 août 1873 sur l'emploi de la langue flamande en matière répressive', *Moniteur belge* (26 August 1873); 'Loi du 22 mai 1878 relative à l'emploi de la langue flamande en matière administrative', *Moniteur belge* (24 May 1878); 'Wet van 18 april 1898 betreffende het gebruik der Vlaamsche taal in de officiële bekendmakingen', *Moniteur belge* (15 May 1898).

As we will see later on, these centrally-made translations were heavily criticized and in reality constituted only a slight concession to the Flemish-speaking part of the nation.

Institutional Translation in Nineteenth-Century Belgium

Since the translation of laws and decrees was regulated by an official institution, the Ministry of Justice, we can define this type of translation as ‘institutional translation’.⁷ In the Belgian context, institutional translation was used by the francophone authorities in order to communicate with the (largely monolingual) Flemish population. While this may have appeared as an important service on the part of the authorities, this type of translation actually served the purposes of the translating institutions. As Brian Mossop posits, the goals of the translating institution determine the decisions made by the translator as to what will be translated, and how.⁸ The Flemish supporters, who tried to raise the status of Flemish and gain equal rights, were very dissatisfied with the governmental translations, which contained serious errors and which relied (too) heavily on the French source text. From the 1840s onwards, several jurists started to publish their own translations of legislative texts via various channels. One important such channel was the legal journal.

Not long after official translations were being published in the official government journals and collections mentioned above, several Flemish jurists and members of parliament openly criticized them for being inadequate and unsystematic, as they contained several errors in both syntax and legal terminology, which often made them incomprehensible to the Flemish reader.⁹ In the Parliamentary session of January 1837, it was mentioned that the Flemish translations that appeared in the *Bulletin officiel* had received criticism from representatives of the Flemish provinces. Minister of Justice Antoine Ernst had put these representatives in contact with the translator, who, Ernst claimed, had tried his best to improve the Flemish text, but to no avail. This led him to conclude that, ideally, the translator was to be a bilingual jurist, since a translation can only be accurate when the translator understands the content of the legal text and masters both French and Dutch. Deputy Désiré Lejeune described the Flemish text of the *Bulletin officiel* as ‘a mixture of incomprehensible or ridiculous sentences, improper terms, mistranslations, Gallicisms and barbarisms’¹⁰ and even designated it as ‘a monument of absolute ignorance not only of the genius of the language, but of all grammatical and syntactical rules. It should not be accepted that the Flemish language continues to be officially mistreated in this way.’¹¹ Moreover, Lejeune claimed that as long as there was no adequate Flemish translation available, it could not be reasonably expected that Flemish citizens who did not understand French were capable of obeying the law.¹²

7 The way I understand ‘institutional translation’ in this article corresponds to Kaisa Koskinen’s definition: ‘when an official body (government agency, multinational organization or a private company; also an individual person acting in an official status) uses translation as a means of “speaking” to a particular audience’, *Translating Institutions: An Ethnographic Study of EU Translation* (Manchester: St Jerome, 2008), p. 22.

8 Brian Mossop, ‘Translating Institutions: A Missing Factor in Translation Theory’, *TTR: Traduction, terminologie, rédaction*, 1.2 (1988), 65–71.

9 Van Dievoet, p. 104.

10 ‘un composé de phrases inintelligibles ou ridicules, de termes impropres, de contresens, de gallicismes et de barbarismes’.

11 ‘un monument d’ignorance absolue non seulement du génie de la langue, mais de toutes les règles de grammaire et de syntaxe. Il ne faut pas que la langue flamande continue à être ainsi maltraitée officiellement.’

12 ‘Chambre des représentants de Belgique: Séance du vendredi 20 janvier 1837’, unionisme.be [accessed 30 April 2016].

In December 1837, when discussing the budget of the Ministry of Justice for the year 1838, Lejeune again pointed out the flaws of the Flemish translation of the *Bulletin officiel*. Even though an unnamed Flemish translator — 'a highly educated jurist' ['jurisconsulte très instruit']¹³ — had been appointed in response to the criticisms voiced during the parliamentary session, Lejeune pointed out that there were still unacceptable errors in the Flemish text:

one does not only encounter small errors; on every page, one finds proof that the Flemish translator is not sufficiently acquainted with the Flemish literature to translate a *Bulletin of laws* that comprises all sorts of subject matter.¹⁴

As National Congress member Charles Liedts had already pointed out some six years before, when the law remains untranslated, citizens are denied their fundamental democratic right to communicate with the authorities: 'Nevertheless, as justice demands that those who have to obey the law should be able to read and understand it, a Flemish translation becomes indispensable.'¹⁵ Even though Ernst had promised to put more effort into addressing the translation issue, inadequate translations riddled with terminological and grammatical errors, as well as a complete lack of translations, were a matter of course during the following decades. In 1883, the Flemish Catholic newspaper *Fondsblad* sarcastically wondered whether the official translators were overburdened with work, since important texts regarding farming were not translated before they were published in the official government journal *Moniteur belge/Belgisch Staatsblad*.¹⁶

Broadly speaking, we can distinguish three views on the translation of legal texts that co-existed throughout the nineteenth century in Belgium. The first leaned heavily on French and encouraged the recourse to code mixing, which Miriam Meyerhoff defines as 'alternations between varieties, or codes, within a clause or phrase'.¹⁷ In Flemish translations of French legal texts, this practice of code mixing corresponded to the extensive use of French loan words. Literal or word-for-word translations were frequently resorted to, and more often than not the French source text was reprinted next to the Flemish translation.¹⁸ The second was oriented towards Dutch, with the aim of unifying the Dutch of the Northern and Southern Netherlands and to raise the status of Flemish. This kind of discourse can also be interpreted as constituting an intermediary phase in the construction of a proper Flemish legal language.¹⁹ The third type of discourse was the most radical and aimed to create a fully autonomous Flemish legal and administrative language. It can be characterized by an almost extreme form of purism and a near aversion to any words carrying traces of a foreign language, in this

13 Information on the identity and employment of official translators is scarce. It is possible that certain government officials were responsible for translating laws alongside their other official duties.

14 'ce ne sont pas seulement de petites erreurs qu'on rencontre; à chaque page, on trouve la preuve que le traducteur flamand n'est pas assez au courant de la littérature flamande pour traduire un *Bulletin des lois* qui comprend toute espèce de matières.' 'Chambre des représentants de Belgique: Séance du 1 décembre 1837', unionisme.be [accessed 30 April 2016].

15 'Or, comme la justice réclame que ceux qui doivent obéir à la loi puissent la lire et l'entendre, une traduction flamande devient indispensable.' 'Congrès national de la Belgique: Séance du samedi 27 novembre 1830', unionisme.be [accessed 30 April 2016].

16 Luc Vandeweyer, 'Vertalingen als steen des aanstoots: Taalpolitiek in het ministerie van Financiën vóór 1914: Deel I', *Wetenschappelijke tijdingen*, 62.1 (2003), 3–21 (p. 13), www.wt.be.

17 Miriam Meyerhoff, *Introducing Sociolinguistics* (Abingdon: Routledge, 2006), p. 120.

18 Lieven D'hulst and Michael Schreiber, 'Vers une historiographie des politiques des traductions en Belgique durant la période française', *Target*, 26.1 (2014), 3–31.

19 Willemyns, p. 404.

case French. Those adhering to this view would often consult sources, the so-called ‘costumen’, written in the Flemish that was used before the French occupation.²⁰

It goes without saying that these divergent discourses could hardly co-exist in a peaceful manner. From the second part of the nineteenth century on, the conflict between the so-called integrationists and particularists, corresponding to the second and third type of these discourses respectively, became a dominant factor in the Belgian language debate. The integrationists wished to align with the language policies of the Netherlands in order to strengthen the position of Flemish, while the particularists, often belonging to the Catholic Church, were in favour of a ‘domestic solution’; that is, the creation of a standard Flemish based on the various Flemish dialects. They were opposed to the creation of a common language for the Netherlands and Belgium because they were fearful of the Protestant influence that might find its way to Belgium. Eventually, the integrationists would have the upper hand.²¹ This conflict between integrationists and particularists also divided translators who were active in the legal and administrative domains. Flemish-particularist translators had the difficult task of ‘protecting’ Flemish from both French and Dutch influences.

The supporters of the Flemish cause were evidently not keen to retain the status quo. From the 1840s onwards, private translations by jurists were published via commercial — that is, non-governmental — channels. Translations of the Civil Code (most notably the one by the Flemish poet and jurist Karel Ledeganck), French-Flemish dictionaries, glossaries, handbooks, and so on, were published with increasing frequency and gave a serious impulse to the introduction of Flemish in the legal and administrative domains. From the 1880s on, Flemish legal journals were being established and became an important vector in the effort to promote the status of Flemish. In what follows, I will discuss the role that these legal journals played and how translation contributed to their efforts.

The Birth of Flemish Legal Journals

It was only at the end of the nineteenth century, more specifically during the 1880s and 1890s, that several Flemish legal journals saw the light of day, each with varying success: *Het Vlaamsch Bestuur* (1889–1909), created by the Hasselt lawyer and politician Adriaan de Corswarem, supporting the use of Flemish in judicial affairs and education; *Bestuurlijk Tijdschrift voor Vlaamsch-België* (1889–99), whose main goal was to support Flemish administrations in their use of Flemish and to create a pure and uniform Flemish administrative language; *Rechtskundig Tijdschrift voor Vlaamsch-België* (1897–1963); and *Tijdschrift voor Belgische notarissen* (1900–07). Broadly two types of journals can be distinguished: the one was specifically linked to particular legal professions and their associations; the other was connected to the development of certain areas of law, mainly that of administrative law. The language laws, and the Equality Law of 1898 in particular, provided the decisive push towards the increasing use of Flemish in the legal domain. When we consider the birth and evolution of the Flemish legal journal, two main reasons for their existence can be distinguished. First, they were established in the vein of the Flemish Movement in order to form a counterpart to the dominant role played by the long-standing francophone legal journals, which reigned supreme in the legal domain for the larger part of the nineteenth century. Second, journal editors

20 ‘Costumen’ is a Flemish term for the old customs and decrees of medieval Flanders; that is, customary law.

21 Vogl and Hüning, p. 238.

became increasingly aware of the blatant lack of (thorough) knowledge of the Dutch language and the existing Dutch legal literature among Flemish jurists.²²

Indeed, at the end of the nineteenth century, a proper Flemish legal language and culture was virtually non-existent. Several officials and jurists, supporters of the so-called 'cultuurflamingantisme' ['cultural Flamingantism'], the cultural wing of the Flemish Movement that aspired to form a Flemish cultural elite, took it upon themselves to establish the first Flemish legal journals with the creation of a proper Flemish legal language and the uniting of Flemish jurists across Flanders as their main aim. The crucial role of Flemish officials and jurists in the creation and development of these journals was, as Sebastiaan Vandenbogaerde explains, not surprising: Flemish jurists held a particular function, their profession allowing them to be mediators between the Flemish population and the francophone authorities.²³ While several legal journals enjoyed relative success among their peers, few of them managed to remain viable. Vandenbogaerde pinpoints two reasons for the failure of several of these journals. On the one hand, the French language still held too dominant a place in the Belgian legal world, and Flemish made its way into the higher spheres of society only with much more difficulty. On the other hand, the explicit focus of the journals on the creation of a proper legal language drove away those jurists who were looking for a practical guide in legal affairs. As such, these first Flemish legal journals were considered as expressions of cultural Flamingantism rather than as having any real political and legal effect.²⁴

The language aspect almost monopolized the content of the nineteenth-century Flemish legal journals. Journal editors were united in their conviction that Flemish was a fully functional legal, administrative, and scientific language which could therefore obtain the same status as French. They soon realized that the most effective way to achieve that goal was to seek closer alliance with the Dutch used in the Netherlands, where Dutch had become a fully-fledged legal language and where it held a much higher prestige than the Flemish did in Belgium. Flemish legal journals therefore made a point of including a legal bibliography, listing the most important legal works in the Dutch language, published both in Flanders and in the Netherlands, and regularly published important judgements pronounced in Dutch. They also featured a specific column on legal language, in which direct links were made with the legal language used in Dutch publications. In the next section, I will study in what ways the *Rechtskundig Tijdschrift* used translation for the advancement of the Flemish legal language and culture.

Translation Practices in the *Rechtskundig Tijdschrift*

The *Rechtskundig Tijdschrift voor Vlaamsch-België* holds a special place in the history of Flemish legal journals, if only because it was the only Flemish legal journal created in the nineteenth century that managed to survive until the twentieth century.²⁵ The journal was conceived during the various Flemish conferences that were held from 1873 on, bringing together Flemish jurists and lawyers and aiming to improve the Flemish legal language. Among the immediate causes for its coming into being were the announcement of the Equality Law and the absence of Flemish works on law:

22 Vandenbogaerde, 'Als hamers op de Vlaamse nagel!'; Sebastiaan Vandenbogaerde, 'Van nationale tot cultureel-economische eenheid? De visie op de Belgisch-Nederlandse relaties in Belgische juridische tijdschriften in de 19de en 20ste eeuw', in *Rechtsgeschiedenis op nieuwe wegen/Legal History, Moving in New Directions*, ed. by Dave De ruyscher and others (Antwerp: Maklu, 2015), pp. 173–89.

23 Vandenbogaerde, 'Als hamers op de Vlaamse nagel!', p. 119.

24 Vandenbogaerde, 'Als hamers op de Vlaamse nagel!', p. 110.

25 My discussion of the journal's background is based on Vandenbogaerde, 'Als hamers op de Vlaamse nagel!', pp. 108–09, and Vandenbogaerde, 'Van nationale tot cultureel-economische eenheid?', pp. 173–89.

IN FLANDERS FLEMISH! This fundamental principle has in recent years been introduced by various laws [...] and will possibly, in the near future, be confirmed by the institution of the Flemish language as an official language, equal to French [...] Yet, for many lawyers, for many officials [...] this use [of the Flemish language] is sometimes, yes, almost always, accompanied by the biggest problems, not because of the language itself — for the Flemish language is in no field of science inferior to a foreign language —, but because of the lack of Flemish works which discuss all that concerns the law and which can be consulted by jurists and lawyers, each time they are confronted with some or other difficulty.²⁶

Contrary to popular (francophone) belief, these problems [zwarigheden] were not caused by the inherent quality of the Flemish language itself, but rather by the manifest lack of Flemish works on law which jurists and lawyers could consult. That is why the *Rechtskundig Tijdschrift* both made its own contributions, in Flemish, on matters of law and legal language and conscientiously published lists of works on law that appeared in Flanders and in the Netherlands. The journal became an important vector in the effort to raise the status of the Flemish language and to create a standardized legal language. The editorial team [opstelraad] was based in Brussels, and consisted of editor-in-chief Juliaan Vander Linden, lawyer, delegate in Ghent, and president of the Flamingant Bond der Vlaamsche Rechtsgeleerden [Association of Flemish Jurists]; Hendrik de Hoon, substitute public prosecutor, professor of Flemish criminal law at the university college in Brussels, and translator of the Civil Code; Lambert Ouwercx, professor of criminal law at the University of Leuven; Alfred Delcroix, doctor in law and employed at the Ministry of the Interior and Education; and Odilon Perier, lawyer and director of the *Compte rendu* [Parliamentary report]. The true direction and day-to-day coordination was in the hands of editorial secretary Karel Brants, who played a central role in the foundation and development of a network of Flemish legal actors and journals at the end of the nineteenth century.

The innovative aspect of the *Rechtskundig Tijdschrift* was that it specifically addressed jurists rather than government officials in Flemish. Indeed, the two legal journals that had been established some ten years previously — *Het Vlaamsch Bestuur* and *Het Bestuurlijk Tijdschrift voor Vlaamsch-België* — focused on administrative law. The project of the *Rechtskundig Tijdschrift* was established as follows:

- I. Studies and contributions of a theoretical nature.
- II. Explanation of laws or decrees.
- III. Case law (Flemish judgements pronounced in Belgium; judgements of the Northern Netherlands; translations of important francophone judgements).
- IV. Linguistic contributions on law; terminology.

26 'IN VLAANDEREN VLAAMSCH! Dit grondbeginsel is in de jongste jaren door verscheidene wetten [...] ingevoerd geworden en zal wellicht, binnen korten tijd, bekrachtigd worden door het aanstellen van de Vlaamsche taal tot officiële taal, op gelijken voet met de Fransche. [...] Edoch, voor vele advocaten, voor vele ambtenaren [...] gaat dit gebruik [van de Vlaamse taal] soms, ja, bijna altijd met de grootste zwarigheden gepaard, niet ter oorzaak van de taal zelve — de Vlaamsche taal moet immers in geen enkel vak der wetenschappen voor eene vreemde taal onderdoen —, maar wel bij gebrek aan Vlaamsche werken, die alles wat het rechtswezen betreft bespreken en door rechtsgeleerden en ambtenaren kunnen geraadpleegd worden, telkenmale zij tegenover deze of gene moeilijkheid staan.' De opstellers, 'Tot inleiding', *Rechtskundig Tijdschrift* (1897–98), 1–2.

- V. Legal activity; book reviews; overview of Belgian and foreign periodicals.²⁷

As in all the early Flemish legal journals, the language issues lay at the heart of the *Rechtskundig Tijdschrift*. While it also published studies and contributions of a general and theoretical nature and explanations of specific laws and decrees, the main part of the journal was devoted to linguistic contributions on law and to book reviews of legal works in Dutch. The goal was to increase the use of Flemish in the judicial world in Flanders as well as to impart the correct use of the Flemish legal language by adopting the legal terms in use in the Netherlands. While the journal pointed out that Flemish had been used in Flemish courts before the French annexation in 1795, it remained moderate to indifferent to other matters concerning the Flemish Movement. The editors fairly quickly realized that in order to stay viable, the explicit focus on language had to be diminished. The fixed feature 'Rechtstaal' ['Legal Language'] only reappeared in the form of general notes, 'Taal- en Rechtskundige Aantekeningen' ['Linguistic and Legal Notes'], in 1903.²⁸

While the journal continued to exist until 1963, it never enjoyed real success. Vandenbogaerde provides three reasons, parallel to those regarding the general evolution of the Flemish legal journals. First, the journal appeared very irregularly, often leaving several months between publications. Second, the *Rechtskundig Tijdschrift* was established too early, since the Belgian judiciary world remained predominantly francophone until well into the twentieth century. Finally, even though language legislation in favour of Flemish had been passed, lawyers who pleaded in Flemish still risked being summoned before a disciplinary board requesting them to use French in court. Nevertheless, the journal had a great positive influence on Flemish legal journals as well as on Flemish legal culture in general. Not only did it encourage other Flemish jurists to start their own Flemish legal journals, it succeeded in giving an impetus to the development of a proper Flemish legal culture.²⁹

Translation as a Step Towards a Flemish Legal Language and Culture

A Flemish legal language and culture could evidently not develop *ab ovo*. In order to create an autonomous and fixed language, the Flemish editors of the *Rechtskundig Tijdschrift* explicitly set out to identify the most accurate and clear equivalents of original French legal terms. They did so by consulting Dutch legal terminology, by going back to the old Flemish legal language of customary law, or, when appropriate, by creating entirely new terms. In what follows, I will discuss how the journal endeavoured to reach this goal in practice.

'In Vlaanderen Vlaamsch' was the fundamental motto of the Flemish Movement, and thus also that of the *Rechtskundig Tijdschrift*. Accordingly, a proper language, 'Vlaamsch', had to be developed. Even though several important language laws in favour of Flemish had been passed by the time the journal was established, it was put forward in its first editorial that for many Flemish officials and jurists, the use of the Flemish

27 'I. Studiën en bijdragen van theoretischen aard. II. Uitlegging van wetten of besluiten. III. Rechtspraak (Vlaamsche vonnissen in België uitgesproken; Noord-nederlandsche vonnissen; vertaling van belangrijke Fransche vonnissen). IV. Taalkundige bijdragen op rechtsgebied; vakwoorden. V. Rechtsbeweging; boekbeoordeeling; overzicht van Belgische en vreemde tijdschriften.' De opstellers, p. 2.

28 Vandenbogaerde, 'Vectoren van het recht', p. 173.

29 Vandenbogaerde, 'Vectoren van het recht', p. 175.

language still entailed serious problems.³⁰ Translational practices, either conspicuous or subtle, played an important role in the effort to create uniformity in the Flemish legal language. Three recurring sections were particularly significant in this respect, namely ‘Rechtspraak’ [‘Case Law’], ‘Wetgeving’ [‘Legislation’] and ‘Rechtstaal’ [‘Legal Language’]. In what follows, I will not only discuss instances of translation proper — that is, a full substitution of a French source text — but also other translational and transfer practices, such as commentary and legal glossaries.

‘Rechtspraak’ was mainly reserved for the publication of both Dutch and Flemish jurisdiction, but also included translations of important francophone judgements in Belgium. According to Vandenbogaerde, the presence of these translations signalled the scarcity of Flemish rulings in Belgium, which then explains the marked interest in judgements pronounced by courts in the Netherlands.³¹ Looking at the translations of judgements originally pronounced in French, it becomes clear that paratextual features played an important role. For instance, in the translation of a judgement of the Court of Cassation of 31 May 1897, the phrase ‘Translation from French’ [‘Vertaling uit het Fransch’] is added.³² The editors did not limit themselves to providing a translation of the French source text, but also thoroughly discussed the case, thus adding information to the original text. An important paratextual feature that was regularly resorted to when the editors wished to comment on the use and/or translation of particular terms was that of the footnote. This paratextual device was primarily used to suggest alternatives for the Flemish term used in the main text (whether this text was a translation or an original Flemish one), as well as to comment on specific translations of French legal terms. For instance, a footnote for the French term ‘conclusion’ suggested a more ‘Flemish’ alternative: ‘In our opinion, *conclusion* can very well be rendered by *besluitschrift*.’³³ In a criminal case at the Court of Appeal, a footnote commented on an error that occurred in the translation of the following text:

‘In case of co-occurrence of one or more crimes and one or more offenses, all fines and all (1) penalties of correctional incarceration will be combined, within the limits defined by the following article’;

(1) The author of the arrest has followed the translation of Mr De Hondt, current councillor at the Court of Cassation; however, he did not notice that the word ‘all’ was added in the translation, it is not present in the French text.³⁴

As can be inferred from this example, the translations that were published in the *Rechtskundig Tijdschrift* were not translated by the contributors themselves. Rather than re-translating the judgements or arrests themselves and replacing those terms that they considered to have been mistranslated, the editors seemed to prefer reprinting the original translation in order to comment on these terms and to make the readers explicitly aware of the French-orientedness of the contemporary Flemish legal language.

30 De opstellers, 1–2.

31 Vandenbogaerde, ‘Vectoren van het recht’, p. 175.

32 ‘Verbrekingshof (2de kamer), 31 Mei 1897’, *Rechtskundig Tijdschrift* (1897–98), 178–80 (p. 178).

33 ‘Naar onze meening, zou conclusion zeer wel kunnen weergegeven worden door besluitschrift.’ ‘Hooge Raad der Nederlanden (Kamer van Burgerlijke zaken), 18 Juni 1897’, *Rechtskundig Tijdschrift* (1897–98), 210.

34 “In geval van samenbestaan van één of meer wanbedrijven en ééne of meer overtredingen, zullen al de geldboeten en alle (1) de straffen van boetstraffelijke gevangenzitting samengevoegd worden, binnen de palen bij het volgend artikel vastgesteld”; (1) De opsteller van het arrest heeft de vertaling van Mr De Hondt, tegenwoordig raadsheer in het Verbrekingshof, gevolgd; doch hij heeft er niet op gelet dat het woord “alle” in de vertaling werd ingeslascht [*sic*], terwijl het in den Franschen tekst niet voorkomt.’ ‘Hof van Beroep van Luik (4de Kamer, 2de Afdeling), 8 November 1897’, *Rechtskundig Tijdschrift* (1897–98), 303.

The majority of the footnotes indeed focused on weeding out the so-called 'bastardized words' ['bastaardwoorden'], particularly Gallicisms and suggesting equivalent, 'pure' Flemish terms.

This practice did not only occur in Flemish judgements or translations of francophone judgements, but also in texts taken over from Dutch jurisdiction. The Dutch legal language was heavily influenced by French, a reality that presented an additional difficulty for those integrationists who wanted to move away from the French legal language altogether. For example, the following footnotes for the terms 'request', 'requestant', 'administratie', and 'concludeeren', used in a judgement of a Dutch court, suggested better ones; that is, terms unrelated to French:

- (1) *Request* is a bastardized word that should be banned from our legal language. It can be replaced by the proper word: *Verzoekschrift*.
- (2) Also *requestor* should be replaced by the Dutch: *Verzoeker*.
- (3) Administration: *beheer*.
- (4) To conclude: *besluiten*.³⁵

Nevertheless, the readership was still expected to understand French. In several instances, the original French text is quoted or referred to, without mention or presence of a translation, for example: 'On this subject I refer to DALLOZ (vs. Obligations, no. 4747) where we read: "Les caractères du commencement par écrit sont de deux ordres."³⁶ This is not an entirely surprising observation, since the target public of the legal journal were Flemish jurists who were — or at least were supposed to be, since they received their training in French — bilingual.

In the section 'Wetgeving', the Flemish text of the most important laws that were included in the official government journal *Moniteur belge/Belgisch Staatsblad* was published: 'We intend to include the Flemish text of the most important laws in *Het Rechtskundig Tijdschrift*, as they are promulgated by the Bulletin of Acts. The communication of this Flemish text will undoubtedly be useful for our subscribers.'³⁷ For the most part, the official Flemish translations were reprinted without any alterations or comments, but in particular cases the editors would comment on the choice of words made by the official translators. For example, in the Flemish text of the Law of 6 August 1897, the French word 'avis', meaning 'notification' or 'deliberation' was translated by the Flemish 'kennisgevingen'. In a footnote, the editorial team disagreed with this specific translation and commented the following:

Here the French *avis* is translated as *kennisgevingen*. That is, in our opinion, an incorrect translation. The French *avis* does by no means signify, in the sense of art. 9, the message, but the view, the feeling and, by extension, the deliberation

35 '(1) Request is een bastaardwoord dat uit onze rechtstaal dient gebannen te worden. Men kan het vervangen door het degelijk woord: *Verzoekschrift*. (2) Ook requestant dient vervangen te worden door het Nederlandsch: *Verzoeker*. (3) Administratie: *beheer*. (4) Concludeeren: *besluiten*.' Hof van Justitie in de kolonie Curaçao (RAADKAMER), 16 juli 1897, *Rechtskundig Tijdschrift* (1897–98), 310.

36 'Ik verwijz hieromtrent naar DALLOZ (v. Obligations, n° 4747) waar we lezen: "Les caractères du commencement par écrit sont de deux ordres." 'Hooge Raad der Nederlanden, 21 Januari 1898', *Rechtskundig Tijdschrift* (1897–98), 366.

37 'Wij stellen ons voor, den Vlaamschen tekst der voornaamste wetten in *Het Rechtskundig Tijdschrift* op te nemen, zooals die door het Staatsblad worden afgekondigd. Het mededeelen van dien Vlaamschen tekst zal ongetwijfeld voor onze inschrijvers nuttig zijn.' 'Wetgeving', *Rechtskundig Tijdschrift* (1897–98), 87.

through which this view is expressed. So in place of *kennisgevingen* we would use either *beraadslagingen* or the bastardized word *adviezen*.³⁸

It is worth noting here that the editor suggested another Gallicism, ‘adviezen’, even though the general attitude of the editorial team of the *Rechtskundig Tijdschrift* towards the use of bastardized words was dismissive, almost hostile even. As we will see below, in some cases the use of a bastardized word was allowed, if it conveyed the intended meaning more accurately than the Flemish equivalent. While the issues of the *Rechtskundig Tijdschrift* in 1897–98 published several Flemish translations of important laws, this section diminished in the following issues and disappeared altogether, most probably because since the Equality Law of 1898, the Flemish text of laws became authentic and was no longer just an official translation of the French text.

Arguably the most important feature in the *Rechtskundig Tijdschrift* was ‘(Nederlandsche) Rechtstaal’ [‘(Dutch) Legal Language’]. While all sections of the journal considered and discussed linguistic questions, ‘Rechtstaal’ was specifically devoted to discussions on and contributions to the Flemish legal language. The main goal of these contributions was to create uniformity in the Flemish legal language, preferably by moving away from the French legal language dominant in Belgium and seeking alliance with the Dutch legal language: ‘By providing these linguistic studies, we depart from the point of view that especially the unity of the general Dutch legal language should be observed.’³⁹ The prevalent criteria for the ‘ideal’ Flemish legal terms and expressions were ‘accuracy’ [‘juistheid’] and ‘clarity’ [‘klaarheid’]. The French and Flemish legal terms would be placed next to each other, followed by a discussion about whether the proposed Flemish term was accurate in conveying the meaning of the French term. The editors would either refer to Flemish terms that had been used in translations of the Civil Code by Ledeganck and the Flemish lawyer and judge Lodewijk De Hondt, to the ‘old Flemish legal language’ [‘oude Vlaamsche rechtstaal’] that was used in customary law, to the legal language used in the Northern Netherlands, or to all three simultaneously. For instance, when the legal terms ‘natuurlijk kind’ and its French equivalent ‘enfant naturel’, meaning ‘natural child’, were discussed, the definition of the terms was first given with references to the relevant sections in the (original as well as translated) Civil Code. Even though the editors did not approve of the term ‘natuurlijk’ — possibly because it closely resembles the French ‘naturel’ — preferring the term ‘onecht’, meaning ‘illegitimate’, they eventually agreed on the term ‘natuurlijk’, since this term was commonly used in the Netherlands:

However, since *natuurlijk* has been accepted everywhere in the Northern Netherlands and is generally used there by the legislature, the courts, and the jurists, we deem it preferable to also use this here in the general sense mentioned above, for uniformity’s sake.⁴⁰

38 ‘Door kennisgevingen wordt hier het Fransche avis vertaald. Dat is, naar onze meening, eene verkeerde vertaling. Het Fransche avis betekent geenszins, in den zin van art. 9, het bericht, maar wel de zienswijze, het gevoelen en, bij uitbreiding, de beraadslaging waardoor die zienswijze wordt uitgedrukt. In de plaats van kennisgevingen zouden wij dus ofwel beraadslagingen ofwel het bastaardwoord adviezen gebruiken.’ Wet, van 6 Augustus 1897, rakende de inrichting van verplegingsgestichten onder verschillende gemeenten, *Rechtskundig Tijdschrift* (1897–98), 250–52 (p. 251).

39 ‘Bij het leveren dezer taalkundige studiën gaan wij van het standpunt uit, dat vooral de eenheid der algemeene Nederlandsche rechtstaal dient betracht te worden.’ K. Brants, ‘Bijdrage tot het samenstellen eener Nederlandsch-Fransche en Fransch-Nederlandsche woordenlijst van rechtstermen en rechtsuitdrukkingen’, *Rechtskundig Tijdschrift* (1897–98), 26–30 (p. 26).

40 ‘Edoch, daar natuurlijk overal in Noord-Nederland ingang heeft gevonden en aldaar algemeen gebruikt wordt door de wetgeving, de rechtbanken en de rechtsgeleerden, achten wij dat het verkieslijk is, dit ook te onzent in hooger gemelden algemeenen zin te gebruiken, om der eenheid wille.’ Brants, pp. 27–28.

The following discussion on the legal terms 'joint ownership' ['mitoyenniteit'] and 'jurisprudence' ['jurisprudentie'] is worth treating in more depth, since it shows how two conflicting views on the use of Gallicisms or bastardized words could occur in one and the same journal. The discussion arose between on the one hand the Flemish jurist Felix Rodenbach, who had established his own legal journal in May 1897, *La Revue trimestrielle de droit*, which contained a French-Flemish manual that included French legal terms with their Flemish translations and essential explanations, and on the other hand the editorial team of the *Rechtskundig Tijdschrift*, represented by Karel Brants. The discussion lasted for several issues, indicating that both Rodenbach and the editorial team did not take this matter lightly. Without going into detail about the discussion on the exact meanings of 'mitoyenniteit', 'jurisprudentie' and their 'Flemish' counterparts 'gemeenschap' and 'rechtspraak', I will point out the most important arguments used by both sides.

According to Rodenbach, in some cases the use of bastardized words was strictly necessary when one wanted to establish a fixed understanding of the law and an unequivocal solution to legal problems. Rather than insisting on the use of strictly Flemish words, he preferred using the term that conveyed the intended meaning in the best way possible. His main goal, he added, was 'to be understood by our readers. Our main interest concerns not the *form* but the *essence* of matters. We do not give ourselves the proper role of purists.'⁴¹ He repeatedly insisted that the writer (and translator) should always have the target audience in mind: 'Whenever one writes or speaks, it must to be understood by anyone. That is the goal of all speakers.'⁴² He explicitly criticized the contemporary tendency to artificially create Flemish terms, which led to a rather elevated and incomprehensible style:

In our opinion the authors of the new school too often pursue the loftiness of style. Thus they visibly neglect the important rule, according to which the essence of the matter should precede the form.⁴³

Although he was not in favour of the abundant use of bastardized words in the Flemish legal language, he was relatively tolerant towards them, positing that 'between use and abuse, the difference is very great'.⁴⁴

The remarks of the editorial team on Rodenbach's use of 'mitoyenniteit' and 'jurisprudentie' attest to a less tolerant view. They only allowed the use of bastardized words in three particular situations: 'We are of the opinion that, as far as legal language is concerned, only those bastardized words should be tolerated, which have been *generally adopted*, which *cannot be rendered by an equivalent Dutch term* or for which *the existing Dutch term has not yet been adopted*.'⁴⁵ According to them, there did exist

41 'door onze lezers verstaan te worden. Voor ons bestaat het waar belang, niet in den *vorm*, maar in den *grond* der zaken. Wij geven ons zelve den eigen rol niet van taalzuiveraar.' Felix Rodenbach, 'Rechtsvraag: Algemeene begrippen het burgerlijk en fiscaal recht betreffende', *Rechtskundig Tijdschrift* (1897-98), 47-52 (p. 47). My emphasis.

42 'Wanneer men schrijft of spreekt, 't is zekerlijk om door eenieder te worden verstaan. Dat is het oogwit van alle redeneerders.' Felix Rodenbach, 'Jurisprudentie of rechtspraak? Mitoyenniteit of gemeenschap?', *Rechtskundig Tijdschrift* (1897-98), 115-18 (p. 116).

43 'Naar onze meening maken de schrijvers der nieuwe school te veel jacht op de verhevenheid van de stijl. Alzoo verwaarloozden zij, op zichtbare wijze, den belangrijke regel, volgens denwelken het wezen der zaak den vorm moet te boven gaan.' Rodenbach, 'Jurisprudentie of rechtspraak?', p. 117.

44 'tusschen gebruik en misbruik is het verschil zeer groot'. Rodenbach, 'Rechtsvraag', p. 47.

45 'Wij zijn van meening dat, wat de rechtstaal betreft, slechts die bastaardwoorden moeten geduld worden, welke *algemeen burgerrecht* hebben verkregen, door *geen Nederlandsch woord kunnen weergegeven worden* of voor de welke *dusdanig Nederlandsch woord nog niet algemeen aangenomen is*.' De opstelraad, 'Aanmerkingen', *Rechtskundig Tijdschrift* (1897-98), 51-52 (p. 51). My emphasis.

proper Dutch equivalents for ‘mitoyenniteit’ and ‘jurisprudentie’, namely ‘gemeenschap’ and ‘rechtspraak’. These words were moreover commonly used in the Dutch legal language and should therefore definitely be preferred. Nevertheless, the editorial team also took the target audience into account in their choice of words: ‘We stand by the word *rechtspraak*, since any Flemish farmer is able to understand it, while he will in vain wonder what *jurisprudentie* means.’⁴⁶ In other words, the law had to serve the people, from the highest politician to the common peasant. Both sides considered their target audience in the choice of a legal term, but they disagreed on the degree of knowledge of bastardized words and proper Flemish legal terms of the general public. While their goal — conveying the legal message in the clearest way possible for a broad public — was the same, their means of achieving this diverged.

To conclude, I would like to discuss an article based on a speech given by Alberik Deswarte, lawyer and secretary of the editorial team of the *Rechtskundig Tijdschrift*, during the general meeting of the Vlaamsch Rechtskundig Congres [Flemish Legal Congress] organized by the Association of Flemish Jurists in Antwerp in June 1900: ‘Over de studie der Nederlandsche Rechtstaat’ [‘On the Study of the Dutch Legal Language’]. In Deswarte’s opinion, the decree of 16 November 1830, which stipulated that Flemish translations of laws and decrees should be published by the governors of the Flemish provinces independently, had a devastating effect on the Flemish legal language, despite the good intentions of the Flemish translators:

Leaving aside the misunderstanding of the law, which has put on the mask of ignorance, this decree was the morass out of which translation fever rose. The translation mania became a contagion that infected the best of the Flemish spirits. People no longer spoke and wrote Dutch legal language, they wrote and spoke translated French. However, many of the translation maniacs meant to do the mother tongue justice! But to this well-beloved one could have applied the exclamation: *May God save me from my friends!*⁴⁷

Deswarte explicitly denounced the practice of literal translation, specifically those translations that were published in the official government journal *Staatsblad*. These literal translations had a negative influence on the development of the Flemish legal language, since French terms and grammatical constructions were transferred to Flemish, which had to be defended from any influence of foreign languages in order to remain true to its own nature:

To those who are suffering from literal translation frenzy, I call: *Surtout, pas de zèle!* — which I very freely translate by: ‘Above all, no purism!’ Language police is necessary and wholesome, as far as it consists of defending our idiom from foreign influence; of the extermination of regional expressions, of Gallicisms, of Germanisms, of other rampant growth of weeds; of remaining faithful to the

46 ‘Wij houden ons dus bij het woord *rechtspraak*, met des te meer reden dat de eerste beste Vlaamsche boer in staat is het te begrijpen, terwijl hij zich tevergeefs zal afvragen wat jurisprudentie zeggen wil.’ De opstelraad, ‘Wederantwoord’, *Rechtskundig Tijdschrift* (1897–98), 118–21 (p. 121).

47 ‘Daargelaten de rechtsmiskening die het masker der onwetendheid opzette, was dit besluit het moeras waaruit de vertaalkoorts opstond. De dolheid naar vertalen werd eene besmetting, die de beste Vlaamsche geesten aangreep. Men sprak en schreef geen Nederlandsche rechtstaat meer, men schreef en sprak vertaald Fransch. Menige vertaalzieken meenden het nochtans zoo wel met de moedertaal! Maar op deze welbeminde hadde men de uitroeping kunnen toepassen: *Que Dieu me préserve de mes amis!* Alberik Deswarte, ‘Over de studie der Nederlandsche Rechtstaat’, *Rechtskundig Tijdschrift* (1900–01), 79–89 (p. 80).

proper nature and the true soul of our language; of the precise pursuit of a subtle and certain linguistic feeling.⁴⁸

However, Deswarte did not adhere to the other radical end of the spectrum, that of drawing on ancient Flemish used in customary law. This practice entailed its own difficulties and even dangers, since it was a rather artificial way of creating a proper language:

All this miserable 'drawing on one's own sources'! [...] Prof. Matthias de Vries condemns this forging of words, which cripples and mocks the language, in the following well-chosen phrase: 'In a museum of the Dutch language the treasures should be displayed, which the language truly owns, but not the *arbitrary fabrications*, which are forced upon her, even though these are also supported by the authority of excellent jurists.'⁴⁹

He preferred doing away with translation of French texts altogether and proposed only looking to the Dutch legal language, since it was already a properly functioning, autonomous legal language. Nevertheless, he acknowledged the flaws of the Dutch legal language, and he called on the Flemish jurists to explicitly reject the French terms, which he designated as 'robbed feathers', used by most Dutch jurists to embellish the Dutch language.

Conclusion

Flemish legal journals, and the *Rechtskundig Tijdschrift* in particular, played a key role in the advancement and development of a proper Flemish legal language, distinct from Dutch and able to support claims for recognition of a new Flemish citizenship within the Belgian nation state. Translation was primarily employed with the aim to create uniformity in the Flemish legal language, by moving away from the dominant French legal language and by seeking closer alliance with the legal language used in the Netherlands, and to create a proper Flemish legal culture equal to the existing francophone legal culture. Flemish legal journals did not only publish translations of important legislative and judiciary texts, but they would also extensively discuss the quality of these translations and the correct legal and administrative vocabulary. For several decades after the first Flemish legal journals found their way into the legal world, Flemish jurists would search for the most adequate way of treating the trifold source material (French, Dutch, and medieval Flemish) and of developing an autonomous and authoritative legal language. Intense discussions caused by divergent views on translation and the Flemish (legal) language continued to be held among Flemish jurists, who were thus instrumental in creating awareness of a proper *Flemish* identity and role in society. While it would still take several decades for the Flemish legal language

48 'Aan diegenen die lijden aan verzotheid naar letterlijke vertaling, roep ik toe: *Surtout, pas de zèle!* — hetgeen ik zeer vrij overzet door: "Bovenal, geen purisme!" Taalpolitie is noodig en heilzaam, in zooverre het bestaat in het weren van uitheemschen invloed op ons taaleigen; in het uitroeien van gewestelijke uitdrukkingen, van gallicismen, van germanismen, van ander woekerend onkruid; in het getrouw blijven aan den eigen aard en de echte ziel van onzer taal; in het stipte navolgen van fijn en zeker taalgevoel.' Deswarte, p. 81.

49 'Wat al ellendig "putten uit eigen bronnen"! [...] Dat woordensmeden, waarbij men de taal kreupel en bespottelijk maakt, veroordeelt Prof. Matthias de Vries in volgende treffende zinsnede: "In een museum der Nederlandsche taal moeten de schatten ten toon gesteld zijn, die de taal werkelijk bezit, maar niet de *willekeurige verdichtfels*, die men haar wil opdringen, al worden die dan ook door het gezag van uitstekende rechtsgeleerden gesteund.'" Deswarte, p. 82.

and culture to fully develop and claim its rightful place in Belgium, the Flemish legal journals paved an important part of the way. The process of Flemish standardization and emancipation continued until the 1960s, when the official Dutch version of the Constitution and the various codes were published by the Commission Van Dievoet. At that point, the Flemish legal language and culture were undeniably raised to the same level as its French counterparts.

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