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## *Dies diem docet*

The prevailing attitude of contemporary scholarship to the problem – not yet, indeed, perceived as such – might be characterised as the paradox of print. There exists a fundamental difference in our approach to sources which are in manuscript and sources which are in print. It is naturally recognised that manuscripts are unique. Manuscripts are copied by hand, so there are inevitably differences between and among them. No scholar, then, will cite a random manuscript and state baldly: “This is what the author wrote”. For it is clear that each manuscript offers a text which varies to some extent from what the author originally intended. Hence the attitude of scholars of Medieval legal history may be described as philological. One of the basic and ongoing tasks of scholarship on Medieval legal history is the production of guides to the surviving manuscript sources; and a recognised genre of scholarly production is the editing of texts. But even where a text is not being edited, the scholar will just the same pay close attention to the manuscript tradition and to the selection of manuscripts which he uses and cites. Every scholar in the field is therefore equipped as part of his training with a knowledge of palaeography and the basic tenets of philology.

The same scholar, however, when he joins the ranks of his colleagues in the modern period, seems to be contaminated by the touch. In the modern period our basic source is no longer the manuscript but the printed book. And the printed letter kills. The standard practice of scholarship in relation to printed sources is to use whichever edition lies to hand. The edition cited corresponds not to a scholarly choice but to the chance holdings of the research library used by the individual scholar; not to selection, but to random collection. We will thus read: “Baldus: I used the edition Lugduni 1561”, or “Alciatus: cited after the Opera omnia, Frankfurt 1617”. Those who would deny this fact must pick up any book or article of legal history and attend to the list of sources or the footnotes. But nobody would deny, or – more significant – discern any need to deny, this simple statement of the facts. Rather, what would be denied is that there is anything whatever irregular or unscholarly in such a practice. This is adjudged, on the contrary, to be no less than the careful citation of sources. Manuscripts, so the tacit argument runs, are all different, and printed editions are all the same: all the copies of an

edition are the same, and the next edition simply reproduces, more or less, the preceding. Is not the very characteristic of print, as opposed to the hand written book, precisely the multiple reproduction of uniform copies?

Why, then, do I choose to call this conviction the paradox of print? It is my contention that the situation is precisely the opposite: the use of the philological method is actually far, far more important in the case of the printed book than in that of the manuscript. I do not mean thereby to challenge the importance of the philological method in Medieval studies; rather to emphasise that for an understanding of what an author wrote the practice of the philological method becomes even more vital after the invention of printing.

The recent biography by Govaert van den Bergh<sup>1</sup> of one of the greatest of the Dutch legal humanists, Gerard Noodt (1647–1725), raises this methodological question in a particularly striking way. The biography is a marvellously rich work which amply illustrates and justifies the almost twenty years of study which went into its production. With Noodt we are right at the heart of Dutch legal-humanist scholarship, among the heirs and equals of the great pioneers of 16th century France. Noodt's intellectual relations with his contemporaries are traced and laid bare, so that the work is at once an insight into the life and work of the likes of Huber and Voet, Brenkman and Bynkershoek. The work falls into two clearly defined parts, the first on Noodt's life and career, and the second, the real heart of the book, a detailed discussion of each of Noodt's works. Van den Bergh combines a consideration of the wider historical context and implications of Noodt's literary production with a close analysis of the minutiae of his philological scholarship. It is in the latter context that the question of method and printed sources is raised in a striking fashion.

It is perhaps no coincidence that this topic should be broached in the context of humanist scholarship. It is the legal humanists who form the first important school of jurists to emerge after the invention of printing, and it is Budaeus and Alciatus who first respond to the innovations created by the new technology. It is insufficiently recognised among scholars that the technology of the printing press resulted not only in a new medium for the dissemination of the written word, but actually

<sup>1</sup> G.C.J.J. VAN DEN BERGH, *The Life and Work of Gerard Noodt (1647–1725). Dutch Legal Scholarship between Humanism and Enlightenment*. Oxford: Clarendon Press 1988; hereafter cited as "VAN DEN BERGH".

created a new method of literary production. Or perhaps it would be more accurate to say that what had previously been altogether exceptional now became the norm. This fundamental change was brought about by the economics of the printing press. The essential conditions were four. First, paper was extremely expensive. Second, the labour of the type-setter was relatively cheap. Third, conditions of storage were primitive (and insurance not yet invented). Fourth, protection of copyright was unsatisfactory. These conditions all pointed in one direction: the prudent publisher would tend to make small print-runs of a limited number of copies for short-term sale. It was more economic to have a low-paid print-setter reset the entire book every few years if demand proved to be forthcoming, rather than undertake the serious risks involved in storing a large quantity of stock in the expectation of future sales. It is for this reason that one so often finds in the 16th century a long succession of editions of the same work. Not untypical in this respect is the first great work of legal humanism, the *Annotationes in Pandectas* of Gulielmus Budaeus. In Budaeus' lifetime editions were published at Paris under his supervision in 1508, c.1519, 1521, 1524, 1527, 1530, 1532, and 1535.<sup>2</sup>

This regular, controlled flow of new editions opened up a new possibility for the author: to make changes in his original text at regular intervals, either as a response to the criticism of others or to his own further research. *Secundae cogitationes sapientiores*: all the evidence indicates that authors were more than eager to grasp this opportunity. Budaeus, for example, altered his text (with one possible exception) in each of the above editions.<sup>3</sup> And here I come to the paradox of print. Is it not indeed a paradox that scholars are concerned with slight variations from what is basically a unitary text when they occur in manuscripts, but not at all interested in variations, possibly of the profoundest importance, deliberately introduced in printed texts by the author himself? Is it not a

<sup>2</sup> Between 1508 and 1532 the editions were all published by Badius Ascensius. There are two separate editions published in 1535. One bears the imprint *Parisiis, ex officina Roberti Stephani, 1535*. The second is found in two variant imprints: *Parisiis, apud Ioan-nem Parvum, 1535*, and *Parisiis, apud Mauricium de Porta, 1535*. The former of these two variants is evidenced in a re-issue dated 1536.

<sup>3</sup> This emerges from a collation of a four-page sample (D.9.2) in all the editions. From this sample a difference emerged in the text in all cases except that between 1530 and 1532. Whether the whole of the text is the same in this last case can be determined only by collating the work, commencing at the beginning and continuing until either a difference emerges or the end is reached. On the necessity and impossibility of such collations, read on.

paradox to take care to note in an apparatus criticus the interchange of an *et* and an *ac*, or a variation in Latin word order, occurring in different manuscripts, but to happily ignore the fact that Budaeus, the great critic of Medieval jurisprudence, systematically muted his criticism of Accursius in subsequent editions of his work; or that Budaeus, the first great Hellenist of the French Renaissance, continually added citations of Greek literature to the rather modest selection of authors on display in 1508?

This paradoxical attitude to printed sources has naturally had its consequences in the field of legal-historical bibliography. Indeed, if the maxim is "any old edition will do", it is hard to discern any reason for listing editions in the first place. The reason, however, explains the result. Behind these productions hovers the spectre of *Dogmengeschichte*. What was desired, then, was not an accurate and comprehensive list of editions, but merely the conveyance of an impression, very roughly, of when the work first appeared; and an impression, very roughly, of how many editions were published, where and when, as a vague indication of the importance and dissemination of the work. Hence the desirability of completeness was not felt, nor was the admixture of phantom editions from antique sources such as Fontana and Lipenius perceived as the injection of a deadly poison into the bloodstream of legal-historical scholarship.

Naturally, for the historian such a production is simply of no service; van den Bergh writes: "The bibliographical data concerning Noodt's works in Coing's *Handbuch* ii.I (Coing, 1977) are incomplete and absolutely unreliable".<sup>4</sup> On this judgment I am in full accord;<sup>5</sup> some further comment, however, has to be made on van den Bergh's opinion of the contemporary bibliographical project covering the major jurists of the Netherlands, currently in course of compilation under the direction of Robert Feenstra.<sup>6</sup> Van den Bergh writes: "For an exact bibliography of Noodt's works I can refer now to Ahsmann

<sup>4</sup> VAN DEN BERGH, p. 7, n. 29.

<sup>5</sup> See my articles: Desperately Seeking Donellus, *Rechtshistorisches Journal* 5 (1986), pp. 58-70; Turning the title-page, *RJ* 6 (1987), pp. 173-182, at p. 174; Towards a legal-historical bibliography: a Census of 16th Century Legal Imprints, *Ius Commune* 15 (1988), pp. 231-242, at p. 233.

<sup>6</sup> So far only the volume on Leiden has been published: *Bibliografie van Hoogleraren in de Rechten aan de Leidse Universiteit tot 1811*, door MARGREET AHSMANN en R. FEENSTRA, met medewerking van R. STARINK, Amsterdam, Oxford, New York 1984, hereafter cited as "AHSMANN and FEENSTRA".

and Feenstra's excellent bibliography of Leiden law professors".<sup>7</sup> This judgment has to be qualified. Bowers begins his classic work on bibliography by insisting on the distinction between the popular use of the term bibliography and a *descriptive bibliography* properly so called, the latter being reserved for a much more detailed and technical description.<sup>8</sup> The obligation, Bowers continues, rests on the compiler of the latter to distinguish his work by the fuller title.<sup>9</sup> The user of Ahsmann and Feenstra's bibliography should observe this distinction most carefully. The work in question is indeed an exact and comprehensive list of imprints. But the scholar's task does not end there. The requirement of more detailed and exact bibliographical examination of early printed books is strikingly revealed in the present work by van den Bergh himself.

The first requirement van den Bergh demands for his investigation of Noodt's work is a list of the editions. And with this most elementary requirement he already shows the necessity of going beyond the bibliography of Ahsmann and Feenstra. For the latter do not seek to enter upon the question of "edition" in the technical sense; again van den Bergh:<sup>10</sup> "The following corrections should be made. As far as Book I is concerned, nr. 422 is a reissue, with new title-page, dedication and index, of nr. 421. Nr. 424 is only a title-edn. of nr. 423, and nr. 468 of 467." To what do these "corrections" refer?

The terminology here is imprecise – what van den Bergh calls both a *re-issue* and a *title-edition* is technically one and the same – but the problem he is investigating is a fundamental one. The imprint of an early printed book is not sufficient to establish *edition* in the technical sense of all the copies of a work produced from a single setting-up of print. Thus a single edition might be split between two or more publishers, each bearing a share of the costs; this is the case with the final

<sup>7</sup> VAN DEN BERGH, p. 7.

<sup>8</sup> FREDSON BOWERS, *Principles of Bibliographical Description*, Princeton 1949, reissued 1986, Chapter 1.

<sup>9</sup> BOWERS, pp. 17–18: "A work which is fundamentally a catalogue in its purpose and its method should be called a Catalogue; and if it describes a book in some detail it may properly be called a Descriptive Catalogue or even a Bibliographical Catalogue. However, if it must be a Bibliography according to the time-honored loose and now meaningless use of the word, then a true bibliography should be named an Analytical Bibliography, or a Critical, or Descriptive Bibliography."

<sup>10</sup> VAN DEN BERGH, p. 7, n. 29.

edition of Bronchorst's *Enantiophanes*, which bears the following imprints:<sup>11</sup>

Franequerae, ex officina Leonardi Strick, 1695.

Lugduni Batavorum, ex officina Frederici Haaring, 1695.

Trajecti ad Rhenum, ex officina Guilielmi Broedelet, 1695.

Three different places of publication; three different publishers; one edition. Less obvious, perhaps, are cases where part of an edition was *re-issued* some years later with a new imprint.

The latter is the phenomenon to which van den Bergh draws our attention. He describes the cases he identifies as "corrections", but in fact the problem is simply not broached by Ahsmann and Feenstra. Nor does van den Bergh himself provide a definitive list of editions of Noodt's works. Thus Ahsmann and Feenstra list two Cologne imprints of Noodt's *opera omnia*:<sup>12</sup> *Coloniae Agrippinae, sumptibus Joannis Wilhelmi Huisch, 1732*; and *Coloniae Agrippinae, sumptibus Francisci Wilhelmi Josephi Metternich, 1763*. We are told that both have the same pagination; that does not help, for often new editions are precise line-for-line resetttings of the previous edition, and hence have an identical pagination. We are further told of certain errors in pagination shared by both entries.<sup>13</sup> This comes closer to the correct bibliographical method for establishing edition, in that it concentrates on the *physical* make-up of the book. Yet it is an unreliable approach for two reasons: first, these errors tend to be produced by unsettling the type during the course of printing, so that the error is not shared by all copies of the edition; and secondly, sometimes line-for-line resetttings actually reproduce the erroneous pagination of their model. In fact, the question can be settled in seconds by attending to established bibliographical practice<sup>14</sup> – observation of signature positions or line endings, for example; and this is a

<sup>11</sup> AHSMANN and FEENSTRA, nos. 73–75. Here the authors simply reproduce the identical title and the identical list of contents three times, without noting whether or not the three imprints pertain to a single edition.

<sup>12</sup> AHSMANN and FEENSTRA, nos. 469–470.

<sup>13</sup> It should be noticed, however, that Ahsmann and Feenstra do not systematically record all erroneous pagination, but give only a few random samples which they happen to have noticed; they do not collate the books they are describing.

<sup>14</sup> PHILIP GASKELL, *A New Introduction to Bibliography*, Oxford 1972, at p. 313: "Editions of the hand-press period are usually easy to identify . . . With practice, two very similar settings can be told apart at a glance when copies are laid side by side . . ." For a discussion of the required techniques, see RONALD B. MCKERROW, *An Introduction to Bibliography for Literary Students*, Oxford 1927, at pp. 180–183.

question which a *descriptive bibliography* would have set as its premier and most elementary task.

There is another problem – a problem which is even more serious. This is the opposite, so to speak, of this phenomenon: two separate editions bearing but one imprint. Again, this question is not broached by Ahsmann and Feenstra. Thus, for example, “the edition” of Arnoldus Vinnius’ *Tractatus quinque* published with the imprint *Venetiis, ex typographia Balleoniana, 1736* features as number 955 in their bibliography; there are, however, *two editions* bearing this imprint.<sup>15</sup> Clearly such cases can never be discovered by consulting only one copy of an edition. Those who seek a comprehensive list of editions of the Roman-Dutch jurists must take account of this difficulty.

Let us turn to consider the first work of Noodt, entitled *Probabilia iuris civilis*, which seems ideally suited to illustrate our theme. The first book of this work appeared in 1674, two more were added in 1679, and a fourth and final book rounded off the collection in 1691. It is a typical work of legal humanist scholarship. It belongs to the genre of miscellaneous annotations and emendations, the title-pages of which are accustomed to inform us that within *multa iuris civilis et aliorum auctorum loca emendantur et illustrantur*. A number of short chapters in random order on unrelated subjects is the hallmark of the genre.

The *Probabilia* provides a good example of the distinction between the bibliographical categories: *edition*, *issue* and *state*. Let us establish first the list of *editions* of this work. Ahsmann and Feenstra’s check-list, as technically we must call it, records an entry for the *liber unus* in 1674, and for the *libri tres* in 1679.<sup>16</sup> Van den Bergh draws our attention to the fact that Book 1 of the *libri tres* is a *re-issue* of the first edition:<sup>17</sup> “As far as Book I is concerned, it is not a new edition. The pages of the first edition are reissued with a new title-page and dedication”. This is bibliographically exact, but a less professional approach marks his discussion of the 1691 edition:<sup>18</sup>

<sup>15</sup> Copies of both editions are held by the Biblioteca del ilustre Colegio de Abogados de Barcelona; shelf-marks 465–214 ST and 576–66. The titles, imprints, and pagination are identical.

<sup>16</sup> AHSMANN and FEENSTRA, nos. 421–422.

<sup>17</sup> VAN DEN BERGH, p. 141.

<sup>18</sup> VAN DEN BERGH, p. 141, n. 98. (my emphasis).



I have made random collations of *Prob. I* in the various edns. From this it appears that the text was worked over substantially in 1691 and 1724. The 1705 edn. has only slight changes . . . Apparently, the edn. of Leiden: F. Haaring, 1693, is only a title edn. . . . *From random collations made in the 1691 and 1693 edns. it appears that the printing of the text of both is identical; only the preliminary pages are . . . reset.*

Here van den Bergh confounds two questions which have to be kept strictly separate: 1) whether an imprint is a different edition, and 2) whether a different edition presents a different text. Van den Bergh speaks of *random collations* in both cases. Yet a collation is addressed solely to the question of *text*. Whether two imprints represent two editions is not to be determined by collating the text, but by a bibliographical examination of the material evidence of the books. Either the 1691 and 1693 imprints are from a single edition or they are not; the question of the condition of the text is posterior to the establishment of this fact.

The approach here is symptomatic of a failing in the training of historians of the modern period to which bibliographers continually call our attention.<sup>19</sup> We sit mystified before two books which at first sight appear identical; they have the same number of pages, and each line begins and ends with the same word. But wait; is that decorative initial not slightly different – yes, and here is an & instead of an *et*! Nowhere along the way have we learned of line-for-line resetttings, or how we can easily identify whether two books before us are from a single edition by attending to certain physical evidence. And so we begin to do what we understand – *to collate* the text.

Thus does van den Bergh refine the rough information of Ahsmann and Feenstra's check-list in order to arrive at his starting-point, the list of editions of Noodt's work. And yet there is a certain equivocation behind this precision; for having established the editions, and noted that there are "substantial" differences in the texts which they present, the next step eludes him. If the texts presented are different, why are they not collated in their entirety?<sup>20</sup> The answer is obvious, and yet from

<sup>19</sup> Thoroughly to be recommended is the reading (and re-reading) of ROLAND CRAHAY, *Une "nouvelle" approche méthodologique: l'analyse scientifique des imprimés anciens*, in: *Histoire et Méthode*, Brussel 1981, pp. 187–205. To our address is the conclusion on p. 197: "On ne conçoit pas qu'un médiéviste puisse se former sans paléographie et sans diplomatique; on laisse le spécialiste des temps modernes se dépêtrer des pièges qui fourmillent dans les imprimés anciens, sans même lui fournir le moyen de les déceler".

<sup>20</sup> The few cases in which van den Bergh does note differences between editions merely whet the appetite for more. We learn, for example (p. 148), that Noodt's "most famous and

a methodological point of view it is worth pursuing. If the editions of the *Probabilia* indeed fall out as van den Bergh suggests,<sup>21</sup> it would be necessary (to restrict ourselves to the editions published during Noodt's lifetime) to collate the text of the first three books four times, and that of Book 4 thrice. That is feasible; but take the *opera omnia* of Noodt in the hand, or extend the process to the authors with whom Noodt interacts. But lest this consideration be insufficient, van den Bergh takes us a stage further down the methodological road. And at the end of it he opens Gutenberg's box.

Let us suppose we had obtained our copy of the text of the *Probabilia*; that we had located copies of all the editions, visited the libraries, and collated the text line by line in all editions. Alas, we may realise we have climbed the mountain only to discover that its summit is a low-lying plateau, beyond which lies an endless vista of unscalable peaks. For van den Bergh has discovered differences in the text *between different copies of the same edition*, technically known as different *states*. The quest to establish the intention of the author recedes before our eyes. At this point the necessity of scholarship meets the impossibility of performance. Not quite: rather it meets the impossibility of performance given the current state of our technical resources. But before elaborating on this distinction, which I believe is the single most important consideration which must weigh on the mind of a scholar concerned with the printed text, let us first turn to consider this frightening phenomenon which seems to strike such a deadly blow at our comfortable assumption of the uniformity of the printed text.

The early (and, as we may usually add in such cases, important) editions of Noodt's *Probabilia* are rare. Ahsmann and Feenstra describe copies of the first editions of 1674 and 1679 in the Deutsche Staatsbibliothek in East Berlin (as it then was) and in the Universitätsbibliothek in Basel, which is to say that no copy of this Leiden imprint survives in any public library of the Netherlands.<sup>22</sup> Unfortunately, since

most contested emendation" of *ut* to *at* in D.13.7.13.1 was originally justified on the basis of the similarity of the two letters in Gothic script. In "later editions" (unspecified) the reference to Gothic script was deleted, but the argument based on similarity of letters – absurdly – left intact.

<sup>21</sup> These editions are as follows: *Books 1–3*: 1674–79; *Books 1–4*: 1691/93; 1705; 1713; 1724: see VAN DEN BERGH, p. 141, n. 98. (I have not seen the 1691 imprint, and therefore cannot confirm its identity with the imprint of 1693.)

<sup>22</sup> The order observed by Ahsmann and Feenstra is: first, the Universiteitsbibliotheek in Leiden; then any other public library of the Netherlands (in no set order); thereafter any library outside the Netherlands (in no set order); see AHSMANN and FEENSTRA, p. 39.

the work is a check-list without aspiring at the same time to provide a location-list, there is no systematic record of copies in other libraries which the authors visited. But to embark on the first principle of bibliography, the comparison of different copies, we have to know where they are. The few library catalogues which exist tell us that there are no copies of this edition in the Bibliothèque Nationale, none in the British Library, none in the Bayerische Staatsbibliothek, and none across the Atlantic. First technical hitch: we have not the remotest inkling of the holdings of our European research libraries; the only way to find out is to visit them and look up their author catalogues. For Dutch imprints of the Roman-Dutch jurists our first port of call outside the Netherlands is Scotland. There are actually two copies of this edition in the Library of the Faculty of Advocates in Edinburgh, and a further two copies in the Library of the Royal Faculty of Procurators in Glasgow;<sup>23</sup> duplicates, needless to say, are a godsend for bibliographical purposes. (Alas, the perverse practice of disposing of duplicates still prevails in our research libraries; even in the age of microfiche and microfilm it is still believed that the worth of an early printed book lies in its provision of a copy of the text!) Another copy is in the Bodleian library.<sup>24</sup>

This is a beginning. Let us turn to examine this small set of copies of the edition in search of the mysterious phenomenon of diversity in uniformity. In this case we do not have far to seek. Ahsmann and Feenstra record the pagination of the *libri tres* as "XVI,178;XVI,175,I" (they use capital Roman numerals to indicate unpaginated matter). From their list of contents we learn that this is a somewhat curious volume, for the identical dedication, laudatory verse, and list of contents occur twice, before each sequence of pagination.<sup>25</sup> This curiosity is explained

This unsystematic approach thus allows only limited conclusions about the location of exemplars.

<sup>23</sup> Edinburgh, Library of the Faculty of Advocates, shelf-marks: 1) A.67.3: The *Liber primus* of 1674 bound together with the *Liber secundus & tertius* of 1679. 2) A.68.3: The *Libri tres* of 1679. (In this instance Book 1, preceded by the general title-page for the three books, is of a different size and bound separately from the *Liber secundus & tertius*; both parts, however, bear the *ex-libris* of Lord George Douglas.) Glasgow, Library of the Royal Faculty of Procurators, location mark R.3/213; the books do not have individual shelf-marks, but may be distinguished as follows: 1) The *Liber primus* of 1674 bound together with the *Liber secundus & tertius* of 1679. 2) The *Libri tres* of 1679. (The Dalhousie copy, bound with Pufendorf's *De officio hominis et civis*, Londini Scanorum 1673, in a volume containing the bookplate of the Earl of Dalhousie.)

<sup>24</sup> Shelf-mark 8<sup>o</sup>.O.10.Jur: being the *Libri tres* of 1679.

<sup>25</sup> AHSMANN and FEENSTRA, no. 422. The contents of the volume are described as follows: "I: Ded. aan H. Beverningius Nijmegen 1679, lofd. van L. van de Poll, inh. – II: 'Liber secundus et tertius'; ded. aan H. Beverningius Nijmegen 1679, lofd. van L. van de Poll, inh., err. –

when we turn to examine other copies of the edition. The copy of the *libri tres* in Edinburgh exhibits the same pagination as that in Basel; the copy in Oxford, however, has *twenty-four* pages of preliminaries and *two pages of postliminaries* after the first series of pagination, followed by the sixteen pages of preliminaries before the second series; the copy in Glasgow has also twenty-four pages of preliminaries and two of postliminaries – but *no* preliminaries before the second series. Thus from four copies we have three different configurations of pagination.

Without entering into the details of these divergences,<sup>26</sup> the matter seems in principle simple enough. Lopez published Book 1 of Noodt's *Probabilia* in 1674. When Books 2 and 3 were ready for publication in 1679 a quantity of exemplars of Book 1 remained unsold. Lopez therefore proposed to print only Books 2–3 afresh. This would be offered to the public either as a separate volume (*Probabilium liber secundus & tertius*), aimed at those customers who already possessed a copy of Book 1; or joined together with the unsold sheets of Book 1 as a single unit (*Probabilium libri tres*), aimed at new customers. This scheme called for some attention to be paid to the printing and binding of the preliminary material. In 1679 there was a new dedication to Hieronymus van Beverningk and the laudatory verse of Lucas van de Poll. This had to be placed at the beginning of whichever unit was being sold. Apparently, what has happened is that, by error, the preliminary material has been duplicated in various copies before the second and third books in issues of the *Libri tres*. Needless to say, it was not the publisher's intention to duplicate the material in that way.<sup>27</sup>

This may appear profoundly uninteresting – to the sceptic, proof positive that bibliography is of interest to the student of books and publishing, but superfluous for the scholar interested in the text. A mix-up has resulted in the unintended repetition of preliminary material, but the actual contents of the text remain the same. In the present case this is true. But it does illustrate the essential fact that all copies of an edition are not the same, and that comparison is necessary. For the next time

De ded. en het lofd. van dl. II zijn dezelfde als die van dl. I."

<sup>26</sup> It is worth noting in passing that all sorts of difficulties will be encountered in seeking to solve such puzzles if standard bibliographical practice is not observed; the essentials here are a *bibliographical collation*, and a *list of contents tied to the collational formula*.

<sup>27</sup> Hence a bibliography aims to describe an *ideal copy* of an edition, representing the publisher's intentions, which has to be constructed from the observation and comparison of a number of copies which may all differ to some extent from the ideal.

that this occurs the difference which emerges may indeed be one of substance. Take for example the famous controversy between Iacobus Maestertius and Cyprianus Regneri ab Oosterga *de iustitia Romanarum legum*. Regneri's contribution was first published by Iustus Livius at Leiden in 1640. Two copies of this edition are held by the Max-Planck-Institut in Frankfurt.<sup>28</sup> Fortunately, neither has been disposed of as a duplicate, for this makes the discovery of the difference between them all the more simple. Both copies have six pages of preliminaries, but these preliminaries originate from two different settings of print. One has a *Praefatio ad lectorem*, the other a *Praefatio ad illustres, amplissimos, nobilissimosque Trans-Isulaniae ordines*. The latter begins with the same text, but it is closer set. Within the same number of pages this allows room for some extra material. Where the former breaks off, Regneri continues:<sup>29</sup> *Haec ita de ratione & consilio instituti nostri. Superest, illustres & amplissimi domini Trans-Isulaniae ordines, ut Vobis rationes reddam cur hanc juvenilem dissertationis strenam vestro nomini inscribere non dubitaverim . . .* Here we have a difference in the text written by the author himself. The sceptic's dichotomy is revealed as false; the need for comparison of different copies is confirmed – it would be difficult to discover this difference by consulting only one copy of the edition!

But let us proceed to the heart of the matter, as it has been laid bare by van den Bergh. For he calls our attention to differences in the very text of the *Probabilia* in different exemplars of the same edition.<sup>30</sup> "Some errors must have been corrected after publication in the copies the editor had in stock. Page 37/38 is pasted in; it is a new page to correct a haplography on p. 38. Likewise for pages 85/100 a new quire is pasted in." There is a degree of misunderstanding here, but the phenomenon is of vital importance. We have to go back to the high cost of paper. If it was desired to make a change in the text after the sheets had been printed (whether because a serious mistake had been discovered, or for any other reason), it was economically prohibitive to discard the whole pile

<sup>28</sup> The shelf-marks are: Niederl 13 g 105 (*Praefatio ad lectorem*; signed +) and Niederl 13 g 49 (*Praefatio ad . . . Trans-Isulaniae ordines*; signed \*).

<sup>29</sup> Leaf \*5r. The only difference in the text prior to this addition is in the lines: "... vicit tandem me inexpugnabilis veritatis amor & ad divulgandum impulit. Qualis deceptus sim, universae iurisperorum scholae erit iudicium"; in the latter version this is rendered as, "Qualis deceptus sim, Vestrum, ordines amplissimi, & universae jurisperorum scholae erit iudicium" (leaves +3r-v/\*3r).

<sup>30</sup> VAN DEN BERGH, p. 141.

of the sheet in question. Instead, the single offending leaf would be reset in print – perhaps on the last sheet if there was space. The binder's job would then be to cut out the leaf to be replaced, the *cancellandum*, leaving a narrow stub; the reprinted leaf, the *cancellans*, would then be glued on to the protruding stub.

It should be recalled that at this date books were generally transported and sold as collections of unbound sheets. It thus makes no sense to speak of quires being pasted in. A whole sheet might, of course, be reset, but that would replace the previous sheet and thus be bound in the usual way. What we have here, then, is two cancel leaves: signatures C3 (pp. 37–38) and F8 (pp. 99–100). The cancel leaves are necessary in both cases to correct serious omissions caused by *saut du même au même* on the part of the type-setter. The text in the first case (the cause of the error being highlighted) runs as follows:

*Hoc jure (inquit) utimur, ut etiam non ad irrigandum, sed amoenitatis causa, vel pecoris aqua duci possit l.3. D. eod.tit. id est, hoc jure utimur, tametsi ratio juris adversetur . . .*

The second cancel leaf reveals another example of the same phenomenon:

*. . . non tantum civibus Romanis, quomodo viri docti textum limitant d. §.2.Inst.d.t. sed etiam iis qui sunt peregrini. Nec moror quod flumina, quae finibus populi Romani continentur . . .*

Naturally, deliberate alterations of the text would be of more interest than the correction of simple errors by the type-setter. It is on a third cancel leaf, overlooked by van den Bergh, that we find what would appear to be a deliberate alteration by the author himself. Ironically, it occurs in the middle of Noodt's treatment of a phenomenon of humanist philology to which van den Bergh has devoted particular attention, namely *geminaciones*.<sup>31</sup> These are a class of scribal error which fall under the general category of haplography, as for example where a scribe copies *necesse esset* as *necesset*. The humanist misunderstanding of what is a philologically significant category of error goes back to a misreading of Taurellus' Digest edition of 1553, where Taurellus' capitalisation of what he considered to be examples of the phenomenon

<sup>31</sup> VAN DEN BERGH, pp. 148–152. See also the same author's article, *Geminatio taurelliana: A note on humanistic philology and legal scholarship*, in: ANKUM, SPRUIT, WUBBE (edd.), *Satura Roberto Feenstra oblata*, Fribourg 1985, pp. 523–532.

(necESSEt)<sup>32</sup> was thought to be present in the manuscript itself as a deliberate form of scribal abbreviation. The cancel leaf in question occurs in Book II.4, which contains a discussion of D.7.1.15.4. Noodt writes:

Forsan & ita possis restituere: *non Sicut quantitatis ususfructus legetur & caetera, ut perinde sit ac si sic scriptum esset: non sicut si quantitatis ususfructus legetur*; constat enim veteres, ubi geminandae litterae essent, majusculis sed semel usos.

Originally he continued as follows:

Constat item non litterarum tantum, sed syllabarum quoque ordinem *in eo scribendi genere saepe inversum fuisse.*

In the corrected leaf the last sentence runs:

Constat item non litterarum tantum, sed syllabarum quoque ordinem *cum in eo tum alio scribendi genere saepe inversum fuisse.*

There is a further alteration in the cancel leaf, on p. 38. Here the representation of an inscription is changed:

De litterarum quoque conversione quod monui inter alia ex fragmento quodam reverendi viri Johannis Smetii civis & familiaris mei intelligi potest, in quo fragmento ista vetustas reliqua fecit:  
F O R[T] V A E / I N A, id est, fortunae reginae.

In the corrected version the inscription is represented differently; in the first case the T is described as a whole letter surmounting the R, whereas in the corrected version the T and R share a common stem, the bar of the T being drawn above the R.

These two alterations are intentional, and they are important. We know they are important because the printer was constrained to go to the trouble of resetting the pages as a cancel leaf. At least behind the first change we can surely discern the hand of the author himself. One copy of this edition in Edinburgh presents the original text, the other copy the corrected version.<sup>33</sup> In other words, *different copies of the same*

<sup>32</sup> This example is found uncorrected in the Florentine manuscript at D.1.2.2.11 (in Taurellus' edition numbered D.1.2.2.6). Mommsen (*Editio maior* I.5.7) prints "necesse esset", Taurellus, after his practice, "necESSEt".

<sup>33</sup> The copy with shelf-mark A.68.3 has the uncorrected version of the text at all three points to which the cancel leaves are addressed.

edition present a text which is materially different on a point of substance.

Lest we seem to be missing the wood for the trees, we may note in passing that van den Bergh cites this very passage from a later edition of the *opera omnia*;<sup>34</sup> interestingly, it is the original version – *in eo scribendi genere* – which passes into the later editions. As for the inscription (is that the *aliud scribendi genus*?), this disappears from the text. On the analogous emendation of another text (D.37.13.1.pr.), Noodt confesses: *Atque id mihi diu visum accedere ad verisimile. Nunc, ut dies diem docet, nulla esse opus mutatione, mihi persuadeo* . . . The revised version of this chapter, which we will find in all those easily accessible editions of the *opera omnia*,<sup>35</sup> then continues with added discussion almost as long as the original chapter of the first edition. The detection of variant states within an edition is, of course, of secondary importance when set beside the necessity for the collation of the different editions.

To return to the secondary problem, how can we detect such cancel leaves? The first rule of bibliographical description is to observe the rules. A full description of an edition, based upon the observation and comparison of different copies, with a detailed examination of the physical make-up of the books (running titles, catchwords, signature positions might be relevant here), will start us on our way. A basic requirement is the bibliographical collation (nothing to do with the collation of the text, be it noted), which involves turning every page with care. Cancel leaves have been glued on to the stub, so that the page will not turn normally. On the other hand, cancel leaves may be impossible to detect where the book has been tightly rebound.

In any case, the difficulty of detecting cancel leaves simply brings us to the real problem. Suppose the above changes had been determined upon during the course of printing, before all the sheets containing the pages in question had been printed. It would then be possible to stop the press and reset the offending words. The sheets already printed, however, would not be discarded. As a consequence, there would be no external, physical indication of the alteration and of the resulting variant texts circulating in different copies of the same edition. The

<sup>34</sup> VAN DEN BERGH, p. 149, n. 45. The edition used is: *Lugduni Batavorum, apud Joannem Arnoldum Langerak, 1735*.

<sup>35</sup> The edition cited is the last Dutch edition of the *opera omnia*: *Lugduni Batavorum, apud Eliam Luzac, 1760*, re-issued with the imprint *Lugduni Batavorum, apud Theodorum Haak, 1767*. Without a collation we cannot, of course, specify when precisely Noodt changed his mind.



change thus generated could therefore be detected in one way alone: the collation of the whole text in the surviving copies. This is the inevitable and awful consequence for scholarship of Gutenberg's invention. Contrary to prevailing attitudes, a printed source does not obviate the need for a philological approach, but at once renders it all the more vital and all the more difficult to accomplish. For, logically, just as it may be the last manuscript in the last library which preserves the true reading, so it may be the last extant copy in the last library which preserves the text in the state intended by the author.<sup>36</sup>

We have moved a long way from our starting point, the principle "any old edition will do". Not only does the imperative of the printing press enjoin us to identify, list, and collate all editions of a printed work, but we are further constrained to investigate the possibility of different states occurring in different copies within the individual editions. Would anyone consider this a remotely serious proposition? At this moment, in the 1990s, clearly no scholar is about to embark on such collations of printed texts, least of all using the notoriously unreliable mechanism of the human eye. The suggestion, indeed, appears to us in the 20th century as absurd – about as absurd, perhaps, as would have seemed the suggestion put to Scaliger in the 16th century that he should collate all the manuscripts of the classical author he was editing . . .

It is difficult at this point to foresee the full consequences for scholarship of the technological revolution which is currently under way. Yet I dare to predict that the development of text scanning computers – optical character readers, as they are called – is going to completely alter our perspective on the early printed text. In the end it was technical considerations which transformed the discipline of philology in the 19th century. Only after the Napoleonic upheavals did the manuscripts cease their nomadic existence and pass from the hands of private individuals and institutions into the great public collections. Then came the catalo-

<sup>36</sup> Traditional scholarship on bibliography, being concerned with practicalities, has taken advantage of the fact that the printing press does indeed impose an element of uniform reproduction. Hence the basic principle of descriptive bibliography demands the consultation not of all extant copies, but of as many copies as is practicable. Statistical probability comes into play. "What is the probability that a sample of ten copies will include an example of the state found in the least number of copies? It is 98 percent certain to include an example if that state was common to one third of the copies produced, and it has three chances in four of including an example if that state was common to at least one eighth of the copies produced . . ." (VINTON A. DEARING, *Methods of Textual Editing*, in: O. M. BRACK JR. and WARNER BARNES (edd.), *Bibliography and Textual Criticism. English and American Literature 1700 to the Present*, Chicago & London 1969, pp. 73–101, at p. 79.) The new technology may, however, replace chance with certainty.

gues; then the invention of photography. And not surprisingly, only after these basic conditions had been satisfied could the method for dealing with the sources be evolved.<sup>37</sup>

I would suggest that we are currently passing through an analogous moment of transformation in the field of printed texts. This revolution will result ultimately in the establishment of the philological method in the field of the early printed text. For the moment our knowledge of the holdings of early printed books in our research libraries is at about the same level as the knowledge of the whereabouts of manuscripts among the humanists of the Renaissance: a couple of collections are well known, and for the rest we have to rely on the notes of our scholarly expeditions and the help of our friends and the more responsive breed of librarian. The computerisation of cataloguing, and the centralisation which will follow hard upon, should alter all that. As a result, the emphasis will switch from sources to method. If reliable information on the location of early printed books is readily available, we can expect the evolution of a more careful and considered approach to their use.

In the equivocal methodology of van den Bergh's approach we are vouchsafed perhaps not yet a prediction, but at least a premonition of the future. Van den Bergh's concern for the text, for identifying different editions, for collating them and noting the changes, for discovering even such exotic phenomena as cancel leaves, distinguishes the work markedly from the run of legal-historical scholarship. The equivocation lies in the partial character of the collations, in the uncertain bibliographical touch with which the phenomena are treated. But we see what is to come, and can assess what lies in our way.

Future scholarship will recognise the fundamental change wrought in the written text by the invention of the printing press; indeed, computer-executed collations will lay irrefutable evidence directly before our eyes. It will take for granted repertoria, in electronic form, listing the extant copies of early printed books in our research libraries. These copies will be prized (as, of course, is already the case with books pertaining to the arbitrarily defined period of the incunabula) each for their copy-specific features – provenance, annotations, bindings, or even simply for the historical information to be deduced from their current location. The principles of descriptive bibliography will be recognised as part of the indispensable training of the historian of the modern period, just as palaeo-

<sup>37</sup> See E. J. KENNEY, *The Classical Text. Aspects of editing in the age of the printed book*, Berkeley, Los Angeles, London 1974.

graphy is now for the Medieval historian. And the future will acknowledge that the turning-point in all this was the invention of the computer.

Is this a consummation devoutly to be wished, or stoutly to be deplored? It seems to me to approximate more to a position of neutrality. Today we read classical authors not in a random manuscript, but in a modern critical edition with an *apparatus criticus*. So, in the future, we will read early printed texts not in 16th century printed editions, but as print-outs from the computer, with a new kind of *apparatus* identifying the changes in different editions, and different states within copies of the same edition. The format in both cases is determined by the march of time, technology and scholarship; why we may want to read such texts, or what we plan to do with them, is an altogether different question. Yet no matter how one answers the latter question, I for one cannot but look upon such a development as progress. It seems difficult to escape the logical conclusion that if it is worth reading what an author wrote at all, then it is worth at least some effort to determine just what he wrote.