



CODIFICATION IN THE NETHERLANDS. PROFESSOR MEIJERS' SUCCESSFUL CAMPAIGN FOR A COMPLETE REVISION OF THE DUTCH CIVIL CODE (1838)

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ABSTRACT

This contribution focuses on the codification of civil law in the Netherlands, particularly on the successful campaign of Professor Eduard Maurits Meijers (1880–1954), without which the current civil code would not exist.¹ The first part of the chapter (1) provides a brief historical overview of the codification of civil law in the Netherlands, where the Dutch realised that the success of any codification effort depends on the nation's constitution. Professor Paul Scholten, Meijers' main opponent in his campaign for a new civil code,² famously said, 'a new civil

- 1 A more detailed historical oversight of the history of codification in the Netherlands (in Dutch) is found in chapter VII of Lokin and Zwolve and Jansen, 2020. An English translation of this book, under the working title *Chapters of the history of European Codifications*, is currently forthcoming.
- 2 This point of view is nuanced in: Runia, 2022, pp. 95-109. See about Scholten also n. 49.

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code originates only out of political pressure'.³ This is demonstrated by starting with the Dutch republic (1.1), where codification of civil law was not even proposed owing to the lack of political pressure. It became necessary only after the Netherlands became a unitary state in 1798. Since then, three civil codes have preceded the current one: the Napoleonic Code adapted for the Kingdom of Holland (1.2), the *Code civil des français*, also known as the Code Napoleon (1.3), and the Old Dutch Civil Code (1.4). The second part of this chapter (2) addresses how the choice for a complete revision of the code originated. Since the focus is on Meijers' campaign in the 20th century, limited attention is paid to developments in the 19th century (2.1).⁴ Subsequently, developments that led to the establishment of the State Committee 1919 are discussed (2.2), and Meijers' relation with this Committee (2.3). The origin and motives for Meijers' campaign for a complete revision of the old code is discussed next (2.4), followed by the developments after the 100th anniversary of the Old Civil Code in 1938. leading up to Meijers' official appointment by Royal Decree to draft a new civil code in 1947 (2.5).

Keywords: civil law, Dutch Civil Code, codification, reform, Eduard Maurits Meijers.

1. HISTORICAL OVERVIEW

1.1. THE UNCODIFIED DUTCH REPUBLIC (1579–1795)

In the year 1579, the Dutch republic was established, also known as the Republic of the Seven United Netherlands, as it comprised seven individual countries: the Duchy of Guelders, the Lordship of Frisia, the County of Holland, the County of Zeeland, the Lordship of Utrecht, the Lordship of Overijssel, and the Lordship of Groningen. Previously, these

3 Scholten, 1938, p. 30: 'Een nieuw Burgerlijk Wetboek ontstaat alleen uit politieken drang.'

4 Florijn, 1994, is the standard study on the origin and development of the new Civil Code in this period, and in general.

countries were combined in a personal union as each of them had the same sovereign: Philip II of Spain.

Philip II was the Count of Holland, the Duke of Guelders, the Lord of Frisia, etc. However, he became increasingly unpopular for introducing centralising policies from Brussels, which threatened the autonomy of the individual countries. His religious and taxation policies also contributed to his unpopularity.

Consequently, in 1579, several rebel countries concluded a treaty that created a military alliance between them: 'the Union of Utrecht'.⁵ Two years later, in 1581, the 'Act of Abjuration' was enacted, dismissing the sovereign. This act significantly changed the nature of the Dutch republic's constitution, because, after some deliberation, the rebel countries accepted the doctrine that sovereignty no longer resided in one ruler, but instead lay with the States of the individual countries.⁶

This observation raises the question of whether codification was feasible in the Dutch republic. The answer is straightforward: it was not. First, there was a great diversity of legal sources, not only among the countries within the confederation, but also within each country. The legal system used in the Dutch republic resembled that of many other continental European countries, distinguishing between primary sources of law and subsidiary sources of law. Primary sources of law, when available, had to be consulted first, and if not available, subsidiary sources could be used in order to resolve legal questions. Three primary sources of law and three subsidiary sources of law are discussed here, starting with the first category.

Regarding primary legislative power, originally, Philip II held such power, based on the maxim *quod principi placuit legis habet vigorem* (what pleases the prince has the force of law). After his abjuration, this power was transferred to the States of the individual countries, as mentioned earlier. Thus, the States were competent to enact legislation that applied throughout their respective countries. Next, cities were competent to

5 It should be noted that there were more signatories to the Union of Utrecht than the seven united Netherlands that would make up the Dutch republic, but the author will not pursue this point further.

6 These States or popular assemblies were made up of the landed nobility and urban patriciate.

legislate within their city limits. Finally, customary law was recognised as a primary source of law. As for subsidiary sources of law, Roman law, Canon law, and Feudal law were distinguished.

Significant differences existed among the countries in their use of primary and subsidiary sources of law. For instance, Frisia (Friesland) was known for extensively adopting Roman law; Kooiker even speaks of a reception ‘in complexu’.⁷ Such variations in legal systems made any attempt to establish a unified civil code in the Dutch Republic hypothetical.⁸ Further, at the level of individual countries, too great legal diversity existed. For example, the relatively small territory of the City and Ommelanden of Groningen had five distinct legal systems, each differing in principle from the others.

Therefore, it is not surprising that proposals for codification were never suggested in the Dutch republic. A significant change was required, and that change came about 219 years after the Union of Utrecht and three years after the end of the Dutch Republic, in the year 1798.

1.2. THE NAPOLEONIC CODE ADAPTED FOR THE KINGDOM OF HOLLAND (1809)

The Dutch republic ended in 1795. The years leading up to this saw growing discontentment, particularly with the government and its confederal nature, as established in the Union of Utrecht.⁹ Baron Van der Cappellen tot den Pol launched a direct attack on both in 1781. As a result, he may be regarded as ‘the father of the Dutch revolution’:

In 1781 a pamphlet appeared throughout the Republic setting out the following basis for a civil war: the ‘democratic manifesto’ of the Gelderland Baron Derk van der Capellen tot den Pol, who may rightly be called the

7 Kooiker, 1996, p. 62–63. For a detailed analysis of the civil law practice of the Court of Frisia: Lokin and Brandsma and Jansen, 2003.

8 Cf. also below, Van Hogendorp’s conclusion in n. 25.

9 The government of the republic can be characterized as an oligarchy, as the supreme power was distributed only over a small group of people: the Prince of Orange, regents and the States of individual countries.

*father of the Dutch revolution, entitled *Aan het volk van Nederland* ('To the people of the Netherlands'). The Baron's pamphlet, now famous, is extraordinarily important for a number of reasons: in it, he is one of the first to go beyond the provincial borders and address the entire nation of the Netherlands, advocating in the process what amounts to popular sovereignty. The supreme power should not, he says, rest with the Prince, the regents or even the States of the individual countries, but be jointly vested in the entire population of all the countries.¹⁰*

After a series of confrontations, the revolutionaries gained the upper hand when the French general Pichegru conquered the Netherlands in 1795. The Dutch republic was then replaced by the Batavian republic, which introduced a new polity in its Constitution (1798): a unitary state.¹¹ Furthermore, the Constitution explicitly called for a codification of civil law within two years.

Art. 28 Constitution 1798

A codification shall be enacted; laying down the civil laws and (...). It shall be introduced no later than two years after the introduction of the Constitution.'

However, the Constitutional deadline was not met as the drafting committee aimed to create a 'perfect' code, rather than a practical and concise one, seeking substantive completeness. The drafting process took

10 Lokin and Zwolve and Jansen, 2020, p. 357. They cite from the pamphlet *Aan het volk van Nederland*, Weesp 1981, p. 83: 'O my fellow countrymen! Arm yourselves all together and take care of the affairs of this whole country, that is: of YOUR OWN affairs. The country belongs to all of you together, not only to the Prince and his great men, who consider and treat you, all of us, the whole Dutch population, the descendants of the free Batavians, as their hereditary property, as their oxen and sheep, which they can and may shear or slaughter as they think fit to do. The people who live in a country, the inhabitants, townsfolk and countrymen, poor and rich, the great and the small all together they are the true proprietors, the lords and masters of the country and can say how the country's affairs should be managed, in what manner and by whom they wish to be governed.'

11 Art. 1 Constitution 1798 reads: The Batavian republic is one and indivisible.

long and became irrelevant after a new development occurred in 1806: the Batavian republic became a monarchy!

This change took place on 27 May 1806, following a treaty between the Batavian republic and Napoleon's Minister for Foreign Affairs, Charles Maurice de Talleyrand-Périgord. The first King of the Netherlands was Napoleon's brother, Louis Napoleon.¹²

One might assume that Napoleon's code, which had already been introduced in France in 1804, would also be introduced in the Netherlands. However, this did not happen – at least not yet. The newly appointed King held great respect for the Dutch legal tradition and believed that the French code should not be rigidly imposed, but rather adapted to the traditions of his new country. Therefore, the first codification of civil law in the Netherlands was an adaptation of the French code, known as the Napoleonic Code, adapted for the Kingdom of Holland.¹³

This code came into force on 1 May 1809. Its name already indicates that it is not a mere copy of the French code. One significant difference, for instance, is the additional requirement for the transfer of ownership: the Dutch code also required delivery (*traditio*).

1.3. THE CODE CIVIL DES FRANÇAIS (CODE NAPOLÉON) 1811

The first civil code of the Netherlands could not take root.¹⁴ It was replaced in less than two years by the Code Napoléon. This code came into effect on 1 March 1811,¹⁵ following yet another constitutional

12 About him and his efforts: Van den Berg, 2010, pp. 81–100.

13 Brandsma, 2006, pp. 221–247, provides a detailed discussion of this code.

14 Brandsma, 2006, p. 244, mentions a rumor that the copy of the code that was sent to the Groningen local court lies yet unopened in the archive.

15 On the basis of an Imperial decree dated January 6, 1811. It was not limited to the Code civil, all French laws were to become enforceable in the territory of the former Kingdom of Holland.

change: the forced abdication of King Louis Napoléon in 1810. Louis had fallen out of favour for ‘going native’ and forgetting his origin.¹⁶

Soon after his abdication, Emperor Napoleon annexed the former ‘Kingdom of Holland’¹⁷ and ordered its ‘reunion with the Empire’. The annexation naturally led to the abolition of all civil law other than the ones applicable in France. The French civil code would remain in force in the Netherlands until 1838.

1.4. THE OLD DUTCH CIVIL CODE (OUD BURGERLIJK WETBOEK; OBW) 1838

After Napoleon’s downfall, the Netherlands regained their independence in 1813. The hereditary governor (‘Erfstadhouder’), Prince William, returned from England on 30 November 1813 and was proclaimed Sovereign Prince William I.¹⁸ He accepted his office under the guarantee of ‘a wise constitution’. Therefore, a new constitution was required and was approved on 29 March 1814. The following day, on 30 March 1814, William I was officially sworn in as sovereign prince of the Principality of the Netherlands. It is important to note that the Netherlands remained a unitary state and did not revert to the old system of confederalism.

Regarding civil law, the 1814 Constitution ordered as follows:

Art. 100 Constitution 1814

There shall be introduced a General Code encompassing civil law, criminal law, commerce, the composition of the judiciary and procedural law.

16 Lokin and Zwolve and Jansen, 2020, p. 365, n. 53: ‘Upon bestowing the Dutch crown on his brother, Napoleon had expressly enjoined him never to lose sight of the fact that he was, and was obliged to remain, first and foremost a Frenchman. See Louis Napoléon, Documents historiques et réflexions sur le gouvernement de la Hollande, Vol. 1, Brussels, 1820, p. 69.’

17 Lokin and Zwolve and Jansen, 2020, p. 366, n. 56: ‘Article 1 of the Imperial Decree of July 9, 1810: ‘La Hollande est réunie à l’Empire.’ (‘Holland is reunited with the Empire’). (Fortuijn, Wetten en besluiten van Franschen oorsprong I, Amsterdam, 1839, p. 11).

18 Van der Pot-Donner, 1989, p. 116.

A new Civil Code was needed to replace the French Code civil. The drafting committee immediately faced the question of whether it was possible to use the Napoleonic Code adapted for the Kingdom of Holland (NCKH) as a basis or whether such a revision would clash with the spirit of the Constitution, which required an original Dutch code.¹⁹ Answering this question was particularly relevant, because the introduction of the NCKH had eliminated the previously existing legal diversity, which stemmed from the autonomy of the various countries comprising the Dutch republic. Therefore, choosing a completely new code would encounter several obstacles, as such a code would have to be created from the scratch.

Not surprisingly, the majority of the drafting committee initially favoured using the NCKH as the basis for the new code. However, this position was reconsidered and abandoned upon receiving a Royal Decree. According to Voorduin, the committee interpreted the wording of the decree as an indication that the prince desired an *original* Dutch civil code.²⁰ In response, the committee requested member Kemper to prepare a draft for a civil code. Kemper complied and prepared a draft known as the *Draft 1816*. He primarily drew upon the old and respectable tradition of the Roman-Holland law (also known as Roman-Dutch law), which encompassed the primary and subsidiary sources of law from the former County of Holland.²¹

19 Voorduin, 1837, pp. 15-16.

20 Voorduin, 1837, p. 28.

21 Lokin and Zwalve, 2014, p. 372. Cf. Voorduin, 1837, especially p. 32 (from Kempers letter to the sovereign prince on 22 December 1814). Lokin and Zwalve evaluate the draft as follows (p. 372): ‘The 1816 Draft represents the conclusion of an important chapter in the history of Dutch law. Kemper had succeeded in producing a codification within a short time, based on the old and highly respected tradition of ‘Roman-Dutch’ law, which incorporated the specifically Dutch variant of the continental West European tradition of civil law. In the seventeenth and eighteenth centuries, Roman-Dutch law had dominated private law jurisprudence in Western Europe. Thus, the Kemper Draft, which was based on it, contained a legal legacy that was superior in many respects to the French codification, the latter being based primarily on the writings of the prolific author Pothier. However, the 1816 Draft differed unfavorably from its predecessor in the very extended – it contained over 4,000 articles – and detailed way in which it set out the law.’

Meanwhile, a new constitution was required due to one of the outcomes of the Vienna Congress, namely the union of the North and South Netherlands ('the Netherlands' and 'Belgium') into a new country: the Kingdom of the Netherlands. On 1 August 1814, William I had already accepted sovereignty over the former Austrian Netherlands, thus creating a personal union. On 16 March 1815, he also accepted the royal title and became King William I. The new Constitution entered into force on 24 August 1815.

These significant political changes also affected the Draft 1816, preventing it from being implemented. The unification of the Netherlands posed a major obstacle. From the southern provinces, a three-headed committee was appointed in order to evaluate the draft.²² In their report to the King, the committee strongly objected to the draft, considering it too focused on legal rules that were foreign to their provinces.²³ Van Hogendorp, who drafted the new Constitution in 1815, also acknowledged this issue, stating:

*when searching for the old Dutch Law, for ancestral manners and customs, one does not encounter a single Law, but various and completely different Laws. In Frisia, in Guelders, in Holland, not to mention Brabant, Flanders, Liege, not only very important Laws differed significantly, but also the spirit of the law was hard to reconcile.*²⁴

- 22 The committee consisted of the legal scholars Nicolaï, Lammens and De Guchtenaere.
- 23 Voorduin, 1837, p. 81: 'Depuis l'avènement de Votre Majesté au trône du Royaume des Pays-Bas, l'objet constant de Votre sollicitude paternelle a été de procurer aux peuples, dont la destinée a été remise entre Vos mains royales, le repos et la tranquillité; mais nous croyons, Sire, ne pouvoir nous dispenser de dire à Votre Majesté, que la mise à exécution du projet de code civil, n'attendrait point ce but tant désiré; sa publication serait l'introduction d'un droit nouveau, car il a été conçu et rédigé pour les provinces septentrionales.'
- 24 Van Hogendorp 1824, p. 3: 'Zoekende naar het oude Nederlandsche Regt, naar voorvaderlijke zeden en gewoonten, ontmoette men niet een enkel Regt, maar verscheidene en zeer verschillende Regten. In Vriesland, in Gelderland, in Holland, zonder nog te spreken van Baband, van Vlaanderen, van Luik, liepen niet alleen zeer gewigtige Wetten uit elkaar, maar ook de geest van het Regt was moeilijk overeen te brengen.'

The southern committee proposed a completely different approach, suggesting the use of the French Code civil as the basis for the draft. However, King William I firmly refused to honour this request.²⁵ Deliberations on *Draft 1816* in the Council of State began on 6 July 1818, and lasted several months. During this time, the *Draft 1816* was modified to some extent, and the result was presented to Parliament as *Draft 1820*.

The House of Representatives (Tweede Kamer) did not adopt the Draft 1820. The southern Netherlands persisted in their desire to base the new civil code on the Code civil. Moreover, during the deliberations on the *Draft 1820*, it became apparent that a majority of the representatives actually preferred an adaptation of the Code civil. As a result, a seven-headed editorial committee was established to prepare the draft legislation before it was sent to the House. Kemper was one of its members, but the majority of the members consisted of moderate opponents of *Draft 1820*. Within a short period, the Belgian members took control of the committee.²⁶ The subsequent legislative process can be summarised as follows:

*In the years following the presentation of the draft legislation, the Lower House itself acted as codifier. Thus, between 1820 and 1829, a whole new code was produced bit by bit, with the Belgians, and especially Nicolai, holding sway. The new civil code responded to the wishes that the Belgians had previously made known in 1816, in their recommendation to the King concerning the 1816 Draft: it was a reworking of the Code civil, which included within it a certain amount of North and South Netherlands customary law.*²⁷

In July 1830, King William ordered the printing of the new civil code, which was intended to enter into force on 1 February 1831. However, due to the Belgian uprising in August 1830, it never took effect. When the Belgian secession became a reality, Code 1830 underwent some revisions to remove 'foreign influences',²⁸ although it still remained a derivative Code civil. It

25 Voorduin, 1837, pp. 123-124.

26 Meijers, 1935, pp. VI-VII.

27 Lokin and Zwolve and Jansen, 2020, p. 370.

28 See Florijn, 1994, p. 23 seq.

came into force in October 1838, after the completion of the other civil law codes, such as the Code of Civil Procedure and the Commercial Code.

2. OPTING FOR A COMPLETE REVISION OF THE CIVIL CODE

*Given the history of its genesis, the Old Civil Code (OBW) of 1838 has never been valued as a 'home-grown' product: the obviously French origin of large parts of its contents precludes that.*²⁹

2.1. DEVELOPMENTS IN THE 19TH CENTURY

Initial criticism of the new legislation was sharp and centred mainly around linguistic and systematic imperfections, while more serious flaws were known only later.³⁰ The need for revising the civil code was recognised early on, but various factors hindered the revision process. Florijn discusses, among others, the constitutional assignment to produce a penal code, which would consume a great deal of legislative energy,³¹ the use of State Committees (which based on Dutch experience often failed to produce optimal results due to issues such as composition, lack of consensus, time-constraints, and inter-relatedness of many provisions),³² and the fundamental question of whether to pursue a partial or complete revision of the code.³³ The preference for a complete overhaul existed, but such a project never materialised.

29 Lokin and Zwolve and Jansen, 2020, p. 372: 'Het OBW 1838 is, gelet op zijn ontstaansgeschiedenis, nimmer gekoesterd als een product van eigen bodem: daarvoor was de Franse herkomst van grote gedeelten ervan te duidelijk.'

30 Florijn, 1994, p. 28 seq.

31 Florijn, 1994, p. 31.

32 Florijn, 1994, pp. 54-55. Cf. Heirbaut, 2012, p. 62: 'By way of example, after their own bad experiences with commissions and 'troikas' of distinguished jurists, the Dutch came to the conclusion that commissions lead to disaster and that it is better to have one person in charge;'

33 Florijn, 1994, p. 29 seq.

Lokin and Zwolve, too, point out that any attempt to achieve a complete revision in this century was illusionary.

It comes as no surprise, therefore, that attempts were already made in the nineteenth century to replace the 1838 Civil Code with a new one. However, none of these attempts bore fruit. Now that the Kingdom of the Netherlands had its own codification, there was no longer any political need for further measures, and interest in a recodification of private law was confined to the small, and in political terms, totally irrelevant, circle of practitioners of private law.³⁴

Florijn concludes that the problems he identified led to a different approach in legislation, namely, to place new legislation outside the civil code.³⁵ That resulted in an unsatisfactory development of the general doctrines that were found in the non-revised areas of the civil code. Over time, the failure to adequately address the existing civil law needs shifted the focus towards seeking solutions from the judiciary rather than the legislator.

2.2. DEVELOPMENTS THAT LED TO THE ESTABLISHMENT OF THE STATE COMMITTEE 1919

On 31 January 1919, the Supreme Court of the Netherlands delivered its ruling in the case of *Lindenbaum v Cohen*.³⁶ This judgement is generally

34 Lokin and Zwolve, 2014, p. 377: ‘Het behoeft daarom geen verbazing te wekken, dat al in de laatste jaren van de negentiende eeuw pogingen zijn ondernomen het BW van 1838 te vervangen door een nieuw burgerlijk wetboek. Deze pogingen zijn echter alle op niets uitgelopen. Nu het Nederlandse koninkrijk zijn eigen codificatie had, ontbrak de politieke noodzaak en leefde de belangstelling voor een hercodificatie van het privaatrecht slechts binnen de kleine en politiek volslagen irrelevante kring van de beoefenaren van het privaatrecht.’

35 Florijn, 1994, p. 89.

36 Hoge Raad 31 januari 1919, NJ 1919, p. 161 (*Lindenbaum-Cohen*), ECLI:N-L:HR:1919:AG1776

considered ‘*the*’ landmark case of the 20th century,³⁷ due to the value the Court attributed to the source of *unwritten* law.

The decision quickly garnered annotations in legal publications, including one by Professor Meijers, who was one of the editors of the esteemed *Weekblad voor Privaatrecht, Notaris-ambt en Registratie* (WPNR; Weekly magazine for Private law, the Notary office and Registration). Meijers began his annotation with the following sentences:

*The Supreme Court changed its position with regard to its interpretation of the unlawful act of art. 1401 B.W.! The importance of this decision corresponds with the introduction of an entire new book in the civil code.*³⁸

In his annotation, Meijers also explained the motives behind the Supreme Court’s decision, which deviated significantly from its earlier rulings. The chosen definition of ‘unlawful’ by the Supreme Court indicated their frustration with the slow pace of legislative work:

Remarkable is the definition of the unlawful act that is given in this judgment. Not Molengraaff’s definition, neither Vernède’s one is followed, but literally the one of the amended bill of 1913 is copied (see W. 9459 and

37 In its yearly report of 2019, the Supreme Court itself mentions that the 100 year anniversary of this landmark judgement was marked by a joint symposium organized between by Leiden University, the University of Amsterdam and the Supreme Court. It reports: ‘The symposium concluded at the Supreme Court. In honour of the anniversary, the employees of the Supreme Court performed an operetta entitled ‘NJ 1919, p. 161’ (page 161 is the page on which the decision was first published in the *Nederlandse Jurisprudentie*, *HHR*), which was composed especially for the occasion. The celebration garnered extensive news coverage. The Dutch daily newspaper *De Volkskrant* attended a rehearsal by the chorus and published an article about it, and the television programme *Buitenhof* interviewed President Maarten Feteris, who composed the operetta.’ <https://2019.jaarverslaghogeraad.nl/2019-highlighted/brief-review-of-2019/>.

38 Meijers, 1919, p. 66: ‘(1). De Hooze Raad om ten aanzien der uitlegging van de onrechtmatige daad van art. 1401 B.W.! Het is een beslissing, die in belangrijkheid tegen de invoering van een geheel nieuw boek in het Burgerlijk Wetboek opweegt.’

Scholten in this *Weekbl.* 2264).³⁹ There is something tragic-comic about it. It cannot have been chosen for its inherent excellence; the definition also has the same fundamental flaw of placing the required carefulness alongside the legal duty, thus equating legal duty with statutory duty. However, the fact that this cumbersome definition is copied verbatim demonstrates resentment towards the slow working pace of the legislator. The Netherlands has been waiting for over 5 years for the draft to be dealt with. There is no sign of progress. The Supreme Court is now doing what the legislator neglects to do.⁴⁰

In order to understand Meijers' explanation, it should be noted that one of the many flaws of the Old Dutch Civil Code was the lack of a definition of what was considered 'unlawful'. Of course, this posed a problem in the application of the unlawful act. The relevant provision, in translation, reads:

Art. 1401 Old Dutch Civil Code

- 39 The abbreviation *W.* stands voor *Weekblad van het recht*, and Meijers refers to the section 'Legislation' in the issue of Friday May 9, 1913, numbered 9459, p. 1 seq. Professor Scholten (see about him also n. 49) was one of the other editors of the *WPNR* and he had written a chronicle about the bill regarding the unlawful act in the weekly of 17 May 1913 (p. 237-238). See about its origin also De Vrey, 2005, p. 84.
- 40 Meijers, 1919, p. 66: 'Merkwaardig is in het arrest de definitie die van onrechtmatige daad wordt gegeven. Niet de omschrijving van Molengraaff, noch die van Vernède wordt gevolgd, maar letterlijk is die van het gewijzigd wetsontwerp van 1913 overgenomen (zie *W.* 9459 en Scholten in dit *Weekbl.* 2264). Er zit daarin iets tragisch-comisch. Want niet om haar innerlijke voortreffelijkheid kan zij gekozen zijn; de definitie heeft ook weer deze principiële fout, dat zij de vereischte zorgvuldigheid naast den rechtsplicht plaatst en derhalve rechtsplicht = wetsplicht beschouwt. Maar uit het letterlijk overnemen van deze omslachtige omschrijving spreekt een wrevel over het trage werken van den wetgever. Meer dan 5 jaar wacht Nederland op het in behandeling nemen van het ontwerp. Niets echter wat op eenigen voortgang wijst. De Hooge Raad doet thans dat, wat de wetgever nalaat.'

*Any unlawful act, which causes damage to another person, obliges the one, by whose fault this damage has been caused, to compensate the other.*⁴¹

Previously, the Supreme Court had always adopted a cautious and somewhat legistic approach.⁴² It interpreted ‘unlawful act’ very narrowly, considering only acts that violated *statutory law* as ‘unlawful’. This meant that the Court recognised only two unlawful acts: the violation of a right, and the violation of a statutory duty. This approach was known as the ‘narrow interpretation’, because it excluded the source of unwritten law, specifically, ‘the good morals or the standard of due care, which must be observed in society with respect to a person or the person’s property’.⁴³

However, in 1910, the Supreme Court’s application of this narrow interpretation caused public outcry when a merchant who had suffered significant losses could not claim compensation based on an unlawful act. This was because there was neither a violation of his right nor a violation of a statutory duty, but rather a gross breach of a duty of care.⁴⁴

The Court’s decision prompted action in both the political and legal spheres. On 11 January 1911, the minister of justice, Robert Regout, introduced a bill before Parliament to expand liability under art. 1401 of the Dutch Civil Code by adding the elements ‘contrary to morality’ and

41 Art. 1401 OBW. Elke onregmatige daad, waardoor aan een ander schade wordt toegebracht, stelt dengenen door wiens schuld die schade veroorzaakt is in de verplichting om derzelve te vergoeden. English translation taken from: De Vrey, 2005, p. 82.

42 In this respect, too, it was based on the French Code civil. See for a detailed analysis: De Vrey, 2005, p. 80 seq.

43 ‘(..) hetzij de tegen de goede zeden, hetzij tegen de zorgvuldigheid, welke in het maatschappelijke verkeer betaamt ten aanzien van eens anders persoon of goed.’

44 HR 10 June 1910, W. 9038. Somewhat simplified, the case was as follows: a merchant stored leather in a warehouse. Strong frost caused a waterpipe to burst, and the water started to damage his goods. Fortunately, he was alerted. However, he could not shut off the main valve, because it was located in a house above the warehouse. Its inhabitant refused to comply with his urgent request to close it and the leather stored in the warehouse was irreparably damaged. The Supreme Court ruled that there had been no statutory duty to comply with the merchant’s request, nor a violation of his property right. So, it based its decision on the narrow interpretation of ‘unlawfulness’.

‘contrary to the duty of care of the *bonus pater familias*’.⁴⁵ However, even though it was amended in 1913, it still had not been approved by 1919. The legal community also criticised the decision, which likely contributed to the organisation of a meeting by the *Nederlandse Juristen-Vereeniging* (Dutch Lawyers Association) in 1912,⁴⁶ to discuss a pre-recommendation with regard to the question of re-codification.⁴⁷ The main question was as follows:

*Which method ought to be followed in the revision of our Civil Law (design and division of the Code; revision at once or in parts; manner of preparation and treatment)?*⁴⁸

After extensive discussion, with conservative figure Paul Scholten playing a significant role,⁴⁹ the members in attendance voted on whether the Code should be completely or partially revised. The majority favoured the latter option (57 against 28).⁵⁰ Meijers, although a member, was absent from this meeting and did not participate in the voting process.⁵¹

45 De Vrey, 2005, p. 85.

46 The main question was formulated neutrally, and pertained to the revision of civil law in general (see main text below), but the problem of the unlawful act of art. 1401, more specifically the way it had been interpreted by the Supreme Court 1910, was already mentioned twice as an example in the contribution of the first speaker, Paul Scholten. *Handelingen* 1912, p. 107-108. It was further addressed by two other speakers: Nolst Trenité, p. 144 seq. and Seerp Gratama, p. 145.

47 This was actually the second time the Dutch Lawyers Association addressed this question, the first time was in 1870, see Florijn, 1994, p. 48 seq.

48 *Handelingen* 1912, p. LXI seq. See also: Florijn, 1994, p. 67 seq.

49 Paul Scholten was not only a civil law and philosophy of law professor in the Municipal University of Amsterdam (1910-1945), he was also a substitute judge in the Amsterdam Court of Appeal (1915-1935). Scholten was the first speaker in the discussion about the pre-recommendations of J.P. Fockema Andreae and E.E. van Raalte. In his contribution to the discussion he pointed out that he believed that a complete revision was not only unnecessary, but undesirable, as well. *Handelingen*, 1912, p. 102 seq. About Scholten and the revision of the Dutch Code, Runia, 2022, p. 95 seq.

50 *Handelingen* 1912, pp. 180-181; Florijn, 1994, p. 28.

51 *Handelingen* 1912, p. LVIII and 99.

The fact that on 31 January 1919 the Supreme Court ‘had done that, what the legislator had neglected to do for years’, did not go unnoticed in Parliament. Only a few months later, on 7 June 1919, a member of the First Chamber, Kappeyne van de Coppello, who was a practising lawyer himself, referred to Meijers’ annotation and used the decision as an example of ‘a very questionable practice’: the application of the law outside the law itself.⁵² He urged the minister of justice, Van Heemskerck, to appoint a new State Committee with the following task:

*to indicate where practice generally recognises flaws and gaps in the current Dutch civil legislation (the Civil Code, the Code of Commerce and the Code of Civil Procedure), which stand in the way to a good distribution of justice, and can be repaired and complemented by simple, partial revisions of the law.*⁵³

This proposal is probably based on a strategy Paul Scholten already suggested during the 1912 meeting of the Dutch Lawyers Association.⁵⁴ It should be emphasised, however, that the said strategy was based on the system of *partial* revision, a requirement that the minister of justice did not fail to mention when he actually established the requested State Committee:

52 Handelingen 1919, p. 527. Kappeyne wondered whether such a decision of the Supreme Court did not violate art. 11 of the Law, containing the general provisions, which prescribes that the judge will administer justice according to the law, pp. 527-528: ‘Men zou kunnen vragen, en ik doe het met alle bescheidenheid, waar ik hier speciaal het oog heb op de jurisprudentie van den Hoogen Raad, of een dergelijke wetstoepassing niet in strijd is met art. 11 van de wet, houdende algemeene bepalingen, waarin voorgeschreven wordt, dat de rechter zal recht spreken volgens de wet.’

53 Handelingen 1919, p. 526 (under VI): ‘aan te geven in en door de praktijk algemeen erkende onjuistheden en leemten in de huidige Nederlandsche burgerlijke wetgeving (het Burgerlijk Wetboek, het Wetboek van Koophandel en het Wetboek van Burgerlijke Rechtsvordering), die aan een goede rechtsbedeeling in den weg staan, en door eenvoudige partieele wetswijziging verbeterd en aangevuld kunnen worden.’

54 Beekhuis, 1950, p. 256.

This task (...) leaves the overall revision, fundamental reworking of the Codes untouched and does not intend to replace them. It aims to remedy deficiencies, not to establish a new legal framework, but to meet specific practical needs. Its purpose is to gradually provide what our civil codification requires in terms of changes and additions, as recognized by common experience, with the hope that this can be accomplished soon.⁵⁵

Neither Meijers nor Scholten was appointed as an initial member of the State Committee 1919.⁵⁶

2.3. MEIJERS' RELATION WITH THE STATE COMMITTEE 1919

While it remains unknown whether Meijers was disappointed at not having been appointed to the State Committee, it can be inferred that such a prestigious position would have been desirable for an ambitious and relatively young professor like Meijers, who had been appointed in Leiden in 1910 at the age of 30. Perhaps a clue to his sentiments can be found in a remark he made in 1922 as chairman of the Dutch Lawyers Association, expressing 'that major legal reforms are best accomplished (...) by exerting influence on a reform of the Dutch legislation'.⁵⁷ Furthermore, many years after Meijers' death in 1954, an interview was published with law professor Isaak Kisch, who also had been persecuted

55 Van Heemskerck, 1919, p. 4: 'Deze opdracht (...) laat algeheele herziening, fundamenteele omwerking van de Wetboeken ongemoeid, en bedoelt geenszins in de plaats daarvan te treden. Zij strekt tot wegneming van gebreken, niet om een nieuwe stelsel aan de wetgeving ten grondslag te leggen, maar om te voldoen aan op bepaalde punten gevoelde eischen der practijk. Zij beoogt stuksgewijs te voorzien in wat naar algemeen erkende ondervinding verandering en aanvulling behoeft in onze burgerlijke codificatie, met de hoop dat dit spoedig kunnen geschieden.'

56 Its official name is actually: *Staatscommissie tot wegneming van onjuistheden en aanvulling van leemten in de Nederlandsche burgerlijke wetgeving*; State Committee for the removal of flaws and the filling of gaps in the civil legislation of the Netherlands.

57 '[Dat] groote rechtshervormingen het best te verwezenlijken zijn (...) door invloed uit te oefenen op een hervorming van de Nederlandsche wetgeving.' *Handelingen* 1922, p. 8-9; Florijn 1994, p. 83, n. 303.

during the war because of his Jewish origin and had spent time with Meijers in concentration camp Theresienstadt (Terezin). He revealed that during their internment, Meijers expressed regret on multiple occasions about not being involved in political and legislative work.⁵⁸

However, it is evident that Meijers was highly dissatisfied with the work and the pace of the State Committee.⁵⁹ He expressed his discontent in a famous contribution to the WPNR in 1928, titled: *Het feillooze deel van ons Burgerlijk Wetboek*; The flawless part of our Civil Code.⁶⁰ This essay, characterised by its rhetorical and sarcastic tone, concluded with the question of whether it was time ‘to revise the method of revision’⁶¹ Publishing such a strongly negative review certainly did not improve Meijers’ prospects of being selected as a future member of the State Committee.

2.4. MEIJERS’ CAMPAIGN FOR A COMPLETE REVISION OF THE OLD CODE

The exact moment when Meijers became an advocate for a complete revision of the Old Dutch Civil Code is still a subject of discussion. While it is difficult to pinpoint the precise date, we can assume that by January 1928, when he published his critique of the State Committee and called for a ‘revision of the revision’, he had already embraced the idea of a complete overhaul.

There have been different interpretations from when Meijers first expressed support for recodification. Van Oven suggests that Meijers had plans for recodification as early as 1905, based on the fact that he carried a notebook to jot down imperfections of the old code.⁶² However, this interpretation seems retrospective, as Meijers did not

58 Van Dunné and Boeles and Heerma van Voss, 1977, p. 121.

59 Meijers certainly was not the only one who had reason to be disappointed, see about the failure of the State Committee in detail Florijn, 1994, p. 77 seq.

60 Meijers 1928 (WPNR # 3031), p. 49 seq. See also: Chavannes, 1997, p. 3-4; Florijn, 1994, pp. 83-84.

61 ‘Zou men niet beginnen met de wijze van herziening te herzien?’

62 Van Oven, 1950, pp. 110-111.

focus on recodification in the following years.⁶³ Florijn, on the other hand, if I understand him correctly, considers a remark made by Meijers during the 1922 meeting of the Dutch Lawyers Association as the starting point.⁶⁴ However, this date may be too early and open to multiple interpretations, such as a desire to contribute to the partial revision at that time.

I propose an alternative scenario. In 1927, Meijers published a critical essay in the *WPNR* about draft legislation on inheritance law, known as the ‘*Erfrechtnovelle*’.⁶⁵ This essay sparked a heated debate between Meijers and notary Philip Bernard Libourel, a respected authority in inheritance law.⁶⁶ Surprisingly, this debate has received little attention in the literature.⁶⁷ However, it is significant because it led to an extraordinary appeal by the Main Board of the Brotherhood of Notaries, *nota bene* published in the same weekly where Meijers was an editor. The appeal urged members of the Second Chamber of Parliament to disregard Meijers’ criticism of the draft legislation.⁶⁸

In my view, Meijers articulated his motives for the necessity of ‘a revision of the method of revision’ in his essay on the ‘*Erfrechtnovelle*’: nothing but a *complete* revision would suffice.

However, I consider this draft to be one of the most questionable symptoms of the method, with which one nowadays attempts to keep our legislation up to par. All these so-called technical and detail revisions are disrupting our civil law, rather than advancing it. Form and content of provisions are not two magnitudes, which can be completely separated; a revision of one certain subject, in which it is not allowed to change its content or to involve

63 Cf. Schoordijk, 1975, p. 566. A clue, nothing more, can maybe be found in Meijers’ absence in the meeting of the Dutch Lawyers Association in 1912.

64 Florijn, 1994, p. 83 seq.

65 Meijers, 1927a, pp. 13-15.

66 Cf. Libourels extensive reply in *WPNR* #2987 (p. 190 seq.) and *WPNR* #2988 (p. 212 seq.), with a reaction from Meijers in *WPNR* #2989 (p. 228 seq.); Libourel responded in *WPNR* #2992 (p. 292 seq.), which led to a swift and rather indignant reply from Meijers in the same issue.

67 So far, the only author I found who referred to the controversy is De Hondt, 1980, p. 109.

68 Main Board of the Brotherhood of Notaries, 1927, p. 296. *WPNR* 2992 (1927), p. 296.

*other subjects is already wrong in itself. Civil law forms one comprehensive unity; the more one revises only technically, the more cluttered the whole will become.*⁶⁹

An alternative to legal progress through legislation is, of course, a switch to a system of precedents. However, Meijers did not believe in such a system for the Netherlands, as is exemplified by his statement that ‘the experience that we have gained in practice with our codes has not been such as to indicate that the idea of abandoning the notion of codification would be met with indifference on the part of the legislature or the world of legal academia.’⁷⁰

Meijers particularly disliked the legal concept of fiduciary transfer of ownership (*fiducia cum creditore*). In the Netherlands, such transfers had no legal basis in the civil code, but they were nevertheless approved

69 Meijers, 1927b, p. 229: ‘Ik beschouw dit ontwerp echter als een der bedenkelijkste symptomen van de methode, waarop men tegenwoordig beproeft onze wetgeving op peil te houden. Al deze zoogenaamde technische en detailherzieningen zijn bezig ons burgerlijk recht te ontwrichten, in plaats van vooruit te helpen. Vorm en inhoud van de wetsartikelen zijn niet twee grootheden, die absoluut gescheiden kunnen worden; een herziening van één bepaald onderwerp, waarbij het verboden is den inhoud te wijzigen of andere onderwerpen aan te roeren is reeds op zich zelf verkeerd. Het burgerlijk recht vormt één samenhangend geheel; hoe meer men details slechts technisch herziet, hoe onoverzichtelijker het geheel zal worden.’

70 Van Zeben, 1961, p. 122: ‘Ongetwijfeld is een uit precedenten opgebouwd burgerlijk recht even goed bestaanbaar als een dat zijn middelpunt in een wetboek vindt. Het burgerlijk recht, zoals het in Engeland en de Verenigde Staten zich heeft gevormd, toont dit voldoende aan. Maar de ervaringen, die wij met onze wetboeken in de praktijk hebben opgedaan, zijn toch niet zo geweest, dat de wetgever of de rechtsgeleerde wereld het onverschillig is, wanneer de codificatiegedachte zou worden prijsgegeven.’

by the Dutch Supreme Court in 1929 ‘for practical reasons’.⁷¹ Meijers pointed out in 1936 that he had already identified this practice as ‘dangerous’ back in 1908:

44. I doubt whether the legal scholars in the Netherlands are sufficiently convinced of the extent to which legal life is undermined by fiduciary transfers of ownership combined with a declaration of retaining possession on behalf of the transferee. Already thirty years ago I pointed out this danger, but then it was only emerging.⁷² In order to be able to prove the scope of the evil, I have approached with a series of questions all process servers, who are members of the Association of Judicial Officers. Their answers form a monotonous reading, but they offer irrefutable proof of how deep this evil has eroded and of how much legal intervention is needed.⁷³

In summary, Meijers campaign was based on the belief that the balance of law, administration of justice, and legal science had been disrupted.⁷⁴

71 HR 25 januari 1929, NJ 1929, p. 616 seq., annotated by Paul Scholten (De Haan/Heineken) and HR 21 juni 1929, NJ 1929, p. 1096 seq. (Hakkers/Van Tilburg). Meijers 1936a, p. 251, points out that the Dutch lawyers copied German case law and refers in his note 1, p. 251 especially to: Weinhausen, *Die Sicherungsübereignung*, 4e ed., 1912, Siebert, *Das rechtsgeschäftliche Treuhänderverhältniss*, 1935, Oertmann, *In welcher Form soll die Sicherungsübereignung durch das künftige Bürgerliche Gesetzbuch geregelt werden?* Gutachten für den dritten deutschen Juristentag in der Tschechoslowakei, 1927, p. 12 and the paper of Von Liebig and Bechert, *Die Sicherungsübereignung und ihre Zukunft*, *Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft* 1935, Bnd. 63, p. 151 seq.

72 Meijers, 1908. Instead, he proposed as a practical solution the recognition of a non-possessory pledge on commercial movables. (WPNR #1999, p. 183: 'Mijns inziens is dan ook de erkenning van een pandrecht op handelszaken een noodzakelijke aanvulling van een betere regeling van den eigendomsovergang zonder terhandstelling'.)

73 Meijers, 1936a, pp. 272-273: '44. Ik betwijfel of het rechtsgeleerde Nederland wel voldoende overtuigd is van de mate, waarin het rechtsleven door eigendomsoverdrachten met verklaring van houderschap ondermijnd wordt. Reeds dertig jaar geleden heb ik mij met een reeks vragen tot alle deurwaarders in Nederland, die lid zijn van de Vereeniging van Gerechts-Deurwaarders, gewend. Hun antwoorden vormen een eentonige lectuur, maar zij toonen onweerlegbaar aan hoever het kwaad ingevreten heeft en hoezeer hier wettelijk ingrijpen noodzakelijk is.'

74 Cf. Lokin, 2022, p. 646.

The detail revisions and the introduction of new laws outside the code had cluttered the overall picture of the law for legal students and legal science in general. The legislature had failed in providing adequate civil legislation, resulting in legal uncertainty. According to Meijers, the judiciary could intervene only sporadically and provide fragmented answers, so it was unable to fill the gaps. A new balance was to be found, which could only be achieved through a complete revision of the law. This was crucial for the Dutch to continue benefitting from codification and maintain their trust in it.

*The existence of many uncertainties in fundamental legal issues and their only slow and occasional resolution through the judiciary makes it necessary to occasionally subject civil legislation to a thorough technical revision if we want to continue benefiting from codification and maintain its trust among the people.*⁷⁵

In 1938, during the festivities marking the 100th anniversary of the (third) civil code, a *Fest-schrift* ('Gedenkboek 1838–1938') was presented. Edited by Meijers and Scholten, it featured contributions from 29 leading Dutch scholars in various fields of civil law. Meijers was the only contributor advocating a complete overhaul of the old code,⁷⁶ while Scholten began his essay by stating that 'our code is a quiet possession'.⁷⁷

2.5. DEVELOPMENTS UNTIL MEIJERS' OFFICIAL COMMISSION IN 1947

Following the anniversary celebration, Meijers continued his campaign for the complete revision of the code. On 20 May 1939 the WPNR

75 Meijers, 1939, p. 25: 'Het bestaan van vele onzekerheden bij principieele rechtsvragen en hun slechts langzame en incidenteele opruiming door de rechtspraak, maakt het noodig, dat de burgerlijke wetgeving nu en dan op de helling gebracht wordt voor een grondige technische herziening, willen wij het voordeel der codificatie deelachtig blijven en wil deze het vertrouwen van het volk blijven dragen.'

76 Meijers, 1938, p. 33 seq.

77 Paul Scholten, 1938, p. 1.

published the final part of an essay by Meijers in which he reiterated the failure of partial revision as a method.⁷⁸ Interestingly, two weeks before its publication, Meijers had become a member of the State Committee 1919.⁷⁹ This raises the question of how his appointment aligned with the committee's aim of *partial* revision.⁸⁰ While I will not delve into that question here, it is worth noting that Meijers seemed to have considerable influence within the committee and was able to revive it briefly before the German occupation of the Netherlands in 1940.

The revival of the State Committee can be deduced from the frequency of its meetings since Meijers' membership. Meetings were now scheduled once or twice a month, with the 59th meeting taking place on 18 November 1939, and the 64th meeting on 24 February 1940.⁸¹ This was a significant increase compared to the previous two meetings: the 57th meeting took place on 9 June 1934, and the 58th meeting on 27 February 1937. It is evident that Meijers' influence on the committee can be inferred from the topic discussed, as each meeting dealt with draft legislation regarding the fiduciary transfer of ownership (*fiducia cum creditore*). However, with the German occupation, the State Committee ceased to meet.⁸²

78 Meijers, 1936b, p. 3621. See also: Lokin, 1992, p. 31 and Lokin 1994, p. 164.

79 Meijers was appointed by Royal Decree no. 71, dated May 4, 1939, *Nederlandsche Staatscourant* nr. 88, p. 1. Paul Scholten had already been appointed in 1930, by Royal Decree no. 26, dated December 1, 1930, *Nederlandsche Staatscourant*, nr. 23, p. 1.

80 Meijers' membership of the State Committee before the occupation has received remarkably little attention in Dutch literature, even Florijn does not mention it in his thesis.

81 I made use of the minutes of the meetings of the Subcommittee Civil Law of the State Committee for the removal of flaws and the filling of gaps in the Dutch Civil legislation (Subcommissie Burgerlijk Recht van de Staatscommissie tot wegname van onjuistheden en aanvulling van leemten in de Nederlandsche burgerlijke wetgeving), Nationaal Archief, Den Haag, Ministerie van Justitie, Directie Wetgeving, Nieuw Burgerlijk Wetboek, nummer toegang 2.09.75, inventarisnummer 180.

82 The 65th meeting would only take place on January 24, 1948, under presidency of Meijers, who had by then transformed the State Committee to one of his instruments for the revision of the civil code.

During the war, Meijers and his family faced the anti-Jewish measures deployed by the Nazis. Meijers was forced to resign from his position at Leiden University, and he and part of his family were interned in Westerbork, Barneveld, and Theresienstadt. It is well-known known that during that during his stay in Westerbork he continued to work on the revision of the civil code.⁸³

In 2004, a significant revelation was made regarding Meijers' work in Westerbork, when the Memorial Centre of Camp Westerbork published a book written by Aad van As.⁸⁴ During the war, Van As was stationed in Camp Westerbork, where officially he supervised the food distribution. Unofficially, he was a member of the resistance and he kept a diary of his time 'in the lion's den'. He recalls:

Shortly after the arrival of the Barneveld transport in Camp Westerbork, I received a message from Professor Oranje, requesting that efforts were made to find a hiding place in Frisia for Professor Meyers, because he had been selected by the Dutch government-in-exile to rewrite the Civil Code for the Netherlands. So I transmitted this message to Meyers.⁸⁵

There is no reason to doubt Van As' account, which suggests that the decision to recodify Dutch law was made much earlier than generally assumed. It also means that the decision did not originate as a result of a discussion in Parliament on 5 March 1947.⁸⁶ However, it is certain that Meijers was *officially* appointed to draft a new Dutch Civil Code by

83 Florijn, 1994, pp. 108-109; Chavannes, 1997, pp. 9-10.

84 Florijn, 1994, pp. 108-109; Chavannes, 1997, pp. 9-10.

85 Van As, 2004, pp. 55-56: 'Kort na de aankomst van het transport van Barneveld kreeg ik via professor Oranje het bericht dat er pogingen in het werk moesten worden gesteld om een onderduikadres te verzorgen in Friesland voor professor Meyers, aangezien hij door de Nederlandse regering in ballingschap was uitgezocht om na de oorlog het nieuwe Nederlands Burgerlijk Wetboek samen te stellen. Deze boodschap bracht ik dus over aan Meyers'. See also Heirbaut, 2012, p. 64, n. 11 & 12.

86 Florijn 1994, p. 91.

Royal Decree on 25 April 1947.⁸⁷ His campaign for a fourth Dutch Civil Code had ultimately proved successful...

⁸⁷ Royal Decree nr. 20, dated April 25, 1947 published in the *Staatscourant* of 6 mei 1947, nr. 86.

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