THE CONSTITUTION OF BELGIUM

and

THE BELGIAN CIVIL CODE

as amended to September 1, 1982

JOHN H. CRABB

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Preface

The constitution which Belgium adopted in 1831 is one of the oldest among the various constitutions of the nineteenth century that are still in force in Europe. It also served as a model for a number of states that were created subsequently. The principal explanation for this lies, not only in the liberal and balanced character of its provisions, but also, as to its formal aspects, by the clarity and precision of its text. Avoiding involvement with details which is wisely left to the use that would be made of its prescriptions, it limited itself to the essentials which shape its well-crafted texts.

Such was the situation before the revision of 1970. Having undergone two previous revisions, one in 1893 and another after the First World War, the Belgian constitution had not lost its liberal and democratic character. On the contrary, it continued to be a model of harmonious and well-balanced texts. But it is no longer so since the revision of 1970. Texts which were the result of bargaining and compromises were voted in haste, with the deliberating bodies not heeding basic rules of procedure which should apply to a revision and no longer being concerned with preserving its balance as an entirety and its indispensable coordination as to form, thus impairing the entire structure of the edifice. The revision of 1980 shows the same defects and gives, like the one of 1970, the impression of being a temporary and incomplete work.

It is to Professor Crabb's credit that he presents to English-speaking lawyers and especially to comparatists the possibility of distinguishing between what, in our constitution in its present state, remains valid and worthy of admiration and what, for lack of sufficient preparation and of solid political construction, presents a clearly unsatisfactory character.

Otherwise, in pursuit of his praiseworthy task, Professor Crabb has undertaken an arduous work of long range which will not only be useful to American comparatists but also will be of a nature to promote among lawyers the admiration which is justly due to the colossal accomplishment which consists of the Civil Code applied in Belgium.

PREFACE

The Belgian civil code and the French civil code have the same origin. Both were constituted from thirty-six laws which were unified into a single body by the Law of 30 Ventôse, Year XII, under the title Civil Code of the French and to which Napoleon, who, like any autocrat, detested lawyers and considered the law only as a tool for serving power, presumed to give his name. In Belgium, it was only on December 15, 1949, that a statute furnished the texts still in force at that time with the adaptations of formal aspects made necessary by the expulsion of the French Empire in 1815!

Nearly two centuries have wrought in the Civil Code, as it is presently in force in Belgium on the one hand and in France on the other, profound and numerous changes and, in certain matters, complete divergence. American comparatists and legal historians will find in comparing the two texts numerous examples of an evolution which, from a common point of departure, has developed in the two countries in accordance with their different directions.

It is meritorious of Professor Crabb to have rendered this study, which presents not only an unquestionable legal interest, but also extremely interesting sociological aspects, accessible to English-speaking theorists as well as practitioners.

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Foreword

Belgium, a relatively young country as an independent entity, was mentioned by Julius Caesar as early as about two thousand years ago. Some of its component parts, such as the present provinces of Brabant or Antwerp, became famous in history for various reasons, be it international trade, quality of their products, beauty of their art or military prowess, before the name "Belgium" came to be widely known to the world in 1831. Some may still have trouble in situating Flanders in Belgium or in connecting the new country with some older achievements of its provinces.

The country, located "in the heart of Europe," had a stormy and varied past. After World War II, it contributed to European stability, producing a few statesmen who played an important role in international politics and advanced the idea of the continent's unity and economic cooperation as well as of the solidarity of the Western world. Unfortunately, internal strife and dissent, based on the ethnic linguistic and cultural differences between the Flemish and the Walloons, have resulted in a spirit of disunity among the Belgians themselves.

Professor Crabb has undertaken to present the Belgian Constitution and Civil Code to the English-speaking reader. The basic law, more than one century and a half old, is one of the oldest in the world. Much longer than the American document, it is being amended by incorporating the changes into the text rather than placing them at the end. In contrast with many other European countries, but similarly to the United States, Belgium has not changed its system of government in the last hundred and fifty years, or from the time it was born, and the same constitutional provisions which have been drafted by their "fathers" are still in force, with some adaptations to the exigencies of more modern times.

As we stated in the Foreword to Professor Crabb's translation of the French Civil Code, any translating work is difficult, but it is especially so with legal texts. In literature, while some nuances conveyed by sophisticated expressions in one language cannot be exactly repeated in another, terms representing slightly different ideas may be used without any damage to the final effect, and some-

times even to its advantage; in the law precision is a virtue for which there is no substitute. However, frequently there are no corresponding legal terms in various languages because legal institutions have developed in different jurisdictions independently from those in other countries and some of them just have no counterparts in legal systems based on different customs, traditions and heritage.

However, Professor Crabb's task of translating the Belgian Civil Code was easier than that of his previous assignment of translating the French Civil Code. First of all, both original texts are in French (the other official language of Belgian statutes is Dutch, but not many foreigners use that text), but more importantly—the Belgian Code was nothing other than the French one, enacted by Napoleon for the Netherlands, of which Belgium was then a part, after this country was annexed by France in 1795. With the passage of years, after the short association with France had been terminated, various changes were brought about in the Code by the legislatures of the two countries. Of course, they did not coincide. Besides, the construction of the various provisions, given by the courts, did not necessarily go in the same direction. Therefore, the more time lapsed, the further the legal rules in Belgium and France drifted apart. However, still more than 50% of the Code provisions are the same in the two countries, as Professor Crabb states.

The fact that the translator had valuable experience before undertaking the present work enhanced the quality of his work. His English translations are smooth and, most importantly, consistent. The two supplements: "Glossary" (explanation of some French terms as used in the two documents) and "Terms in English Referring to Glossary" (French counterparts of English terms used in the "Glossary") will be very helpful for those who will not stop at the examination of the English texts but will use them along with the French ones.

The "Introduction" has another purpose. It offers to the readers the most important information about Belgium, its history and legal system. These facts are badly needed, because most English-speaking jurists are not very familiar with the history of continental countries, with some exceptions with respect to France, Germany and possibly Spain. With the active role which Belgium plays in international life, its lively exchange with other nations and the ever increasing ties between the United States and Europe, knowledge about Belgium and its legal system becomes more useful than ever. While a code is not expected to be read continuously but is consulted in case of need, in its relevant parts, the "Introduction" should be read in full by all persons who either have any relations with that country or just are interested in some important data about it.

It may be added that Belgian law, and particularly its Civil Code, is fairly representative of the legal systems in force in many countries of the world. As Professor Crabb mentions, the two most important schools of legal thinking are the Anglo-American one, or the common law, and the civil law, deriving from the Code of Justinian which incorporated more than one thousand years of development of Roman law. In the civil law orbit, the most influential approaches to legal problems are the French and the Germanic ones. The Belgian Civil Code is the result of hundreds of years of the growth of the law, to begin with the ancient but frequently refined Roman solutions through rules

established in France in customary and statutory ways down to provisions responding to the local thinking, being introduced little by little into the Belgian law when needs are felt. This is the way the law develops in many countries belonging to the French "code family," to use Professor Schlesinger's expression, not only in Europe, but also on other continents, and particularly in Latin America.

The present volume is another successful step in Professor Crabb's efforts to bring continental law within an easier reach of English speaking researchers and practitioners.

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INTRODUCTION

I. BELGIAN LAW AND ITS PRESENTATION

1. The Legal System of Belgium. Legal comparatists divide western law, which has encircled the world into two great families or systems. One is known as Anglo-American law (less accurately as "common law") and the other as the civil law system (also sometimes as "Romano-Germanic"). Belgium of course, is a civil law country. In the Introduction to our translation of the French Civil Code (1977) we summarized the historical evolution of the civil law system with comparative references to Anglo-American law, and limit ourselves here to a few comments as to some more specific antecedents of the modern law of Belgium.

The legal history of the region now comprising Belgium generally followed that of the rest of western Europe down to the Napoleonic period. After the Roman period the application of Roman law fell in abeyance. It was replaced by a mosaic of tribal and customary laws alongside of which feudal laws and legislation came to be placed. In this connection it is significant that the Belgian region was uninterruptedly part of the Holy Roman Empire. This Empire presents the image of an amorphous entity generally lacking in systematic and cohesive organization, with local autonomy in fact reigning supreme over the exalted but shadowy imperial authority. This was at least as true in terms of legal system as it was for political authority and organization. Local systems of law of a largely customary nature became entrenched.

Though Roman law had long ceased to be applied in practice, it remained ideally as a somehow better law and one which offered the possibility of unifying the multitude of local laws which became increasingly vexatious as society outgrew the localized focus of the earlier feudal period. In the latter part of the Middle Ages the development of universities produced graduates whose education had been in Roman law. As legal professionals they naturally urged the law that they had been taught and which they knew best. With their increasing numbers and pressure Roman law came to be an option to local laws

as a solution to legal controversies. As such it came to be "received" by imperial authority for application throughout the Empire. It did not thereby supplant local law, and its application was as the local authorities might so choose. But the net general result was increasing Romanization of the law throughout early modern times.

There was also growing sentiment for codification of the law, for which the sixth century Codes of Justinian served as model and inspiration. All this culminated eventually in the Napoleonic codes, beginning with the particularly celebrated Civil Code of 1804. In its substance it was a blend of the Roman and the customary sides of the law that had evolved. Codification provided rational systematizing of the law. It also realized the long-sought ideal of unification of the law on a national basis. Thus was initiated what came to be the worldwide system of the modern civil law. Some consider that Napoleon thereby figures as a modern Justinian. Others find such honorific sobriquet exaggerated or inappropriate. However that may be, the Napoleonic codes were clearly a decisive event in the world history of the law.

The Romanizing movement of the law in early modern times produced a particular regional variant known as Roman-Dutch law. It became dominant in Dutch-speaking areas and thereby is of parenthetical historical interest to Belgian law, even if without any present incidence on it. The Netherlands was annexed by Napoleon to be, like Belgium, an integral part of the French Empire. French law was fully applied in these annexed areas and Roman-Dutch law was suppressed. The new kingdom of the Netherlands, which was formed in 1815, included Belgium and continued with the legal system that the French had installed. In 1838, after Belgium had become independent, the Netherlands created new national codes. They were more a revision of the Napoleonic system than a radical departure from it. However, of particular importance and originality was the re-insertion of some notions of Roman-Dutch law. But the principal survival of Roman-Dutch law today is in South Africa where, in combination with English law, it forms the basis of legal system.

Upon achieving independance in 1830, Belgium continued with the French law that the Dutch had been applying as the legal system for the entire kingdom of the Netherlands. French law has been the most important and influential single one of the various strains that compose the civil law system. This means that the concepts of legal system as first organized under Napoleon have been used as a model by other countries for the establishment of their own legal systems. If French law obviously accompanied French imperialism around the world, this adoption of the French legal model occurred in countries which had never known French rule, such as a number of those of Latin America.

Such adoptions of the French model would vary in degree of closeness to the original. There would be copyings of legal texts, particularly of the French Civil Code, though normally not in entirety. Linked with such texts would be a whole institutional concept of legal system, involving basic matters such as the structure of the court system, judicial procedures, the organization of the legal profession and the forms of legislation and of legal literature. A country having decided to look to the French model for its legal system was of course free to pick and

choose as it pleased among the offerings and to adapt and modify the model as seemed suitable, despite the tendancy of "one thing to lead to another." Whatever the degree originally of similarity to the model, each country in the course of experience would supply its own particular modifications. But such variations in details would not alter the framework of legal system that had been adopted.

Given the fact that the present Belgian legal system is a continuation of French law when the country was a part of France it is not surprising that Belgian law should have a particularly close resemblance to French law. Their differences are minimized by the use of the same idioms and techniques. Somewhat over half of the present articles of the Belgian Civil Code remain identical in text with present articles of the French code, and usually bear the same article number. Nearly all of these articles have never been amended in either country since the original text of 1804. Of course, even when the texts are identical, there is always the possibility of differences in interpretation and judicial treatment.

2. Nature and Scope of the Civil Code. Codes are a familiar phenomenon of American law, for which the word contains some differing shades of meaning. The one which corresponds with the idea as presented by the Belgian Civil Code refers to the segregation of a distinctively separable field of law for comprehensive and systematic enactment in a single "code." Such codes may be fundamental in concept and broad in scope, hence probably voluminous, or relatively narrow and specialized. In either case, the legislature will have deemed the subject-matter as appropriate for comprehensive treatment as a code.

Neither in the United States nor in Belgium and other civil law countries do codes have any legal force or status superior to other legislation. They can be amended, repealed or superseded as readily as any other statute. But they represent an assessment that their subject-matters are in some way especially important to society and of distinctive significance. The legislature will presumably take greater care than with ordinary legislation in changing provisions of the code so as to maintain its internal cohesion and its rapport with the rest of the body of the law. Thus the distinction between codes and other legislation is not one of legal authority but rather of attitude and practice.

Nevertheless, a fundamental distinction between Anglo-American law and the civil law (hence between American and Belgian law) may be stated in terms of their respective attitudes toward legislation. In American law the courts are the highest ultimate authority for the meaning of legislation as given by their interpretations of it in court decisions. These decisions become binding precedents for future interpretation and application of such legislation. If it appears that no legislation is applicable to a justiciable issue, the courts may create new judge-made or "common" law.

Belgian courts, on the other hand, are strictly limited to the application of legislation. This, of course, involves interpretation by them. However, these interpretations are not formally binding precedents for future judicial decisions concerning the same legislative text. In theory Belgian courts consider these legislative texts afresh each time they are presented to them, and this is reflected

in the style of judicial decisions. But relevant earlier court decisions nevertheless are important as "persuasive" reasoning or authority. In practice they are often decisive of a case. As a matter of common sense courts of a same legal system will normally give similar results in similar cases. In addition, there has evolved the principle of *jurisprudence constante*, whereby a series of five judicial decisions all reaching a same result acquires the status of "written authority." But there is still no judge-made "law" in Belgium. The requirement that all judicial decisions be based on legislation means that if no statute appears to be truly in point of a question, the court is to reason by analogy from the closest legislative texts. Legislation is stretched as thin as necessary to afford complete coverage by it, since no gaps in it are recognized.

Thus in Belgian law legislation has an institutional primacy over judicial decisions as the finality of law and the starting point for legal reasoning. The deference given to codes over other legislation in general means that they are treated with greater care than ordinary statutes. The Civil Code in this connection is a sort of *primus inter pares* among all other codes. It enjoys the prestige of seniority and of formal continuity since 1804. But more significantly it deals with the most fundamental aspects of private law, whose regulation is indispensable to the existence of any legal system or organized human society.

These basic notions of law are organized under the headings of three "books" of the Code. The first deals with persons—their status, domicile, marriage, divorce, adoption and the whole of the law of family relations. The second book concerns property and its various kinds of ownership and entitlements. The third book accounts for nearly two-thirds of the Code and collects many diverse subjects under the concept of the various modes whereby property is acquired. This includes successions, gifts, contracts of all kinds (including marriage, partnership and sales), torts (the victim acquires property through the obligation for reparation imposed on the tortfeasor), creditors' rights and prescription. The Code does not necessarily provide complete answers to problems arising under these various headings, since particular aspects and applications of them may be treated in separate and special statutes.

3. The Belgian Constitution. Belgium's present constitution is the only one it has ever had. It was adopted on February 7, 1831, a few months after the proclamation of independence from the Netherlands, and before the situation had fully stabilized. It ranks fourth in seniority among the world's constitutions, following the United States, Norway and the Netherlands. It is an example of the standard style of constitution which evolved during the nineteenth century. It provides for the usual governmental structures of parliamentary monarchy, the basic civil liberties, the territorial composition of the state, the judicial system, and specific details such as the name of the dynasty, the national colors and the national motto. The changes inserted in 1970 and 1980 regarding language regions and communities are a distinctive feature of the Belgian constitution.

When Americans have occasion to compare their own constitution with others, they become aware that it is unique as to its style and organization. This is not surprising in view of the fact that it is the only extant constitution dating from the eighteenth century and prior to the basic upheavals in western mentality and

idiom produced by the French Revolution and its sequels. Yet the American constitution is important to general history chiefly in being an original document giving powerful impulse to this liberalizing movement which came to dominate political and ideological institutions. The ideas reflected by the American constitution, such as "due process," "equal protection," as well as aspects of federalism, were widely acclaimed and studied in other countries when drafting their own constitutions. But these ideas were given substance primarily by interpretations through decisions of the Supreme Court rather than by the general constitutional texts on which they were based. So despite the prestige and renown internationally of the American constitution, it finds essentially no echo in the world in the technical aspects of its text and organization.

This is most immediately and superficially apparent in the case of Belgium by the fact that the American constitution has eight original "articles," whereas the Belgian constitution was adopted with 139 articles. The techniques and processes of amendment are radically different. Changes in the American constitution are presented as additional "articles" of amendment. The pre-existing text which may be affected is not eradicated, even if no longer effective. When the Belgian constitution is changed, the text affected is either expunged or replaced. New text is inserted at the appropriate subject-matter section, with new subnumbers added as needed to preserve the original format for numbering articles. It is the same technique as is used for amending codes or any other legislation. The procedure for amending the American constitution is radically different than for ordinary federal legislation, and the two are considered as wholly distinct and not merely as variants of the federal legislative process. Special legislative procedures are required for amending the Belgian constitution, but they are a matter of increased stringencies which do not depart from basic notions for national legislation generally.

Briefly and as a point of departure only, an American is likely to find more parallels of the Belgian constitution with that of his own state rather than with the federal constitution. As to judicial interpretation of the Belgian constitution, it is highly important in the same manner as with codes and legislation generally. But again, it is of less force than in the American system because of the absence of the formal principle of *stare decisis*.

4. Translation and Presentation. Translation has a variety of purposes, with a corresponding variety of methods to be used and results to be sought. They can all be placed on a scale with literalness at one extreme and free flexibility at the other. The tendency toward literalness is appropriate where it is important to reflect details of the form and expression of the original as far as possible. The greatest flexibility is appropriate where only the essential thought of the original is desired in the second language. Poetry is a clear example fo the latter, whose rendition into a second language is often a "version" rather than a translation. All translations have the two goals of accuracy with respect to the original according to the purpose and of effective presentation in the second language. These goals may come into conflict and vary in priority according to the purpose of the translation.

Translation of legislation clearly requires an orientation toward closeness to

the original. The objective is to bring the user as closely as possible in his own language to the interpretations made by drafters and users of the original language as reflected by the mode of expression used. Thus the texts are not redrafted to try to capture a style typical of American legislation. This would deflect the user toward accustomed American interpretations of the text when it is a Belgian type of interpretation that is being sought. The choices made by the French original manner of expression are followed so far as effective English usage permits, even if an original English text might have made a different choice. Obviously, no editing of the original can be permitted in the course of translation in a misguided attempt at greater clarity in the English than in the original. The turgidity which is unavoidably present in legislative texts must be faithfully reproduced in turgid English.

A particular problem of translation is where a legal concept or institution in one system does not have a counterpart in the other, and hence no parallel linguistic expressions exist. A reccuring example is the legal notion in French of a "good father of a family." This refers to a standard of conduct, obviously intending something like that of "the reasonable man" or a "trustee" or others depending on context. But these standard figures of legal expression are subject on both sides to specific interpretations of possibly crucial differences for given instances. Hence it would be perilous to consider one idiom as the equivalent of the other on the basis that the general idea is similar. So we have literally translated "good father of a family," for the user to sort out its interpretation according to the particular issue at hand. A more forceful example is the avoidance in translation of the word "estate," as in "estates of decedents." Estate is a fundamental concept, with many ramifications, in American law which has no counterpart in Belgian law. So the use of "estate" in translation would evoke, for an American user, phantoms in terms of Belgian law in the subject of *successions* ("successions"). For analogous reasons, *patrimoine* has been translated as the somewhat unfamiliar "patrimony" rather than "estate."

Among the uses which the translation seeks to anticipate are those which involve comparison with the French original. The Glossary is intended to be of assistance in that connection primarily with regard to French terms which present some complications, as to at least some of their meanings, beyond ordinary dictionary equivalents. Generally it is only the unusual or unexpected, either as to the French expression or the English equivalent, which is given, and the normal or obvious is omitted. Where ordinary expressions or equivalents do appear it is because of their general interest or importance or in order to clarify the more unusual meanings given. A dictionary kind of servicing, even for such selected items, is beyond the scope of the functions of translation. The complementary list of "Terms in English" is still far more limited for vocabulary purposes, since the corresponding French terms are only those which appear in the Glossary. Thus, opposite the entry "heir" the primary French equivalent *héritier* does not appear, but only the oblique French meaning of *preneur*. This is because the principle for the selection of Glossary terms did not include the uncomplicated word *héritier*, but "heir" did appear as one of the translations for *preneur* ("taker").

For any question turning closely on the meaning of text of Belgian law there is no substitute for using the original. In such situations the translation seeks to give the user as close an orientation as possible to the original from which to seek the ultimate precision required.

The legislative citations in parentheses refer to amendments presently in force of the text, including new or inserted text. Citations appearing at the beginning of an article or a numbered section of it without quotation marks following signify that the entire article or section has been affected thereby. Quotation marks following a citation indicate that only the text so enclosed of the article or numbered section is affected by the legislation cited. Merely formal and insubstantial amendments are omitted.

The legislature has sometimes replaced articles or entire segments of the Civil Code with new or amended text which it did not formally designate under the article numbering of the Code. Although in substance this is a continuation of the Code like other amended articles and segments, its formal citation is to the law enacting the new material rather than to the Code articles. The sequence of numbering of Code articles is nevertheless maintained for purposes of this presentation by giving such material article numbers in parentheses and subdued type, including subnumbered articles as needed. Though "unofficial," they represent what is in effect re-enactment of the old articles or the insertion of new material. Where this occurs, citation to the legislation in force appears with the articles affected, and when substantial segments of the Code are involved, a supplementary note of explanation precedes such sequences. This is also generally explained in a note preceding the beginning of the text of the Code.

II. THE CREATION OF THE BELGIAN STATE

1. A Case of Historical Accident. The Belgian state whose constitution and civil code are presented here has existed for only a little over a century and a half. During that time it has been at the center of affairs of the western world, with their worldwide scope or reverberations. Thus the presence and existence of Belgium tends to be taken for granted, the same as the other familiar and longer-established states of Europe. Yet Belgium represents an exceptional case of a contemporary sovereign state. As a matter of background interest, we offer a highly compressed description of how it came to be.

Belgium's statehood runs counter to the principle of nation-state that evolved as the ideal norm of separate sovereign existence, at least in Europe and as particualrly applied following World War I. The primary factor involved has been ethnic homogeniety whereby the territory occupied by a single ethnic community should form an independent sovereignty. The determination of such a community came almost to be reduced to the single criterion of language. A secondary principle has been that insofar as possible international boundaries should run through natural frontiers or barriers separating ethnic communities. This means chiefly the mountain ranges, as in the classic example of the Pyrenees, or relatively desolate and thinly populated areas or substantial rivers and other bodies of water. To a fair degree separations between ethnic communities of

Europe tend to follow natural frontiers, despite controversies as to the precise location of international boundries within frontier zones.

However, neither of these two elements are present in the compostion of Belgium. Its population consists of speakers of French and of Dutch in substantially equal proportion. Its boundary with the Netherlands meanders across flat and populous terrain with Dutch-speakers on both sides. Its boundary with France, separating French-speakers, is just about as capricious. If its short boundary with Germany has some frontier aspects, even here the line is drawn so as to include a small community of German-speakers within Belgium.

Belgium is not the only case of anomalous modern statehood in Europe, but it is extreme in the absence of both the factors just discussed. If Switzerland, for example, also displays a disregard of the ethnic principle, it presents a reasonable, though incomplete, case of natural frontiers. "Historical accident" is sometimes offered as a way of summarily explaining anomalous cases. But that expression is more of a conclusion than an explanation. Each such case is an individual instance about which some factual information is appropriate to support the conclusion.

2. Ancient and Medieval Periods. The first celebrated historical reference to Belgium was in Julius Caesar's account of his Gallic wars. One of the famous *partes tres* into which he found Gaul divided consisted of the *Belgae* in the north, to whose martial prowess he paid homage (to the everlasting gratification of Belgians). But there is clearly no continuum between the Celtic community which Caesar identified and the Belgians of today. Any trace of such Celtic ancestry has been heavily overlaid by other occupiers and rulers of the present territory of Belgium. The use of "Belgium" as the geographical expression for the ancient abode of the *Belgae* was employed only vaguely and intermittently until the adoption of that name with the founding of the present independent Belgian state.

Following the incorporation of this territory into the Roman Empire and through the Middle ages there was no semblance of any Belgian community or entity. Following the Roman period the territory experienced the flux and flow of the movements of Germanic tribes. The Franks became dominant. Charlemagne was born near Liège in 742, and nearby Aix-la-Chapelle became the principal seat of his imposing Frankish empire.

Thereafter the present territory of Belgium became included in the Holy Roman Empire, and so remained until annexation to France in 1795. This Empire, despite intervals of relative cohesion in its early centuries, was generally throughout its existence, down to 1806, as Voltaire characterized it—neither holy, nor Roman nor an empire. It was an unstable collection of a variety of autonomous jurisdictions which experienced kalediescopic changes in the interplay of feudal and dynastic forces. Such was the disunified situation of the Belgian region throughout the Middle Ages. But the Holy Roman Empire nevertheless profoundly affected the course of the history of Europe and of Belgium in particular.

In the earlier medieval centuries European languages were forming and establishing their territorial occupations. However, they began more like

language "groups," in each of which local dialects were prevalent. Latin was the *lingua franca* of education and of affairs of importance. Language had at most incidental affect on political arrangements for the grouping of populations.

Most of the present Belgian area was populated by speakers of Dutch. However, French was the language of southern regions centering on Mons and Charleroi. The prince-bishopric of Liège was a wedge of French-speaking territory extending from German areas in a southwesterly direction to the French border. This eccliastical principality, apart from a brief eclipse and down to its extinction in 1795, maintained its independence directly under the emperor and thereby remained aloof from the various political and territorial arrangements that affected the area known as "the Low Countries" (essentially the same as what is more currently called "Benelux"). East of this principality and isolated by it from the rest of the Low Countries was the county or duchy of Luxembourg, which included a considerable part of what is now eastern Belgium. Luxembourg was divided between speakers of German and French, but ultimately became an essentially Francophonic area.

Despite their disunity and ineffectiveness in a political way, the Low Countries and their cities achieved outstanding economic success in the medieval context. The tradition for intense commercial and economic activity for which Belgium and the Netherlands have been celebrated originated in the twelfth century. The wealth that their cities acquired permitted them to secure freedoms outside the restraints of the feudal system. This wealth also fostered a high level of cultural and artistic achievement in cities such as Bruges, Ghent and Antwerp.

3. Burgundian Rule. The significant chain of political events that were to produce the Belgian state began at the end of the medieval period. Political unification was then imposed from the outside on approximately the entirety of the Low Countries, always excepting the principality of Liège. This was achieved by the powerful dukes of Burgundy, beginning with Duke Philip the Bold in the latter part of the fourteenth century. The basis of this expansion was a series of shrewd or fortunate dynastic marriages, importantly supplemented by purchase and conquests. These enlarged Burgundian territories were partly in France and partly in the Empire, though their original seat was the French duchy of Burgundy centered on Dijon. The center of Burgundian administration became divided between Dijon and Bruges, the latter being subsequently replaced by Malines. These "Benelux" territories were entirely within the Empire.

The dukes of Burgundy organized the Low Countries into seventeen provinces. Each province had a kind of legislature called an "estate," convened at will by the duke or his delegate and consisting of the various local authorities or their representatives. The duke further established a central legislature, known as the "Estates-General," for the whole of these provinces, which consisted of representatives designated by each province and met at Malines as convened by the duke.

The dukes of Burgundy had ambitions of creating a consolidated and independent kingdom of Burgundy out of their assembled territories. However, historical evolution ("accident," as it were) followed a different course.