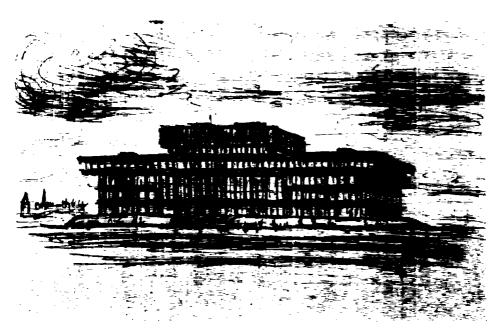
#### COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

# FORMAL SITTING OF THE COURT OF JUSTICE 9 JANUARY 1973

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Court of Justice of the European Communities

from a drawing by Edmond Gærgen

3

On 9 January 1973, a triple ceremony took place at the seat of the Court of Justice of the European Communities at Kirchberg, Luxembourg.

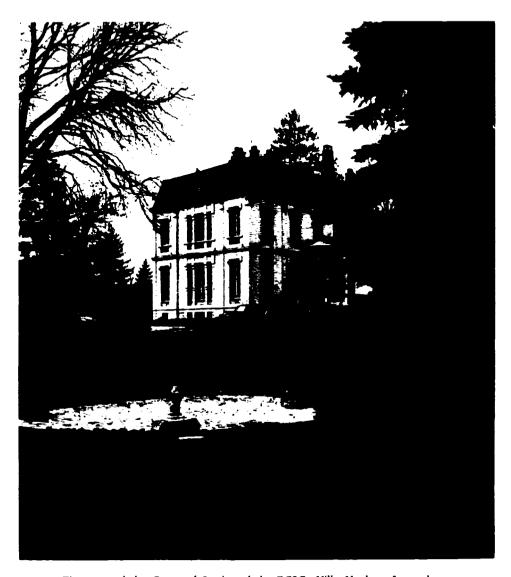
In the presence of their Royal Highnesses the Grand Duke and Grand Duchess of Luxembourg, Mr Pierre Werner, Minister of State, Prime Minister of Luxembourg, formally handed over the new building of the Court to Mr Robert Lecourt, President of the Court of Justice of the European Communities.

At a formal session during the afternoon, in the presence of the Ministers of Justice of the nine Member States, representatives of the Community Institutions, Presidents and Procurators-General of the Supreme Courts of the Member States and representatives of the Diplomatic Corps, the Court of Justice received its new Members, after the latter had taken the oath prescribed by Article 3 of the Rules of Procedure.

Finally, the Court of Justice, as newly constituted, received the President and Members of the Commission of the European Communities who signed the solemn declaration provided for by Article 10 (2) of the Treaty of 1965 establishing a single Council and a single Commission of the European Communities.

At the same time, the Court of Justice celebrated twenty years of Community case law (1953-1973).

The ceremonies are described in the following pages.



First seat of the Court of Justice of the ECSC: Villa Vauban, Luxembourg

photo: European Communities

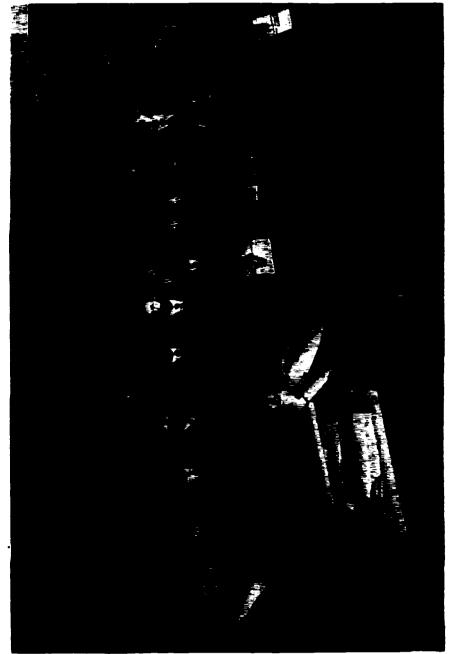


Building situated at 12, rue de la Côte d'Eich, Luxembourg. Seat of the Court of Justice of the European Communities from 1959 to 1972.

photo: European Communities.



The new Palace of Justice, Kirchberg



Speech by Monsieur P. Werner, Minister of State, Prime Minister of Luxembourg.

13

Photo: Tony Krier, Luxembourg

Speech by Mr Pierre WERNER, Minister of State, Prime Minister of Luxembourg, on the occasion of the inauguration of the new building of the Court of Justice of the European Communities,

Tuesday 9 January 1973, at Luxembourg.

Your Royal Highnesses,

I have the honour to be the spokesman of all who are present in thanking your Royal Highnesses for having agreed to preside at the presentation to the Court of Justice of the European Communities of the building which will henceforth house its courtrooms and its offices. We should like to consider your presence as a tribute both to the European Institution and to those who have created this magnificent building.

Today's ceremony strikes, if your Highness will permit the expression, two chords in your mind which is so open to the realities of the present-day world: on the one hand, the exceptional interest which you have for the construction of Europe and for the place of your country in the Community, on the other hand, the satisfaction of seeing the creation on our territory, in different spheres, of buildings which fulfil perfectly their functional vocation while, at the same time, bearing the aesthetic mark of our age. For this latter preoccupation, what finer field of action could one imagine than this Plateau of Kirchberg devoted to urbanist creations which will undoubtedly mark the present reign.

Your Excellencies, Ladies and Gentlemen,

In the name of the Luxembourg Government, I wish to greet very cordially the representatives of the Governments of the countries of the Community, who have been so good as to accept the joint invitation of the Court of Justice and of the Luxembourg Authorities. I welcome in particular the Ministers of Foreign Affairs, the Lord Chancellor and the Ministers of Justice as well as the Ambassadors. We experience a particular satisfaction in seeing the Presidents and Members of the Commission and of the European Parliament associated with this ceremony.

Mr President, Members of the Court.

In everyday life the tenant of a building takes possession, as a rule, without any particular ceremony.

We considered that the occupation by the Court of the building constructed for its use, should in this respect depart from the normal. Far from wishing to proceed purely and simply to their daily business, the Court and the Government intend, on the contrary, to proclaim their mutual satisfaction at having seen the realization and at last the completion of a monumental endeavour. in whose conception the lessee has been associated throughout the period of preparation and of construction. I say this not to imply that we should wish to rid ourselves of part of our own responsibility, but to emphasize the quality and the continuity of the cooperation between the representatives of the Court and the services of the State. It must be admitted that the solicitude of the Luxembourg Authorities has gradually increased since the day now long ago when the Court of Justice of the European Coal and Steel Community first started at the Villa Vauban, later concerted into the Municipal Gallery, until today's installation, via temporary accommodation in the Municipal Palace of the Place d'Armes and lastly by more functional accommodation in the rue du Casino. Beyond the immediate occasion for this ceremony, the opportunity arises, and it seems to me appropriate to take it, to pay tribute to the work accomplished by the Court of Justice in the period of some 20 years that it has been established at Luxembourg.

While the other organs of the Communities have been disturbed by currents of European theory and conflicts of national interests, the Court, with discretion but firmness, has constructed, stone by stone, an edifice of judicial decisions which, meanwhile, has acquired a real dimension. The experience thus obtained as well as the quality of its opinions and judgments have won the attention of the national courts and the adoption by them of the body of law thus derived. At the present moment the Court faces without fear the assimilation into Community Law of the ideas of legal systems at first sight more removed from continental ideas, such as the Common Law. The great scholarship and the deep *esprit de corps* which inspire the European judiciary will, I am sure, make it possible to solve as well these problems of assimilation and of synthesis.

The undeniable success of the judicial creation of the Communities is due both to the independence which the European Judges have been able to show in relation to private or national interests, and to the carefully measured degree of their courage. It would not have been possible without the personal contribution and the profound devotion to the European Cause of its successive Presidents, of the Members of the Court, of the Advocates-General and of the Registry.

Would it be too daring or pretentious to suggest that the *genius loci*, the calm of the Luxembourg environment, count just a little in the success of an Institution which of its nature would not work well in an atmosphere of trepidation and harassment.

We have therefore wanted this building to be conceived in such a way as to express by its surroundings and its layout this desire for detachment, for tranquility, for distance in relation to what is simply contingent, a desire to encourage the inner journey of study and meditation. The rigidity of its framework in a special steel, naturally allergic to corrosion, as will be the body of European Law derived from your decisions, contrasts with the play of light and the myriad reflections from the great windows. With this luminous opening to the outside world, the Court will not be ignorant of the simple realities of Community life. All this creates an atmosphere of rigour and of respect, lightened by shimmering shapes and colours. I cannot express this unusual combination better than by inviting you to look at the artist's representation in this hall of the lady Justice, who, without brandishing a sword, but keeping a perfect poise, has the gracious gesture and the fresh look of a girl.

Resolutely have the architects Mr Conzemius, Mr Jamagne and Mr Vander Elst departed from the confines of conformity to create a building whose exterior may disconcert adherents to the classicism of the temples of Themis, but whose interior has acquired, by the use of modern materials and by the intelligent utilization of mass and of space, an atmosphere of sober opulence and of functional comfort. Such a creation demanded a special contribution from art. At the suggestion of the President of the Court, eminent artists from the Member States, Dambiermont, Grieshaber, Hambourg, Manzu, Wercollier, have contributed by remarkable works to the decoration of this house and of its surroundings.

I shall not fail to pay tribute to the patient work of the Ministry of Public Buildings and Works, to the firms, craftsmen and workmen who have contributed to the construction, which, although it has suffered delays, is today all the more successfully and solidly completed. My colleague, Mr Buchler, at the last stage of the work, has given himself body and soul to its completion before the enlargement of the Community. No one will be better placed than he to give you some more detailed explanations on the building.

Your Royal Highnesses, Mr President, Excellencies, Ladies and Gentlemen,

Since the Member States granted the city of Luxembourg the honour and the privilege of being included among the three provisional headquarters of the activities of the Communities, the Luxembourg Authorities have endeavoured to set up establishments worthy of its lofty calling. If this building answers to the expectations, we are proud and satisfied.

What seems to me particularly significent is to see this inauguration coincide with the beginning of the year 1973, a European year, a year on which the conference of Heads of State and Government held last October in Paris has placed enormous and manifold hopes. In this, as we hope, accelerated evolution, the enlarged Court of Justice will know how to play its part which is particularly important for the implantation of the Community idea in our ways of thinking and in our ways of acting.

In handing over this building to the Court of Justice of the European Communities, I should like, in the name of the Luxembourg Authorities, to express the wish, which is in any event suggested by the presence of representatives of the highest judicial authorities of the Community countries, that it may become, not only a judicial centre, but a house open to lawyers and a true home for European legal thought.

#### INAUGURATION OF THE NEW PALACE OF JUSTICE

#### Speech by Mr Robert LECOURT,

President of the Court of Justice

To-day, your Royal Highnesses, the very date itself and, indeed, these surroundings and your own gracious presence lend themselves to a symbolic interpretation.

It is the date on which we are celebrating the twentieth Anniversary of our Court as well as welcoming the new enlarged Commission and swearing in the four new Members of this Court. At the same time these new law courts of ours where we will henceforth be carrying out our work, are to be officially opened. And, not least, the fact that it is you, your Royal Highnesses, who are presiding over this ceremony, must complete the whole pattern of events which have led to this splendid occasion.

First of all, this is a unique opportunity for me to thank you on behalf of my colleagues and this whole institution of ours. Our gratitude must extend not only to the interest which you have always shown but also to the real help you have given us: any member of any of our departments will readily witness to the warm hospitality of the Grand Duchy.

This is the first time we have had the chance to express both in public and in your presence our deep appreciation of everything you have done for us but we have had, for a long while, good reason to say as much and it is with great warmth that we do so now.

Equally symbolic, since it acts as it were, as a blockade around our seat of justice, is the tape here in front of us which you are about to cut.

There must, of course, be deep metaphoric meaning to be understood from the fact that there is only a little piece of tape stretched at this moment between the Community and its judges and that you are about to cut it away. This meaning is no less wide in its ambit when you think that from now on it will be possible for any one of as many as 250 million individuals to come to this Court and seek here the protection of his rights.

But all these metaphors, however attractive in themselves, must grow, as it were, out of reality. And the reality in this case, thanks to your Government and Parliament, is this spacious modern building which provides a happy combination of architectural and artistic stimulus and an efficient place to work in.

And now, Mr Prime Minister, we now become your tenant!

And so that it should be made quite clear to all that we are assuming the obligations derived from this situation, you have taken the effort to hand over

to us this morning the subject matter of the contract in the manner laid down for the most solemn transfer of the old Roman Law. Both the lessor, which you are, and the lessee, which we are, in the presence of the "thing lent" will thus, having pronounced the customary phrases, take as the witnesses of their agreement an unusually high number of important people.

Because of this we must also be jointly and severally grateful, to the authorities of the Community, to the Ministers of the nine Member States, the Presidents of their Supreme Courts, the President of the European Court of Human Rights, and the diplomatic corps who have done us the honour freely to witness this undertaking.

But, as we have in fact become your tenant, it would have been folly indeed to assume such an obligation without first consulting your Civil Code. And that we have done. And with great benefit!

It is rare indeed that reading such paragraphs provokes any feeling. Nevertheless one Article in particular, 1713, aroused our curiosity, in that we learnt that it enabled you to let "all sorts of property". What does this phrase involve, "all sorts of property"? The phrase is disquieting. If we return to the Napoleonic Code we are not reassured. This building which was being built for us, could it also have come within the property "of any sort" referred to in your Code? What irreverence that would be for a Law Court, or what risks that would involve for the tenant! There was only one thing to do to cope with the ambiguity of the term and that was to place our complete confidence in you. And that is what we have done.

All we needed to do was to wait. To wait for the completion of the works, to be able to explore this place to discover, concealed behind the subdued appearance of the external material, a real crystal palace. Viollet-le-Duc put it exactly, "buildings are the envelope of society at any one epoch". Here to-day we need only open our eyes to observe that the construction is pleasant, comfortable, harmonious, of human proportions, a return to the horizontal span, built on this open plateau in an imposing position under the impetus of a tireless Minister of Public Works, Mr Jean-Pierre Buchler, under the direction of talented architects headed by Mr Jean-Paul Conzemius and his colleagues, under the ceaseless control of the State Architect, Mr Constant Gillardin and the efficient co-ordination of the Chief Inspector, Mr Pierre Petit.

In short, if after a quick glance at your Code one was initially left in doubt, the construction which took shape, gradually unfolded itself as is always so with great buildings, was sufficient to reassure one.

It is with renewed interest that we look again at your Code. This time we discover three obligations imposed under Article 1719. Neither the first nor the second can give cause for alarm. As a prudent owner you have well and truly "delivered to the lessee the property let" in the presence of too many important people for there to be any doubt left that the first obligation has been performed.

And insofar as you are bound to guarantee "quiet enjoyment", this obligation has also been fulfilled in advance by the manifest attentiveness which you have shown to our Institution.

But what exactly is the significance of the obligation on you "to maintain the property let in the State which is necessary for its use for the purpose for which it was let"? What then is this use?

At first sight, one might imagine that a building leased to a Court of Justice would be used exclusively for judicial purposes. This would indeed be indicated by several facts, the presence of numerous pleasant offices, of a spacious library and, even more significantly, of three beautiful courtrooms furnished with all the necessary equipment.

But isn't this just an illusion?

The fleeting visitor might well feel he has made a mistake. He was invited to enter a law court but he finds himself in an art gallery. The figure of Justice is certainly there since everything has been prepared for her. But it is difficult not to be mistaken. Traditionally justice is portraved as possessing academic and stern, not to say somewhat forbidding features, put here she has taken on colour, life, optimism, and looks forward to solidarity, progress and peace.

As the visitor draws near he is welcomed by the lithe outburst of movement of the excellent sculpture of the Luxembourg artist, Mr Lucien Wercolier, whose work, breaking with tradition, has been placed before the building to exorcise it of the reputation for cold inflexibility which is how all too often justice is imagined.

And then here in front of us we have the gripping portrayal of the figure of Justice and Peace in which, in confidence and hope, the one with human serenity entrusts to the other the childhood to be protected. Here are pleasantly combined the gift for powerful expression together with soaring imagination, of force and life which is characteristic of the work of the creator of the beautiful gates of St. Peter's in Rome, the Italian sculptor, Giacomo Manzu.

At the work of the Dutch artist, Mr Balien, which is intended to decorate the other end of this vast entrance hall we should now enter the courtrooms.

In the first of these, this human forest, engraved in a sober and confident style by the German sculptor of great renown, Hap Grieshaber, in which all ethnic origins and all differences are compounded together to produce a festival of mankind. The artist has used his powerful talent to draw them together in a living community under the care of a figure of Justice which, without any pedestal, is on the same level as them.

Glance into the other court and you will see great birds in evocative flight, wing against wing, the one supporting the other above a landscape of quietude and peace. The delicate Belgian artist, Mary Dambiermont, has, with much

sensitivity, been able to translate into a beautiful picture the very idea of the Community by the discreet harmony of her colours in this vast tapestry.

Let us now go into the main courtroom. You are in the centre of a living European landscape on which are portrayed in radiance the most ancient monuments of the judicial history of our countries. A riot of childhood colour of abundance and of peace is enframed. In one place we have a fraternal Community, in another a figure of Justice of freshness and charm and in which the harmony, the joie de vivre and all the lyricism of the great French painter, André Hambourg are to be found.

All these artists of international reputation have been able to translate the inspiration on which the judicial work which takes place in this Court rests: a community of peoples, which by the unity of their laws and the practice of a common justice, leads irresistibly to works of prosperity and peace.

So many diverse interpretations of themes which inspire our work could well have given rise to still more great works! The historians of the future will perhaps trace the origin of the first substantial realisation of a Europe of the arts to 9th January 1973.

Yours has been the first initiative, Mr Prime Minister, to draw together, in a Community setting, works and artists coming from the different Member States. This fascinating opening of a new Community, might it not foreshadow the dawn of a European consciousness and concern for things artistic which hitherto have been confined within narrower bounds? It certainly seems that the augurs are there. However things turn out, this is certainly the hope which the assistance that has been given or promised by several Member States allows us to have and as is witnessed here in the beautiful tapestry of Jean Lurçat which decorates this court.

By making these law courts into a place of European art, you have endowed your capital with a truly community museum and created for every visitor to the Grand Duchy a most important centre of interest.

For this building and the collection of works of art that it contains, the Court, your tenant, Mr Prime Minister, undertakes, pursuant to Article 1728 of your Code, to use it "as a reasonable father and in accordance with the purpose which the lease lays down or which is to be presumed from the circumstances"... You, on the other hand, undertake pursuant to Article 1723 for the duration of the tenancy not to change "the form of the property let"...

And if everything runs smoothly, as it is expected to, your Code gives comfort in promising if we both agree to it, the relationship of landlord and tenant would become indestructible because "a tenancy agreement is not discharged by the death of the landlord nor by that of the tenant". But who, on such a day as this, could doubt that both parties will last for ever? The Grand Duchy is built upon a rock: the Court of Justice, like the Community itself, upon the solid dictates of necessity.



Speech by Mr J.-P. Buchler, Luxembourg Minister of Public Works.

Photo: J. P. Roland, Luxembourg.

Speech by the Minister of Public Works, Mr J.-P. BUCHLER, on the occasion of the inauguration of the new building of the Court of Justice of the European Communities,

Tuesday 9 January 1973, at Luxembourg.

Your Royal Highnesses Mr President, Excellencies, Ladies and Gentlemen

Before having the honour, in a few moments, in my capacity as Minister of Public Works, to be your guide in visiting the new building constructed by the Grand Duchy for the Court of Justice of the European Communities, may I be allowed to supply some information on this building and to give voice to some thoughts on its creation.

The new building of the Court of Justice is placed in the area known as the area of the International Institutions of the Plateau of Kirchberg, a plateau consisting of a natural complex of 350 hectares of arable land, which were the subject of a compulsory acquisition law in 1961.

The building, of five stories, occupies an area of some 10,000 sq. metres, in the middle of a park of about 5 hectares, whose broken contours, retreats, and verdant decor create an urbanistic ensemble of contemporary appearance.

The architectural conception of the building is due to the association of three young architects, one from Luxembourg and two Belgian, which was awarded the prize in an architectural competition by an international panel of judges. This association has demonstrated, in a particularly happy way, the existence and the working of the Belgian-Luxembourg economic union. Later, this team became a Benelux one, since the future occupant of the building had recourse to a Dutch office consultant, the Bouwcentrum of Rotterdam, to take part in the supervision of the construction.

For the technical installations the architects were assisted by Luxembourg office consultants who normally work in direct cooperation with their colleagues in neighbouring countries.

The materials used are those of today's leading industries. The choice of the special steel Corrox and of insulating glass, which both give the silhouette of the building such a special appearance, may be regarded as a direct application of the conclusions reached at the successive conferences organized in 1964, 1965 and 1966 here in Luxembourg by the European Coal and Steel Community, on the subject of the use of steel in construction. The generous use of granite, of travertine, of rustless steel and of plain carpeting, the installation of movable

screens, of a system of intense lighting, of air conditioning with efecto-convectors, and of effective provision for the protection and security of the building, are additional characteristics of the modern comfort of this building.

The bold and functional ensemble of the construction is in itself already an artistic success. This aesthetic note is further enriched by works of art of artists chosen in the respective Member States of the Community of the six, with the kind cooperation of the Members of the Court of Justice.

Furthermore, I should also like to point out that the new building has been conceived from the beginning in such a way as to be able to receive without difficulties new Members, without having to restrict the comfort and pleasant surroundings of the Members of the Court and their staff.

To complete my presentation of the new building, I should add a word on the process of construction. This was done according to the classical method of public adjudication by sector. As it was necessary to have recourse to a total of 80 sectors, of every nationality, it was inevitable that the process of construction should be long, even exasperatingly slow, as some like to say.

This experience of the coordination and of the laborious progress of so many different works, with the participation, in addition to the building professionals, of the architect-director of state buildings, Mr Gillardin and his deputy Mr Petit, the Registrar of the Court Mr Van Houtte and his administrative assistant Mr Beck, and at critical moments, which were indeed frequent, of the Minister of Public Works in person, leads me to say that a general enterprise should be preferred for the creation of works on the scale of the new building. With the qualification, that the finish of the works seems to be better secured in the formula of construction by sector.

This experience of successive patience, discouragement and hope has often reminded me of the experience which I lived through for many years in my capacity as Minister for Agriculture and a Member of the Council of the European Communities. It is, perhaps, this Community experience which has allowed me as the present Minister for Public Works to be present today to introduce the new building.

I should like to take advantage of the opportunity to thank, publicly and with all my heart, all those who have participated, in one way or another, in the realization of this building, in particular the workers and their foremen, of a score of nationalities, who have expended their energies throughout several years to realize this fine building.

In inviting you now, your Royal Highnesses, your Excellencies, Ladies and Gentlemen, to visit the new building, may I hope that the comments which you will make in the course of your visit meet the ambitions of what the Conseil d'Etat of the Grand Duchy, in its opinion on the draft law authorising the construction of a Court at Luxembourg-Kirchberg, defined as follows:

"The construction of a Court designed for the European institutions is evidently required, and it is no less evident that this building must be worthy both of the country and of its function."

#### Your Royal Highnesses,

May I have the honour to ask Your Highness the Grand Duke Jean kindly to carry out the act of cutting the symbolic ribbon to open the way for the official visit of the new building of the Court of Justice of the European Communities.

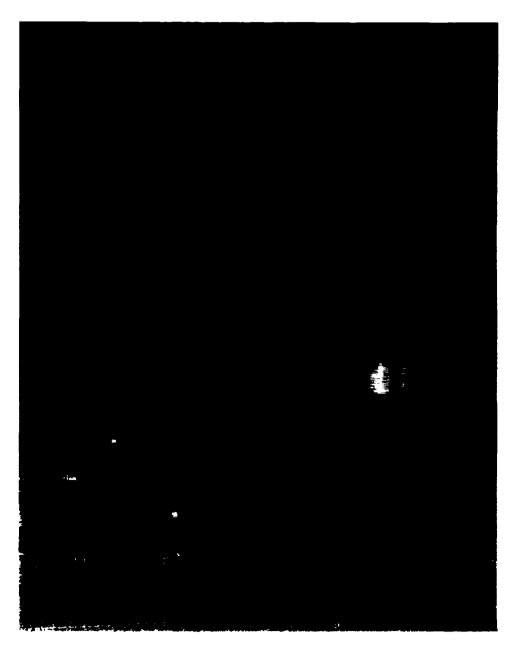


His Royal Highness Grand Duke Jean of Luxembourg cuts the symbolic ribbon stretched across the doorway of the main courtroom.

Photo: Jean Weyrich, Luxembourg.



After the inauguration, their Royal Highnesses the Grand Duke and Grand Duchess of Luxembourg visit the new building, accompanied by Mr Robert Lecourt, President of the Court of Justice, Mr Pierre Werner, Minister of State, Prime Minister of Luxembourg, and Mr Jean-Pierre Buchler, Luxembourg Minister of Public Works.



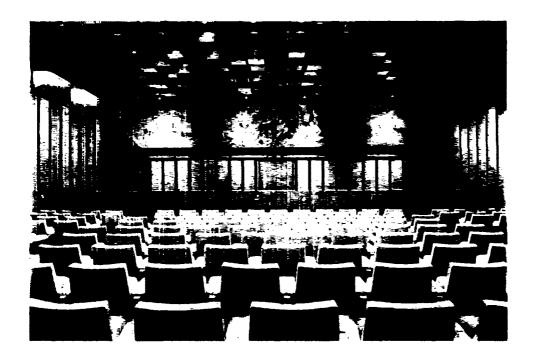
The parvis of the Court of Justice, with a sculpture by L. Wercollier (Luxembourg)

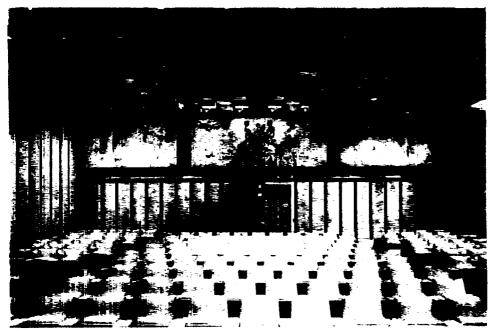
Photo: Le Rapport Photographique, S.A., France



Giacomo Manzù, on the theme of « Community, Justice and Peace » (Entrance Hall)

Photo: Le Rapport Photographique, S.A., France





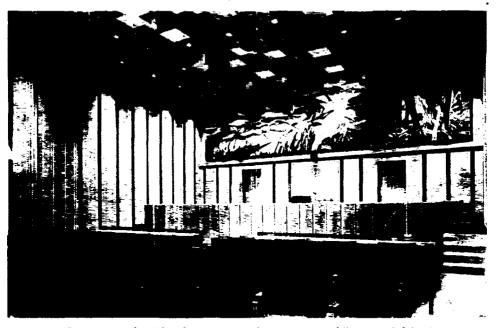
Main Courtroom. Paintings by Andre Hambourg (France)

Photo: Le Rapport Photographique, S.A., France.

37



Courtroom of a Chamber. Mural "lithographs" by HAP Grieshaber (Federal Republic of Germany)



Courtroom of a Chamber. Tapestry by Maery Dambiermont (Belgium)

Photo: Le Rapport Photographique, S.A., France.



Deliberation Room

Tapestry at the end by Jean Lurçat, has been entrusted to the Court of Justice by the French Government.

Le Rapport Photographique S.A., France

## OPENING OF THE FORMAL SITTING, 9 JANUARY 1973 Speech by Mr Robert LECOURT

Excellencies, Ladies and Gentlemen,

Sitting for the first time in this Courtroom in this picturesque setting, where our countries, gathered together as a Community, are able nonetheless to identify themselves, already represents an important event in itself. For the Court it engenders a pleasant duty — that of expressing, from the outset, to the Grand Duchy authorities, its deep gratitude for their initiative and at the same time, their presence.

Our Institution today is combining several celebrations. At the very moment when it is celebrating its 20th anniversary, it is called upon to open the first sitting of the enlarged Community, to greet our new British, Irish and Danish colleagues, and to welcome the newly-structured Commission. Such an accumulation of so many exceptional events can well justify this exceptional gathering of all the Institutions of the Community, with distinguished members of the diplomatic and judicial world who have honoured us with their presence.

The Court must, of course, attach special significance to the fact that the Ministers of the Member States and their Permanent Representatives, are taking part in this formal sitting. It is grateful to them for thus underlining the importance they attach to the work of legal interpenetration and judicial cooperation which is being carried out here. It esteems it especially a mark of confidence that the Ministers in charge of legal and judicial affairs of the Member States should by coming here have confirmed how much they are directly concerned by the activity of the Community's judicial organ. They, together with the whole Council, have our most warm thanks for the interest they grant our work.

While the Commission, through its agents, is always represented at the bar of this Court, it is only on rare occasions that we have direct contact with it. The ceremony which is about to take place, when the Court, sitting in its new composition, will be welcoming the Commission, manifests a desire for close cooperation between our Institutions while at the same time maintaining the independence of each. This concern reflects our own wishes so well that we must express to the Commission, with our heartfelt gratitude, our wish to see these fruitful contacts develop.

Here also, together with the Community executive, there appears, for the first time, the highest representation of its judicial apparatus. For never before have there been assembled, with the Court, the first Presidents, Presidents and Procurators-General of 22 of the supreme courts of the nine Member States,

that is nearly every one of them, from constitutional, civil, administrative, social or fiscal courts. Thus one sees to what extent national courts, responsible for putting into effect the Treaties and rules on the national scale, are coming to see themselves also as Community courts. Your presence, in any event, cements our mutual confidence, in accordance with the aims set down by the Treaties, demonstrates the high level of cooperation achieved during past years between the national judiciaries and the Court, and augurs well for the extension of these relations with the judiciaries of the new member States. The distinguished members of the judiciary have our thanks, and the assurance of our desire to continue the task so promisingly undertaken.

Would it be right for the executive and judicial organs of the Community to meet together without the Parliament being present? How happy we are then that the European Parliament saw fit to bestow greater prestige on this ceremony and that we are thus able to greet the members of its Bureau. The Court is particularly appreciative of their presence.

The Community would, without doubt, not be quite complete if, in addition to these Institutions, there were not included the representatives of the Economic and Social Committee, the President and Vice-Presidents of the European Investment Bank, to whom we are most grateful.

The Community as a whole feels especially honoured that the Court of Human Rights, which follows with interest the progress of our Court, has made a point of being represented. Our thanks go to them also.

Our pleasure in welcoming His Excellency the representative of the Holy See, doyen of the diplomatic corps accredited to the Communities, and the Ambassadors accredited to the Luxembourg Government, is all the greater because of the close links which they have faithfully maintained with the Court's activities. Their interest is very warmly appreciated.

On this 20th anniversary of the Court of Justice's creation, it sees its jurisdiction extended from now on to nine States and to 250 million subjects. Like the Community itself, it has never ceased from the outset to be guided by an outward-looking driving force.

Created in December 1952 in the modest framework of the Coal and Steel Community, in 1958 it extended its attributes to the whole of the Common Market, and to the specific requirements of the atomic Community. Fifteen years have passed, and now it extends, geographically this time, to include three new States. In a few weeks, its competence will widen, in its turn, to deal with disputes arising from the recognition of commercial companies and the enforcement of judicial or arbitral decisions between Member States. We are thus confronted with a natural impetus in the wake of such profound events.

How could it be otherwise? From the moment that the States endowed themselves and their subjects with a higher law to govern their relations, logic and necessity took care of the rest.

It would have been possible to create many different systems to elaborate the common law. The problem was an institutional one and was of no concern for a judge. But the moment it became law, it must necessarily have force of law everywhere, at the same time and with the same effect. There is the beginning of the judge's task. But it is an essential one. For, if one were to refuse to accept this fundamental imperative when confronted with it, the Community's whole edifice would collapse. It is the common rules which make the common market. Suffice it to say that the Community is essentially a community of law.

But it is precisely in order to guarantee its inhabitants that they can, in all safety, unite under this common law that the national judge has been authorized to apply it and that this Court's task, among others, is to guarantee its uniform application. To demonstrate how well the national legal authorities have seized the problem 125 of them have, over the last ten years, in 184 cases, had recourse to the procedures for judicial cooperation set up by the Treaties. It has thus been possible to secure, while preserving the judge's independence, the observance of law in the application and interpretation of the Treaties.

Indeed, every Member State has made it a point of honour to maintain, on Community level, this independence of the judge. Although Oscar Wilde tells us that one can prove anything with statistics, there are figures which do not lie. Proof can be found in nearly 700 judgments — including 23 finding Member States in default and 31 in cases begun by the States themselves. So important is this guarantee in the mutual relations between Member States, that they have never failed to uphold it, notably in the regular renewals of the mandates of the Members of the Court. Never has anyone tried to interfere to upset the balance of the formula, by introducing requirements other than the legal qualifications of those concerned. Nor has this renewal even degenerated into an indirect censuring of the judge. Upon this rule of wisdom lies the subject's guarantee.

As are the Member States, so are the judges equally anxious to uphold this guarantee. The Court, is not, in fact, a juxtaposition of representatives of States, carrying out their instructions and deciding by a majority the outcome of the national interests disguised in a law-suit. It is not an arbitral body but a court required to lay down the law. The Members of the Court are, admittedly, proposed by the Member States, but it is the Community as a whole that appoints them. It is from the Community that they receive their mandate and it is in the name of the Community that they judge.

It is in this framework that nine States and their citizens are going to look towards their Community guarantees.

In order to adapt a legal structure with seven judges, by adding three others, to a Community of nine States, it was necessary to reconcile arithmetic and law. The computer gave up. But it has, in fact, led us to sacrifice one of our two

Italian judges. By doing this, the Member States were able to increase from 2 to 4 the number of Advocates-General whose burdens are continuously increasing. Attracted by the larger independence of these duties, Judge Trabucchi offered to leave us in order to exercise the art of oratory by our side. We lose him as a judge and win him back as Advocate-General.

So you see, our Court, now made up of 9 judges and 4 Advocates-General, is able to welcome jurists of great fame who are going to take their places with us — in the inexorable order that civil status lays down!

Following Ireland's proposal, the Community has chosen the highest judge of that country. Chief Justice Cearbhall Ó Dálaigh has presided over the Supreme Court there for the past 11 years and his arrival here at our Court is preceded by a flattering reputation. He is not unknown to us moreover. His particular linguistic abilities, demonstrated to us during a recent visit, remain in all our memories.

At 61, Chief Justice O Dálaigh can look back on his career with great pride. He acquired, through his extensive studies in Dublin, a number of diplomas. He was not yet 23 when he became a Barrister, then Senior Counsel, and in 1946, Bencher of King's Inn.

From then on, his professional successes multiply. He became Attorney-General several times. Appointed judge at the Supreme Court in 1953, he became Chief Justice in 1961. Even then he was barely 50 years old.

If legal affairs have never lost their attraction for our new colleague, his curiosity remains boundless nonetheless. In obedience to a long family vocation, he is very attracted to poetry. Moreover in the tradition of the cultural direction of his studies, he was soon to become Chairman of the Committee on Irish Cultural Relations.

From then on, he came to preside over an increasing number of cultural, economic, social and even fiscal bodies. He devotes time to hospital works and peace organisations.

He arrives at our Court with the most envied titles: Doctor Honoris Causa of Dublin University, Member of the Royal Irish Academy, Commander of Merit of the Italian Republic.

In welcoming Chief Justice O Dálaigh, our Court gains a judge of broad culture and great experience. It also welcomes a colleague whose smiling courtesy is known and appreciated.

Two years younger than his Irish colleague, the new Danish judge comes with a glowing reputation. But is it really necessary to introduce Professor Sørensen?

A thorough legal training at Copenhagen University, then at the Institut des hautes études internationales at Geneva, a degree, then a doctorate in law,

10 years practice at the Danish Ministry of Foreign Affairs, and 3 years service first at Berne, then London: what more was needed for a brilliant future?

He was 34 when he entered the teaching profession. Professor of international and constitutional law at Aarhus University, he added numerous official missions to his duties. He represented his country in United Nations' Commissions and in the International Labour Organization. He was legal adviser to the Danish Ministry of Foreign Affairs. He was in charge of the Danish delegation to the United Nations conferences on the law of the sea. He became an ad hoc judge appointed by Denmark and the Netherlands to the International Court of Justice. He is a member of the Permanent Court of Arbitration and of the Institute of International Law. He is ... but one has to stop somewhere!

Nevertheless, how can one remain silent over Professor Sørensen's specifically European activities? his lectures at the Hague Academy of International Law on the Council of Europe? — his missions to the Council of Europe on behalf of his country — his nomination in 1955 as a member of the European Commission of Human Rights of which he was President from 1967 to 1972. In the Community sphere, he was, moreover, a member of the ad hoc group to examine the extension of the European Parliament's powers.

It is a jurist of the highest quality — Doctor honoris causa of Kiel University — that this Court greets. His renown lacked nothing. Now nor will ours.

Endowed with all the privileges that age attenuates, Lord Mackenzie Stuart will be the Benjamin of our Court, after having been that of the High Court of Scotland, where, at the age of 47, he had just been appointed a Judge.

Extensive studies at Edinburgh and Cambridge seemed at first to favour a career in engineering but after five years of War Service he was attracted to law.

He received a degree in law with honours and in 1951 was admitted to the Faculty of Advocates at Edinburgh. It was from then on in Scotland that he filled all the posts which his ability merited.

Awarded a Carnegie scholarship for research on the history of the Scottish law of contract, he lectured in Scots Law, jurisprudence and public international law at the Faculty of Law at Edinburgh University.

Honours awaited him. He was Standing Junior Counsel to the Scottish Home Department and then to the Department of Inland Revenue of Scotland. In 1963 he was granted the rank of Queen's Counsel. In 1970 he was elected Keeper of the Advocates' Library at Edinburgh. In 1971 he became Sheriff Principal of Aberdeen, Kincardine and Banff before becoming a judge at the Scottish High Court in 1972.

But he too was unable to confine his activities to one sphere. Chairman of the Council of the Stair Society — a society for the promotion of the study of the history of Scots law; author of various articles on Scottish and Franco-Scottish legal history, he also served as Assessor in various subjects in different universities.

Very soon, doubtless guided by a thesis his wife was preparing on the European Parliament, Lord Mackenzie Stuart became interested in European law. He thus became rapporteur for the Bar Council on the problems posed by the Communities, Vice-Chairman of the Scottish Lawyers' European Group, and Scottish Observer on behalf of the Faculty of Advocates at meetings of the Commission consultative des avocats.

Armed with such a knowledge of Scottish, British, European and International Law, Lord Mackenzie Stuart was well prepared for the tasks awaiting him at our Court, where his knowledge and experience together with his great human qualities, will be very valuable to us in our work.

The same age as Lord Mackenzie Stuart, Mr. Jean-Pierre Warner, proposed by the United Kingdom and appointed Advocate-General at the Court, is, like Lord Mackenzie Stuart, also a very experienced legal practitioner. Like him too, his studies were interrupted for five years of war service in Europe and Asia.

He was unable to continue his studies, started in France then at Harrow and Cambridge, until after the war in 1947. He chose law, attracted by the Bar. In 1950 he was duly called to the Bar by Lincoln's Inn.

For 12 years he practised at the Chancery Bar. He was to climb the steps of success so quickly that he was still very young — not even 40 when, in 1964, he was appointed Junior Counsel to the Treasury in Chancery matters. This meant that he was the first Counsel to the Crown in Chancery matters after only the Attorney-General and the Solicitor-General. So much prestige called for further honours. In 1966 he became a Bencher of Lincoln's Inn. He also made his special contribution in the work of several barristers' committees.

These professional activities tended towards a certain specialisation in financial, commercial or fiscal affairs, which combined with his experience gained on restrictive trading agreements, all add up to make Mr. Jean-Pierre Warner a jurist for whom problems of competition have no secrets.

It will be particularly interesting to listen to our new advocate-general, especially competent in these matters of prime importance, when he is called upon in our frequent hearings on this subject.

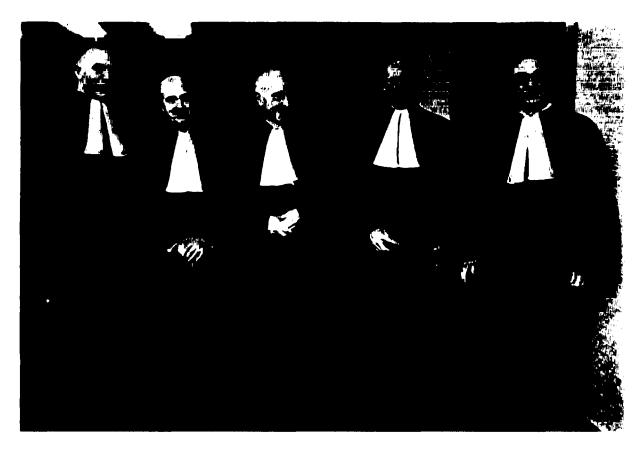
In 1972 he was granted rank of Queen's Counsel.

May I add, perhaps whisper, that the coveted title — which he confided to me — and which reveals a man of taste — that of Commandeur de la

Confrérie des Chevaliers du Tastevin, promises us well fortified submissions in the wine disputes which are not rare at this bar!

We would like to welcome him and may the Court be allowed to draw deeply upon his professional qualities, his practical sense and his knowledge of man, in order to integrate the law derived from the Treaties into the legal systems of all the States now forming the Community.

In order to help it make this law a reality of three new States and of their citizens, as it already exists in the other States, it is indeed fortunate that the Court is able to call upon the knowledge, experience and intelligence of the four eminent persons who are about to be sworn in.



The President surrounded by the new Members of the Court of Justice: From left to right: Judge Max Sørensen (Denmark) Judge Cearbhall O'Dálaigh (Ireland) Judge Robert Lecourt President of the Court of Justice (France) Judge A. J. Mackenzie Stuart (United Kingdom) Advocate-General J.-P. Warner (United Kingdom).

### Article 3 of the Rules of Procedure of the Court of Justice

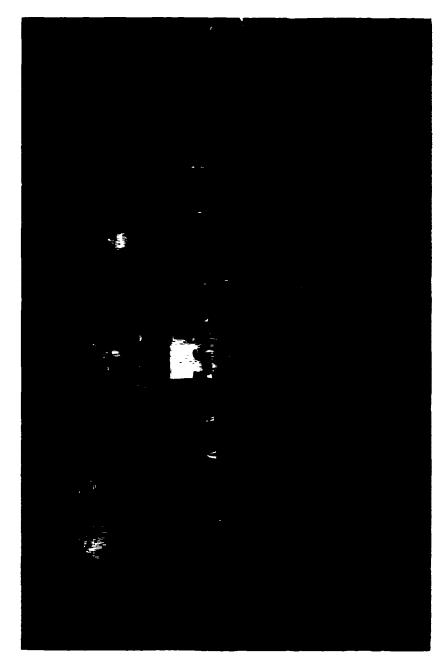
#### Paragraph 1

Before taking up their duties, the Judges shall take, at the first public session of the Court at which they attend after their appointment, the following oath:

"I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court."

#### Paragraph 2

The oath may be taken with all the customary rites and ceremonies provided for in the internal legislation of the Judge's country.



The Court of Justice as newly constituted.

Photo: European Communities

## Curriculum vitae of Cearbhall Ó Dálaigh

Born 12 February, 1911; Education at Christian Brothers School, Synge St., Dublin, and University College, Dublin (graduate in Celtic Studies, 1933); Barrister, King's Inns, 1934; Senior Counsel, 1945; Bencher of King's Inns, 1946; Attorney General from April, 1946 to February, 1948 and from June, 1951 to July, 1953; Judge of the Supreme Court from July, 1953; Chief Justice from 16 December, 1961.

Member of the Council of State. Member of Cultural Relations Committee of Ireland since 1952 and Chairman since 1959. Chairman of Committee of Inquiry into taxation of Industry, 1953 to 1956. Chairman of Irish Legal Terms Advisory Committee since 1953. Chairman of Commission on Income Taxation from 1957 to 1962. Chairman of Commission of Inquiry into accommodation needs of Constituent Colleges of the National University of Ireland, 1957 to 1958. Chairman of Commission on Higher Education, 1960 to 1967.

Judge at the Court of Justice of the European Communities since 9 January 1973.

#### Curriculum vitae of professor Max Sørensen

Born 19 February, 1913 in Copenhagen; Legal Studies at the University of Copenhagen and the Institut Universitaire des hautes études Internationales, Geneva. Candidatur juris, 1938; doctor juris 1946. Doctor honoris causa at the Christian Albrecht University, Kiel, 1964. Service with the Ministry of Foreign Affairs of Denmark, 1938-47. In post in Berne 1943-44 and in London 1944-45.

Professor of International Law and Constitutional Law at the University of Aarhus since 1947, also taught Administrative Law up to 1964. Has given the following courses at The Hague Academy of International Law: "The Council of Europe", 1952 and "General Course on the Principles of Public International Law", 1960.

Representative of Denmark or member in a personal capacity of various committees and commissions of the United Nations and the Council of Europe. Member of the Committee of Experts on Application of the Conventions and Recommendations of the International Labour Organisation, 1954-62. Member of the European Commission on Human Rights since 1955 and President of the Commission, 1967-72. Legal Adviser to the Ministry of Foreign Affairs of Denmark since 1956. Leader of the delegation of Denmark to the United Nations Conferences on the Law of the Sea, Geneva, 1958 and 1960. Ad hoc Judge nominated by the Governments of Denmark and the Netherlands to the International Court of Justice for the cases concerning the North Sea Continental Shelf, 1968-69. Member of the Permanent Court of Arbitration. Member of the Institute of International Law.

Member of the ad hoc group for examining the problem of increasing the powers of the European Parliament ("Vedel group") set up by the Commission of the European Communities, 1971-72.

Judge at the Court of Justice of the European Communities since 9 January 1973

## Alexander John Mackenzie Stuart

Born .

18 November 1924

Educated:

Fettes College, 1938-1942

Open Scholar — Governor since 1962

Sidney Sussex College, Cambridge Scholar

1942 — War Office Engineering Course

1947-1949 — Law Qualifying II (1st Class)

Law Tripos Part II (1st Class)

Edinburgh University

1951 LL.B. (with distinction)

Married:

4 daughters

War Service:

Royal Engineers, Northern Europe (1944-1945) and (1945-1947) Burma

1951:

Admitted to Faculty of Advocates

1956 :

Standing Junior Counsel - Scottish Home Department

1957-1963:

Standing Junior Counsel to Inland Revenue in Scotland

1963:

Queen's Counsel

1970 :

Elected Keeper of Advocates' Library

1971:

Sheriff Principal of Aberdeen Kincardine and Banff.

1972:

Appointed Judge of Supreme Court of Session

Convener of the Faculty of Advocates Committee on problems arising

from the EEC.

Committee member Scottish Lawyers European Group — a joint group

of Advocates, solicitors and academic lawyers.

Since March 1971 Scottish observer on behalf of the Faculty of Advocates

at the Commission Consultative des Avocats.

Chairman of Council of the Stair Society.

Author of various articles on Scottish and Franco-Scottish legal history.

Scottish and English Law Commission-member of joint Advisory Panel

on the Codification of the Law of Contract.

Scottish Universities Law Institute, Chairman Advisory Panel on forth-

coming publication on Law of Trust.

Served as assessor or external examiner in various subjects at Cambridge, Dundee and Edinburgh.

Judge at the Court of Justice of the European Communities since 9 January 1973.

#### Curriculum vitae of I.-P. Warner

24 September 1924: Born in Kensington of an English father and French mother.

1929-1943: Educated, at Ste-Croix-de-Neuilly, l'Ecole des Roches, Harrow and at

Trinity College, Cambridge (History Prelim.).

February 1943: Joined British Army.

1943-1947: Commissioned into the Rifle Brigade, Served in N.W. Europe and S.E.

Asia. Ended military career as Acting Major, G.S.O. II (Ops.), G.H.O.,

Far East.

1947: Returned to Cambridge to read law.

1948: Obtained 1st in Law Tripos Pt. II = B.A. (Cantab.)

January 1950: Called to the Bar by Lincoln's Inn. Cassel scholarship.

1950-1972: Practised at the Chancery Bar.

During this period: -

1. Professional appointments —

1961-1964: Junior Counsel to the Registrar of Restrictive Trading Agreements.

1964-1972: Junior Counsel to the Treasury in Chancery matters (first Counsel

to the Crown in Chancery matters after the Attorney-General and

the Solicitor-General).

1966: Bencher of Lincoln's Inn (Member of the Administrative Council).

1969-1972: Member of the General Council of the Bar of England and Wales.

2. Political Activities -

Member of various Committees of the Inns of Court Conservative and Unionist Society, e.g. the Executive Committee, the Taxation

Committee and the Rule of Law Committee.

1959-1968: Councillor, Royal Borough of Kensington and (after reorganization

of London Government) Royal Borough of Kensington & Chelsea.

For two years, Chairman, General Purposes Committee.

#### 3. Other distinctions

Membre de la Confrérie des Chevaliers du Tastevin. Subsequently: Commandeur. 1952:

Director of Warner & Sons Ltd. Member of Livery, City of London Weavers' Company. 1952-1970 :

November 1972:

Queen's Counsel. Advocate-General of the Court of Justice of the European Communities since 9 January 1973.

#### WELCOME TO THE COMMISSION

# Speech by Mr Robert LECOURT

Mr President of the Commission, Vice-Presidents, Members of the Commission,

In the Communities also, custom often has the strength of law.

We cannot now therefore, in welcoming the States, some of which are ruled by the law of precedent, change the practice which has become customary of bringing together our Institutions on the occasion of the solemn promise which the Members of the Commission are making on taking up office. Indeed the opportunities for such meetings are too rare for us not to take satisfaction in making the most of them.

Certainly the separation of powers within the Communities rightly causes there to be a high barrier between our institutions although both have, among their duties, received from the treaties the mission to conserve the foundations of the Communities. It no less remains true that the role of the Commission is one of initiative and action, that of the Court being to guarantee due process and legal control. The former is, with the Council and the Parliament, an instrument of economic, social and political integration, the second is, simply by exercising its function, a means of legal integration. But both have an essential vocation in common which they share with the other Institutions: carrying out the objectives of the treaties.

Whereas forming ideas, preparing and executing them are thus the role of the Commission, whereas determining and making decisions are characteristic of the Council, whereas the task of orientating and instigating belongs to the Parliament, the function of the court is, without ever leaving the judicial framework, to apply and interpret the texts related to these objectives. The Commission is action, the Council will, the Parliament impulse, the Court protector of the treaties. But these functions converge towards a concrete aim: to define a common will and put it into practice.

It is therefore on a healthy realism that our various institutions are nourished. And the realism also consists in not pushing aside the share of idealism and progress which the facts can support. The Community must be capable of deciding but, having decided, should see its decisions executed in every case. On this vital ground Commission and Court unite to reach the same goal. Since "laws without teeth fall into contempt", it is on the vigilance of the one that rests, primarily, the respect of the law which the other sanctions.

Thus whether it is initiative, proposal or execution, the role of the Commission is of first importance. Should it ever fall into disuse, the Communities, deprived of a motor element like a secular arm, would become a body without muscles. Who would then express, under the pressure of centrifugal forces, the imperatives of the common interest?

But the Community is also essentially cooperation. Each of our Institutions is inserted in an organic frame, which leads it to converse continually with the others, in respect of reciprocal prerogatives, but also with a necessary reciprocal confidence.

The tasks of the Commission have appeared from the beginning to be complex, thankless and a target for criticism. It is also fair to recognise the merits of all those who have fulfilled them with faith, conscientiousness and efficiency.

It is however at the same time pleasant to observe that henceforth in carrying these out, the personal values, the experience of responsibility and the authority of the Members of your Commission constitute, Mr President, Gentlemen, a trump card of high value, especially at this time when the Community is welcoming three new Member States and 60 million subjects.

Whether it has been in the context of politics or diplomacy, national or Community, the career of each one of you, lends to your Commission an armoury which holds out every promise for the future. Whatever technical difficulty — however important it might be — who would not wish to possess the ability of one or several of the present or new Commissioners to deal with it? Could there ever be such a delicate question with both emotive and stirring themes for which an original solution could not be found.

Under the drive of a President who has experienced high administrative responsibilities both European and national and has had a long career in government, with the support of the six Commissioners who are remaining in office, whose experience, wisdom and dynamism constitute an essential contribution and of the six new Members brought up in public affairs in the exercise of governmental or diplomatic responsibilities and which make your Commission open to initiative and action, the Commission is thus enabled to propel the Community, in liaison with the Council and the Parliament, towards the heights of expected progress.

The Court, Mr President, Gentlemen, confidently looks forward with pleasure to all this and welcomes you wholeheartedly, whilst at the same time it gives you its ardent wishes for the success of your great mission.



Mr François-Xavier Ortoli, President of the Commission of the European Communities, making his speech at the Court of Justice of the European Communities

# Speech made by Mr François-Xavier ORTOLI, President of the Commission of the European Communities, at the Court of Justice of the European Communities in Luxembourg on 9 January 1973

Mr President, Members of the Court,

I should like, first of all, on behalf of all my colleagues, to thank the Court for the welcome it has given us today, and in particular President Lecourt for his speech in which he has given us much food for thought.

For the new Commission, this ceremony marks its first contact with any other Institution of the Community. It also marks the continuity of the tradition founded by our predecessors, a continuity which is symbolic of the links established over the years between our two Institutions, and the solemn undertaking entered into under the Treaty of 8 April 1965 by the members of the European Commission.

The solemn character of this undertaking is further enhanced by the presence of the Ministers of Justice and the senior Law Officers of the Member States, whom I should like to thank for having kindly agreed to be with us at this meeting.

A new phase is beginning in the construction of European union. Only with the political will of the governments, the support of our peoples, the imagination and drive of the Community Institutions, will it be possible to ensure the success of this great enterprise. Among the Institutions of the Community, the Court of Justice will have a major role to play. In the diversity of cultures, traditions and legal systems which make up the enlarged Community, the judgments of the Court will be, to an even greater extent than in the past, a source of clarity, precision and unification. The expansion of the Community's activities will be seen in the steady permeation of national laws by Community law.

To the Commission, which is the organ of political initiatives but also, like the Court, the guardian of the Treaties on which both the Community and its developments are based, the Court will, I am quite convinced, continue to be the enlightened partner it always has been. For that reason, I should like to convey, on behalf of the Commission, our thanks in advance to the Court of Justice.

#### SOLEMN DECLARATION

made by the Members of the Commission of the European Communities, under Article 10 (2) of the Treaty establishing a single Council and a single Commission of the European Communities, before the Court of Justice of the European Communities at Luxembourg, dated 9 January 1973.

Upon my appointment as a Member of the Commission of the European Communities by the Governments of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland, I solemnly undertake:

to perform my duties in complete independence in the general interest of the Communities;

in the performance of my duties, neither to seek nor to accept instructions from any government or body;

to refrain from all conduct incompatible with the character of my duties.

I formally note the obligation of each Member State to respect this character and not to seek to influence Members of the Commission in the performance of their tasks.

I further undertake to respect, both during and after my term of office, the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after I have ceased to hold office, of certain appointments or benefits.



The Commission of the European Communities, January 1973.

Photo: European Communities