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TILBURG LAW REVIEW 20 (2015) 105-106

Tilburg
Law Review

brill.com/tilr

Introduction to Judicial Law Making

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During 4 years I had the honour to teach together with prof. Willem Witteveen the course called "Judicial Law Making" in the joint Tilburg-Leuven "research master in law" program. The students had to conduct a research project in small groups on different subtopics around a common theme and we coached them with lectures, and class discussions leading to presentations and papers by the students. Willem usually started with a chapter from a recent book on the relationship between law and politics or the politics of judges and had a special interest in countries with a relatively young and activist Constitutional Court, such as Canada or South Africa or Israel.

In this issue, shortened versions are published from some of the papers the student wrote in the last year of Willem Witteveen. The concept of the course in that year was his. He proposed to study the three highest courts that are clearly involved in lawmaking (the American Supreme Court, Court of Justice of the European Union and the European Court on Human Rights) to investigate both the differences and similarities between them. Three subtopics were studied for each of these Courts. The papers published in this issue have been chosen because they are parallel studies on the interpretation methods used by these Courts.

Each time I arrived in Tilburg and greeted him in his office, he introduced me to the most recent books published in the field. I was always wondering how he succeeded in studying them so soon, as if he was able to read them even before they were published. We shared sufficient interest and convictions to be able to work together but not so much that it would make our cooperation uninteresting for ourselves and the students; I believe we were rather complementary in our expertise and opinions. Willem did seem to have a greater belief in the possibility to guide a society in harmony on a path to progress, and

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in the ability of judges to do this, I felt more the necessity to stress the inevitability of conflict and dissent in a democratic society. The fact that we loved to debate also a bit in class was not always understood by our students; one of them wrote in the evaluation of the course that it was a pity that we did not get along; mais on ne taquine que ceux que l'on aime. In the tragic circumstances of July 17, 2014 we know, I lost a wonderful colleague, his wisdom and work will continue to inspire us.