Laudatio for Lord Rodger of Earlsferry

_Honorary promoter professor Laurens Winkel_

I will speak in praise of a man with an exemplary career in the judiciary, a high rising career, first as an advocate, later as a Solicitor General, Lord Advocate of Scotland, judge and Lord President of the Court of Session in Scotland. Since 2001 he acted in London as a Lord of Appeal in Ordinary, the so complicated name for the highest judges in the United Kingdom, and finally for the last two years he acted as a Lord Justice in the Supreme Court of the United Kingdom, after the transition of the judicial power from the House of Lord to the actual Supreme Court had taken place. As the Lord-Advocate and as a judge in Scotland he had already taken courageous and far reaching decisions which were not always well received on the political level. Even today traces of these decisions can be found on the internet. Judges in the common law in the UK do have much more personal contribution than the judges on the Continent due to the effect of the secrecy of deliberations. ... Lord Rodger was undoubtedly a great judge.

I speak in praise of a scholarly life dedicated to the study of Roman law. After studies in law at Glasgow University he left for Oxford to specialize further in Roman law. I should quote here an excellent book on the law of owners and neighbours in Roman law based on a manuscript which originally served as his doctoral dissertation at Oxford in 1972. Nearly forty other important contributions to Roman law, legal history and law in general were subsequently published. Among them another book about the legal consequences of a theological dispute in the Church of Scotland in the 19th century, a topic all too familiar to Calvinistic Dutchmen and recently paired
with a PhD on a comparable topic of 19th century Dutch church history and legal history at this university… Lord Rodger specialised in some less researched, but equally important and eminently practical topics: for example he wrote on the legal problems of the distribution of water in Roman law, in the Italian climate a very important issue. With one of his teachers, the Regius Professor of Civil Law at Oxford, Tony Honoré, he wrote on the problems of the composition of the Digest of Justinian, our main source of Roman law. An intriguing question can be brought forward here about a unique phenomenon: within a very short period of time a complicated order was created in a huge mass of ancient legal literature, which was reduced to a compendium and promulgated as a statute in 533 by the Emperor Justinian. This is what is commonly known as the Digest. I would like to mention here his famous article “How the Digest Commissioners worked” published in the leading German Zeitschrift der Savigny Stiftung für Rechtsgeschichte 1970 where this question was dealt with since at least 150 years. Even when we do not accept all the statistical data the authors used, it was however an important step forward.

As an advocate and a judge, procedural law of course attracted his attention as well, so he wrote convincingly on problems concerning the claims of property in Roman law. But it was not only Antiquity which intrigued him. He was aware of the interest of the history of scholarship on Roman law as well. Very dear to him was his other Oxford master, David Daube, a refugee from German persecutions in the Thirties of the last century, who eventually became one of the leading scholars of Roman law of his time. Lord Rodger wrote a very impressive and moving biography of his master in the book “Jurists Uprooted”, a tribute to a generation of Jewish German jurists established in the Anglo-Saxon legal world…. 
He also published in The Legal History Review which is the pride of Dutch legal historians, founded by Eduard Maurits Meijers in 1919 and till this day a leading journal in the field. In 2010 he published two articles in the Savigny Zeitschrift, another famous quality journal. In the same year he was one of the key note speakers in the periodical German convention called the Deutsche Rechtshistorikertag, in Münster. Beside all this, Lord Rodger regularly taught at his former university of Glasgow as a honorary professor and occasionally he also taught at Oxford. He did that with great pleasure. Lord Rodger was an impressive and inspiring scholar and teacher indeed.

I will speak in praise of an unselfish commitment to the community of legal historians. As example his membership of the Giuria del Premio Boulvert since 2004 should be mentioned. Once every three or four years prizes are awarded world wide for outstanding first publications in the field of Roman law and other legal systems in Antiquity. This Giuria is formed by an international committee of reputed scholars, all this under the patronage of the President of the Italian Republic. The work for it is time consuming and not always easy. For each session long meetings are required. Lord Rodger was present as much as his judicial duties allowed him to ….He truly was a born source of inspiration for younger people.

I will speak in praise of a modest scholar, blessed with refined British humour, someone with a good feeling for compromise, with many diplomatic talents. He was far from the vanity which unfortunately is so common in universities.
For all these reasons the Erasmus University has decided favourably on the proposal of its Faculty of Law to bestow upon Lord Rodger the degree of *doctor honoris causa*.....

A doctorate *doctor honoris causa* for academic performances in the field of Roman law and legal history is not very common here in the Netherlands. As far as I have seen, only four times this honour has been bestowed upon legal historians in the Netherlands since 1900: Francois Olivier Martin in Utrecht (1952), Egidius Strubbe in Leyden (1968) and Dieter Nörr (1990) in Amsterdam and 2011 Lord Rodger of Earlsferry at Erasmus University.

These branches of scholarly work in our law faculties, Roman law and legal history, are not the most profitable ones. They are prone to budget cuts on the financial and the formative level, as hardly anyone in business life is willing to sponsor such research. Nevertheless, it is core business from a scholarly point of view. It is through this kind of research that the proof is delivered for the high rank that the faculties of law normally take in the university hierarchy. In many universities the chair of Roman Law is the oldest one! Foundations of actual law are scrutinized, the origins of legal systems are revealed, for example of great importance for the unification of European private law, important also for the hidden links between the branches of law that have now become so diversified. It is here that early attempts of systematization are analyzed which enable the jurists to show that what they do is different from the methods of natural science, but is equally truly academic.... One could learn lessons from the study of legal history which could prevent us from repeating the errors made in the past. Research here is not easy to frame within some main themes, like Security
or Human Rights, which are so dear to the modern university administration, at least here in the Netherlands. It is the task of legal historians and Romanists to reformulate too narrowly conceived research topics. Their vocation is to show complicated links and so to effectuate the ideal of “inzicht in de samenhang van wetenschappen” translated approximatively as “perception of the cohesion of sciences” which is the statutory duty of all activities in universities.

How very satisfactory for Lord Rodger and for our university it would have been, if Lord Rodger could have attended this ceremony! But he would have tried to minimize the praise given to him, and undoubtedly he would have smiled occasionally. Unfortunately a serious illness took him unexpectedly away in June after he had wholeheartedly accepted the doctorate honoris causa of our university.

On behalf of the Erasmus University I do thank his family for having consented to come here and to receive the bulla promotionis (in Latin and in English) on his behalf. As for myself, I will never ever forget the human and academic personality which Alan Rodger has displayed.