he published a short criticism of Feuerbach’s theory of criminal law. It is an excellent illustration of his good sense; it discriminates between what is good and what is unsound and crude in the writings of criminal law reformers; it recalls in many ways the speculations of Bentham. The same year appeared Thibaut’s essay *Ueber Besitz und Verjährung.* In 1803 Thibaut was called to Jena, where he spent three years, made happier than they otherwise would have been by intercourse with Goethe and Schiller. At the invitation of the grand-duke of Baden he went to Heidelberg to fill the chair of civil law and to assist in organizing the university ; and he never quitted that town, though he received in after years, as his fame grew, invitations to Göttingen, Munich, and Leipsic. His class was large, his influence great ; and, except Hugo and Savigny, no civilian of his time was so well known. In the work of the university he took an active part ; and he cultivated with rare devotion his favourite art. In 1814 appeared his *Civilistische Abhandlungen,* of which the prin­cipal was his famous essay, the parent of so much litera­ture, on the necessity of a national code for Germany. He had no wish to enter into official or practical life. “I am Professor Thibaut, and wish to be nobody else.” In 1819 he was appointed representative in the first chamber of the Baden parliament. He was also made member of the Scheidungsgericht. In 1825 appeared anonymously his work *Ueber die Reinheit der Tonkunst,* in which he eulogized the old music, and especially that of his favourite master, Palestrina. It involved him in a contest with Nägeli and other admirers of the new school of music, whose merits Thibaut was somewhat slow to own. This has been translated into English by W. H. Gladstone. In 1836 Thibaut published his *Erörterungen des römischen Rechts.* One of his last works was a contri­bution in 1838 to the *Archiv für die civilistische Praxis,* of which he was one of the editors (see below). He died peacefully, full of years and honour, on the 29th of March 1840.

Thibaut was of the middle height and broad-shouldered, his eyes bright and piercing, his head noble and striking ; his whole appearance told of power, simplicity, and reserve. All who knew him speak of his strong personality, his manly consistent nature. Young men loved him, and he drew to the young. If he sometimes signed his letters *“Semper idem* A. F. J. Thibaut,” it was not a phrase. Every incident told of him has a curious flavour. He was much more than a jurist: he deserves to be remembered in the history of music. Palestrina and the early com­posers of church music were his delight. “ Jurisprudence is my business ; my music room is my temple.” His friend, Dr Baumstark, has left an interesting record of his musical pursuits and of the work of his “ Sangverein ” at Heidelberg. Among the masters of German prose Thibaut holds no mean place. Nothing could be clearer, more unpedantic and unpretentious, than his exposition ; his prose is scarcely inferior to Lessing’s. Like his speech, his written style was simple and manly, but it is simplicity marked by care, and is rich in the happy accidents of expression which come only to true artists. He liked the old classical models ; he read and reread the classics, ancient and modern, his taste being catholic enough to include Plato and Chrysostom, Montaigne, Hume’s *Essays,* Adam Smith’s works, Ferguson’s *Essay on the History of Civil Society* (which he particularly admired), and the later developments of German literature.

Most of Thibaut’s works have already been mentioned. Several of them, however, deserve further notice. And first as to his essay on the necessity of a code for Germany (“Ueber die Nothwendig­keit eines allgemeinen bürgerlichen Rechts für Deutschland”). No more persuasive argument for codification was ever advanced. It has all the vigour of Bentham’s arguments for the same cause, but is without his pamphleteering recklessness of expression. Unlike Hugo, whose education dated back to the time when French literature was supreme in Germany and who felt himself somewhat a stranger to later German culture, Thibaut was of his own time, sensitive to the great change which had come over Germany after the battle of Leipsic, conscious of the insufficiency of Roman law, and eager to promote the greatness of his country. In his con­tribution to the Archiv für die civilistische Praxis, in 1838, on “ the so-called historical and unhistorical school,” he tells the history of his memorable essay on the necessity of a code for Germany. He had seen many German soldiers in 1814 about to march to Paris. He realized the change which this denoted ; and out of the fulness of his heart he wrote the essay in a fortnight. The mode of treatment is more comprehensive than the theme ; and to-day, perhaps partly for this reason, the essay is as readable as it ever was ; jurists have not yet carried out all the sug­gestions which it contains. For Germany, its soil freed and its honour vindicated, a happy future had, he predicted, been opened up. " The division into small states was inevitable, and not to be deplored. The existence of great states is always in a sense unnatural ; it implies a warm life only at one point,—a constant repression of individuals for a common object, and no real unity between the rulers and the subjects. In a land of small states, on the other hand, the peculiarity of each has full play ; there is development of variety, and the unity of princes and people is deeper and more living.” The only unity practicable and needful in Thibaut’s judgment was one of law ; and for such all the German Governments should labour. His review of the state of jurisprudence in Germany is severe ; it recalls the contemporane­ous criticisms passed by Bentham on English law. Thibaut pointed out luminously the contrast between the fundamental conceptions of Roman and German society, and the inadequacy of Roman law to supply defects in German jurisprudence. It was not pleasing to many jurists to be told that a few lectures on the laws of the Persians and Chinese would do more to awaken a true judicial sense than minute disquisitions on the Roman law of intestacy— observations the full effect of which Thibaut himself did not perhaps conceive. The essay was as much a condemnation of the entire state of jurisprudence as an argument for codification ; it was a challenge to civilians to justify their very existence. Savigny took up the challenge thus thrown down ; and a long controversy as to points not very clearly defined took place. The glory of the controversy belonged to Savigny; the real victory rested with Thibaut. By recent legislation Germany has carried out some of the ideas of Thibaut ; and others indicated but not developed in his essay remain to be completed by a scientific school of jurists. One of his works best worth reading is his Theory of Construction. Though directly applicable to Roman law, it is of general use. The subject is divided into two branches—“Interpretation nach der Absicht des Gesetzgeber” and “Interpretation nach dem Grunde des Gesetzes,” or, as Austin expresses the distinction in a marginal note on his copy, “ What the legislator would have con­templated had he conceived his purpose completely and distinctly, and what the legislator actually contemplated.” It would be inter­esting to compare the rules of interpretation stated by Thibaut with the rules of construction, familiar to English lawyers, laid down by Coke in Heydon’s Case, 3, 7b, Reports. Thibaut’s best-known work is on the Pandects (System des Pandektenrechts, 3 vols., 1803), a part of which was translated by Lord-Justice Lindley. He was one of the earliest to criticize the divisions found in the Institutes, and he carried on with Hugo a controversy as to these points. Thibaut’s own classification earlier is unsatisfactory. He divided the subject into public law (that which treats of the relations between Government and subjects), private law, and international law. Public law he subdivided into constitutional law (Staats­recht, the laws binding on the sovereign) and administrative law (Regierungsrecht, or criminal law, and laws relating to finance and police). The laws relating to civil process were dealt with partly under administrative law and partly under private law. Status was placed partly in the former partly in the latter ; and the law as to guardianship and parental authority is treated as a part of the law of police. Thibaut, however, abandoned in practice this unscientific division. One of his most interesting works is his posthumous treatise on the “Code Civil,” Lehrbuch des französ­ischen Civilrechts in steter Vergleichung mit dem römischen Civil- recht. While criticizing the code, which he designates as in the highest degree unsystematic, he recognizes in, it merits which German jurists of his time were reluctant to admit

In modern German legal literature Thibaut’s influence is not very perceptible. Even at Heidelberg it was quickly superseded by that of his successor, Vangerow, and in Germany his works are now little used as text-books. But those best able to judge Thibaut have most praised him. Austin, who owed much to him, describes him as one “ who for penetrating acuteness, rectitude of judgment and depth of learning, and eloquence of exposition may be placed, by the side of Von Savigny, at the head of all living civilians ; ” and elsewhere he praises Thibaut’s indefatigable perseverance and