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FRANCE

27 January 1979

Saturday morning.

Dear Dan,

I very much enjoyed your letter as it had been so long, or at least seemed so long, since I had any word of you at all. The closing out of all hope for the recovery of at least some of your sight is a cruel blow. I shall say no more. I have thought of you often in the past six or seven months as I knew the operation was scheduled.

The thought that you almost got here last Fall and are still keeping in mind the invitation cheers me up. We would love to have you whenever you care to come. I hope that you will come at some time when you would like a rest and stay at least a week so that we can talk at a more leisurely pace, rather than sandwiching a short trip in-between a longer one, although we would welcome you and Jan with great pleasure either way.

I would very much like a reprint of your Georgetown article if you have one to spare. I have just finished a very quick reading of the long piece in the June Harv. L. Rev. by Hellman on the Business of the Sup. Ct. He refers to your book with Carrington & Rosenberg (sp.?) that I remember you were working on but have not seen. I thought the piece was well done, although I no longer follow closely the work of the Court. I have, however, devoted some thought to comparative ways of training judges on the bar and the overall results of the US system compared to the French. The French system of training judges looks good on paper. There is a symmetry and logic that appeals to our eternal yearning for these things that Holmes alluded to, but the result is ill as Holmes correctly pointed out. There is a close analogy, I think, between the French judiciary and the American consular. They are both civil servants fitting into a preset hierarchy concerned with promotion or rather doing nothing to impede the promotion that normally comes with time, statistics, and job localism. I have had judges here accelerate a case and decide it when not ready so that they could increase their caseload for quarterly statistical purposes which they must send on to the Ministry of Justice. I suppose this kind of thing is inevitable when you have a civil service type of organization. Justice also suffers here severely from the fact that the bar is appallingly bad. I suppose

it is bad in the U.S. too. As I recall the Commonwealth of Virginia was represented by Reno Harp whom I suppose was not entirely atypical of the practicing bar. What differs in the U.S. is that there exists a segment of the bar that is highly competent and sets an example or a tone for the profession. The equivalent does not exist here, and the work of the judges suffer accordingly. The bar really has no notion of how to prepare a case for litigation, astonishing as that assertion must sound, particularly when that is essentially all the bar does here. This in turn is partly the result of the fact that the brightest people do not go into law here and that there really exists no law school in the American sense and that there is not an easy movement between the teaching profession, practitioners, government lawyers, and company counsel. A French law school more closely resembles an undergraduate major in political science than what we consider the study of law. The problem is also made more complicated by the splintered organization of the profession. What is curious, though to my way of thinking, is that although both judges and lawyers lack the professional competence that exists in the U.S. and the difference is significant, on the balance I am not certain whether the public is better off under the U.S. system or the French system. I think that probably for the bulk of litigation the French system may have the edge as the better one. I conclude this because it has two virtues that I think probably should weigh quite heavily in any assessment of the justice of a system. By US standards it is both cheap and quick. A third virtue, found in the US as well, but not found in most countries is that it is honest. A system that is honest, inexpensive, and rapid has so much going for it just from those three points that it would be exceedingly difficult for any other system to be assessed as better. When I think that I have a client who spent close to 30,000 dollars just to get a temporary restraining order in the Calif. courts and that the equivalent here would cost about 1000 to 1200 dollars, I wonder if there is not a lot to be said for simplifying the system. As for the results under the French system from a legal point of view, they do not appear to differ too significantly from the results that would obtain if you used a system of flipping a coin which would be even cheaper but would lack the trappings of justice. (The trappings of French justice are almost as elaborate as the trimmings of a French meal.) This estimate may be a bit severe but not much.

Of course I still want a photograph, although not if it's going to set up a block to your writing. Why don't you simply have Jan pick something out and send it along? A man can't have lived a half century and not have some photographs around. I would prefer something smaller than a lifesize print and larger than a snapshot. Hardy's and Justice Black's seem to run about 8 by 10 inches and that seems to be a good size. Incidentally, you now share a link with Miyazawa Kenji, a Japanese poet, as we had a second child about six months ago named after you and the poet: Daniel Kenji Sokol who already shows great promise. Have run out of paper. As ever,

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The above was taken from a letter dated 27 January 1979 from Ronald P. Sokol to Daniel J. Meador, Assistant Attorney General, U. S. Department of Justice.