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I am not infrequently asked by Ronald P. Sokol  
respect of American B.P. 3  
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France

Begun on 21 July 1991..... Continued on 20 September 1991

Dear Dan,

It took quite a while for West Publishing to get your book on American Courts to me, but I have had it now for awhile. I read through it from cover to cover in June and found it of great interest for myself as a refresher on the changes that have occurred in the federal courts over the past 25 years. I have since gone back into the book and reread parts of it.

I personally found it interesting and useful. As a guide to law students, I would think it should be of considerable use as it brings together in one place in condensed form a great deal of information.

As a guide to foreign lawyers and foreign law students, I am less certain. When I think of the vast differences between the American legal system and the French legal system, not so much in terms of the actual black letter law but of how the two systems actually function, I conclude that each system must be incomprehensible to the practitioner in the other system. I am reminded of Wittgenstein's statement that to understand a language is to understand a way of life which he illustrated by saying that "if a lion could speak, we would not be able to understand it."

The only way to begin to understand either system is to see it function. From reading about the system one can get some idea of what the system aspires to, but less of an understanding of the breadth of the gap between its aspirations and reality.

It may be possible to get a greater idea of how our system works from reported cases because of the detail of our judicial opinions. Still, our reported opinions do not give any idea of the discovery process which dominates American litigation. Nonetheless, one must begin somewhere, and I think your book succeeds very well in what it sets out to do. The serious foreign student must move on from there.

Professor Daniel J. Meador  
21 July-20 September 1991  
Page 1.

I not infrequently have the task of trying to explain some aspect of American law, procedure or practice to French attorneys, and it is no easy matter. Our discovery procedure is almost incomprehensible to both French clients and lawyers because there is no equivalent here.

The fact-finding process here is very superficial and therefore less costly. French clients and their lawyers are not easily able to comprehend the power of American courts and lawyers to ferret out evidence. They are also not able to comprehend the power of American judges.

In a sense this stems from the different role that the judicial system plays in the two countries. In the U.S. it plays a major role; it is one of the critical players in American life and sometimes the major player. In France, it plays a minor role and is never a major player. Issues that get resolved in the courts in the U.S. get resolved here usually through the Executive Branch directly or as a result of the Executive Branch taking the initiative and getting the legislature to resolve the issue. The judiciary is relegated to really quite a peripheral role. Obviously this means that the lawyer's role is more peripheral as well.

After 18 years of practicing here I have concluded that the country is, comparatively speaking, very well governed. The judicial system, however, does not function very well, but as it occupies only a peripheral role, it probably does not matter a great deal other than to the advocates and magistrates and losing litigants. Brandeis' statement that it is more important that cases be decided than that they be decided rightly has been nearly carried to its logical conclusion here. The logical extreme, I suppose, would be eliminating judges altogether and deciding cases by the flip of a coin. While such a system would obviously be unacceptable, it would have the virtues of honesty, economy, and speed.

I recall your pointing out the significance of the physical presence of the courthouse. In fact, you do so in your book on American Courts, but where I recall it more vividly was in your remark that when visiting Moscow you could not find the courthouse. The taxi driver did not know where it was.

It is interesting to me to compare the physical condition in France and the United States of these public buildings. In the U.S. it is obvious that substantial sums of money are spent by government in order to have modern courthouses. Here little or no money is spent. Money is spent on medical facilities, public housing, roads, trains, airports, primary

schools, and on cultural activities but very little on the physical accoutrements of justice.

In part this reflects a difference in the over-all wealth of the two countries, but it also reflects a difference in priorities, and in France the judicial system and justice generally are not very high on the list.

..... Continued on 20 September 1991.....

Since beginning this letter we had a very pleasant visit from Stewart Pollock, his wife and another couple. We took them out for lunch and very much enjoyed spending the afternoon with them. I appreciated your sending him this way as such contacts are one of the missing elements of having a law practice in the hinterland, even though it is a civilized hinterland.

I had lunch this week with one of the senior partners at Coudert Brothers in Paris. They have about 60 lawyers there. This partner was responsible for hiring, and he said if he were a young man he would not go into law today because it has gotten too competitive and growth has stopped.

I was surprised at this. My oldest son André who is 19 will enter the University of Exeter in England this year. His plan is to go to law school in the States after getting his degree in England. I was thus disturbed to hear such a pessimistic report from someone in a position to know. Do you have any thoughts on this subject?

I have found recently that I miss teaching. Perhaps this is because I would like to write down some of my ideas and experiences after almost 20 years of practice here, and I know how helpful teaching is to clarifying one's thoughts and expression. However, my family obligations are apt to keep me tied up for at least another two or three years. After that, I may be able to allot some daily time to writing.

In the last two years our life has taken a radical turn in that we discovered purely by chance that three of our four children have musical talent and George who is number 3 is awash in talent. The three youngest are all playing the piano, and George who is 11 has plunged full speed ahead destination unknown. It is quite exciting to have a child gifted in this way, and it is providing me, as well as George, with a whole new world to explore. Our entire family is thoroughly enjoying this adventure.

Professor Daniel J. Meador  
21 July-20 September 1991  
Page 3.

While George seems to have an unusual gift, your namesake Daniel who just turned 13 in August is not far behind him.

This is the first year in some time that I have not been back to the States at all. I have no immediate trip planned, but I shall try to work Charlottesville into the next trip I do make, if it is at all possible. It has been too long since I have visited with you.

As ever,