

January 6, 1988
Irola 2000

Dear Dan,

I apologize for the long delay in responding to your letter. Running a small law office is a time-consuming operation, occasionally even all-consuming.

I did read your Lamar article at once and greatly enjoyed it. It brought back a flood of fond memories of our discussions a quarter of a century ago. I was pleased to find in your article a reference to Henry Adams that I thought I recognized, and even more pleased when I went back to my edition of the Education of Henry Adams and easily found the passage which I had marked, thus giving me the pleasure of knowing I had made a small contribution to your piece.

Your letter and article arrived just a few days before I had lunch with

Judge Martin of the N.C. Supreme Ct. He was able to update me a bit on you and your judges' school and I was able to give him a little insight into the judges' school at Bordeaux so that he might pass the info on to you and thus disillusion you of any imaginings that you might have that France has somehow perfected a better system for the training of judges.

Judges have one low paid civil servant. They have about the same amount of independence as an asst. prosecutor in a U.S. atty's office. Most of the time they are independent and left alone, but if anything important comes up they are subject to being overruled by the U.S. atty. and if it's really important by the Atty.-Gen. and eventually the President.

When France recently expelled an Iranian who had been holed up in the Iranian embassy in Paris in exchange for the French consul general when the Iranians had kidnapped in Tehran,

the Iranian in Paris was first taken before an examining magistrate, the equivalent of a Federal district judge, France had been insisting that this Iranian could not be expelled because there was evidence that he had committed crimes in France. As he had no diplomatic status he was to be tried. When France decided that diplomatically it made more sense to exchange him, the examining magistrate simply became a pawn in the diplomatic game and was told by his superior, the Minister of Justice (the equivalent of the Atty. Gen.) to do a perfunctory examination and release him. The exam. magistrate could do more than this request then call on asst. U.S. atty. refuse to decline to prosecute if the U.S. atty. -- the Atty. Gen. told him not to. However the situation is even stronger than my analogy because the asst. U.S. atty. is usually in a transitional position. He can move into private practice, etc. The French ~~is~~ judge

is a career civil servant on a tenured track in a society in which job mobility (particularly within the legal professions) is not very great.

All of this has caused me to begin to stress not simply the independence of the judiciary about which we and the French talk but rather the judiciary as a co-equal branch of govt. while this is the case in the U.S., it clearly is not in France (altho the idea is Montaigne's which is perhaps another confirmation that the French tend to do better at theory than at practice).

Even within the context of its own system the French have recently come to think that their judges have too little knowledge of the "real world" and are now talking about methods of reform that would give the judges

more practical experience before they start judging.

You will I know be pleased to learn that I retain, at most of the time, a passion for the law and for the practice of the law. I have continued to find her a jealous mistress who has foreclosed me from all others. To some extent I miss teaching and contact with the young and the chance to think through ideas and crystallize them into print, but not enough for me to want to do it full time. Unfortunately, combining teaching with a practice, at least one like mine where we are only 2 lawyers, is really not feasible.

I remain fascinated by the legal process and particularly the legal process as a part of the over-all attempt of human beings to govern themselves and impose some semblance of order on the chaos of events and on the conflicting

passions and interests of men and women.

One of the great ironies to me is that sitting in Puyricard, a village of a few hundred people in the south of France, 500 miles from Paris, I meet so many people. In addition to lunch with Judge Norton, a man whom I very much liked and ~~to~~ with whom I immediately felt on the same wave-length, I have also in the last few years lunched with Lee Loewinger, former FTC chairman, etc., now senior partner at Hogan & Hartson, Geoffrey Hazard of Yale, just to mention a few whom you know. Moreover, when they are here they are usually more relaxed than in their home environment.

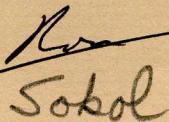
This letter has run on a bit. I am presently having breakfast in a ski resort in the Alps behind Nice and waiting for my family to come down. We are still hoping for a visit from you.

I am getting inspired to return to Virginia as I am presently into my

4th volume of Malone's life of Jefferson. I started with vol. 3 which deals with Jefferson in France as 1987 was the 200th anniversary of TJ's stay in France. Then I went back and read vol. I, then I jumped to the last volume, the sage of Monticello which deals with the founding of the University. I am now in vol. 2 - the Oracle of Liberty. Reading about the Univ. has caused me to want to stroll around the Grounds again. I wouldn't mind living in one of TJ's pavilions on the Lawn for awhile if you had a vacancy.

My family has now arrived to breakfast so I shall wish you and Tom my warmest wishes for 1988. I hope that this will be the year that we shall be able to get together.

As ever,


Rose
Sokol

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