

Rudolf B. Schlesinger—A Tribute

To speak of Comparative Law in the United States in the second half of this century is to speak of Rudolf Schlesinger. What Prosser did to establish Torts as a subject Schlesinger did for our field. Of course, like Molière's Monsieur Jourdain, many had been dealing with the subject before him, but only after the appearance of the first edition of the casebook in 1950 did they know it.

Schlesinger's approach to the subject was both conscious and pre-ordained by his background; he made Comparative Law a "real" subject to "real" lawyers, yet—and this second theme has to be established at the outset—without sacrificing its normative, even idealistic claim to help bring nations and peoples to a better understanding of each other. Indeed, the heroic project he understood at about the same time, to identify and demonstrate by hard, patient, and above all detailed work a common core of legal principles in the most interior, doctrinally and precedentially close-meshed field of private law, established both his double claim on Comparative Law and his own doubled reputation on the practical and the normative side of the field.

In terms of immediate impact the "Common Core" project probably would be considered a heroic failure. Like many such failures, however, it too has leaped a generation to be rediscovered by its intellectual grandchildren. Today's serious efforts to find and develop a unitary European private law is, consciously or unconsciously, a continuation of Schlesinger's effort; and if as a regional project it is somewhat less ambitious than his universally oriented one, its doctrinal scope is no less ambitious and no less based on exactly the kind of detailed effort Schlesinger postulated as essential to the legitimacy and eventual success of such ambitions.

To his many students at Cornell and Hastings, of course, it is the other, the eminently professional academic—but over what a global range!—who presides over their memory and shaped much of their own thinking and even careers. Many of us learned Schlesinger on Comparative Law in the triple context of Schlesinger on Civil Procedure and Schlesinger on International Business Transactions, and that professional context gave his brilliant pedagogical skills the extra cachet that drew the kind of crowds to Comparative Law that otherwise could be found only in bar courses.

The same context explains the enduring success of the now five editions of this pioneering work; in a sense, only after the field was

established in this way could a different, more conceptual and doctrinal comparative approach establish itself as a countering vision in the American academy and in turn lead to even newer ambitious overarching explanations of the field.

Rudi has decided to retire from teaching in retirement. It is more than usually fitting that his gifted successor at Hastings, Ugo Mattei, has organized this celebratory issue, for it is as a teacher as well as a scholar that Rudolf Schlesinger has earned his place in American law. But may he long defer retiring from his role as mentor and friend.

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