

Arthur Taylor von Mehren

Comparative Law



Born 1922 in Albert Lea, Minnesota, USA. B. S. 1942, LL. B. 1945, and Ph. D. in 1946 all from Harvard University. 1953, Professor of Law at Harvard. Present position: Story Professor. Member of the American Academy of Arts and Sciences, the Institut de Droit International, the International Academy of Comparative Law, and Phi Beta Kappa. On the Editorial Committee of the *International Encyclopedia of Comparative Law* and editor of the Encyclopedia's Volume VII, *Contracts in General*. Publications: *The Civil Law System: An Introduction to the Comparative Study of Law* (Ed. I, Englewood Cliffs, NJ, 1957, pp. 992; ed. 2, Boston and Toronto, 1977, pp. 1243, with J.R. Gordley); *Law in Japan: The Legal Order in a Changing Society* (Cambridge, Mass., 1963, pp. 706, editor and contributor); *The Law of Multistate Problems: Cases and Materials on Conflict of Laws* (Boston and Toronto, 1965, pp. 1646, with D.T. Trautman); *Law in the United States: A General and Comparative View* (Deventer and Boston, 1989, pp. 112). — Address: Harvard Law School, Harvard University, Cambridge, MA 02138, USA.

My original project for my year at the Institute was research and writing on the general theory and structure of Private International Law. (This discipline treats the legal relations that arise when social or economic activities have significant connections with more than one legal order.)

As it turned out, when the time came for me to go to Berlin I was well into research and writing for two chapters in volume VII, "Contracts in General", of the *International Encyclopedia of Comparative Law*. Rather than breaking off that work to take up the private-international-law topic, I decided to continue with the comparative research and writing.

Work on the manuscript for chapter 9, "Formation of Contracts", was completed in Berlin. The chapter, which runs to approximately 110 double column, encyclopedia-size pages, is now in press and will be published late in 1991 or early in 1992.

Chapter 10, "Formal Requirements", is roughly three-quarters completed. It will be approximately the same length as chapter 9; the manuscript should be ready by early 1993, at the latest.

My effort in both *Encyclopedia* chapters is to present the civil and common law approaches — drawing for the most part on English, French, German, and United States law — to certain basic topics of contract law in a way that not only reveals differences and similarities in doctrines and solutions but explains their origins and contemporary significance. The sustained research and reflection, uninterrupted by classes and committees, that the Institute made possible have permitted this work to proceed at a relatively rapid pace. More importantly, the atmosphere at the Institute proved ideal for writing that is more concerned with forests than trees and seeks to enlighten as well as inform.

In addition to working on the two major pieces of writing described above, I did a certain amount of lecturing in response to invitations. (I was very reluctant to accept lecture invitations; past experience had taught me that such invitations consume a disproportionate amount of one's time and energy.) I spoke at the annual meeting in Bremen of the *Deutsches Institut für Schiedsgerichtswesen* on "Die UNCITRAL Schiedsgerichtsordnung in rechtsvergleichender Sicht". At the *Max-Planck-Institut für ausländisches und internationales Privatrecht* in Hamburg, I presented a paper on "Recognition of United States Judgments Abroad and Foreign Judgments in the United States. Would International Conventions be Useful?". Both papers are to be published.

In Munich, I spoke at the *Rechtsfakultät* on "Training for the Legal Profession: A Comparative Assessment of the American Experience" and to the German-American Lawyers Association on "American Legal Education: The Juridical and Institutional Setting". I participated as well in a joint meeting at the Hague of the American and Dutch Societies of International Law where I presented a paper on "Enforcing Judgments in International Civil Litigation".

Having described my work at the Institute, I venture a few remarks on the less tangible results for me of this academic year in Berlin.

The interdisciplinary collegiality of a small but cosmopolitan community has been very valuable. A disappointing aspect of academic life in a large university is the tendency of each discipline to turn inwards. Discussion and exchange of ideas with colleagues from other disciplines are facilitated by the Institute's size and physical arrangements. One is ideally placed to gain new insights and to broaden perspectives.

The Institute's collegial quality is of especial importance to scholars whose interests are comparative. I have experienced over many years and in a variety of contexts the styles of thought and expression of the societies and cultures whose law I study; nonetheless, this year at the Institute has refreshed and deepened my insight into differences in law's cultural and

social matrix. The colloquium presentations and the discussions they provoked were especially valuable in this regard.

The year at the Institute has been of great value in another respect as well: the change of scene and pace provided by a year in Berlin invigorates and refreshes. When I return to Harvard at the end of the summer, I shall work with greater zest and creativity thanks to my stay at the Institute.