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ERIC STEIN — A TRIBUTE

*Joseph H.H. Weiler**

Eric Stein has achieved great distinction in the fields of international and comparative law. It is, however, above all in the field of European Community law that his work has attained worldwide recognition and fame. For many, international and European law are, if not synonymous, at least strictly interconnected. For those closer to the subject, the relationship between the two is problematic, perhaps even controversial. Both the conceptual and practical ties between public international law and European law remain a charged and nonstatic issue — one with which, for example, the European Court of Justice continues to grapple. This, of course, is not the place to enter into the controversy. However, by highlighting one or two differences often considered of lesser importance in the ongoing debate, I hope to shed some light on Eric Stein's unique personal and scholarly achievement in the field of European law.

Public international law reflects international politics; the subjects of the discipline are states, international organizations and, more recently, natural and legal individuals (assuming that the distinction can still be defended) as holders of certain rights and duties bestowed by the international legal order. By its nature, the discipline transcends national and regional boundaries. It is no surprise, then, that eminent public international lawyers have emerged in almost all countries in which law is studied as an academic subject — each bringing to the subject his or her own national and cultural perspective. European law is altogether a different matter. Whatever the discipline's historical and conceptual origins, its current developments are strongly rooted in the social, political, and economic realities of the European Community. The fluidity of the Community's political and economic existence mandates, to an extent even greater than many other legal areas, a firm grasp on these realities. Moreover, unlike public international law strictly defined (as distinct from the foreign relations law of this or that jurisdiction), the EEC now has a highly developed legal system, and a growing, not to say exploding, judicial and legislative output coupled with the complex procedural trappings that make such a system function. To imagine that all this can be mastered from the other side of the Atlantic demands a certain measure of credulity. And yet this is precisely one dimension of Eric Stein's singular achievement.

When, like many of his generation, Eric Stein left Europe in the late 1930's, the European Community and the Supranational Order were no more than figments in the imaginations of a few visionaries. (Albert Einstein, for instance, is reputed to have written to Sigmund Freud in 1932 lamenting the absence in international life of truly supranational organizations.) When the Coal and Steel Community was established in the early

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1950's and the European Economic Community and Euratom in the late 1950's, Eric Stein was fully integrated into American academic and governmental life as a public and private international lawyer. A decade later, Michigan Law School, through the work of Eric Stein, emerged as one of the world centres for European Community Law research and study. And Eric Stein joined that small and distinguished "club" of lawyers, often Americans of European origin, who managed to transcend national boundaries and become authorities in the *internal* legal systems of other states on other continents. One should not minimize the achievement. After all, how many lawyers whose academic and professional centre of gravity is in Europe have emerged as world authorities on, say, American law — necessitating, incidentally, only the mastery of a single and not altogether unknown language?

The achievement is not, however, confined to this remarkable personal capacity. It is reflected also in Eric Stein's scholarly work. Having read and reread many of Eric's contributions over the years and having pondered over his impact, I have come to the somewhat paradoxical conclusion that his influence can, in some ways, be traced back to his ability to transform what at first sight appeared to be a liability — his distance from Europe — into an asset.

In the first place, he has used this distance to maintain a constant overall synthetic view of the Community — a task which with the years and the exponential growth of Community law has become increasingly difficult. This he has done, however, without sacrificing penetrating and detailed analysis of complex technical areas of Community law — as anyone familiar with, say, his *Harmonization of European Company Laws* will attest. But he has used distance and perspective to an even greater effect. By turning the comparative context to its fullest advantage, Eric Stein was able in the early years of the Community, along with colleagues on both sides of the Atlantic, to reject the temptation of synthesising Community legal developments into the mainstream of public international law. In so doing, he contributed to the creation of an entirely new discipline. By contrast, more recently, monitoring legal developments in Europe, he has boldly asserted the relevance of the national federal experience in general, and of the American experience in particular, to our understanding of the Community in its mature phases. The Community is not destined to become another America or indeed a federal state. But I am convinced that the relevance of the federal experience to Europe (and the European experience to any novel thinking about federalism in the United States and other federations) will become increasingly recognized. Eric Stein's career has thus spanned the life of the European Community. In its early phases his work contributed to the particularization of Community law as a legal discipline. In the later phases of his career his work contributed, and will continue to contribute, to the universalization, in the federal context, of the European experience.

The vision involved in the early pioneering years, rooted in the belief that the Community and its legal order would develop into an important dimension of international life, should not be underestimated. I am sure that most, if not all, of Eric Stein's American colleagues do not realize that his monumental case and material book, co-authored with Peter Hay and

later joined by Michel Waelbroeck and now in its third edition, introduced Community Law studies into American law schools on the other side of the ocean long before they were introduced in any University on the other side of the Channel — that is to say England and, I believe, Ireland (I do mean England; the late Professor Mitchel of Edinburgh University, Scotland had the same foresight and vision as Professor Stein). Indeed, the book must be one of the first comprehensive English texts on Community law.

The combination of all these factors has produced another aspect of Eric Stein's professional life: his role as an educator. To recall that he is responsible, directly and, through his writings, indirectly, for the European law formation of several generations of American practising and academic lawyers is to state the obvious. The curious, indeed engaging and telling fact is that many European students taking the Michigan LLM programme, often already versed in Community Law, have chosen over the years to follow Eric Stein's classes and seminars in this area. His pupils are spread not only throughout the United States, but also throughout continental Europe.

I know that I must be speaking for many colleagues all over Europe in acknowledging a great intellectual debt to Eric Stein and in wishing him a fulfilling and productive retirement.