

Urbi et Orbi and Transatlantic Relations

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Introduction

I appreciate the opportunity to join in this tribute to Professor Roberto Toniatti on the occasion of his 70th birthday and take great pleasure in sending him the warmest good wishes from Vermont. In doing so, I speak not only on my own behalf but also on behalf of the many students and faculty members at Vermont Law School who have come to know Professor Toniatti over the past twenty years and been the beneficiaries of his wisdom and graciousness and friendship. I have enormous respect for the pioneering work he has done in the field of comparative constitutional law and have personally benefitted from the many discussions we have had about shared academic interests over the years. But for purposes of this occasion I thought it might be most helpful if I focused on another aspect of his career: the role he has played in establishing the unique collaborative relationship that exists between the Trento School of Law and Vermont Law School.

As Dean of the Trento School of Law, Professor Toniatti was a crucial lynchpin figure in the initial contacts that ultimately led to establishment of a relationship between the two schools. It was during his tenure as Dean that, with his support and encouragement, we launched the first editions of the unique jointly-sponsored European Union Law course which has provided so many opportunities for interchange between our faculties. It was during his deanship that we established the first formal exchange agreement. And over the intervening years Professor Toniatti has continued to play an active role in supporting and promoting a range of collaborative activities that have joined our two faculties together in common venture. He has promoted visitorships, helped arrange conferences, served on panels, given guest lectures, hosted dinners in his home, and participated regularly and actively in social events bringing students and faculty together. In these and countless other ways he has been a crucial moving force in helping establish and strengthen what has been an enormously valuable relationship. Of course, others have played important roles in this shared venture, but without Roberto Toniatti's early involvement and support none of this would have happened.

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Beginnings

The origins of the relationship between our two schools can be traced back to an inauspicious encounter in the late nineties. The daughter of a Vermont Law School faculty member, Professor Richard Brooks, was studying opera in Italy and happened to be living in Trento at the time. While Brooks was in Italy visiting his daughter he was passing by the entrance to the law school on Via Verdi one day when he spontaneously decided to pay a curtesy call on the Dean. Brooks was warmly welcomed by Dean Toniatti who had spent time in America and had a long standing interest in American law and legal education. It quickly became apparent that the two men had a great deal in common. The following year, Professor Brooks invited Dean Toniatti to visit him in America and, while there, to give a lunchtime presentation to the Vermont Law School faculty. The Dean's presentation was an informal one, aimed at providing the Vermont faculty with a general sense of his academic background and interest, but it left a very positive impression. Here was an Italian law school Dean, fluent in English, intelligent, sophisticated, with clear interest in the American legal system. After the presentation, I introduced myself briefly, just long enough to shake the Dean's hand and thank him for his remarks, then took my leave. Dean Toniatti remained on campus however to meet with interested faculty.

The following year, during the spring term of 2000, I had a sabbatical in Seville, Spain. Since classes at the University there did not start until February, my wife, Mary, and I decided to travel in Italy during the month of January. We started in Trento since we were curious about the law school. After our train arrived, we checked into our lodging then took a walk through town and, on the way back, stopped by the law school. Since no one was around, I left a card in the bursar's office with a note to the Dean just to let him know we had stopped by, and we retired to our hotel with plans to have a quiet dinner then leave by train in the morning. A little after six that evening, the phone rang in our hotel room. It was Roberto insisting that we join him for dinner at the Orso Grigio ("The Gray Bear"). The invitation was totally unexpected and not at all called for, but typical, as I was to learn, of Roberto's graciousness and solicitude for visitors and generosity. To make a long story short, we had a wonderful evening. Roberto introduced us to traditional regional dishes and took responsibility for selecting the wine, an excellent local riserva, which we refreshed with a second bottle before the evening was through. From the moment we arrived until the end of the evening, we found ourselves engaged in animated conversation covering virtually everything under the sun: American and Italian constitutional law; decisions of the U.S. Supreme Court; Roberto's travels around the United States as a younger man; biking in Trentino; my wife's experience with juries as a trial court judge in Vermont; military inscription during the Vietnam conflict; Italo Svevo's The Confessions of Zeno; Roberto's experiences growing up in Trieste; law, music, literature . . . it was everything intelligent dinner

conversation should be. By the end of the evening it seemed as if we were old friends. When my wife and I left on the train the next morning, we left with warm feelings for Trento, in no small part because of Roberto's unexpected invitation and the engaging dinner conversation we had the night before.

And that is how things stood, and might have remained, had it not been for one other significant development. One of the Vermont Law School faculty members impressed by Dean Toniatti's presentation on his visit to Vermont was a colleague of mine named Belinda Sifford. Professor Sifford had lived in Italy and spoke fluent Italian, the only member of the Vermont faculty to do so and was interested in a possible visiting appointment at Trento if the opportunity presented itself. Roberto helped arrange a visitorship with the consequence that Sifford ended up in Trento during the spring of 2000 co-teaching, in Italian, a course in International Arbitration. This provided numerous opportunities for meeting and collaborating with other members of the faculty, and for conversations with the Dean, which at some point led to consideration and adoption of a unique course proposal. Since I was not present, I do not know what Roberto's exact role was in devising and promoting this proposal, whether he was a mastermind or co-conspirator or accessory after the fact, but I do know he was very much involved. At any rate, I only first became aware of it after returning from my sabbatical in Seville when I was asked by the administration at Vermont Law School if I would be willing to act as faculty "administrator" of a newly approved course in European Union Law. I was initially reluctant to take it on since I already had full plate of commitments, but I was intrigued by the novel structure of the course so agreed to give it a try.

A Unique European Union Law Course

Vermont Law School during this period had been expanding its offerings in the field of comparative and international law in response to a growing awareness of the globalization of legal practice. As part of this expansion it had been wanting to offer a course in European Union law but there was no one on the faculty with background or expertise in the area capable of offering the course. The proposal that emerged from discussions in Trento during Sifford's visitorship that spring was an ingenious solution to that problem. It is a classic illustration of the observation that "necessity is the mother of invention."

Under the proposal, Vermont Law School would offer its students a two-credit course in European Union Law taught entirely by Trento professors. Each year a professor from Trento with expertise in in the field would come to Vermont for a week or two to give a series of introductory lectures in the subject. Then, during the semester break, students enrolled in the course would travel to Trento to attend a series of lectures by other

Trento professors on specialized topics in European Union law. For their participation in the course, the Trento professors would receive a modest stipend. A Vermont Law School faculty member would serve as a course "administrator," responsible for making arrangements and for designing and grading a final exam, but the "teachers" were to be Trento faculty members.

The course turned out to be a tremendous success. First and foremost, it provided Vermont Law students with an opportunity to study European Union Law under European legal scholars with expertise in the field. By arranging to have part of their study take place in Trento, moreover, it offered the Vermont students not just a substantive introduction to comparative law but a comparative legal education experience. In my role as course administrator, I sat in on the lectures both in Vermont and in Trento and was deeply impressed by the quality of the lectures and the professors offering them. The professors responsible for offering the introductory course in Vermont during the early years were, in order of appearance, Professor Francesco Palermo, then Professor Jens Woelk, and then Professor Marco Dani. Each brought to the task his own unique perspective and teaching approach and style, but the performances were uniformly first-rate. They were all excellent teachers. In Trento, the Vermont students were treated to lectures by other members of the Trento faculty with expertise in particular areas of European Union Law, by Professors Antonioli (internal market), Toniatti (federalism), Ioretti (private law), di Paulo (criminal law), Lugaresi (environmental law), Fodella (human rights), Borzaga (labor law), and, later, Ali (terrorism). Over the years we have varied the menu of lectures in Trento and others were subsequently involved, but for the Vermont students, we could not have devised a more compact and expert introduction to European Union Law.

Deepening and Widening

There also was an unexpected dividend: the opportunities that participation in the course opened up for development of professional and personal relationships between and among the members of the two faculties. Professor Linda Smiddy, who at the time was serving as Director of International Programs at Vermont, accompanied the Vermont delegation to Trento, and in that role, she and Dean Toniatti came to develop a warm professional relationship which ultimately led to the negotiation and signing of a formal exchange agreement. This agreement made possible student exchanges each year, with Trento students coming to Vermont to take advantage of Vermont Law School's rich offerings in environmental law, and, less frequently, with Vermont Law students spending a semester in Trento. The arrangement also led to a number of visiting appointments for faculty members: Professors Lugaresi and Toniatti have visited in Vermont, and Professors Kujovich, Duthu, Stephens, and myself have all enjoyed reciprocal visits in Trento.

The next phase in the process of "deepening and widening" was the joint decision by the two faculties, a decision which Dean Toniatti actively supported, to convene an annual symposium devoted to discussion of issues of pressing national and international importance from "a transnational perspective." These symposia would serve to expand the network of professional and personal contacts by inviting scholars from a number of additional participating schools to present papers.

The first such symposium, sponsored by Vermont Law School, was held in Woodstock, Vermont in the summer of 2005 and involved participation by legal scholars from, in addition to Trento and Vermont, the University of Seville, McGill, Paris XIII, and the University of Montreal. The theme of the symposium, "accommodating differences," addressed the challenges involved in protecting the rights and interests of minority populations in pluralistic societies. Professor Francesco Palermo took a lead role in setting the agenda for the conference and in editing the papers which were subsequently published in a special edition of the Vermont Law Review.

The second annual symposium, sponsored by the Trento Law School, was held in Levico, Italy, in June of 2006. Scholars from the same consortium of law schools were invited to present papers. Dean Toniatti took responsibility for selecting the site and making the arrangements and participated actively as a contributing scholar in the discussions. The theme of the second symposium was "Life, Technology and Law." Professor Carlo Casonato from Trento took the lead in setting the agenda and was ultimately responsible for editing and overseeing the publication of the papers.

These multi-institutional symposia significantly expanded opportunities for the development of personal and professional contacts between and among the participating scholars. Among other things, they opened up opportunities for participation by faculty members from both our schools who had not previously been directly involved with the European Union Law course. Unfortunately the project had to be abandoned when the others schools in the consortium failed to step up and assume responsibility for sponsoring additional symposia, but contacts initially established between and among faculty of the participating schools in these symposia have continued to inform and enrich the professional lives of those involved.

The most recent installment in the relationship took place in the fall semester of 2019 when Roberto spent the month of September in Vermont as a visiting professor at Vermont Law School. While he was here, Roberto volunteered to offer a series of six lectures on "federalism" in my course on European Union Law and I happily accepted. It was the first time we had ever had a chance to co-teach sessions in a course together and it was a deeply rewarding and illuminating experience. One of the benefits of co-teaching those classes with Roberto – he taking the lead role, my acting as

interlocutor – was coming to appreciate the fundamental differences in approach between the civilian and common law perspectives. Roberto would start with legal texts and principles and I would answer by pressing for pragmatic answers to concrete real world problems. At times, our interchanges in class must have struck the students as a form of "lovers' quarrel" between legal scholars. But it was great fun - and greatly educational - and I will always treasure the experience.

Over the years, there have been countless additional opportunities for personal and professional collaboration between the faculties of our two schools, but it would serve no purpose to elaborate upon them here - except to say that I cannot think of a single instance since the very beginning in which Roberto has not been involved and played a significant role. He has played so many different parts in these collaborative activities - sometimes as maître d', sometimes as sommelier, sometimes as a laborer in the vineyard, sometimes as cavi con morsetti , sometimes as nastro adesivo, sometimes as WD-40, sometimes as a kind of brooding omnipresence – that it is impossible to untangle them, but he has always been there and always been a central and influential presence. Without him it probably never would have happened, and it certainly would not have been the same. For that we will always be grateful. From all of us in Vermont who have come to know you and have had the pleasure of working with you over these years, thank you, Roberto.