LAUDATIO: SIR STEPHEN SEDLEY

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Dear Sir Stephen, dear Friends,

I AM very happy and proud to have been invited to "*laudatio*" Sir Stephen Sedley.

Naturally, if one remembers the anathemas launched by Dicey against the French administrative law and the enduring influence they had on British jurisprudence, one could consider it to be a bit strange that a French administrative lawyer would be called upon to congratulate an English judge dealing with public law issues.

Nothing odd here, however, since, as I will recall in a while, Stephen Sedley does not share Dicey's view at all, and, if I may add, I personally do not share the conviction, usual amongst French lawyers, that there is very little for them to learn in the British system, supposedly so alien to their perception.

Let us start by stating the obvious for all EPLO members: Sir Stephen Sedley is a charming person and a subtle lawyer. All his contributions to our discussions confirm these two talents.

This does not prevent him from expressing his thoughts in a direct way.

To take just an example, I like very much the way he positioned himself in the debate on judicial activism, writing "*The word has no jurisprudential meaning. A judge is either active or asleep*".

He famously published an ironic list of anti-recommendations addressed to negligent solicitors, which he named his "Laws of Court Documents" and which reads as follows:

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1. "*First Law: Documents may be assembled in any order, provided it is not chronological, numerical or alphabetical.*

2. *Second Law: Documents shall in no circumstances be paginated continuously.*

3. *Third Law: No 2 copies of any bundle shall have the same pagination.*

4. *Fourth Law: Every document shall carry at least 3 numbers in different places.*

5. *Fifth Law: Any important documents shall be omitted.*

6. *Sixth Law: At least 10 per cent of the documents shall appear more than once in the bundle.*

7. *Seventh Law: As many photocopies as practicable shall be illegible, truncated or cropped.*

8. *Eighth Law: At least 80 per cent of the documents shall be irrelevant. Counsel shall refer in Court to no more than 10 per cent of the documents, but these may include as many irrelevant ones as counsel or solicitor deems appropriate.*

9. *Ninth Law: Only one side of any double-sided document shall be reproduced.*

10. *Tenth Law: Transcriptions of manuscript documents shall bear as little relation as reasonably practicable to the original.*

11. *Eleventh Law: Documents shall be held together, in the absolute discretion of the solicitor assembling them, by: a steel pin sharp enough to injure the reader; a staple too short to penetrate the full thickness of the bundle; tape binding so*

stitched that the bundle cannot be fully opened; or a ring or arch-binder, so damaged that the 2 arches do not meet."

Reading this funny onslaught, I asked myself if there would be a way of drafting something equivalent which would target boring academics, and that we could call "Laws of Academic Speeches".

I could only devise three of these laws, and I count on EPLO colleagues - to whom none of such laws could never apply - to add to it:

1. First Law: Be so long that, at the middle of your speech, the audience would dare to: punch you, knock you on the head or shoot you down in order for their boredom to cease.

2. Second Law: Use such a complex approach that people ask themselves whether they are stupid, or you are a genius, or you have simply put together concepts you randomly found in a dictionary of legal philosophy.

3. Third Law. From time to time, use mantra words, familiar to a good deal of your audience. For instance, if you are talking about something which has any relationship with global law, global institutions, global administrative law, regularly utter the word "accountability": this will awaken the audience and show that you are a member of the tribe.
(to be added to)

Some of the nicest readings I enjoyed this summer is Stephen Sedley's *Lions under the Throne*.

The title is a reference to Francis Bacon: "*Let judges also remember that Solomon's throne was supported by lions on both sides: let them be lions, but yet lions under the throne, being circumspect that they do not check or oppose any points of sovereignty*" (*Of Judicature*, 1625).

Judges as lions? Personally, I find difficult to imagine Sir Stephen Sedley roaring. Or, perhaps, only in a very polite and gentle manner. Anyway!..

Anyway, the book is exactly a history of public law in Great Britain.

When I started reading it, I felt some fear, like any French lawyer exposed to a discourse on public law transmitted by a British lawyer. Fear of hearing what I would call the "Trumpets of Agincourt": under a warrior music, the stout voice of Dicey saying "*Vade retro, (French) administrative law. There's no such thing as an administrative law in Britain and we do not want to have one*".

Nothing of this kind in Stephen Sedley's book - quite the contrary. The book explains that public law has evolved in the UK for a very long time (clearly during the 17th century, but in fact there are traces before: remember Magna Carta 1215). And that it flourished until an intellectual, conceptual, interruption occurred at the end of the 19th century, under the main influence of Dicey.

English public law came to a Renaissance in the second part of the 20th: then ended what Stephen Sedley calls "*the long sleep*" of public law.

Stephen Sedley's analysis is not just a most valuable input into our understanding of British legal history. The story he tells reteaches us anew that the UK was the main place of birth of democracy, of the rule of law and of the protection of citizens against the abuses of public authorities. It remained stubborn in these directions even when erring slightly on the public law bases because of anti-Napoleonic feelings. Our admiration for English public law was always torn between the incredible historical references in the field of human rights and the absence, the refusal, of an administrative law. Thanks to lawyers like Stephen Sedley, we are now reconciled with the whole picture.

Apart for all the talents and merits which can be recognized to Stephen Sedley, of which I have only recalled a few, there is another reason why it is a very good idea to "*laudatio*" a British lawyer in this particular period.

The "Brexit" was a shock for many of us, British or not, because it indeed broke something, it tore a fabric which was progressively woven, it reintroduced a gap in relations many of us had felt, and with pleasure, to be moving constantly towards greater contiguity. I

am sure that for most of us in the European Group of Public Law, the day of the "Brexit" referendum was a day of sorrow.

Then, Stephen Sedley's *laudatio* is exactly the opportunity for telling all our British colleagues: "*Please remain with us. More than ever, we need your presence, we need the contribution you make to our debates through the particular lens of your own public law tradition*".

It is thus also for historical reasons that I will make my final address: Dear Stephen (if I may), we have for some time benefited from your knowledge and wisdom and we have enjoyed both, please sit at the table of the "*laudationed*" and for years to come, join again our meetings in order for us to still benefit from your knowledge and wisdom.