
Interview: Jacques Mauro

French attorney calls du Pont Smith case 'mind-boggling' travesty

Jacques Mauro is a lawyer in Paris, a member of the Council of the Paris Bar, and a member of the Council of the International Bar Association (IBA). He writes regularly in the French law journal La Gazette du Palais on questions of European Community law and the European Convention for the Protection of Human Rights. Mauro was interviewed by EIR on Feb. 12 in Philadelphia.

Mauro, together with Lennart Hane, a Swedish attorney, and Victor Girauta y Armada, attorney from Madrid, Spain, came to the United States on Feb. 12 to observe an appeal hearing in the case of Lewis du Pont Smith in the Superior Court of Pennsylvania. Du Pont Smith, a 30-year-old former history teacher and heir to the du Pont fortune, is appealing an outrageous lower court ruling, in which he was declared mentally incompetent and stripped of his right to vote, to marry, and to handle his own financial affairs, for the sole reason of making financial contributions to organizations associated with Lyndon LaRouche.

EIR: How did you come to be interested in this case?

Mauro: I received a visit from Lewis du Pont Smith in Paris last November. He explained his problems to me for an hour and a half. I was very surprised that one could say that this man, who is young, intelligent, dynamic, and a history teacher, could be placed under guardianship for a personality disorder. I happen to be interested in such issues of human rights, and especially of fundamental rights in West Germany.

EIR: Where does your interest in such issues come from?

Mauro: I have been writing regularly for a French law journal, *La Gazette du Palais*, and I have begun to write on the rights of Man (and even of Woman. . .). I was lucky enough to meet a Parisian colleague, Maitre Pettiti, a judge at the Strasbourg Court, who has encouraged me on this path.

EIR: Why do you think the du Pont Smith case is important?

Mauro: It is important because it touches upon the citizen's freedom of political choice. This citizen must not be deprived of the right to marry, to vote, and to manage his property because he is interested in a political party which, moreover, in some of its options, largely supports President Reagan—which is quite extraordinary, one must say—such as on the

Strategic Defense Initiative or on the fight against drugs, and which is guilty of saying that AIDS is a big danger, all of which is not to the liking of the intelligentsia.

What amuses me, or saddens me, depending on the time of day, is to note the similarity of the intellectual terrorism which a certain intelligentsia exerts both in the United States and in France. In the case of France, this was seen with respect to Jean-Marie Le Pen [the leader of the Front National party], a presidential candidate, who is subjected to the same type of slanders from the intelligentsia. It would nevertheless be hard to imagine that someone financially supporting Mr. Le Pen would be placed under guardianship in France.

EIR: Would such a court action for guardianship in order to forbid a citizen to engage in political activity be possible in France?

Mauro: In all honesty, I must say that there were court actions of this type in France in the 19th century. For two reasons, in my opinion: There were families with very large fortunes in family trusts, and not in industrial enterprises, and there existed a very strong social and religious conformism. Today, except for cases of dementia characterized by bizarre acts like, for instance, burning one's house while playing the flute so as to be like Nero, it is no longer possible to put someone under guardianship. On the contrary, a French judge will tend to think that, after all, if the person in question has too extravagant a lifestyle, it is all the better for the economy. Lastly, it is excluded that contributions to churches or political parties could provoke guardianship. We have certainly seen it with respect to sects: Tribunals in France have been extremely cautious, even in some tragic cases going well beyond the financial realm. As one judge noted, the great religions are sects which have succeeded!

But let's come back to the case of Lewis, the heir to a considerable fortune and to no less considerable hopes, too: The contributions he made were in no way of a nature that would compromise his fortune, and they were given to a political campaign, that of Mr. LaRouche, whom Lewis supports. That he was placed under guardianship is mind-boggling.

EIR: What do you think of the procedure which has taken place up to now?

Mauro: Lewis du Pont Smith put at my disposal the court memoranda exchanged so far, the record of the cross-examination conducted solely by the lawyer of the plaintiff's family, the record of the exchanges led by the family's lawyer. What shocks me is the asymmetrical, unilateral system of cross-examination. It is the family's lawyer, and not the presiding judge, who interrogates the respondent. The respondent's lawyer does not in turn cross-examine the plaintiffs. Yet, that would have been fascinating and indispensable in order to bring out the truth. In this I see a first violation of human rights: In the non-symmetrical character of the procedure, in a non-equitable trial as defined by Article 6 of the European Convention for the Protection of Human Rights. The Strasbourg Court has already condemned the violation of this Article. I am thinking, for example, of the severe condemnation of the Austrian State in a case where the same expert had worked for the plaintiffs, the original tribunal, and the appeals court.

A second thing shocks me, and it is the mental-torture character of the cross-examination which took place. For a very long time, the plaintiff's lawyer asked all sorts of questions to a respondent who, on his part, is not a lawyer, who is placed in awe of the judicial apparatus, which he takes very seriously, and who is being asked all sorts of insidious questions. I do not have with me the two big volumes containing the record of this unilateral cross-examination, but they would deserve to be published as an example of what should not be done.

I am also shocked by the role played, in this type of procedure, by the interrogating lawyer. The lawyer must never be a judge or a police inspector. Interrogatories are *their* business.

And lastly, I find it very shocking to put the respondent in the position of a witness.

In fact, you know, and this may make you smile, but once again, it is clear to me that Anglo-Saxon procedural law is the law of the French Middle Ages brought from Normandy by William the Conqueror. Is it therefore surprising that this medieval procedural law is frequently contrary to human rights? I know that by saying that, I will hurt some lawyer friends in the United States or in the United Kingdom: It is a bit hard to be told that every day you violate the fundamental rights of citizens. It is also fair to say that when cross-examination is successively conducted by the two lawyers, a certain balance is reestablished.

EIR: What impression did you get from the Feb. 12 hearing in the Philadelphia appeal court?

Mauro: A very good impression. I have appreciated the well-organized setting which allows the lawyers to express themselves and the judges to listen. In respect to this, I have very much appreciated the questions asked by the judges which, on the one hand, demonstrated a good knowledge of the record of the case, and, on the other hand, a readiness for dialogue with the lawyers. The court magistrates indicated in



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particular what seems important to them and that on which they would like to be further enlightened. I was impressed by the authority and intelligence of the presiding judge of the court, Judge Beck. In the functioning of this hearing, I have not found great differences with our own hearings in French courts. Maybe our magistrates intervene a bit less. A great difference however: In Philadelphia, the public sits in comfortable armchairs!

EIR: What reception did you get?

Mauro: We observers were very pleased by the amiable word which the presiding judge extended to us to welcome us.

EIR: What do you plan on doing upon your return to France?

Mauro: As soon as I have the necessary time, I intend to write a note in *La Gazette du Palais*, which is read by all lawyers, judges, and business jurists in France.

EIR: To conclude, what would you say about American justice?

Mauro: A few experiences are not enough to give a verdict. However, it seems to me that American material law or, if you wish, the spirit of the law, is better than the procedural law. The United States is an immense stream which carries all sorts of things, the best and the worst. But fortunately, there is a natural cleansing and it is in this that lies the great superiority of the United States over a lot of countries, and this is what explains the attachment, throughout the world, to the "Statue of Liberty" symbol of the United States. Thank you.