

From: Marie-Joseph Experton <[REDACTED]>
To: Monsieur Epstein <jeevacation@gmail.com>
Subject: EPSTEIN / Discussion on the trust institution
Sent: Tuesday, September 27, 2016 7:50:14 PM

Thank you for this exchange on the trust institution. If you feel appropriate, donot hesitate to send me any draft legislation you may have. I would be very "intellectually" interested!

Voici ma contribution à votre reflexion sur ce sujet:

NB: The use by the courts (over the past few decades) in many countries of the technic of the "constructive trust" clearly indicates that a new legislation relating to the trust institution should handle this issue, so as to avoid uncertainty resulting from a court decision having to decide upon a "constructive trust claim".

NBbis: When I examined this issue in the late seventies at Oxford, I came to the conclusion that, for a non-common law lawyer (i.e. roman law lawyer), the trust should be considered, not so much as a mean of transferring property rights, by as a way of holding property rights. Consequently, I believe that this should clearly be stated in any new legislation. Any legal provisions relating to the institution of "trust" should be a chapter of "how to held property rights" and not simply a chapter of "how to transfer property rights". To be creative/innovative: in a new legislation relating to the trust institution, there should be provisions concerning (i) the trust as a mean of holding property rights, and (ii) how "to transfer" property rights held in trust.

Best regards.

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