

WATCHING CZECHS LOOK WEST

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I. DISORIENTATION

"I prefer the way we live in my home of Krevitsonitze," the Czech factory computer engineer named Dzhenek told me. Together we flew toward Prague, conversing in broken English and pitiful Czech with the aid of a bilingual dictionary. Dzhenek was going home after four months spent in Pennsylvania, where he had been part of a team installing his Czech company's first American export: a giant computer-directed lathe in a machine-tools factory. I, on the other hand, was beginning my journey. Through the courtesy of grants from Hofstra University, several foundations, and the U.S. government, I was visiting Prague, on my way to help to "install" a Western "export" in a city a hundred miles to the East. I was there as part of a project designed to nurture a new, western-modeled law school at Palatzky University in Olomouc (pronounced Alamohtz), an ancient city in Moravia, the region that now constitutes the eastern part of the Czech state.

Dzhenek had an illuminating, but often frustrating and difficult experience in the United States. American dollars were dreadfully expensive in exchange for Czech currency - about 30 Czech Crowns (Cr.) to one dollar, when the wage for Czech professionals, including well-paid engineers and computer experts such as he, was under 3000 Cr. per month. In Krevitsonitze, Dzhenek lived well by Czech standards - the markets provided food and most other needs at acceptable prices. In Pennsylvania, Dzhenek barely could afford necessities. The supermarkets and "discount" stores seemed too impersonal, unfriendly and confusing, and not particularly affordable. Even the cheapest and shoddiest of souvenirs and toys that he considered taking home for his children were overpriced.

At home Dzhenek could go anywhere he needed in town by foot or bicycle or tram but public transportation was not a viable option in his new surroundings. With no car, it proved difficult for Dzhenek to go anywhere, especially after work. He felt himself a captive of the suburban block on

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which his engineering team was housed. And he missed his wife and children. A telephone call to home was much too expensive to contemplate.

At work, the employees of the American company resisted any suggestion that they try to overcome the Czech language barrier to learn about their new equipment from the Czech team. They steadfastly insisted on being spoken to in English. The U.S. company bought the Czech equipment because, compared to the German machinery which it previously bought, the price was much better and the specifications of the Czech lathe were superior - the lathe was much too good to resist. But unlike the German equipment, which had come with precise instructions written in English, and which was calibrated with English as well as in metric measurements, the Czech machinery was far less "user-friendly."

Dzhenek designed the computer software that the machinery required, and he understood the equipment backwards and forwards. But the American managers discounted Dzhenek's intelligence and expertise because his English was weak. They declined to learn or even to try to figure out the smallest amount of Czech. Dzhenek was surprised by the low level of education of workers below the management level; furthermore, and he was absolutely astonished—offended, really—by the machinist's lack of interest in, or pride of, workmanship. It came as a shock for him to understand just how "fool-proof" the machinery control designs needed to be to pass muster in Pennsylvania.

Dzhenek's enjoyments in America had nothing to do with shopping the American way or experiencing the American work place. The fun happened when he could interact socially with his hosts in backyard parties, enjoying the weather and meeting American families at play and also when his team borrowed a car and travelled to Washington for a trip to the various national monuments. And then, when Dzhenek was about to head home, a friend he had made in the American company presented him with a quality point-and-shoot Japanese camera as a going-away gift. He thought the camera was terrific.

Conversation ended as we landed at the airport in Prague. After we cleared customs I offered to let Dzhenek share my taxi to downtown. He was about to take the bus, and was afraid he might miss his only good train connection to Krevitsonitze. Since I had never learned Czech and only recently had borrowed two infuriating Berlitz cassettes, I asked Dzhenek to arrange for the cab ride at the curb. He approached the cab driver to discuss the fare. As he questioned the driver a short, but very heated exchange ensued. Dzhenek returned, fuming. He told me that both of us should take the bus instead of a cab, even if it meant that he would miss his train. He dissuaded me from paying what seemed to him an exorbitant charge. The fare, which had been 300 Crowns (about ten dollars) when he left for the

United States, was now 800 Crowns. Since the taxi commission had been deregulated, he explained, a cartel had formed. The taxi drivers had become free to exercise their notorious—I'm tempted to say nearly universal—habit for treating not only tourists but natives abusively.

An American graduate student witnessed the interchange with the taxi driver. He introduced himself as we all boarded the bus. He told me in English, and Dzhenek in Czech, that he had the same experience with the taxis recently. He positively refused to take the cabs anymore because the drivers were not trustworthy. He told us that he spoke Czech quite well - that he was born and grew up in Texas but his mother only spoke Czech. Thus he had acquired the valuable ability to speak fluent Czech. And he held a law degree from a Texas school and now was earning an M.B.A. at Columbia University. We learned on the bus ride how his talents already were paying off.

His mother wanted to invest in Prague real estate. And so the Texan took a video camera through some of the streets of the beautiful parts of Prague. He photographed countless residential buildings that looked attractive. He flew back home, and screened the video to his mother, who pointed to thirty buildings she liked. Back to Prague, where our Texan found most of the addresses he needed by searching the property records at the City records office. He wrote thirty "cold letters" to owners, offering to negotiate a purchase, in Czech. Three positive responses, along with a few "go straight to hell" letters. And so the Texan's mother bought an apartment building in Prague for about a hundred thousand dollars, making the previous Czech owner a very rich woman by Czech standards, overnight.

And now the Texas graduate student was back in Prague. A partner at a large New York law firm had paid him \$20,000 to spend the summer writing a "business plan" for constructing a large, modern hotel somewhere in the city. Did I know any lawyers in Prague? Anyone in the Privatization Ministry? Did I happen to teach or know much about Czech real estate law? The Texan was busily building an address book of valuable contacts, he acknowledged, because that was the way to get business done. Something like a gold rush was going on in Prague, he said. He said so with all the enthusiasm of a Forty Niner.

Dzhenek stepped off the bus earlier than the Texan or I did. We exchanged addresses, but I was not able to see him again, despite my efforts to carve out time to visit his small town. The Texan stepped off a little bit later, shouting good-bye and telling me the name of the stop for the dormitory I was to stay at in Prague.

Of course I got off at the wrong bus stop. The names of the stops just didn't sound to me like their bizarre Czech spellings. So I was lost. I paid another 250 Cr. to take one of the infamous rip-off taxicabs to my

dormitory, at Kayatanka. I probably paid an exorbitant fee for the ride, but I will never know for sure since I don't have the vaguest idea of where I started from.

II. THE DUBLINERS

The elderly woman presiding at the reception desk of the Kajetanka Medical College Dormitory spoke no English, of course, and she resisted any suggestion that she be the one to try to overcome the Czech language barrier. Like vratnas at almost all of the buildings I entered throughout my trip, she gave me a blank stare when I tried to use the pigeon Czech in the Berlitz booklet. I went off searching for anyone who spoke English and Czech, and so I found a half dozen students of Irish journalism and their professor - who, having been around for more than a week, managed to get me a key and a phone card. And the journalism group kindly asked me to join them for dinner at the bar a few blocks away.

Not knowing other Irish journalists, I can't say if it is traditional for them to vent their frustrations during dinner with strangers, but it seemed a matter of habit for these good people. Entering their conversation that evening was like coming into a theater in the middle of a play. From bits and pieces of discussion I pieced together a rather interesting story.

It seems they had come to Prague under the auspices of two organizations: the BBC, to co-produce, with students of the Charles University Journalism school, some radio spots about contemporary Czech life; and the EEC, to help Charles University journalism students and faculty to develop an understanding of Western ways of reporting and of the Western approach to investigative journalism. Things weren't going smoothly.

As their first story, the Irish students suggested to their Czech counterparts that it would be instructive for all concerned to investigate racism and ethnic bigotry in the Czech Republic. The Czech students and professors didn't think it was particularly useful or friendly on the part of their guests to undertake such an investigation. But the Irish students maintained that "we're here to demonstrate to you the job of the press in a free society: to expose such underlying social problems, to attract attention to the issues that should be confronted." "Well, go ahead," said the Czechs. "But there isn't any racism here." One of the Czech professors provided a taped interview to say as much.

Then off to the Bosnian refugee camps went the Irish students - to record the way refugees felt about their Czech hosts. And off they went to speak with Romani's, who are more often called Gypsies - to record their

views about their life at the bottom of Czech society. Much evidence of prejudicial attitudes was gathered.

And then back to the editing room, where the conflicts between Czech and Irish became fierce. Why were they making the Czech professor sound so foolish? Why weren't they giving the Czech professor the last word? The Irish students were rather upset that their Czech counterparts weren't catching their zest for investigative reporting. The Irish professor told me that it was proving to be an intriguing lesson for him and his students.

The next night I joined the group at the same bar, where they had finished dinner and were having drinks. Things had not gotten better.

The Irish students had chosen their second story. In East Germany, on the Czech border, and in parts of Hungary, there appeared to be a rise of neo-nazi attacks and a growing number of fascist "Skinheads". Wouldn't it be an interesting story to learn if there are skinheads in the Czech Republic? Not particularly, replied the Czech guests: "You display a rather glaring misunderstanding of our Czech society. We are perhaps the most pacific nation in Europe. There are no assaults or episodes of brutality here. And we have deep-seated and historically rooted hostility toward fascism in all of its forms." (And, historically, this is essentially a truthful account.)

And then off went the Irish students to a bar known to teenagers in Prague to be a meeting ground for punks and skinheads. Much verbal evidence of prejudice was gathered on the skinhead subject. A young Irish woman elicited venomous statements about wanting to evict non-whites and non-Czechs from the country. She feared for her safety at points.

More conflict erupted in the editing room. Why were the Irish students insistent about portraying Czech society in a negative light, the Czechs wanted to know? I must say that at this point I too felt sympathy for the Czech outlook, since I have little use for exposing open sores without increasing the likelihood that they will thereby be healed.

But the Irish students that night seemed irate. "I could have understood these hostile attitudes to our reporting if we were interviewing officials of the Czech government," one told me. "But these are journalism students at the leading journalism school in the country. They're not learning to be an opposition press, they're continuing to be the government's mouthpiece - it's just a Western-style government that they're supporting now."

III. CRIMSON

I arranged visits with lawyers and business people in Prague who I thought could help me to understand the role Czech lawyers would be

playing in the new society that is unfolding there. In New York, I had spoken to someone attached to the Czech Ministry of Privatization. He referred me to an investment banker, M., who was working at the ministry, and who invited me to lunch when I called him after arriving in Prague.

I soon learned that M. grew up a few minutes away from my house in suburban Chicago. We graduated a year apart, from sister high schools (Niles East and Niles West). His father owned a clothing shop my mother visited. We spoke with the same Chicago twang. We both were bred with visions of success and achievement that emerged from the post-War suburban assimilationism of our parents. We had a nearly identical starting point in a midwestern, predominantly Jewish, pedigree conscious, somewhat intellectually inclined, materialistic and upwardly mobile environment - subverted somewhat by the political and social spirit of the sixties. He went to an Ivy League business school while I went to an Ivy League graduate school. He went West to California while I stayed East in New York. And perhaps it was the fact that we came from the same place, or were educated in roughly the same ways at the same time; but I found it difficult to believe that the intricate and delicate task of successfully carving into hundreds of little pieces the assets of an Eastern European Socialist State with a complex culture and a tortured political and social history, and auctioning the pieces to foreign investors, could be carried off successfully any more by M. and his team than by me, or any other such kids from our parochial world.

And yet here he was, laboring along with half a dozen others much like him at notebook computers on small desks in an open office on the upper floor of a shabby building in Prague, deconstructing Socialism and reconstructing Capitalism. He'd joined the "Crimson Group," the elite investment banking unit somehow related to Harvard, retained by the Czech President Václav Klaus to work with the government to transform the Czech Republic into a private, Western economy as rapidly and profitably for the Czechs as possible. The Crimson Group was proceeding full speed ahead when I encountered it. Already it had helped to transfer billions of dollars of assets that formerly were part of the Czech state—factories and stores and utilities—into the hands of American, German, French, and other investors. According to M.'s sources, there would be essentially nothing of marketable value left in government hands before the end of 1995.

Few in Crimson have any need to speak Czech, since everyone, or almost everyone it does business with, speaks English or has English translators at hand. "Why bother learning Czech, when Czech is spoken by fewer people than any other major language? We will be going soon, and who will there be to talk Czech to back home?" Members of Crimson often bring their families to Prague, but basically they remain apart from Czech life, and dip only selectively into Czech culture. They are part of the large

population of Americans - perhaps as many as 20,000 - who have been attracted to Prague by business opportunities, a strong dollar, and the intrinsic beauty and excitement of the city. Because of the concerns widely expressed about the contamination of the Czech food supply, however, many of them import milk, meat and other staples from Western countries.

Crimson's legal documents are simultaneously produced in English and Czech. Agreements are negotiated in English. The law is a brand of generic Western commercial law that has been grafted into the Czech law just for the purpose of making Western foreign investors comfortable.

Typical business days are as likely to be spent talking with foreign investors and "doing deals" as dealing with Czech authorities. Much time is spent estimating the price at which assets will be sold. How do they figure out how much to sell a brewery or a record company or a utility concession for? At Harvard, they were taught that valuation involved careful estimates of every asset under the control of the corporation to be sold, using internal and external estimates of costs of production and the value of goods produced. But in Czech terms this would be futile. How can you measure the value of a factory which has never produced what its buyer wishes? How do you determine the value of a company which never calculated its own costs of production in Western terms? Even if one could accomplish such measurements, they would require more time and effort to compute than the Czech government is willing to spend.

And so the Crimson Group has created its own rule of thumb: an asset is worth as much as the last dollar that Czechs can get from the foreign investor they have in mind, to pay for it. For example, if Crimson knows that Budweiser is interested in buying Pilsner, it looks at Budweiser closely to determine what it would be willing to pay for a fine Czech brewery. This method has yielded a considerable amount of money for the government, and a rapid disposition of assets.

But what happens in 1995, or whenever the last asset has been sold? Where is the needed revenue to come from? "A combination of severe personal taxes and corporate taxes on gains from properties purchased from the Czech State is projected. A major measure of the funds is to be gathered through a tax on private corporate earnings from the newly privatized firms." But is the collection of such taxes realistic? "It's true that there is a problem ahead. Since most of these companies will show losses indefinitely, there may be no actual profits, let alone paper profits, for years. And even in the United States, it is nearly impossible to enforce the tax rules against subsidiaries of foreign parents. Foreign businesses often escape taxation concealed as expenses to parent, offshore corporations. The impact of bankruptcies, furthermore, has yet to be calculated." With his eyes tilted

toward the ceiling and his shoulders hunched, M. implied that the fiscal picture for the years after 1995 looms as potentially a dark one.

If, as M. implied, the net effects of rapid privatization on Czech society as a whole are uncertain, it is surely true that the effects on M.B.A.'s and lawyers are overwhelmingly positive. Lawyers, in particular, are in great demand. Their status has been rising in rough proportion to their liberation from dependence on state employment and the magnification of their salaries. Legal education, consequently, has become heavily sought after.

With the new role of lawyers in mind I went back to the dormitory and prepared to leave Prague for Olomouc and the Palatzky law school. As I packed up to take the train out of the city and checked out of the dorm, I met my friend the Irish journalism professor. He, too, was preparing to depart.

I asked him how his project was faring. He told me that the Czech faculty had been quite cordial in their meetings, and in fact invited him back for future collaborative endeavors. But there were some more unfriendly words between the Czech and his Irish students - and some further conflicts about the editing of the radio stories. And so he decided to discourage his students from doing a third story that they were contemplating - a story about the underground sale and shipment of Centex plastic explosive by certain Czechs arms merchants to terrorists in Northern Ireland. In light of the objections to the stories about racism and skinheads, the professor thought the Centex story would be a bit too incendiary.

The professor also surprised me when he stated that his students were forced to leave the dormitory that very day. The dormitory's accommodations office informed him that, "regretfully," there had been an unfortunate misunderstanding about the length of their reservations; all the dorm rooms were actually booked on behalf of others. And so the Irish journalism students finished their radio series on a rather sour note and moved out when I did.

IV. DISHEARTENING REALISM

Eva, the young woman who prepared my visitor's program, and who had been assigned by the Vice Dean as my English translator, greeted me pleasantly at the train station in Olomouc. She led me to my boxy underfurnished flat in the back of a former Russian Army Headquarters, which now houses the Pedagogical Faculty of Palatzky University. For perhaps an hour or more, she took me on a walking tour of the city, with its narrow streets, fortress walls, ancient buildings and historic churches. And then to a restaurant on the town's upper square. Cheerfully she dropped me back at

my flat and told me to expect a visit from the Vice Dean of the Law School the next day.

What Eva didn't tell me was that she was pregnant - and apparently feeling very ill. The walking and touring may have done her some harm. Eva also neglected to inform me that I had unknowingly scheduled my arrival on a national holiday. And she didn't tell me that the Vice Dean had postponed her holiday plans to wait at home, or that the Vice Dean expected Eva to call when I arrived.

Helena, the Vice Dean, told me all this on the next day. She said that Eva's doctor had advised her to stay in bed at least for the next month, and that Eva would be unavailable and out of reach for some time. Arrangements Eva had made would need to be changed. Eva had not shown the Vice Dean my itinerary. Most items on the itinerary were incomplete and some were not possible to accomplish. My accommodations were not secure for the last week of my stay. Faxes I sent had not been received by the proper parties. Not all of the classes I had come prepared to teach could be taught. Different arrangements would have to be made for a translator.

Few of these problems could be solved easily, the Vice Dean warned. And there were others of a more general nature. The students didn't understand English very well. These law students were not graduate students, as in the United States. They were undergraduate students who had little enough background in Czech law, let alone American law. It was nearing the end of the term and the students were losing interest in everything unessential to their examinations.

We needed to discuss which of the series of lecture subjects I had prepared would be presented. It would overwhelm the students to discuss the detailed word-for-word translations of the privatization agreements I had brought with me from the Ministry in Prague to illustrate warranties and contractual risk allocation. Furthermore, there would be no commercial specialists from the faculty available to attend or help. The historical material I had sent ahead about the Nuremberg trial released a very old and bitter fight; it might be better left to talk about this with the faculty legal historian. As to my suggested topic of nonprofit organizations, "We are at a loss in this country to know what to do about such groups and this might be a subject of great usefulness, but it would be too complicated to discuss - the students don't even know what a nonprofit corporation is, after all." My lectures about consumer law would be the most appropriate, she felt.

I needed to appreciate that translation of law school material would require extraordinary preparation and great care, and there was little time available. I needed to understand that the university administration chronically took on more in the way of foreign visitors than it adequately could handle. I needed to realize that there were only six full-time faculty on

the law school, of whom only three spoke any English at all. And I needed to know, quite frankly, that there was no true appreciation on the part of those above, of the difficulty of making foreign visits work. Vice Dean Helena, it seemed, was fairly tired of taking up slack whenever problems arose. And now she must prepare a new program for me.

She would see what she could do; I must go now to meet the Dean.

V. OPTIMISM

A broad smile greeted me as I looked into the eyes of Mirek, the Dean. He looked genuinely glad to see me. His was the first familiar face I had seen arriving in Europe. And since the first time we had first met at my apartment in New York more than a year earlier, he had become much more familiar with English.

"We are so happy to see you. Perhaps we can return to you some of the hospitality you showed to us in New York. Our faculty is very interested to learn about commercial law and consumer protection from you. You know that we have made great advances here, with the help of your school and your colleagues. We have more than 2,400 students applying for less than 70 spots; they all come on one day to take an entrance examination. Our enrolled students are learning more and more English, every day. We have a Peace Corps volunteer here who is teaching our students English."

"It is unfortunate that Eva became ill, but we will find another translator for you. The students are enthusiastic about learning about American law, and it is important for them to do so. They are having a valuable experience with our foreign lecturers. You know we have just returned from a field trip to Graz in Austria, where our students learned much about law in the European Community. The students are eager to learn anything they can about law in the West."

"Isn't it remarkable what we have done in just a few short years?"

"I hear you have a very nice flat, and whatever problems you have we will iron out."

"How is your little daughter and your wife? I understand they will be joining you soon. You have seen all the stores up and down the streets? Five years ago there were hardly any. It is incredible."

"Would you like to go with us on a trip into the countryside, perhaps? You will see how beautiful it is here."

"We have all been looking forward to your visit."

I was relieved and buoyed to receive all of these enthusiastic comments from the Dean. But I wasn't sure whose outlook—Helena's or Mirek's - was the more constructive one for making a new institution like this one work.

VI. CONSUMERISM

The Vice Dean, Helena, took it upon herself to translate my three-part lecture on the subject of consumer protection law, and she did a superb job. She and other visitors had been dissatisfied with student translators who had no background in the law, because they could not describe the legal terms with sufficient refinement or precision. And so she worked together with me to be sure that she understood concepts like "private right of action," "common law," "representation," "reliance," "concealment," and "odometer fraud." I wrote these and other terms on a giant blackboard on the podium of the lecture hall.

The Palatzky law school is new but class attendance rates here, as at all other law schools in the Czech Republic, are generally low. As at the other law schools, the days are heavy with large lectures. Grading is not anonymous, so students rarely ask questions that might challenge a professor. Students seek out the back of the rooms, accustomed to passively listening to canned speeches.

Forty or fifty students assembled lethargically into the "Large Hall," an auditorium originally built for Communist Party meetings that could seat perhaps five or six hundred. Helena called the class to order and asked the students to come sit up in the front. In Czech she told them who I was, and provided a general description of the topic I would speak about. Then Helena turned to me, and, as I spoke, she proceeded to translate, phrase by phrase.

I began by telling the students about the problem of deception in a free marketplace. I explained that buyers usually depend upon sellers for representations about the goods and services that they are buying. "Both mainstream economic theories and the American common law support the view that bargains should be enforced in cases where buyers receive honest and complete information about goods," I said.

But I then emphasized something less obvious: that mainstream economic theories and the common law both suggest that it is inefficient and also unjust to enforce bargains that are based upon frauds or misrepresentations. "If the law approved of dishonest misrepresentations, buyers would buy goods they didn't truly agree to buy, and producers would be encouraged to produce goods that buyers didn't want. Society as a whole would be less well off than if such bargains were not enforced," I said. All of this was rather abstract, but I with the help of Helena, seemed to get it across.

I later learned, the students, found my proposition fairly hilarious: that Western theory and law embraces the view that a seller is not free to represent anything at all about a product in order to make a sale! Salesmen

in Eastern Europe apparently make exaggerated claims fearless of legal impediments. Isn't any kind of salesmanship tolerable under the new Westernized Czech deregulatory order? Under prior Czech law, it was theoretically possible to bring a complaint before a commission, and this occasionally happened. However, nobody today holds the new breed of consumer marketers responsible for their false statements if those representations are not embodied in a contract.

I talked about representations. "Representations aren't only those contained in a written contract, or only limited to oral representations made at the time of a sale," I said. "Actionable representations can be made, for example, by the distant manufacturer of a car." I opened up a Czech magazine to a car advertisement and suggested that the picture of a car winding around a turn was a representation that the car could handle well. "At American common law, an individual can bring a lawsuit against a seller and claim a misrepresentation, even if the misrepresentation is not written up in a contract."

Suggesting that distant manufacturers could or should be held responsible for the advertisements of their goods which consumers bought from local stores, I later learned, also seemed unreal to the students because under current Czech law, notions of privity that made sense in a socialist state still apply. A consumer's recourse in most cases of economic injury is against the retail merchant he bought from. When the merchant goes out of business, the consumer is basically out of luck.

It ran contrary to the students' experience with the stores they were visiting and the advertising they were encountering, furthermore, to suggest that these claims could be tested in court. These law students are also buyers themselves, and they are new to the world of consumer marketing tactics. They are regularly disappointed by the quality of the goods they are buying and regularly absorbing the cost of their reliance upon less than truthful merchants.

I started to speak about the history of odometer frauds. "Setting back odometers, (which I figured correctly) is not uncommon in the used car market in the Czech Republic." "How many of you know somebody who has had problems after buying a used car?" Guessing that everyone in the class would know at least one other person who at some time had purchased a used car, I had decided to discuss fraud in the purchasing of used cars. Two people raised their hands - most students didn't know anybody wealthy enough to purchase a used car.

I explained how difficult it was under common law misrepresentation doctrines to establish all of the elements necessary for a recovery: Materiality, Reliance, Scienter, Injury, Causation. Then I traced the development of the federal statute. "In 1972 Congress had made

recovery much easier by creating a federal statute which simplified the matter of proof greatly, criminalized certain conduct, and provided for the recovery of lawyers fees and treble damages. Since then, the problem of the setting back of odometers has become much less severe than it was.”

Finally, I discussed fraud as a general matter and expressed the view that in the new social order Czech lawyers would prove to be a necessary component of consumer protection efforts. “If there are enough statutes which contain private rights of action with provisions for attorney fees and damage awards,” I suggested, “lawyers can thrive while playing a constructive and important role in improving the safety and honesty of the marketplace.”

The lecture took place over three hour-and-a-half sessions. In spite of the many efforts I made to generate a conversation, there was very little comment by students in the first talk. By the second class, I realized that the evolution of legal and economic doctrines and the role of lawyers in vindicating consumer rights was too abstract to be meaningful to the students. The suggestion that these law students might actually be able to do something about the stings and bites they themselves were suffering in the new unlicensed and unregulated marketplace was far more interesting to them.

During the second class, most of the thirty or forty students who came stayed engaged and many of them responded when I posed questions. Others came up to discuss their own consumer problems after the class. These problems proved to be not too different from the ones American students present to me after class. For example:

1. According to three or four students’ personal experience, new shoes fall apart much too quickly, and merchants refuse to take them back;
2. It seems that many small businesses are beginning to fail, leaving consumers out in the cold and without a remedy for services and goods unprovided;
3. Several in the class stated that theft is on the rise, and the police appeared unwilling or unable to take action that they would have taken under the old regime when personal property crimes (including the theft of bicycles) are concerned;
4. A student talked about his unhappy experience trying to return goods that were sold to him as appropriate for his

needs (an audio speaker) but which proved to be unsatisfactory;

5. Students talked about being denied refunds or replacements for defective goods simply because they had no receipt; since it is still almost exclusively a cash economy, there are few other ways to prove a purchase.

Consumer grievances in the new Czech economy are real, and they are growing more severe.

My third consumer lecture concerned a problem which surely will emerge for Czechs in the near future: checking accounts and credit cards. Although the acceptance of credit cards is ubiquitous in Prague, only one store in the whole city of Olomouc accepted VISA card payments during the time I was there. Nonetheless, it is apparent that within a short time Czechs will have their own debit and credit cards. I talked about the benefits involved in credit, and the legal issues that would be raised by a growing credit card debt: usury regulations, mandating accurate credit card charge disclosures, barring discrimination in granting credit to women and minorities, preventing telemarketing frauds, and forestalling personal bankruptcies.

The students were very interested in most of this discussion about credit. After class, one of them came up to tell me he was travelling to New York, and he had only cash and no credit card. He had heard on CNN that New York merchants would not let some consumers buy items with cash but insisted on credit cards. I told him not to worry; he had confused the credit card phenomenon with a federal tax law which required car dealers to record the name of those who pay for a car or boat with more than \$10,000 in cash. Another student had heard somewhere that cash customers were going to be charged more than credit customers in absolute terms in some places and felt that this was a kind of discrimination that should be prohibited. I told her that while it was common for cash customers to subsidize credit card customers by paying an identical price for goods, I was unaware of the existence of the practice of cash customers being charged more for goods and could not envision it happening.

At the end of my last consumer lecture, I suggested that students seek out honest representations about products, and that they try to obtain reasonable consumer regulations and disclosure laws in Czech consumer markets which have become increasingly chaotic. I left them with a copy of a Consumer Transactions lawbook, a compilation of consumer statutes, the *Consumer Reports Buying Guide*, and best wishes.

VII. WADING WARILY

What amazes me still is how quickly the law school developed its own identity and a strong presence within the University. Despite a great deal of Western "influence," and despite the intensity of its gaze West, the identity of the law school is fundamentally un-Western in its outlook: so Czech in its approach to making faculty appointments; in its approach to teaching; in its approach to examining students; and in its approach to defining the curriculum. Although the University's Rector would like to move faster, Palatzky University is wading very gingerly into the Western academic ocean.

By the time I left the law school I came to feel that I had given it a wee, incremental assist, by teaching, offering help in composing grant requests, and providing some advice to the Rector of the University about American law. My inner reaction, however, often resembled the engineer Dzhenek's response to consulting in Pennsylvania: With so much useful knowledge to share, why wasn't there more eagerness to listen?

I believe that in my educational zeal, in one way or another, I revealed a great deal of obtuseness toward Czech culture and social behavior. So did most of the other Westerners I encountered—including M. in his economic planning and the Irish in their efforts at journalistic reform. However well-intentioned we were, this obtuseness no doubt contributes to widespread reticence and well-placed skepticism about the wisdom of our approaches.

It is possible to estimate the prospects for the Country as a whole, but not with any confidence. If the Czechs can continue to tap two forceful dimensions of their character that I encountered, they will make the necessary transformations of the Czech economic and legal systems. They will need the liberal spirit of the optimists like Mirek, who vividly see how far they have come. They also need the pragmatic coolness of realists like Helena, who recognize immediately the difficulty of taking even the smallest steps.

Sustaining hope and realism simultaneously, however, is not an easy task—not anywhere today in Eastern Europe.