
Jerome Hall
Book Reviews


Edward Livingston is one of the livest of our "great dead." Thus, in the current undertaking in Louisiana and elsewhere to construct a modern penal code, no source of information can provide greater assistance than the works of this eminent lawyer. In addition to innumerable technical and substantial suggestions (e.g., a Ministry of Justice, the progenitor of our judicial councils) will be found an abundance of humanitarian reforms that are consistent with American ideals. And if the appointed codifiers are tempted to forget that they are American lawyers and to embrace the dogmas of a current penology that has its roots in totalitarian philosophies, they may be deterred by Livingston's clear and even eloquent analyses of the role of criminal law as the paramount protector of the individual from official abuse.

The most conspicuous single fact about Livingston is that he was no rigid doctrinaire. Thus while he threw himself wholeheartedly into the struggle for preservation of French jurisprudence in Louisiana, he nonetheless recognized the excellence of English criminal law, and helped adopt it. This basic balance, judgment, insight, and common sense characterized his career from its promising origin in New York to its calm close at the end of almost three-quarters of a century.

A full biography of Edward Livingston—one that would build on and amplify Hunt's Life—has long been needed; all Americans, particularly all members of the legal profession, and, most especially, those of the Louisiana Bar, must be grateful to Mr. Hatcher for having undertaken so arduous and important a task. Louisiana State University Press has done an excellent job in the printing and editing of the work and has illustrated it splendidly with a number of interesting photographs.

The author has presented a detailed study of Livingston and of the political history in which he participated. The early days in New York where he was the favored member of a prominent family, election to Congress from New York, District Attorney and Mayor of New York, arrival in New Orleans and immediate entry into the vibrant life of the city and state, the controversy
with Jefferson over the Batture, Aide-de-Camp to Jackson in the
Battle of New Orleans, the codification of the various Louisiana
codes, Louisiana legislator, United States Representative and Sen-
ator, Secretary of State under Jackson, Ambassador to France,
and brief retirement—these are the high points in a distinguished
career that Mr. Hatcher describes in detail. The information is
interesting; the work was painstakingly done.

I wish I could add that the book shows much insight, new
discovery, or creative imagination. The author seems to have
proceeded almost mechanically at times, feared to form his own
judgment about the man, and failed to achieve a fresh, forthright
point of view—preferring to accept the work of others as valid,
and to summarize it. Livingston was sufficiently great to with-
stand any calm appraisal and display of his weaknesses—and he
had them. Only the young and the romantic must have their
heroes perfect. The rest of us want to know the weaknesses, the
foibles, of the great, whom we come to know and to appreciate
all the better thereby. Another major weakness in the book is the
unsuccessful attempt to integrate Livingston’s biography with the
political events of his times. The aspiration was excellent—the
execution unfortunate, to say the least. Almost two hundred
pages simply repeat what can be found in numerous histories—
except that Livingston flits through this restatement in Mr.
Hatcher’s book. The first hundred pages contain practically noth-
ing about Livingston’s childhood and youth, and hardly more
than a word about his wife and children. It is unfortunate that it
was impossible to add anything in this regard to Hunt’s Life. The
abbreviation of the book to the above extent together with some
attention to the style would have helped greatly. In short, the
definitive life of Edward Livingston remains to be written. None-
theless it is fair to repeat that Mr. Hatcher has done a worth-
while job conscientiously and with detail and accuracy.

In these days the thoughts of all observant Americans are
turned towards their own history more than ever before. It is a
history in which law and lawyers played important roles—prob-
ably the most important ones of all. Not chauvinism but a vital
need to solve pressing problems and maintain cherished values
compels this study of our past. Law teachers must be interested
especially in the biographies of great lawyers if for no other
reason than to learn how legal education has retrogressed. Com-
pare the training of Livingston and other great lawyers of this
country as regards the functions and philosophy of law with that
of present-day students pointed at Bar examinations drawn up by average practitioners—and form your own conclusions as to this. There is, moreover, a special obligation on Louisiana lawyers and law teachers to make generally available the legal history of the state. It is a veritable mine of valuable resources that includes French and Spanish and common law; its cultivation is long overdue. Because of Livingston's equal grasp of all of these systems, he has excellent claim to the title of premier lawyer of Louisiana. In that state he blossomed to maturity as a great advocate and as a legal scholar and codifier of world and lasting renown. Livingston should be an inspiration to the Bar, teachers, and students of Louisiana. His career should encourage them to add greatly to the wealth of their own jurisprudence and to that of the country as well. For his considerable help in furtherance of this goal, we are much indebted to the author of this book.

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No other political institution in the world provides so subtle and unstable an interplay between office and personality as does the American presidency. The presidency conditions the nature of the president's activity without defining it in any save the vaguest terms. As Woodrow Wilson put it, "The president is at liberty, both in law and conscience, to be as big a man as he can."—as big, that is, as he can be within the limits imposed by a federal system, a division of powers, and a party organization with radical centrifugal tendencies.

How big a man the president should be was left unsettled by the framers of the constitution; and their divided opinion on this matter is reflected in the ambiguity of the provisions which define the office. The presidency has never achieved a position of stable equilibrium within our system. And now this office of ambiguous origin and fluctuating history has come to assume a position of fateful importance in moulding the shape of the future. It must

* Professor of Law, Indiana University Law School.