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# Forum Juridicum

## A Tribute to Henry George McMahon by the Louisiana State Law Institute

*Leon Sarpy\**

It is indeed an honor to be called upon to take part in this evening's program, especially in view of the purpose.

It is most appropriate at this Annual Meeting of our Institute that we recognize in a very special manner that which the Law Institute rightfully considers to be the greatest contribution made by any one person to the cause of Civil Procedure in the State of Louisiana since 1825, namely, the determined resolution and untiring industry of Henry George McMahon to produce for his native state a revision of the Code of Practice, which Code has for the most part stood for one hundred and thirty-five years. Very largely as a result of his efforts as co-ordinator and reporter, the Louisiana State Law Institute has realized one of its most important projects in the two decades of its existence.

While it is true that Leon Hubert of Tulane University and I have served as co-reporters with Henry George over the past ten years, it is also true that the germ of the project had birth in his own mind at least thirty years ago, because it was in the late twenties and early thirties that Henry George displayed an intense interest in procedural reform. As a member of the Law School Faculty at Loyola, he gathered and co-ordinated a wealth of materials which in 1937-1938, his first year on the L.S.U. faculty, he made available to faculty members and students in mimeographed form. All during this period, Henry George continued to envisage a revision of the Code. In 1939, the West Publishing Company introduced his work in two volumes under the title *McMahon on Louisiana Practice*, which I have found invaluable in my teaching at Loyola for over twenty years.

What the judiciary thinks of that work is noteworthy. In the foreword of Volume I, the importance of that work is reflected by our late Chief Justice Charles A. O'Niell who declared:

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"The lawyers in Louisiana are familiar with the very valuable work of Professor Henry G. McMahon in Louisiana procedure through his numerous contributions to the law journals. And now the profession is even more indebted to him for his scholarly collection of the essential source materials on Louisiana practice. The appearance of this book marks the culmination of a number of years of intensive study that the author has devoted to his favorite subject. . . .

"Professor McMahon's materials appear at a timely period, in which searching inquiries are being made into problems of procedure. Not only the law students but the practicing attorneys and the judges also will welcome Professor McMahon's collection. To all of them this useful book of Louisiana procedure is commended.

"Professor McMahon's experience as a practitioner and as a teacher have combined to produce for the legal profession a scholarly and practical work which will rank high in the contributions that Louisiana has made to the development of adjective law."

Later in a book review in 2 Louisiana Law Review 391 (1939), the late Judge William H. Byrnes of the Civil District Court for the Parish of Orleans, with whom I had the honor to collaborate in that review, said of this work:

"'McMahon's Louisiana Practice' is an exhaustive two volume work in which the author's ability, untiring industry and thoroughness have produced the only compilation of all authorities dealing with Louisiana pleading and practice . . . and is truly the long needed co-ordinating agent . . . . It can safely be predicted that [it] will be warmly received by judges, practitioners, teachers and students, who will regard it for years to come as an outstanding contribution to the advancement of adjective law in Louisiana."

The work was kept up to date with supplementary volumes and no Louisiana law library is complete without it. Then Henry George looked forward to the opportunity of actually commencing recodification.

Finally the opportunity came. The Law Institute provided funds for the projet of the new Code, the start of which Henry George had eagerly awaited. The approval of the Legislature

was obtained and the ten years effort began. Henry George was given the leadership.

During that ten-year period our experiences were varied, some marked with many pleasures and others with disappointments. Our visiting program in many sections of the state, colloquially referred to as the "circus," we shall all remember. We recall many pleasant week-ends at Lake Bistineau on Colonel Tucker's reservation. "La Cypriere." But most of all, the loyal and faithful counsel and advice given by the members of the Advisory Committees, and the Council, composed of so many of our state's finest lawyers, and the unsung Director J. Denson Smith, will ever stand out as vivid memories. And so now we have come to journey's end.

Only several months ago in December, 1959, in addressing the Baton Rouge Bar, Leon Hubert issued a statement which appropriately bears repetition here:

"For a long time I have been waiting for an occasion of this sort to say something publicly which ought to be said. As is my custom when I want to express myself very particularly, I have written out my thoughts, and I would like to read them to you.

"I want to pay public tribute to one of the finest legal scholars this nation has ever produced. More than anyone else — far more — he is responsible for this new code. It was he who guided the course of study and decision in this work for 10 years, and it was he who was inspired and who gave inspiration to all others connected with the project.

"For many years I have had contact, of one sort or another, personal or through their works, with great figures in the field of civil procedure. I here assert that Henry George McMahon is outstanding nationally and internationally in this field. I consider him one of the truly great scholars of our time.

"I want to acknowledge also a personal debt I owe to him, although he may not be aware of it. He has been a great teacher for me. I know only a portion of what he knows, but even for that much, I am indebted to him. His genius in this field has often amazed me, and it is an honor and a pleasure for me to here publicly assert that fact.

"And so I suggest, what I firmly believe, that to the great

names of Livingston, Derbigny and Moreau-Lislet, we should add now the name of Henry George McMahon.”

I, of course, heartily endorse those sentiments and I am sure that we all agree.

Had Henry George remained in practice in the early thirties, he would certainly have made a notable success. Instead he deliberately sacrificed material gain for his unselfish ambition to teach law and to produce a Code of Civil Procedure. What greater sacrifice could any man of any profession make for his fellow man?

And so, Henry George, on this momentous occasion in your life, your colleagues on the Council consider it a rare privilege to present to you this sterling silver tray, in small recognition of your tremendous effort and accomplishment, on which you will find engraved the following:

“Presented to Henry George McMahon, this token of esteem bearing the signatures of his colleagues upon the completion of the projet of a Code of Civil Procedure for the State of Louisiana in recognition of his dedicated contribution as coordinator and reporter. The Council of the Louisiana State Law Institute. March 25, 1960.”

But, under our law, you are not entitled to all of the credit. In keeping with the civilian concepts of domestic tranquility, the end result was indeed a community venture, and so we are particularly pleased to present Neenah McMahon, who is a wonderful and capable person in her own right, with these beautiful roses as a token of our appreciation for her part in caring for you on the home front.

May both of you be with us for many, many years.

## **The Ideal Relationship Between the Bench and the Bar\***

*Joe B. Hamiter†*

My first words must be an acknowledgment of the great and genuinely appreciated honor you do me today. Calvin Coolidge once said that no person is ever honored for what he has re-

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\*Address delivered by the author at Louisiana State University on the occasion of his induction into The Order of the Coif, April 30, 1960.

†Associate Justice, Supreme Court of Louisiana.