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## JOHN TUCKER AND THE LAW INSTITUTE

*T. Haller Jackson, Jr.\**

### *MAY IT PLEASE THE COURT:*

The Louisiana State Law Institute originated in a movement initiated at Louisiana State University in 1933 but due to economic reasons, the project was postponed until April, 1938 when the Louisiana State University Board of Supervisors authorized its revival. Later in the same year the Legislature chartered it as "an official, advisory law reform commission, law reform agency and legal research agency of the State of Louisiana" by Act No. 166 of 1938.

John H. Tucker, Jr. was an active alumnus of the Law School of Louisiana State University and he was involved in the plans for the Institute from the beginning. Dean Paul M. Hebert, late Dean of the Louisiana State University Law School, has written that he and Colonel Tucker prepared the enabling act which subsequently was passed by the Legislature. Concerning Colonel Tucker's efforts to bring the Institute into being and launch its successful work, Dean Hebert wrote the following:

It was the initiative, vision and drive of Mr. Tucker which made possible the reopening of the project and his sustained leadership has constituted the veritable life-blood of the Institute. His unselfish devotion of a large part of his time to this work, augmented by his superior attainments as an outstanding scholar of the civil law, have provided the essential links between the law schools and the profession required to make the Institute an effective organization.<sup>1</sup>

Before the Legislative act, Colonel Tucker was acting president of the Institute, and, after passage of the statute, he was elected the first president. Except for several years when he was on active duty in the United States Army in World War II, he served as president of the

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1. 17 La. R.S. 39 (West 1951).

Institute from 1938 until he was elected its first chairman in 1965. At the time of Colonel Tucker's death on May 22, 1984, he had been elected *Animateur* of the Institute, an office specifically created for him. Freely translated, the French word "*Animateur*" means a person who animates an enterprise or an organization by his ardor and his spirit.

The accomplishments of the Institute have been set forth in detail in biennial reports to the Louisiana Legislature.<sup>2</sup> A partial list of work during the period of direct personal influence by Colonel Tucker included the Compiled Edition of the Civil Code, the volume of Louisiana Statutes Related to the Civil Code, the Criminal Code, the Revised Statutes of 1950, the Constitutional Revision Project completed in 1951, the Code of Civil Procedure, the Trust Code, the Code of Criminal Procedure and the continuous revision of the Revised Statutes and the codes. He shepherded the translation into English of the Civil Law Treatise of Planiol followed by Geny, *Method of Interpretation and Sources of Private Positive Law*, four volumes of Aubry and Rau, two of them with Louisiana annotations, and one volume on Prescription containing portions of three French treatises.

After Colonel Tucker became Chairman of the Institute in 1965, the foundation laid by him resulted in the enactment of the Mineral Code and the revision of a substantial portion of the Civil Code, the last portion enacted being the section on Obligations as Act 331 of 1984.

Colonel Tucker's participation in the Institute and its work was prompted by his desire to improve and modernize the Civil Law of Louisiana. His ambitions were supported by a foundation of religious faith, unshakeable integrity, inquisitiveness, scholarship, perseverance and physical energy, all illuminated by an unusual intellect and perception.

Out of his inquisitiveness came his use and love of books and a resulting scholarship that contributed to the success of the institute. He taught himself to read French, which he did readily and well. When he began the practice of law, he began collecting a personal civil law library which, at the time he and Mrs. Tucker donated it to the Louisiana State University Law School, was recognized as one of the finest private collections in the United States. He was not a mere book collector. He was a serious scholar of the law, he loved his civil law library and he used it almost daily. He acquired from it a comprehensive history of the development of the civil law. He served as a visiting lecturer at Tulane University Law School for a number of years presenting a course on "*Civil Law Method and Technique*." He lectured at Louisiana State University Law School and presented many papers at professional meetings and other universities. On one occasion, he addressed a distinguished

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2. For a detailed history of the Louisiana State Law Institute see the article of Professor William Crawford which appears in these pages. See Crawford, *The Louisiana State Law Institute—History and Progress*.

international audience of legal scholars, judges and government officials in the Civil Courtroom of the Court of Cassation in the Palace of Justice in Paris. President Auriol of the Republic of France was in attendance.

He was an accomplished writer not only of legal articles but also of the provisions of the law and comments which the Institute was engaged in drafting. He had an exceedingly precise vocabulary and was a master of semantics. He wrote clearly and persuasively. During the preparation of the Code of Civil Procedure, Professor Henry George McMahon, who was the coordinator of the Institute's project on the Code of procedure and the foremost authority on the law of civil procedure in Louisiana, believed that the new Code should substitute the newer concept of notice pleading adopted by the Federal Rules of Civil Procedure in place of the traditional Louisiana requirement of fact pleading. As a result of the Institute debate over this issue, professor McMahon and Colonel Tucker each wrote a law review article in support of his position. Both were excellent and are still read and cited today when new procedural proposals are being considered. The Institute ultimately retained fact pleading and some of the problems in the Federal Rules pointed out by Colonel Tucker are troublesome today.

He was genuinely interested in people and an expert in communicating with others. This quality made his leadership effective and enabled him to positively motivate those who worked on Institute projects. If he had been a highly educated scholar but only a "retiring loner," the Institute might have failed. Perhaps Colonel Tucker was at his best in face-to-face communication with others.

People sensed that he enjoyed their company because of his straightforward look, his ready smile and wit, and his willingness to take the time to talk about their particular interests. Lawyers, legal scholars and judges have been attracted to work, and produce their best, on Institute projects because of Colonel Tucker's personality.

His ability to communicate helped make him an excellent judge of the capacity of people. This quality enabled him to know and invite the best-equipped minds into the work of the Institute.

He believed that complete planning was absolutely necessary for success in solving a problem of law revision. He never settled upon a plan without thoroughly talking it over with those who would be involved. Perhaps his military service and the handling of complex litigation made him know the importance of planning. Until his death, he kept the book on logic he had studied as an undergraduate student at Washington and Lee from which he graduated in 1910. He said that the course in logic had convinced him that the best way to accomplish any complex endeavor successfully was to have a logical and complete plan before beginning.

Nevertheless, no plan he devised became fixed and unchangeable. The best example may be the modification of his plan for the revision of the Civil Code. Initially, he hoped that many translations of civil

law materials, commentaries, studies and doctrinal writings could be available before Code drafting began. He believed added emphasis on civil law method in the universities would provide the trained civilian scholars needed to handle the work of redrafting the Civil Code. He held the hope that after proper preparation a new Civil Code could be produced in no more than fifteen years by a very small group of reporters writing in the same style. These matters remained at the top of his list of priorities but he concluded that it was not possible to complete all aspects of preparation before beginning to revise a Civil Code that needed adapting to modern society and business transactions. His original plan was modified because of circumstances which made the beginning of Code revision imperative. Fortunately, only a few articles in the many sections of the Civil Code that have been adopted have required further consideration.

Finally, Colonel Tucker was a superb leader. He prepared himself personally to undertake each Institute task. He read all that he could find on a subject and its history, he talked to those with knowledge on the project, he evaluated the persons from whom he would select the principals in the drafting of a project, and he evaluated the importance and priority of each task in relation to others at hand. The Institute could only undertake a limited number of projects at one time without destroying the excellences of another project and this he could not approve. Determining priorities was a difficult task that he performed well.

Perhaps his desire for the very highest standard in all of his endeavors and which benefited the Institute, the legal system of Louisiana and his fellow man in many other ways during his life-time, and will continue to do so in the future, is best expressed in a closing paragraph of an editorial in the Shreveport Times, which he represented for more than sixty years:

Col. John H. Tucker could well be described with one word: excellence. His 93 years on earth were filled with the pursuit of excellence in all aspects of life — for himself, his friends, his community and even for the world at large. What was astonishing was the frequency with which he achieved it and prodded others to achieve it.