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TUCKER AND THE SOCIETY OF BARTOLUS

*Albert Tate, Jr.**

May it please this Honorable Court:

We are here today to honor the memory of a great man and of a magnificent servant of the law. We are here to honor John H. Tucker, Jr., who recently departed this life at the age of ninety-three, and his immense contributions to the revival of our civilian law tradition in Louisiana, and to law reform and law codification in this state. We are here to honor a great-hearted human being, a leader who inspired in others his own great love of the law. Through our admiration and affection for *his* intellect and originality of character, many of us came to share his vision and helped to make it a reality, of a civilian Louisiana faithful to the ancient traditions of its law, yet shaping that law to meet the new needs of a rapidly changing society—by a methodology and approach that does not depart from Louisiana's historic view of the law as a coherent and intellectually based system of consistent general principles that adapt themselves flexibly to the ever new and changing needs of our people.

My topic today, however, does not concern any of the great contributions of this great human being. It rather concerns a small discussion group of law people inspired by him to gather twice a year to hear scholarly papers presented by the members on civil-law topics and to enter into sometimes spirited discussion of the ideas propounded. The topic is included on today's program, perhaps, in order to illustrate a lighter aspect of the unique character of Colonel John H. Tucker, as well as his ever-present love of the law, not only in great matters of public interest, but also in small matters that basically concerned comradely discussion with his fellow scholars and practitioners of the law.

This group, the Society of Bartolus, was named after the great Fourteenth Century Italian jurist, who as a professor of the civil law at the University of Perugia in Renaissance Italy, revived the ancient civil law of Rome as a living system of principles for the society of

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his day.¹ The concept of the Society originated in a letter of April 23, 1970 from Colonel Tucker to Thomas B. (Tommy) Lemann. Colonel Tucker suggested to Tommy the possible utility "of having a dinner club such a Wyvern for the presentation and discussion of civil law questions." The indefatigable Tommy immediately replied with enthusiasm, and the two of them proceeded to organize the Society of about thirty members from all over the state, including representatives of the bench, bar, and law school faculties.

I should say, now, that as the third member of the Society, its constitution is still a mystery to me and existed (if at all) only in the heads of Colonel Tucker and Tommy Lemmann, who asked me to preside at the meetings and who from time to time informed me of others who desired to join. From Tommy's interest in the ancient Greeks was derived the title of Colonel Tucker as the presiding spirit of the Society of Bartolus—he was called the "Panhypersebastos." I have lately learned from Tommy that this a title originated in the ancient Byzantine Empire that, and, roughly translated, means "Over and above all Worshipful and August." I should also mention that the official motto of the Society, adopted at its April 4, 1975 meeting, following the delivery of a paper by Augusto P. Miceli later published in the *Louisiana Law Review*,² is "Nullus bonus jurista nisi sit Bartolista," which ancient motto means, as Mr. Miceli tells us, "There can be no good jurist unless he is a follower of Bartolus."

The Society of Bartolus meets twice a year in a private room at Antoine's Restaurant in New Orleans. At each meeting, a scholarly paper is delivered by one of the members. This is followed by a general discussion, both as to the topic presented and also as to the civil law in general. The first paper was delivered by Colonel Tucker himself at the Society's first formal meeting on June 4, 1971. It was entitled "Louisiana Civil Law: French or Spanish." In connection with this paper, the colonel also produced a volume, available now in the law libraries of our state, reproducing early sources that concerned the disputed and then controversial topic as to whether the origin of the civil law of Louisiana is French or Spanish.

Altogether, twenty-eight papers have so far been presented at the semi-annual meetings of the Society, and I attach a list of them as an appendix to this paper. Perhaps one-third to one-half of them have been published in our state's law reviews and bar journal. For the members of the Society, and for those who have read these papers, they represent an exposition of sometimes fascinating civilian issues, major and minor, that would not have been formalized and brought to light without the generating concept of the Society and its programs.

1. See A. P. Miceli, "Bartolus of Sassoferrato," 37 La. L. Rev. 1027 (1977). This paper was originally delivered at a meeting of the Society on April 4, 1975.

2. Cited at note 1, supra.

Colonel Tucker was present at all of these meetings through at least his ninetieth year in 1981. In addition to the first paper delivered at a Society meeting, he also delivered his "Valedictory" on April 18, 1980, which was on the subject of substitutions— but I seem to recall yet another moving valedictory a year or two later, when the Colonel informed us that for reasons of age and health he might not be able to attend as faithfully in the future.

At all of the meetings in which he participated, Colonel Tucker was rarely silent in the post-paper discussions. His entertaining comments and critiques portrayed the usual vision, hard-sense, and scholarship with which those who served with him during his dominating presence on the Council of the Louisiana State Law Institute are well familiar.

On behalf of the members of the Society of Bartolus, I wish to express once again our gratitude to our first and always Panhypersebastos. Through his unique perceptions conceived of the Society, Colonel Tucker contributed greatly to its programs and the papers inspired by it, and he was responsible for these many graceful and stimulating evenings in the company of our fellows of the law, joined through his inspiration into a company that demonstrated on those occasions our creative interest in and our love of the civil law of Louisiana.

APPENDIX

Society of Bartolus - Papers

6/4/71	J.H. Tucker	Louisiana Civil Law: French or Spanish
11/5/71	J.M. Sweeney	Code and Statute Compared
4/7/72	T.H. Jackson	Pupillary and Exemplary Substitutions
11/3/72	M. Nathan Jr.	In Search of a Missing Link: Edward Livingston and the Proposed Commercial Code for Louisiana
5/10/73	J. Dainow	La Couronne de la Loi
11/9/73	M.E. Barham	An Examination of the Civil Code under <i>Reed v. Reed</i> and the Equality of Sex Amendment
4/5/74	A. Tate, Jr.	The Place of the judge in mixed jurisdictions
12/13/74	A.A. Levasseur	Reflections on Moreau Lislet
4/4/75	A.P. Miceli	Bartolus of Sassoferrato
12/5/75	H.T. Lemmon	Civilian Approach to Louisiana Tort Law in the 1970s
5/21/76	T.B. Lemann	Civil Law in England: The Court of Chivalry
11/12/76	G. Le Van	Forced Heirship - History, Philosophy, and Utility
6/24/77	C. Morgan	The Civil Law of Louisiana, and the State's Constitutions
11/18/77	L. Sarpy	Tribonianus
6/9/78	J.H. Tucker	The Matrimonial Regime
11/3/78		Pledge and the Interruption of Prescription
5/25/79	S. Litvinoff	Remarks on Contract-Dissolution
11/16/79	C.L. Yancey	The Code of Hammurabi and Related Systems of Law
4/18/80	J.H. Tucker	Valedictory on the subject of Substitutions
5/9/80	J.C. Caldwell	Civil Code Revision of 1870
11/7/80	R. Roberts III	Random Notes on the Development of Mineral Law in Civilian Systems
5/15/81	O.P. Stockwell	Establishing the Boundaries of the State of Louisiana

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| 11/13/81 | G.W. Pugh | Contrasting Views on Admin-
istering Justice |
| 5/14/82 | F.W. Summers | Washington's Farewell Ad-
dress |
| 11/12/82 | W.E. Crawford | A Civil Action in France Un-
der the Nouveau Code de
Procédure Civile (1976) |
| 4/15/83 | A.N. Yiannopoulos | The Life and Times of Justice
Provosty |
| 11/18/83 | R.E. Gerard | The History of Titles to Wa-
terbottoms in Louisiana |
| 4/13/84 | G.W. Lafitte | The Adversary Principle vs.
the Civilian Inquisitorial Sys-
tem |

