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Louisiana Civil Law Treatise Series

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BOOK REVIEW

LOUISIANA CIVIL LAW TREATISE SERIES

Reviewed by Phillip Gragg *

The theme of the present issue of the *Journal of Civil Law Studies* is the contribution of Louisiana to the world corpus of civil law. No series better exemplifies that contribution than the *Louisiana Civil Law Treatise Series*. While these volumes are useful for the struggling student, the advanced scholar will likewise find them to be insightful resources. While a Louisiana-based civil law scholar often struggles with the inadequacies of common law classification and vocabulary so often utilized in English language civil law publications, this series is written by civilians for civilians and common law lawyers with interest in the civil law. While there are efforts currently underway to encapsulate and define the English-language civil law lexicon, the reader of the civil law treatise series will instantly recognize the shared lineage of Louisiana civil law with more traditional civil law jurisdictions. (The debate about Spanish and French influence on Moreau Lislet's original civil code notwithstanding, and a debate which I will not attempt to engage or comment on here.)¹

The series encompasses a broad range of subjects, including some that do not traditionally qualify as civil law. However, within the 23 volumes the researcher will still find pillars of the civil law, such as matrimonial regimes, torts, successions and donations, and obligations. Each volume within the series is intelligently designed

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1. See generally ALAIN LEVASSEUR, MOREAU LISLET: THE MAN BEHIND THE DIGEST OF 1808 (Claitor's Publishing, Baton Rouge, La., 2008).

and researched. The volumes contain detailed tables of contents, each chapter begins with an outline of that area of the law, and access to material within the book is enhanced by comprehensive tables of laws and rules, cases and an index sounding in civil law. Updates to the print material are by way of an annual pocket part.

There is one curious addition to these volumes that upon first glance would seem a bit odd: the volumes all contains external references to the West Digest (of cases) System. There are two factors that make this an interesting addition. The first is a weakness, the second a strength. The West Digest system was designed to organize the case law of the United States Federal government and the 50 states. Naturally, indexing civil law based on a common law regime leads to some awkwardness. When we talk about legal resources or the state of the law in the United States, we often say, “the 49 states,” and intentionally leave Louisiana out. One example of the awkwardness created by the digest system (and it is in all other ways brilliant) is that notions such as movable and immovable property are blown into unrecognizable fragments and re-categorized into common law structures. Specifically, if one were to look in the “real estate” section of the Louisiana Digest, there are few cases listed. The notion of movable and immovable property is still alive and well in Louisiana, but categorizing it into a common law system presents unique challenges. This should not otherwise reflect poorly on the digest system, but it is a limitation.

So why would we care that a volume on civil law is interoperable with a common law digest system? Perhaps the best reason is that by moving from the civil law volume to the digest, we might be able to find cases that express similar legal notions within the common law system. If a researcher would like to compare the dispensation of the civil law in Louisiana with some of the other 49 states, this technique could be a real time saver. It is admittedly not a perfect technique, since underlying theory and structure differ, but it is a start.

For those of our readers with access to Westlaw, the *Louisiana Civil Law Treatise* series is available through that database. For our readers in foreign countries, these series would be an excellent addition to a comparative collection. Indeed, if a scholar wants to look at Louisiana's take on the civil law, this is a resource not to be missed.²

2. The volumes of the LOUISIANA CIVIL LAW TREATISE SERIES, published by West, are (titles of volumes pertaining to matters dealt with in the Civil Code appear in bold) : FRANK L. MARAIST, CIVIL PROCEDURE (VOL. 1, 2d ed., 2008-2012; 928 pages, \$191); FRANK L. MARAIST, CIVIL PROCEDURE—SPECIAL PROCEEDINGS (VOL. 1A, 2005-2012; 571 pages, \$148); **A. N. YIANNOPOULOS, PROPERTY** (VOL. 2, 4th ed., 2001-2012; 755 pages, \$160); **A. N. YIANNOPOULOS, PERSONAL SERVITUDES** (VOL. 3, 5th ed., 2011-2012; 726 pages, \$146); **A. N. YIANNOPOULOS, PREDIAL SERVITUDES** (VOL. 4, 3d ed., 2004-2012; 819 pages, \$170); SAUL LITVINOFF, UPDATED BY RONALD J. SCALISE, THE LAW OF OBLIGATIONS (VOLS. 5 AND 6, 2d ed., 1999-2011; 1632 pages, \$295); GLENN G. MORRIS & WENDELL H. HOLMES, BUSINESS ORGANIZATIONS (VOLS. 7 AND 8, 1999-2012; 1661 pages, \$299); SUSAN KALINKA, UPDATED BY JEFFREY KOONCE, LIMITED LIABILITY COMPANIES AND PARTNERSHIPS: A GUIDE TO BUSINESS AND TAX PLANNING (VOLS. 9-9A, 3d ed., 2001-2012; 2299 pages, \$282); KATHRYN VENTURATOS LORIO, SUCCESSIONS AND DONATIONS (VOL. 10, 2d ed., 2009-2011; 714 pages, \$152); EDWARD E. CHASE, TRUSTS (VOL. 11, 2d ed., 2009-2012; 506 pages, \$121); WILLIAM E. CRAWFORD, TORT LAW (VOL. 12, 2d ed., 2009-2011; 1150 pages, \$176); H. ALSTON JOHNSON III, WORKER'S COMPENSATION (VOL. 13-14, 5th ed., 2010-2011; 1960 pages, \$309); W. SHELBY MCKENZIE & H. ALSTON JOHNSON, INSURANCE LAW AND PRACTICE (VOL. 15, 3d ed., 2006-2011; 1570 pages, \$152); KATHERINE S. SPAHT & RICHARD MORENO, MATRIMONIAL REGIMES (VOL. 16, 3d ed., 2006-2012; 1130 pages, \$162); CHENEY C. JOSEPH, JR. & P. RAYMOND LAMONICA, CRIMINAL JURY INSTRUCTIONS AND PROCEDURES (VOL. 17, 2d ed., 2003-2011; 738 pages, \$192); H. ALSTON JOHNSON III, CIVIL JURY INSTRUCTIONS (VOL. 18, 3d ed., 2011; 469 pages, \$166); FRANK L. MARAIST, EVIDENCE AND PROOF (VOL. 19, 2d ed., 2007-2012; 710 pages, \$162); P. RAYMOND LAMONICA & JERRY G. JONES, LEGISLATIVE LAW AND PROCEDURE (VOL. 20, 2004-2011; 725 pages, \$152); FRANK L. MARAIST, N. GREGORY SMITH ET AL., LOUISIANA LAWYERING (VOL. 21, 2006-2012; 770 pages, \$154); CATHERINE PALO, LOUISIANA SUMMARY JUDGMENT AND RELATED TERMINATION MOTIONS (VOL. 22, 2012 ed.; 441 pages, \$163); DAVID N. FINLEY & LISA MCGUIRE, LOUISIANA MOTIONS IN LIMINE (VOL. 23, 2012 ed.; 536 pages, \$190).