The Concordancias of Saint-Joseph: A Nineteenth-Century Spanish Translation of the Louisiana Civil Code

Agustín Parise

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THE CONCORDANCIAS OF SAINT-JOSEPH:
A NINETEENTH-CENTURY SPANISH TRANSLATION OF
THE LOUISIANA CIVIL CODE

Agustín Parise*

I. Introduction ................................................................. 288
II. Nineteenth-Century Legislative Concordances ............... 290
   A. Schmidt and Seoane .............................................. 292
   B. García Goyena ....................................................... 293
   C. Saint-Joseph .......................................................... 295
III. Spanish Translation of the French Concordance ............. 299
   A. Motivation .............................................................. 299
   B. Editions ................................................................. 300
   C. Product ................................................................. 302
IV. Analysis of References to the Louisiana Text .................. 304
V. Reception of the Spanish Translation ............................. 309
VI. Closing Remarks ...................................................... 312
VII. Appendices ............................................................ 314

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This paper was presented at the conference The Louisiana Civil Code Translation Project: Enhancing Visibility and Promoting the Civil Law in English, organized by the Center of Civil Law Studies of the LSU Law Center (USA), and held on April 10, 2014. The drafting benefited from comments by participants and attendees to the abovementioned conference, mainly Georgia D. Chadwick, David Gruné, Nicholas Kasirer, Sylvie Monjean-Decaudin, Olivier Moréteau, Robert A. Pascal, and Michel Séjean. The author is indebted to Julieta Marotta de Parise for her suggestions and constructive criticisms.

This paper occasionally draws upon works that explored the concordances of Saint-Joseph. Those previous works did not address the translations of the text of the Louisiana Civil Code. Those works are Agustín Parise, The Place of the Louisiana Civil Code in the Hispanic Civil Codifications: Inclusion in the Comments to the Spanish Civil Code Project of 1851, 68 LA. L. REV. 823 (2008); Olivier Moréteau & Agustín Parise, Recodification in Louisiana and Latin America, 83 TUL. L. REV. 1103 (2009); and AGUSTÍN PARISE, HISTORIA DE LA CODIFICACIÓN CIVIL DEL ESTADO DE LUISIANA Y SU INFLUENCIA EN EL CÓDIGO CIVIL ARGENTINO (2013).
A. Breakdown of Louisiana Articles within the Spanish Translation .................................................. 314
B. Extracts of Nineteenth-Century Works of Legislative Concordances ........................................... 323
1. Verlanga Huerta and Muñiz Miranda .................. 324
2. Saint-Joseph ...................................................... 325
3. Schmidt .............................................................. 326
4. García Goyena .................................................... 327
5. Seoane .................................................................. 328

I. INTRODUCTION

Nineteenth-century codification endeavors excel in illustrating the transfer of legal ideas across jurisdictions, even across continents. That transfer required the elaboration of translations to fully achieve its potential. These would ultimately enable the effective reception of legal ideas in jurisdictions that did not share the same vernacular means of communication. Codification necessarily benefited from translations and, accordingly, did not encounter a deceleration process. Translations provided craftsmen with tools that helped them work with materials that resulted from codification endeavors undertaken in languages they did not master.

Numerous jurisdictions enacted civil codes during the nineteenth century. Some of the resulting civil codes showed resemblances with previous codes, while others demonstrated significant degrees of originality. In any event, drafters of civil codes did not work in isolation. Their law libraries turned into fundamental tools when drafting, and served as means to connect drafters with the works of other colleagues in near and distant jurisdictions. The efforts to achieve complete and useful law libraries motivated the publication of volumes that presented concordances between the differ-
ent civil codes. One of those works of concordances, the *Concordance entre les Codes civils étrangers et le Code Napoléon*¹ (French Concordance) of 1840, in French, and by Fortuné Anthoine de Saint-Joseph, facilitated to a great extent the activities of drafters of civil codes. It provided a panorama of universal legislation, and it therefore enjoyed a remarkable success, while copies were quickly made available worldwide.

The French Concordance included a chart comparing the text of the *Code Napoléon* with that of eight other codes. One of those eight privileged places was occupied by the Louisiana Civil Code of 1825,² gaining paramount visibility amongst drafters that benefited from the work of concordance. The French Concordance was popular in Spain and Latin America; and it is known that in the Iberian Peninsula, during the early 1840s, copies were highly regarded.³ Therefore, a Spanish translation of the first edition of the French Concordance was for the first time published in 1843.⁴ Fermín Verlanga Huerta and Juan Muñiz Miranda were the authors of the translation, and they followed the format of the original by using a comparative chart. That work of concordances, both in its French and Spanish versions, soon reached Latin America. The volume that was translated into Spanish and transferred to the Americas indeed included the text of the Louisiana Civil Code, making it most probably the first Spanish translation of that North-American text.

This paper will focus on the Spanish translation of the Louisiana Civil Code. The paper is divided into four parts and includes two appendices. Firstly, the paper will address the emergence of works

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¹ See generally FORTUNÉ ANTHOINE DE SAINT-JOSEPH, *CONCORDANCE ENTRE LES CODES CIVILS ÉTRANGERS ET LE CODE NAPOLEON* (1840).
² The other texts were those of Austria (*Autrichien*), Bavaria (*Bavarois*), Sardinia (*Sarde*), Netherlands (*Hollandais*), Prussia (*Prussien*), Vaud (canton de *Vaud*), and the Two Sicilies (*Deux-Siciles*). *Id.*
³ FERMIN VERLANGA HUERTA & JUAN MUÑIZ MIRANDA, *CONCORDANCIA ENTRE EL CÓDIGO CIVIL FRANCÉS, Y LOS CÓDIGOS CIVILES ESTRANGEROS* iv (2d ed. 1847).
⁴ FERMIN VERLANGA HUERTA & JUAN MUÑIZ MIRANDA, *CONCORDANCIA ENTRE EL CÓDIGO CIVIL FRANCÉS, Y LOS CÓDIGOS CIVILES ESTRANGEROS* (1843).
of legislative concordances during the nineteenth-century. The main focus will be on the French Concordance of 1840. Secondly, the paper will attend the Spanish translation of that 1840 French *opus*. Background information on the translators and their work will be likewise provided. Thirdly, the paper will provide an analysis of the references to the Louisiana text in the Spanish translation. The degree in which the text was translated will be assessed. Finally, the paper will look at the reception and impact of the Spanish translation, both in Europe and the Americas. The first appendix places the various Louisiana articles in one of the categories implemented by Saint-Joseph, while the second appendix offers extracts from various nineteenth-century works of legislative concordances. The paper will therefore reflect that translations of legal materials served as a means to further develop the circulation of ideas and the resulting codification movement that took force during the nineteenth century.

II. NINETEENTH-CENTURY LEGISLATIVE CONCORDANCES

Studies on comparative legislation motivated an interest in other codification works and gained momentum towards the middle of the nineteenth century. Those comparative works were essential tools for the drafters of civil codes around the world. In Europe, yet even more in the Americas, it was very expensive to hold a private law library that would fully cover comparative legislation. Important

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5. See generally Agustín Parise, *Importing Manufactures from the Low Countries: The Use of the Dutch Civil Code (1838) in the Drafting of the Argentine Civil Code (1871)* in *RECHTSGESCHIEDENIS OP NIEUWE WEGEN* 331 (Dave De ruyscher et al. eds. 2015).


7. For information about libraries in Río de la Plata, see José María Castán Vázquez, *Los Libros Jurídicos Españoles consultados por Vélez Sarsfield* in *ESTUDIOS EN HOMENAJE AL DR. GUILLERMO A. BORDA* 73, 74 (1984). See also Víctor Tau Anzoátegui, *La Codificación en la Argentina (1810-1870): Mentalidad Social e Ideas Jurídicas* 275-281 (1977) (indicating that there was more access to French literature).
libraries were therefore few, and were mainly in the hands of the Church or universities.\textsuperscript{8} In Argentina, for example, law libraries of significant size did exist during the nineteenth century,\textsuperscript{9} though it was more common for practitioners to have smaller personal libraries.\textsuperscript{10} That scenario, together with other reasons, motivated the development of works of legislative concordances, where authors would draw parallels and differences amongst the different legislations. Furthermore, these comparative volumes would reduce the number of books needed.

The nineteenth century welcomed works of concordances amongst different civil codes, being drafted in Europe and the Americas. Those works were handy tools for codifiers when drafting civil codes. They were also useful for lawyers, judges, and law professors in their daily activities. Amongst the works of concordances, it is possible to mention the French Concordance of 1840, in French and by Fortuné Anthoine de Saint-Joseph; the work entitled \textit{The Civil Law of Spain and Mexico} (1851),\textsuperscript{11} in English and by Gustavus Schmidt; the \textit{Concordancias, Motivos y Comentarios del Código Civil Español} (1852),\textsuperscript{12} in Spanish and by Florencio García Goyena;

\begin{footnotesize}
\begin{enumerate}
\item For information about libraries in Louisiana, see David Combe, \textit{The Louisiana Lawyer’s Roman-Law Library: Recollections of an Antiquarian Bibliophile}, 70 TUL. L. REV. 2003 (1996).
\item José María Castán Vázquez, \textit{Vélez Sársfield, Jurista Bibliófilo}, in 4 \textit{HOMENAJE A DALMACIO VÉLEZ SÁRSFIELD} 519, 523 (2000).
\item \textit{Id.} at 523; and José Torre Revello, \textit{Bibliotecas en el Buenos Aires antiguo desde 1729 hasta la inauguración de la Biblioteca Pública en 1812}, 59 REVISTA DE HISTORIA DE AMÉRICA 1, 47-63 (1965).
\item See generally CARLOS LUQUE COLOMBRES, LIBROS DE DERECHO EN BIBLIOTECAS PARTICULARES CORDOBESAS 1573-1810 (1945); GUILLERMO FURLONG, \textit{BIBLIOTECAS ARGENTINAS DURANTE LA DOMINACIÓN HISPÁNICA} (1944); and Atilio Cornejo, \textit{Bibliotecas privadas de Salta en la época colonial}, 4:16 BOLETÍN DEL INSTITUTO DE SAN FELIPE Y SANTIAGO DE ESTUDIOS HISTÓRICOS DE SALTA 67 (1946).
\item GUSTAVUS SCHMIDT, \textit{THE CIVIL LAW OF SPAIN AND MEXICO} (1851).
\item FLORENCIO GARCÍA GOYENA, 1-4 \textit{CONCORDANCIAS, MOTIVOS Y COMENTARIOS DEL CÓDIGO CIVIL ESPAÑOL} (1852).
\end{enumerate}
\end{footnotesize}
and the *Jurisprudencia Civil Vigente Española y Estranjera* (1861), in Spanish and by Juan Antonio Seoane.

**A. Schmidt and Seoane**

The works of Schmidt and Seoane had relevance in the Americas. For example, the book of Schmidt was one of the first works of its kind accessible to English readers. For that reason, courts and scholars referred to it early and for many years, beyond the legal community of the U.S. The book also had influence in Europe, since Schmidt’s brother transmitted copies of the book to newspapers and law journals in Sweden. Schmidt furthermore sent copies of his book to his brother, to distribute them to scholars around Europe, and one of the addressees was Friedrich Carl von Savigny in Berlin.

Schmidt was a pioneer in the studies of comparative legislation in the U.S. and was based in Louisiana. His book aimed to provide a common ground for civil law jurisdictions in America, indicating at times the concordance or divergence amongst various Spanish legal texts, and occasionally adding references to Louisiana. It

13. JUAN ANTONIO SEOANE, JURISPRUDENCIA CIVIL VIGENTE ESPAÑOLA Y ESTRANJERA, SEGÚN LAS SENTENCIAS DEL TRIBUNAL SUPREMO DESDE EL ESTABLECIMIENTO DE SU JURISPRUDENCIA EN 1838 HASTA LA FECHA (1861).


17. *Id.* at 418.

18. See an extract of that book in VII.B.3 of this paper.

19. See, for example, the reference to the *Fuero Real* and the *Siete Partidas* in the note to article 998. SCHMIDT, *supra* note 11, at 211.

20. See the note on “Mystic Will” in Louisiana. *Id.* at 215.
should be noticed that Schmidt even created a short-lived law journal that was a forerunner for those disciplinary studies in the US.21

The book22 of Seoane, published in Madrid (Spain), circulated widely throughout the Americas, reaching, for example, Río de la Plata.23 The book proved useful for the study of foreign doctrines and legal solutions, by providing the elucidations followed by other legal systems, even by those foreign to the Romanist tradition.24 For example, when looking at other legal systems, Seoane classified his study in five main divisions: civil (civilismo), Slav (eslavismo), Germanic (germanismo), Oriental (orientalismo), and Roman (romanismo).25 For example, when addressing the main aspects of ownership, Seoane dealt with the topic in China, India, and in territories that followed Mahomed’s postulates,26 stating clearly that his study was, therefore, not limited to the Western world.

B. García Goyena

The book27 of García Goyena resulted from the codification efforts undertaken by the Spanish administration. A draft of a civil code for Spain (Spanish Project) was completed in May 1851.28 The work had been led by García Goyena, had 1,992 articles,29 and was


22. See an extract of that book in VII.B.5 of this paper.


24. TAU ANZOÁTEGUI, supra note 7, at 275.

25. SEOANE, supra note 13, at ix.

26. Id. at 169-170.

27. See an extract of that book in VII.B.4 of this paper.


29. 4 GARCÍA GONYENA, supra note 12, at 341. The Spanish Project contained a Preliminary Title “Of laws [legislative acts] and their effects, and of the general rules for their application” (*De las leyes y sus efectos, y de las reglas generales para su aplicación*). The Preliminary Title was followed by three books: Book I
said to follow the model of the *Code Napoléon*.

Although the Spanish Project never reached the status of law, it was a cornerstone for the civil code of Spain of 1889. The Spanish concordance, one of the most important Spanish-language scholarly legal productions of the nineteenth century, followed the Spanish Project. In 1852, García Goyena found a basis for its publication in the discussions and debates that took place during the drafting of the Spanish Project.

The aim of the Spanish concordance was to include the legal-historical background for each proposed article. It guided the readers through the text of the Spanish Project, which was completely transcribed and scholarly analysis followed each article. The work was presented in four volumes. García Goyena made references to several civil codes and legislation, and the Louisiana Civil Code was amongst the most frequently cited texts. García Goyena worked

“Of persons” (*De las personas*), Book II “Of the division of things and of ownership” (*De la división de los bienes y de la propiedad*), and Book III “Of the modes of acquiring ownership” (*De los modos de adquirir la propiedad*). Each book was divided into titles, chapters, sections, and where relevant, paragraphs.

32. FELIPE SÁNCHEZ ROMÁN, *1 ESTUDIOS DE DERECHO CIVIL* 529 (2nd ed. 1899).
33. 1 GARCÍA GOYENA, *supra* note 12, at 5.
34. The first three included appendices that further developed scholarly elaborations, while the fourth included both an alphabetical index of the topics covered throughout the four volumes (GARCÍA GOYENA, *supra* note 12, at 361-479) and an outline of the Spanish Project (*Id.* at 345-358).
35. The most frequent references were made to the Louisiana Civil Code; the civil codes of Austria, Bavaria, Holland, the Kingdom of the Two Sicilies, Prussia, Sardinia, Vaud, and Württemberg; the *Code Napoléon*; the proceedings of the Council of Trent; the *Corpus iuris civilis*; the *Fuero Juzgo*; the *Fuero Real*; the Institutes of Gaius; the *Siete Partidas*; the *Novísima Recopilación*; the project of a Spanish civil code of 1821; the *Recopilación*, and the Spanish Constitution of 1837. See Agustín Parise, *The Place of the Louisiana Civil Code in the Hispanic Civil Codifications: Inclusion in the Comments to the Spanish Civil Code Project of 1851*, 68 LA. L. REV. 823, 842 (2008).
with the French Concordance when drafting his Spanish text and this explains the similarity in sources included in both works.\textsuperscript{36}

\textit{C. Saint-Joseph}

The book\textsuperscript{37} of Saint-Joseph largely facilitated the activities of the drafters of civil codes and the activities of those interested in comparative legislation because it provided a panorama of universal legislation.\textsuperscript{38} It enjoyed a remarkable success, and copies were quickly made available worldwide. The French Concordance was available in the new American jurisdictions. Several libraries on both sides of the Atlantic held copies of that seminal work. The legal community was well aware of its existence and value. For example, the renowned South American jurist, Juan Bautista Alberdi, stated in 1867 that “the work of M. Antonio de Saint-Joseph has gathered all codes of the world in parallel columns, providing an immediate comparison, developing steam-engine driven erudition, mechanical erudition.”\textsuperscript{39}

The first edition of the French Concordance was published by Charles Hingray in Paris and by Brockhaus et Avenarius in Leipzig in 1840.\textsuperscript{40} That edition dedicated 126 pages to a chart that included and helped to compare, whenever possible, the texts of the \textit{Code Napoléon} with the texts of the civil codes of Austria, Bavaria, Holland, Louisiana, the Kingdom of the Two Sicilies, Sardinia, Prussia,

\textsuperscript{36} For example, the note to article 743 of the Spanish Project in an English translation read: “In the work entitled ‘Concordance between Foreign Civil Codes and the Code Napoléon’ [i.e., Concordance] can be read that [...]” GARCÍA GÓYENA, \textit{supra} note 12, at 166.

\textsuperscript{37} See an extract of that book in VII.B.2 of this paper.

\textsuperscript{38} PEDRO LEÓN, \textit{EL CÓDIGO DE PRUSIA COMO FUENTE DEL CÓDIGO CIVIL ARGENTINO} 42 (1946).

\textsuperscript{39} The text in Spanish read: “La obra en que M. Antonio de Saint-Joseph ha reunido todos los Códigos del mundo en columnas paralelas en que su comparacion se hace por si misma, ha creado la erudicion á vapor, la erudicion mecánica por decirlo así [...]” Juan Bautista Alberdi, \textit{El Proyecto de Código Civil para la República Argentina (1868)} in 7 \textit{OBRAS COMPLETAS DE JUAN BAUTISTA ALBERDI}, 80, 84 (1887).

\textsuperscript{40} According to Knütel, there was a second edition of 1842 that incorporated few changes. Knütel, \textit{supra} note 6, at 1449.
and Vaud. In addition, the first edition included, in 146 pages, diverse extracts of the texts of the civil codes of Aargau, Baden, Berne, Fribourg, Haiti, and Sweden. The first edition further included, in nineteen pages, a chart with the relevant articles on mortgages from the civil codes of Fribourg, Geneva, Greece, Saint Gallen, Sweden, and Württemberg. It should be noticed that the first edition had a historical introduction on every code it included, which in Saint-Joseph’s words, was a fundamental reading for a better understanding and interpretation of the legal texts.

A second edition of the French Concordance was published in 1856 and included many additions. Arthur de Saint-Joseph, son of the author of the first edition, was able to expand the work from one to four volumes. Volume I included an introduction, an historical account on European codification, and a preliminary note on the legal texts it included. In addition, a chart included and helped to compare the texts of the Code Napoléon with those of six other contemporary legal texts. Volumes III and IV also included references to a variety of codes, yet without the use of comparative charts and through autonomous transcriptions. Volume II followed the

41. SAINT-JOSEPH (DE), supra note 1; and Parise, supra note 35, at 825.
42. The text in French read: “[...] cet historique des codes étrangers était un avant-propos indispensable pour préparer à leur intelligence [...]” SAINT-JOSEPH (DE), supra note 1, at viii.
43. ANTHOINE DE SAINT-JOSEPH, 1-4 CONCORDANCE ENTRE LES CODES CIVILS ÉTRANGERS ET LE CODE NAPOLÉON OUVRAGE TERMINÉ ET PUBLIÉ PAR M. A. DE SAINT-JOSEPH (1856).
44. 1 SAINT-JOSEPH (DE), supra note 43, at v-xcviii.
45. Id. at xcix-cxl.
46. Id. at cxli-cxlvii.
47. The chart included the texts from Austria, the Kingdom of the Two Sicilies, Bavaria, Vaud, and Sardinia; and provisions from, what the author called, the German common law. Id. at 1-239.
48. The volume included the texts from Norway; Parma, Piacenza, and Guastalla; Poland; Portugal; Prussia; Russia; Saxony; Saxe-Weimar; Serbia; Sweden; and Switzerland, which was divided in the cantons of Appenzell and Aargau.
49. The volume included the texts from the cantons of Basel, Bern, Fribourg, Geneva, Glarus, Grisons, Lucerne, Neuchâtel, Saint Gallen, Solothurn, Ticino, Valais, and Zurich. That volume also included texts from Tuscany, Turkey, Venezuela, and Württemberg. 3 SAINT-JOSEPH (DE), supra note 43, at 1-580.
50. The volume included the texts from the cantons of Basel, Bern, Fribourg, Geneva, Glarus, Grisons, Lucerne, Neuchâtel, Saint Gallen, Solothurn, Ticino, Valais, and Zurich. That volume also included texts from Tuscany, Turkey, Venezuela, and Württemberg. 4 SAINT-JOSEPH (DE), supra note 43, at 1-611.
same format as the latter two volumes, and included the text of the Louisiana Civil Code together with that of a variety of legal texts.\textsuperscript{51}

The 1840 edition is of paramount importance for this paper since it was translated into Spanish and also offered a place of preeminence to the text of the Louisiana Civil Code. The work in its first edition was drafted only in French, providing French translations of texts that were available in, amongst other languages, Dutch,\textsuperscript{52} English,\textsuperscript{53} and German.\textsuperscript{54} As previously mentioned, the Louisiana text was placed within the comparative chart, frequently occupying the first column to the right of the \textit{Code Napoléon}.\textsuperscript{55} That privileged location undoubtedly showcased the Louisiana text to codifiers on both sides of the Atlantic.

The study of each jurisdiction took the \textit{Code Napoléon} as a point of departure. In other words, concordances and differences always referred to the text of the \textit{Code Napoléon}. Accordingly, when a text showed similarities with that of the \textit{Code Napoléon}, Saint-Joseph stated in French, within the corresponding slot of the chart, \textit{comme} (as), and the transcription was most of the times omitted. For example, the chart indicated that article 1240 of the Louisiana Civil Code was “as” article 818 of the \textit{Code Napoléon}, even when a detailed analysis shows that there are some differences. On that occasion Saint-Joseph indicated: “1240: comme 818, C.N.”\textsuperscript{56} When an article showed differences with the \textit{Code Napoléon}, Saint-Joseph provided a transcription of the Louisiana Civil Code article. Furthermore, if

\begin{footnotesize}
\begin{enumerate}
\item[50. ] 2 SI\-NT-JOSEPH (DE), \textit{supra} note 43, at 459-573.
\item[51. ] The volume included texts from Baden, Belgium, Bolivia, Brazil, Brunswick, Denmark, Frankfurt am Main, Great Britain, Greece, Haiti, Hamburg, Hanover, Holland, Ionian Islands, Malta and Modena, Roman states, South America, Spain (with a reference to the Spanish work of García Goyena), and the U.S. \textit{Id.} at 1-458, 574-640.
\item[52. ] e.g., Dutch Civil Code (1838).
\item[53. ] e.g., Louisiana Civil Code (1825) (bilingual in French and English).
\item[54. ] e.g., Austrian Civil Code (1811).
\item[55. ] \textit{See}, for example, the chart at SI\-NT-JOSEPH (DE), \textit{supra} note 1, at 6.
\item[56. ] \textit{Id.} at 46.
\end{enumerate}
\end{footnotesize}
an article followed the *Code Napoléon*, but then departed from it, Saint-Joseph would indicate “is added” (*Il est ajouté*). Accordingly, article 217 of Louisiana reads: “*Comme 331, C.N. Il est ajouté: Tout autre mode de légitimation est aboli*” [All other mode of legitimation is abolished].

The historical introduction to the 1840 edition also referred to the Louisiana Civil Code. The introduction indicated that the changes in the Louisiana Civil Code were many when compared to the *Code Napoléon*. A first group of changes had resulted from the particularities of that young state and the need to develop judicial education. A second group of changes had resulted from a difference in the procedural systems of France and Louisiana. Finally, a third group of changes had resulted from the inequality amongst inhabitants and the existence of slavery. Saint-Joseph further stated in the same introduction that the “Louisiana [Civil] Code is nothing more, in its origins, than the *Projet* of the *Code Napoléon* as it had been submitted to the *Tribunat* [i.e., one of the four assemblies]. It was promulgated in 1808 only with the intercalation of some Spanish laws.”

Drafters of civil codes in the Americas valued and used the works of concordances, and legal provisions migrated with the assistance of those works. Codification endeavors are many times built on previous experiences that proved to be successful. It has been

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57. *Id.* at 13.
58. The text in French read:
   Les changements qu’on a fait subir a Code Napoléon sont très nombreux, les uns étaient exigés par la situation particulière de ce jeune Etat, qui avait son éducation judiciaire à faire; les autres par une procédure essentiellement différente de la procédure française; d’autres enfin par l’inégalité d’état des habitans, car il existe parmi eux un assez grand nombre d’esclaves, dont le sort devait être réglé.
   *Id.* at viii.
59. The text in French read: “Le Code de la Louisiane n’était autre, dans l’origine, que le projet du Code Napoléon tel qu’il avait été soumis au Tribunat. En 1808 il fut promulgué dans l’État, on y intercala seulement quelques lois espagnoles.” *Id.*
said, furthermore, when referring to codification, that choosing correctly is to create, and that drafters use the knowledge that humanity treasured.

III. SPANISH TRANSLATION OF THE FRENCH CONCORDANCE

The French Concordance was translated into Spanish soon after the first edition was released in 1840. That Spanish volume included part of the text of the Louisiana Civil Code, and offered most probably the first Spanish translation of the North American corpus.

A. Motivation

In Spain many libraries received requests and orders to buy the French Concordance soon after its publication in 1840. The demand for the French volume was notorious, and motivated the need to translate the text into Spanish. The Spanish volume was entitled Concordancia entre el código civil francés y los códigos civiles extranjeros. The title of the work was therefore a translation of that of the French Concordance, yet it replaced the reference to the “Code Napoléon” by the “French Civil Code.”

Fermín Verlanga Huerta and Juan Muñiz Miranda, lawyers at the Madrid Bar, undertook the translation work. Verlanga Huerta gained further exposure amongst the legal narrative with the publication of a pioneering work on the methodological study of procedural law (procedimentalismo) in the early 1840s. That work was amongst the first of its kind in Spain. Verlanga Huerta had also undertaken at the same time other translations from the French into

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60. JOSÉ OLEGARIO MACHADO, 1 EXPOSICIÓN Y COMENTARIO DEL CÓDIGO CIVIL ARGENTINO xvi (1898).
61. ALFREDO COLMO, TÉCNICA LEGISLATIVA DEL CÓDIGO CIVIL ARGENTINO 350 (2d ed. 1961).
62. VERLANGA HUERTA & MUÑIZ MIRANDA, supra note 3, at iv.
63. VERLANGA HUERTA & MUÑIZ MIRANDA, supra note 4.
65. Id. at 561.
Spanish, such as the translation of the work of André-Marie-Jean-Jacques Dupin on justice, law, and legislation.\textsuperscript{66} Muñiz Miranda also gained recognition with translation works. He translated from Latin into Spanish, in 1845, together with Raimundo González Andrés, the history of Roman law by Johann Gottlieb Heineccius.\textsuperscript{67} That translation widely circulated throughout the Spanish-speaking world.

\textbf{B. Editions}

Three editions were made of the Spanish translation of the French Concordance within a decade. The editions were dated 1843, 1845, and 1852.\textsuperscript{68} There was an additional edition, being available in libraries worldwide and used for this paper, that was dated 1847 and repeating that of 1843, yet with a different front page.\textsuperscript{69} A Spanish bibliography indicated in 1883 that there were two editions that appeared as second editions, dating 1845 and 1847; while there was an economic edition dating 1852.\textsuperscript{70} The 1847 text was referred to in the cover page as “second edition.” The 1843 edition was published in installments, upon prior subscription, as the newspaper \textit{El Heraldo} of Madrid indicated in its edition of May 27, 1843,\textsuperscript{71} while

\begin{itemize}
  \item \textsuperscript{66} \textcite{Dupin, Lecciones elementales sobre la justicia, el derecho y las leyes (Fermín Verlanga Huerta trans. 1842)}.
  \item \textsuperscript{67} \textcite{J. G. Heinecio, Historia del derecho romano (Juan Muñiz Miranda & Raimundo González Andrés trans. 1845)}.
  \item \textsuperscript{68} Álvarez M. del Peral, \textit{Fermin Verlanga Huerta, El Día de Cuenca} (Cuenca) (April 11, 1928), at 1.
  \item \textsuperscript{69} \textcite{Id. See also Carlos Petit, De la Historia a la Memoria: A propósito de una reciente obra de Historia Universal, 8 Cuadernos del Instituto Antonio de Nebrija de Estudios sobre la Universidad 237, 259 (2005)}.
  \item \textsuperscript{70} \textcite{The text in Spanish read: “Hay dos ediciones que aparecen como segundas de 1845 (28 rs.) y 1847 (60 rs.) y otra económica de 1852 (28 rs.).” Bibliografía española contemporánea del derecho y de la política, 1800-1880, Parte Primera. Bibliografía española 128 (Manuel Torres Campos coord. 1883)}.
  \item \textsuperscript{71} \textcite{Anuncios, El Heraldo (Madrid) (May 27, 1843), at 4}.
\end{itemize}
the 1852 edition was part of the *Biblioteca Universal*, a series edited by Ángel Fernández de los Ríos.\(^\text{72}\)

Many praised the usefulness of the translation. For example, a widespread bibliographical bulletin of that time indicated that:

> The significance of this work [i.e., the Spanish translation]—for those who study jurisprudence, especially for those who subscribed to the *Códigos Españoles*\(^\text{73}\)—is noticed simply by reflecting that it almost encompasses an encyclopedia of universal comparative legislation of modern civil law, based on all recent scientific developments.\(^\text{74}\)

The translators also referred to the French Concordance as a “panorama of civil legislation of all learned nations of the world.”\(^\text{75}\)

The translators also indicated that their work could be of use for legislators. In those lines they claimed that:

> How mandatory is the knowledge of the different legislation of the world, precisely when they [i.e., Senators and Representatives] are called to shape our own [Spanish legislation] within the new codes that the scenario demands, and whose need is so much felt?\(^\text{76}\)

The translators replicated exactly the form and substance of the original French volume. They therefore preserved, amongst others,

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72. It was meant to be volume 2 of Section 4 of the *Biblioteca Universal*. See FERMIN VERLANGA HUERTA & JUAN MUÑIZ MIRANDA, *CONCORDANCIA ENTRE EL CÓDIGO CIVIL FRANCÉS, Y LOS CÓDIGOS CIVILES ESTRANJEROS iii* (1852).

73. *n.b.* the *Códigos Españoles* was a very widespread multi-volume work that included the texts of all the seminal and historical codes of Spain.

74. The text in Spanish read:

> La importancia de esta obra para cuantos se dedican á la carrera de jurisprudencia, y con especialidad para los suscriptores á los Códigos Españoles, se advierte con solo reflexionar que casi encierra una enciclopedia de legislacion comparada universal de derecho civil moderno, basada sobre todos los adelantos de la ciencia hechos últimamente.

DIONISIO HIDALGO, 11 *BOLETÍN BIBLIOGRÁFICO ESPAÑOL Y ESTRANGERO* 59 (1850).

75. The text in Spanish read: “[…] un panorama de legislación civil de todas las naciones cultas del mundo.” VERLANGA HUERTA & MUÑIZ MIRANDA, *supra* note 3, at iv.

76. The text in Spanish read: “Respecto á los Sres. Senadores y Diputados, ¿cuán indispensable es el conocimiento de las diferentes legislaciones del mundo, cuando precisamente son llamados á formar la nuestra en los nuevos códigos que la situación reclama, y cuya necesidad tanto se siente?” *Id.*
the historical introduction, the comparative charts, and the reference style used by Saint-Joseph. The translators seem to have closely and “blindly” followed the French text they copied. The Spanish version did include however the somehow expected translator’s preface77 and occasional references to Spanish legislation that were incorporated as footnotes to a few articles, as seen in the columns devoted to the Louisiana Civil Code. For example, a reference to Spanish legislation was added to a note that preceded article 2604 of Louisiana.78 That note referred to expropriation and stated that “with regards to Spain, the law of July 17, 1836 also regulates this subject matter.”79 That reference to Spanish legislation was not included in the original French text.80

C. Product

Very few references are found in the literature regarding the quality or merits of the Spanish translation of the French Concordance. For example, Abel Cháneton, author of a detailed and authoritative study on the life and work of the Argentine codifier Dalmacio Vélez Sarsfield, stated that the translation was “discrete” (discreta), hence avoiding any overstatement on the quality. Cháneton did mention, however, that there were some “outrageous” errata.81 He mentioned, for example, that Verlanga Huerta and Muñiz Miranda translated Geneva82 (Genève in French, Ginebra in Spanish) into Genoa83 (Gênes in French, Génova in Spanish).84 Not a minor mistake for those interested in the laws of Switzerland, who were incorrectly

77. Id.
78. Id. at 138.
79. The text in Spanish read: “Respecto a España, la ley de 17 de Julio de 1836 regula tambien esta material.” Id.
80. SAINT-JOSEPH (DE), supra note 1, at 89.
81. ABEL CHÁNETON, 2 HISTORIA DE VÉLEZ SÁRSFIELD 173 (1937).
82. See, for example, the reference to Geneva in SAINT-JOSEPH (DE), supra note 1, at 127.
83. See, for example, the reference to Genoa in the translation in VERLANGA HUERTA & MUÑIZ MIRANDA, supra note 3, at 203.
84. CHÁNETON, supra note 81, at 173.
pointing to the laws of Italy. Another reference, though more recent, was made in a 1995 PhD dissertation defended at University of Cantabria (Spain) by Margarita Serna Vallejo. That author indicated that the translation contained serious mistakes and that it was a very “free translation,” suggesting the use of the original French text when seeking for authoritative wordings.85

A preliminary look at the translation shows that several terms of art are properly translated. There are some non-sense translations of articles, however. For example, Article 1009 of the Louisiana Civil Code dealt with the impossibility to accept or reject a succession subject to condition. The translation referred to “subject of condition” (bajo de condicion)86 instead of “subject to condition” (bajo condicion). Some clerical mistakes can also be identified in the form of the translation, and those mistakes do have an impact. For example, the Spanish translation incorrectly stated that articles 530 and 532 of Louisiana were summarized together,87 while the original French read that articles 530 to 532 were summarized together.88 The Spanish translation therefore excluded article 531 of Louisiana, not a minor exclusion, since readers had to rely on the French Concordance, as they were most of the time unable to look at the original texts and correct the existing mistakes. A similar inaccuracy occurred with articles 740 to 744 of Louisiana,89 which incorrectly referred to articles 740 and 74490 in the Spanish translation. That mistake whipped out three articles of the North American text.

86. VERLANGA HUERTA & MUÑIZ MIRANDA, supra note 3, at 65.
87. Id. at 45.
88. SAINT-JOSEPH (DE), supra note 1, at 30.
89. Id. at 35.
90. VERLANGA HUERTA & MUÑIZ MIRANDA, supra note 3, at 54.
Readers—many times—had access to foreign legislative bodies only by means of the Spanish translation of the French Concordance, since as already mentioned, law libraries that dealt with comparative legislation were rare in some jurisdictions. Furthermore, some legislators had limited foreign-language skills. Consequently, more careful editing and revision of the translation of the French Concordance would have been beneficial. That careful work would have eliminated some mistakes in the translation itself, but more importantly, it would have prevented mistakes in the work that legislators made when relying—necessarily blindly—on the text of Verlanga Huerta and Muñiz Miranda. It should also be noted that some codifiers, such as Vélez Sarsfield in Argentina, had foreign-language skills that enabled them to work with the original text of the French Concordance and to avoid some translation mistakes, yet that was not the case for all codifiers or legislators in the Americas and beyond.

IV. ANALYSIS OF REFERENCES TO THE LOUISIANA TEXT

No previous study assessed the degree in which the text of the Louisiana Civil Code was translated into Spanish as a result of the work of Verlanga Huerta and Muñiz Miranda. Knowledge on that degree will bring light on the nineteenth-century availability of the Louisiana text for Spanish readers—and legislators—that had no language skills in French or English. Louisiana shared some common elements with other American jurisdictions that had been Spanish possessions, and was hence of special interest for the new republics. The civil code of that U.S. state was therefore of special interest for other American legislators that aimed for provisions that

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92. Id. at 147-151, 363-367, 369-370.
could amalgamate former Spanish colonial provisions with the benefits offered by the nineteenth-century codification.\textsuperscript{93} Louisiana was likewise of interest for English and French speaking jurisdictions in America, as reflected by the codification efforts in New York\textsuperscript{94} and Quebec.\textsuperscript{95}

Saint-Joseph dealt differently with the different articles of the Louisiana Civil Code. A detailed study of the content of the Spanish translation of the Louisiana Civil Code offered four possible scenarios:

1. The French Concordance indicated the similarities\textsuperscript{96}—or, occasionally, differences\textsuperscript{97}—of the Louisiana text with that

\textsuperscript{93} Id. at 369-370.

\textsuperscript{94} David Dudley Field worked on a project of a civil code for the state of New York. His 1865 project had notes for two-thirds of its articles, and indicated references to, amongst others, related court decisions, revised statutes, the \textit{Code Napoléon}, and the Louisiana Code. For example, the note to Chapter 2, Title 3, Part 4, Division 2 of the project read, “The provisions of this chapter, except § 455, are similar to those of the Code Napoleon and the Code of Louisiana.” \textit{THE CIVIL CODE OF THE STATE OF NEW YORK: REPORTED COMPLETE BY THE COMMISSIONERS OF THE CODE} 136 (1865). See Agustin Parise, \textit{Libraries of Civil Codes as Mirrors of Normative Transfers from Europe to the Americas: The Experiences of Lorimier in Quebec (1871–1890) and Varel a in Argentina (1873–1875)} in \textit{ENTANGLEMENTS IN LEGAL HISTORY: CONCEPTUAL APPROACHES} 315, 347-348 (Thomas Duve ed. 2014); and Shael Herman, \textit{The Fate and the Future of Codification in America}, \textit{40 AMERICAN JOURNAL OF LEGAL HISTORY} 407, 423 (1996).

\textsuperscript{95} Quebec deserves special attention due to its mixed-jurisdiction nature within continental America. That jurisdiction adopted the \textit{Civil Code of Lower Canada} on August 1, 1866. Codification was expected as a natural and logical development in Quebec because of its antecedents and of the success that codification had in France. The Louisiana Civil Code was a source for codifiers in Quebec. The Louisiana text occupied for Quebec a prominent role as formal and linguistic source, rather than as substantive model. See John Richert & Suzanne Richert, \textit{The Impact of the Civil Code of Louisiana upon the Civil Code of Quebec of 1866}, \textit{8 REVUE JURIDIQUE THÉMIS DE L’UNIVERSITÉ DE MONTRÉAL} 501, 518 (1973); \textit{QUEBEC CIVIL LAW: AN INTRODUCTION TO QUEBEC PRIVATE LAW} 24 (John EC Brierley & Roderick A Macdonald eds. 1993); and John E.C. Brierley, \textit{Reception of English Law in the Canadian Province of Quebec} in \textit{LA RÉCEPTION DES SYSTÈMES JURIDIQUES. IMPLANTATION ET DESTIN} 103, 116 (Michel Doucet & Jacques Vanderlinden coord. 1994).

\textsuperscript{96} The concordance also indicated, occasionally, the additions made by the Louisiana Civil Code to the text of the \textit{Code Napoléon}. See, for example, articles 3143-3143 of the Louisiana Civil Code. \textit{VERLANGA HUERTA & MUÑIZ MIRANDA, supra} note 3, at. 173.

\textsuperscript{97} See, for example, articles 3038-3039 of the Louisiana Civil Code. \textit{VERLANGA HUERTA & MUÑIZ MIRANDA, supra} note 3, at. 168.
of the Code Napoléon;\textsuperscript{98}
2. The French Concordance ignored or was silent with regards to the Louisiana text;
3. The French Concordance transcribed the text of Louisiana articles individually, with occasional paraphrasing; or
4. The French Concordance summarized jointly the text of several Louisiana articles, amalgamating them into single articles.\textsuperscript{99}

All the articles of the Louisiana Civil Code fell within one of those four possible scenarios.\textsuperscript{100} The analyses for this paper attended the 3522 articles of the Louisiana Civil Code, and indicated that 50% of those articles were not translated into Spanish. Saint-Joseph, and therefore the Spanish translation, flagged 41% of the articles as having a text similar (or occasionally different) to that of the Code Napoléon, while 9% of the articles were ignored by the French author. In addition, 32% of the Louisiana articles were translated individually, with occasional paraphrasing; while 18% of the North American articles were summarized jointly with other articles.

A breakdown into books showed that the percentages there fluctuated. Saint-Joseph indicated more similarity with the Code Napoléon or more novelty in Louisiana depending on the book of the civil code he attended. Therefore, the degree of transcription (and hence translation) depended on the area of private law. A more in-depth breakdown, for example, down into titles, chapters, or sections, could indicate even more variations. That deeper level of analysis could help better identify the perceptions the author had about the originality of the Louisiana Civil Code.

\textsuperscript{98} Concordance was also indicated with other texts. For example, articles 1654-1655 of the Louisiana Civil Code indicate concordance with the French civil and procedural codes, SAINT-JOSEPH (DE), supra note 1, at 87.
\textsuperscript{99} It should also be noticed that occasional concordances and differences were indicated in the cases where Saint-Joseph transcribed articles individually or jointly.
\textsuperscript{100} See a breakdown of all the articles of the Louisiana Civil Code in VII.A of this paper.
Three charts assist to better visualize the findings of this paper. Chart 1 indicates how Saint-Joseph dealt with the articles of the Louisiana Civil Code. It places each article within one of the four scenarios (i.e., Concordance, Transcribed Individually, Transcribed Jointly, Ignored), while it provides a breakdown of that placing within the preliminary title and the three books of the Louisiana Civil Code. Chart 1 further provides the article spam for the different parts of the North American corpus.

Chart 1.

<table>
<thead>
<tr>
<th>Preliminary Title</th>
<th>Article Spam</th>
<th>Concordance</th>
<th>Transcribed Individually</th>
<th>Transcribed Jointly</th>
<th>Ignored</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Title</td>
<td>1 to 23</td>
<td>3</td>
<td>9</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td>Book I</td>
<td>24 to 438</td>
<td>163</td>
<td>152</td>
<td>29</td>
<td>71</td>
</tr>
<tr>
<td>Book II</td>
<td>439 to 865</td>
<td>177</td>
<td>127</td>
<td>72</td>
<td>51</td>
</tr>
<tr>
<td>Book III</td>
<td>866 to 3522</td>
<td>1112</td>
<td>850</td>
<td>522</td>
<td>173</td>
</tr>
</tbody>
</table>

Chart 2 transforms the results of the previous chart into percentages. The corresponding percentages for each part of the Louisiana Civil Code are provided, together with the number of articles of each part.

Chart 2.

<table>
<thead>
<tr>
<th>Number of Articles</th>
<th>Concordance</th>
<th>Transcribed Individually</th>
<th>Transcribed Jointly</th>
<th>Ignored</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Title</td>
<td>23</td>
<td>13%</td>
<td>39%</td>
<td>0%</td>
</tr>
<tr>
<td>Book I</td>
<td>415</td>
<td>39%</td>
<td>37%</td>
<td>7%</td>
</tr>
<tr>
<td>Book II</td>
<td>427</td>
<td>41%</td>
<td>30%</td>
<td>17%</td>
</tr>
<tr>
<td>Book III</td>
<td>2657</td>
<td>42%</td>
<td>32%</td>
<td>20%</td>
</tr>
</tbody>
</table>

Finally, Chart 3 provides the total percentages for each of the four possible scenarios. This final chart reflects that Saint-Joseph
transcribed 50% of the Louisiana Civil Code in his work of concordance.

**Chart 3.**

<table>
<thead>
<tr>
<th>Concordance</th>
<th>Transcribed Individually</th>
<th>Transcribed Jointly</th>
<th>Ignored</th>
</tr>
</thead>
<tbody>
<tr>
<td>Articles</td>
<td>1455</td>
<td>1138</td>
<td>623</td>
</tr>
<tr>
<td>Percentages</td>
<td>41%</td>
<td>32%</td>
<td>18%</td>
</tr>
</tbody>
</table>

The analysis provided a significant finding. The French Concordance—and its Spanish translation—told readers in Spain and Latin America that approximately 41% of the text of the Louisiana Civil Code resembled the French text, without even needing to fully transcribe the Louisiana wording. That was indeed an ambitious claim that entailed a big responsibility for the French author and for the Spanish translators, since they were the lenses through which readers looked at Louisiana.

The analysis also triggered some interesting questions. Why were some articles transcribed and summarized jointly? Why were some references to concordances grouped together? Why was the transcription of some articles neglected without any explanation? What was the criterion of the French author? It is interesting to consider that it was ultimately up to Saint-Joseph to decide which Louisiana articles he thought were similar to those of the *Code Napoléon*. He somehow imposed on all readers his impressions about similarities or differences. Accordingly, Saint-Joseph might have contributed to the worldwide claim that Louisiana adopted the *Code Napoléon*. He might be the one to point at! Readers, when working with the concordance, either in French or Spanish, would read that 41% of the text of Louisiana was similar to that from France. The perception that Saint-Joseph had was indeed his own way of reading the differences or similarities. That perception, nevertheless, was very influential.
V. RECEPTION OF THE SPANISH TRANSLATION

The Spanish translation contributed to the dissemination of the French Concordance, both in the Iberian Peninsula and in the Americas. Legislators at large, and codifiers in particular, were able to look at the Spanish translation when undertaking the drafting of their legislative proposals. The multiple editions of the Spanish translation offered proof of the demand for that volume. Furthermore, the Spanish government soon recognized the importance of the Spanish translation. A Real Ordenanza of August 1844 acknowledged that the Spanish translation was useful for the study of legislation.101 The following year, a Real Resolución of July 31 declared that the Spanish translation was useful for public teaching.102

The volume also had an impact in the Americas. Previous studies proved that the French Concordance was widely spread in the Americas, and drafters of civil codes benefited with its presentation of different seminal codifications.103 Drafters such as Vélez Sarsfield in Argentina and Andrés Bello in Chile had access to the work of García Goyena and to the French Concordance, and worked at a time when the Spanish translation circulated in the New World.104 In addition, law journals and their subscribers were also interested in the translation. In Argentina, for example, Miguel Navarro Viola edited a journal entitled El Plata Científico y Literario, and included parts of the Spanish translation.

The most ambitious project of that Argentine journal was to publish the Spanish Concordance. That Argentine journal was short-

102. 35 COLECCIÓN DE LAS LEYES, DECRETOS Y DECLARACIONES DE LAS CORTES, Y DE LOS REALES DECRETOS, ORDENES, RESOLUCIONES Y REGLAMENTOS GENERALES EXPEDIDOS POR LOS RESPECTIVOS MINISTERIOS DESDE 1° DE JULIO HASTA FIN DE DICIEMBRE DE 1845 79 (2d ed. 1846); and TAU ANZOÁTEGUI, supra note 7, at 286.
103. See generally PARISE, supra note 91.
104. Id. at 147-150, 372.
lived, however, appearing from 1854 to 1855 and having a fate similar to that of Schmidt in Louisiana.105 Most of the contributions included in the Argentine journal were drafted by Navarro Viola himself, who wrote about, for example, the judicial branch,106 death penalty,107 nullity of marriage,108 and criminal law at large.109 The journal also published contributions by other authors.110 Accordingly, the pages of the journal included, amongst others, works by Federico Pineda on the judicial reform111 and by Valentín Gómez and Eduardo Lahitte on the nullity of marriage.112 Two codifiers also contributed with the journal: Marcelino Ugarte113 wrote on the law 10 of the *Leyes de Toro*;114 while Eduardo Acevedo,115 together with

105. See footnote 21 and accompanying text.
107. *Id.*
108. *Id.* at 33.
109. *Id.* at 37.
110. CHÁNETON, supra note 81, at 435.
111. AUZA, supra note 106, at 32.
112. *Id.*
113. In 1857, the executive power of Buenos Aires authorized the allotment of financial resources for the drafting of the civil, criminal, and procedural codes. Marcelo Gamboa and Marcelino Ugarte were appointed to draft the first of those codes, and the latter jurist started to draft a project, which due to financial constraints was soon interrupted. The main sources of inspiration for Ugarte were the project of a civil code for Uruguay of 1852 by Eduardo Acevedo and the work of concordances by García Goyena. See ABELARDO LEVAGGI, 2 MANUAL DE HISTORIA DEL DERECHO ARGENTINO (CASTELLANO-INDIANO/NACIONAL) 265 (1987); and RICARDO ZORRAQUÍN BECÚ, MARCELINO UGARTE 1822-1872: UN JURISTA EN LA ÉPOCA DE LA ORGANIZACIÓN NACIONAL (1954).
114. AUZA, supra note 106, at 32.
115. Eduardo Acevedo completed the drafting of a first project of a civil code for Uruguay by 1851. That first draft was based mainly on traditional law, and to a lesser extent, on the French doctrine. Acevedo said that in order to capture in text the law that Uruguayan courts had been using (i.e., Spanish and *Indian* laws) he found practical the adoption of texts by French authors, such as Domat, Pothier, Toulhier, Merlin, and Troplong. That borrowing was done because of the radical unity of the European law that found its grounding in Roman law. The draft of Acevedo was later revised and corrected by the Argentine jurist Tristán Narvaja. Finally, a codifying commission revised the work of Narvaja and drafted a new project that was promulgated in 1868 as the Civil Code of Uruguay. See Olivier Moréteau & Agustin Parise, Recodification in Louisiana and Latin America, 83 TUL. L. REV. 1103, 1146-1147 (2009). See also EDUARDO ACEVEDO & ALBERTO PALOMEQUE, EDUARDO ACEVEDO: AÑOS 1815-1863. SU OBRA COMO CODIFICADOR, MINISTRO, LEGISLADOR Y PUBLICISTA 338-345 (1908); ALEJANDRO GUZMÓN BRITO, LA CODIFICACIÓN CIVIL EN IBEROAMÉRICA: SIGLOS XIX Y XX
José Roque Pérez, wrote on criminal law. The list of contributors in the area of legislation, jurisprudence, and economic politics encompassed the significant number of 27 contributors.

The Spanish translation was published in installments within the different issues of the Argentine journal. Accordingly, the historical introduction was published in two issues, while the comparative chart was presented throughout five issues, reaching only article 454 of the Code Napoléon and 322 of the Louisiana Civil Code. Readers were not clearly informed about who was the author of the Spanish version of the French Concordance that was published in the Argentine journal. Navarro Viola later admitted that he had reproduced the work of Verlanga Huerta y Muñiz Miranda. However, due to his initial silence regarding the authorship, some scholars erroneously claimed that the translation work had been undertaken by Navarro Viola.

Publishers, by means of books and journals, were therefore able to disseminate the text of the Spanish translation on both sides of the Atlantic. That dissemination generated awareness of the existence of the Spanish translation amongst readers, ultimately exposed the text of the Louisiana Civil Code to the Spanish legal narrative, and fostered the circulation of legal ideas.

461-462 (2000); LEVAGGI, supra note 113, at 241-242; and ORESTES ARAÚJO ET AL., 1 CÓDIGO CIVIL ANOTADO xxi-xxiii, xxxvi-xxxviii (1949).

116. AUZA, supra note 106, at 36-37.

117. 1 EL PLATA CIENTÍFICO Y LITERARIO 8 (Miguel Navarro-Viola dir. 1854).

118. Id. at 13-40; and 2 EL PLATA CIENTÍFICO Y LITERARIO 1-25 (Miguel Navarro-Viola dir. 1854).

119. The breakdown of articles was: 1 to 25 appeared in 1 EL PLATA CIENTÍFICO Y LITERARIO 42-47 (Miguel Navarro-Viola dir. 1854); 26 to 156 appeared in 2 EL PLATA CIENTÍFICO Y LITERARIO 26-39 (Miguel Navarro-Viola dir. 1854); 157 to 280 appeared in 3 EL PLATA CIENTÍFICO Y LITERARIO 2-14 (Miguel Navarro-Viola dir. 1854); 281 to 379 appeared in 4 EL PLATA CIENTÍFICO Y LITERARIO 2-15 (Miguel Navarro-Viola dir. 1855); and 380 to 454 appeared in 5 EL PLATA CIENTÍFICO Y LITERARIO 2-15 (Miguel Navarro-Viola dir. 1855).

120. 5 EL PLATA CIENTÍFICO Y LITERARIO 14 (Miguel Navarro-Viola dir. 1855).

121. CHÁNETON, supra note 81, at 173.

122. AUZA, supra note 106, at 17.
VI. CLOSING REMARKS

Translations are tools of trade that play a fundamental role in the development of legislation. This paper provided an example of the use of those tools of trade by looking at nineteenth-century codification endeavors. It should be noticed that not all codifiers mastered foreign languages, and codifiers in the Americas might thus have encountered barriers in some Dutch, English, French, or German texts—to mention a few.

This paper first addressed the emergence of works of legislative concordance during the nineteenth century. Even when the main focus was devoted to the French Concordance of 1840, the paper presented other examples of that type of works to be found in English, French, and Spanish elaborations. The latter provided readers with early works on comparative legislation, and as mentioned earlier in this paper, those elaborations were gestated on both sides of the Atlantic.

The paper then devoted special attention to the Spanish translation of the French Concordance of 1840. The work by Verlanga Huerta and Muñiz Miranda was attended, together with its reception. The paper also alerted on the few references that were found in the literature regarding the quality or merits of the Spanish translation; and mentioned some mistakes, omissions, and confusions undertaken by Verlanga Huerta and Muñiz Miranda. The translators had indeed a big responsibility since some legislators were bound to rely—necessarily blindly—on their Spanish text.

An analysis of the references to the Louisiana Civil Code within the Spanish translation followed. No previous study had assessed the degree in which the text of the Louisiana Civil Code was translated into Spanish in the nineteenth century. The analyses for this paper indicated that 50% of those articles of Louisiana were not transcribed in the French Concordance and therefore not translated into Spanish. In that 50%, Saint-Joseph opted to indelicate concordance
with the *Code Napoléon* or to ignore the article. The Spanish translation told readers in Spain and Latin America that around 41% of the text of the Louisiana Civil Code resembled the French text, without even needing to fully transcribe the Louisiana wording. In addition, Saint-Joseph indicated more similarity with the *Code Napoléon* or more novelty in Louisiana depending on the book of the civil code he addressed. Therefore, the degree of transcription depended on the area of private law.

Finally, the paper looked at the reception and impact of the Spanish translation, both in Europe and the Americas. The Spanish translation indeed contributed to the dissemination of the French Concordance. The multiple editions of the Spanish translation were proof of the demand for that volume in the Iberian Peninsula and there the government advocated for the value of the book. The Americas also welcomed the translation, which was available for codifiers as a result of its inclusion in law journals, such as the one of Navarro Viola.

Three final comments must be made when assessing the Spanish translation of the French Concordance of 1840. Firstly, that in the French Concordance, nothing is said about the origins of the provisions included in the texts. The historical introduction tried to offer a context, though the sources of those texts were not studied in detail. The French Concordance limited to indicate a similarity or difference between the *Code Napoléon* and the different civil codes. This is not a minor point, since, in the case of Louisiana and other jurisdictions, the similarities could well be traced to Roman law, as Robert A. Pascal explained. Secondly, that the French Concordance (and its Spanish translation) reflected the understanding of one

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123. In 1972, Robert A. Pascal published an article claiming that French law, composed after elements from Roman, Romanized Frankish, Burgundian, and Visigothic origins, habitually resembled the Spanish law that derived from Roman or Roman-Visigothic origins. He understood that the *Code Napoléon* provided a mine of texts written in French. Thus, in Louisiana, the drafters of the Digest of the Civil Laws of 1808 used French texts that contained or could be modified to
single man, nothing more, nothing less. That understanding, however, had a significant impact on the codification works and on the teaching and practice of law. Thirdly, that the Spanish translation was indeed very early in time and elaborated outside the boundaries of Louisiana. It took place within three decades after the Louisiana Civil Code was enacted: at a time when codification was starting for the rest of the civil law world, reaching its heydays in the mid-nineteenth century.

The Spanish translation—and naturally its French original—raised the text of the Louisiana Civil Code to a paramount position. The Louisiana text therefore served as a model for codification efforts in Spain, and stretched from Quebec to Argentina. Translations, such as that of the work of Saint-Joseph, served as means to further develop the circulation of legal ideas: they were undoubtedly used as tools of trade.

VII. APPENDICES

A. Breakdown of Louisiana Articles within the Spanish Translation

This appendix includes a chart that offers a breakdown of the different articles of the Louisiana Civil Code. That breakdown places each Louisiana article within one of the four possible scenarios followed by Saint-Joseph (i.e., Concordance, Transcribed Individually, Transcribed Jointly, Ignored). Researchers may now attend individual articles or clusters of articles, assessing the different areas of the law.

<table>
<thead>
<tr>
<th>Concordance</th>
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contain in substance the Spanish-Roman law then in force in Louisiana. See Robert A. Pascal, Sources of the Digest of 1808: A Reply to Professor Batiza, 46 Tul. L. Rev. 603, 605-606 (1972).
2016] CONCORDANCIAS OF SAINT-JOSEPH

| 2347, 2348, 2349, 2350, 2352, 2353, 2356, 2358, 2365, 2366, 2373, 2381, 2387, 2388, 2389, 2390, 2391, 2392, 2394, 2395, 2397, 2398, 2399, 2402, 2406, 2407, 2408, 2409, 2410, 2414, 2420, 2421, 2422, 2423, 2427, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2449, 2450, 2451, 2452, 2453, 2457, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2472, 2473, 2474, 2475, 2477, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2491, 2492, 2494, 2496, 2497, 2515, 2523, 2528, 2531, 2535, 2539, 2540, 2541, 2542, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2557, 2558, 2559, 2560, 2561, 2562, 2565, 2566, 2567, 2568, 2571, 2578, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2620, 2621, 2622, 2623, 2624, 2630, 2631, 2632, 2633, 2634, 2637, 2643, 2644, 2645, 2653, 2654, 2655, 2656, 2657, 2660, 2661, 2662, 2665, 2666, 2667, 2669, 2670, 2671, 2673, 2674, 2676, 2677, 2680, 2681, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2694, 2696, 2698, 2699, 2700, 2702, 2706, 2707, 2708, 2709, 2710, 2711, 2713, 2715, 2716, 2717, 2722, 2723, 2725, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2736, 2737, 2738, 2739, 2742, 2764, 2765, 2767, 2768, 2769, 2772, 2780, 2785, 2786, 2802, 2804, 2823, 2824, 2825, 2827, 2829, 2830, 2831, 2832, 2833, 2834, 2835, 2836, 2837, 2838, 2839, 2840, 2841, 2842, 2847, 2848, 2849, 2853, 2855, 2856, 2857, 2858, 2859, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869, 2870, 2871, 2872, 2873, 2874, 2875, 2876, 2877, 2878, 2879, 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2891, 2892, 2893, 2894, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 2906, 2907, 2908, 2909, 2910, 2911, 2914, 2915, 2916, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2929, 2930, 2931, 2935, 2936, 2938, 2939, 2941, 2942, 2943, 2944, 2949, 2951, 2952, 2953, 2954, 2957, 2958, 2960, 2961, 2963, 2964, 2965, 2966, 2967, 2970, 2971, 2972, 2973, 2974, 2976, 2977, 2978, 2979, 2981, 2983, 2990, 2991, 2993, 2994, 2995, 2996, 2997, 2998, 2999, 3000, 3001, 3002, 3003, 3005, 3006, 3007, 3008, 3009, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3038, 3039, 3040, 3041, 3044, 3045, 3046, 3047, 3048, 3049, 3050, 3100, 3101, 3102, 3124, 3125, 3127, 3129, 3131, 3132, 3133, 3134, 3135, 3136, 3138, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156,
| 3157, 3158, 3128, 3242, 3249, 3250, 3253, 3254, 3256, 3267, 3268, 3269, 3273, 3276, 3277, 3278, 3288, 3289, 3293, 3297, 3299, 3300, 3301, 3304, 3305, 3306, 3307, 3308, 3310, 3313, 3321, 3330, 3333, 3335, 3336, 3337, 3357, 3362, 3363, 3364, 3366, 3367, 3369, 3370, 3371, 3372, 3373, 3389, 3404, 3409, 3420, 3423, 3424, 3425, 3426, 3427, 3429, 3430, 3442, 3444, 3447, 3448, 3453, 3454, 3455, 3456, 3457, 3458, 3459, 3460, 3461, 3462, 3473, 3474, 3476, 3477, 3479, 3480, 3482, 3483, 3484, 3486, 3487, 3488, 3489, 3491, 3492, 3493, 3500, 3504, 3509, 3514, 3517, 3518, and 3520.  

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CONCORDANCIAS OF SAINT-JOSEPH

B. Extracts of Nineteenth-Century Works of Legislative Concordances

This appendix includes five extracts from nineteenth-century works of legislative concordances that were addressed in this paper. The first extract [1], belongs to the Spanish translation of the French Concordance undertaken by Fermín Verlanga Huerta and Juan Muñiz Miranda. Readers should notice that the corresponding page of the French Concordance [2] is also accompanied in this appendix, aiming to show that the translators clearly followed the form of presenting the content. Three other extracts follow, and are taken from: [3] The Civil Law of Spain and Mexico (1851), in English and by Gustavus Schmidt; [4] the Concordancias, Motivos y Comentarios del Código Civil Español (1852), in Spanish and by Florencio García Goyena; and [5] the Jurisprudencia Civil Vigente Española y Estranjera (1861), in Spanish and by Juan Antonio Seoane. All five extracts illustrate on the way those seminal works were presented to readers and how they addressed the different areas of law. Above all, these extracts illustrate how authors highlighted concordances.
CONCORDANCIA ENTRE EL CODIGO FRANCES

CÓDIGO FRANCÉS.

TÍTULO IV (1).

DE LOS ASENTES.

CAPÍTULO I.

De la presunción de ausencia.

112. Si hay necesidad de atender a la administración del caso a parte de los bienes que ha dejado una persona que se presume estar ausente, y que no tiene asesores apoderados, se procederá acorde con ello por el tribunal de primera instancia a petición de las partes interesadas.

113. Dicho tribunal, a instancia de la parte que primero se presentara, compondrá un escribano para representar los intereses comunes de los inventarios, cuentas, partiduras y liquidaciones que sean interesantes.

114. El hecho de que una persona que esté ausente no deposite su poder para atender a sus intereses, será motivo de las acciones que se presenten.

CAPÍTULO II.

De la declaración de ausencia.

115. Cuando una persona haya dejado de versar en el pueblo de su domicilio o residencia, y un año y un mes se haya tenido razón de ello, las partes interesadas podrán acudir al tribunal de primera instancia para que se declare la ausencia.

116. Para hacer constar la ausencia, el tribunal, en vista de los escritos y documentos que en el presente, ordenará que se haga una indagación en juicio extrajudicial con el procedimiento real de la solicitud del domicilio y del de la residencia, si son distintos uno y otro.

117. El tribunal al resolver sobre esta demanda tendrá presentes los motivos de la ausencia y los bienes que ha debido impeler tener núcleos al que se presume ausente.

118. El procurador del Reino inmediatamente que se den las mencionadas, si interesa aquellos como definitivas, las enviará al gran juez insular de la jurisdicción que se presume.

119. La sentencia de declaración de ausencia no se hará sino un año después de la primera por la que se procedió a la pesquisa.

CAPÍTULO III.

De los efectos de la ausencia.

SESION I.

De los efectos de la ausencia a los bienes que el asente poseía el día que desapareció.

120. En los casos en que el asente no haya dejado poder para la administración de sus bienes.

(1) No pomosmcten en este texto el título del de- nunciado porque es mucho más largo y en todo el tratamiento, a no figurar más que en los cláusulas de procedimiento.

7. CONCORDANCIA ENTRE EL CODIGO DE LA LUSIANA.

CÓDIGO DE LA LUSIANA.

TÍTULO IV.

DE LOS ASENTES.

CAPÍTULO I.

De la presunción de ausencia.

117. Se presunirá ausente, toda persona que no compare en su domicilio o en su residencia, sin dejar de apoderar lo que representa y sin dar noticia de su persona.

118. El individuo que reside en el extranjero, y que, siendo bienes de ausencia, sin haber dejado quien lo represente, el juez del lugar donde están situados los bienes nombrará un curador para que las administre.

119. En la elección de curador, procederá el juez a la menor del asente respecto de los herederos partidos, de los herederos presuntos respecto de los partidos, a los partidos respecto de los extranjeros, y a los extranjeros respecto de los que no son en otro concepto interesados.

20. El curador nombrado al asente prestará juramento, y deberá dar cuenta de su administración.

21. Debe además formalizar un nuevo inventario de los bienes y, dar cuenta al asente.

22. Las facultades del curador del asente se limitarán a los actos de para administración, sin que pueda enajenar ni hipotecar los bienes confiados a su cuidado bajo protesta de ser privado.

23. Mientras subsista la custodia, todos los bienes en que está investido el curador se seguirán en poder de su curador.

24. La custodia del asente terminará:

1.° Si la persona ausente o que residía fuera del Estado, está poder para administrar sus bienes.

2.° Si después de cierto tiempo de ausencia y sin noti- cis, los herederos del asente hacen que se las ponga en la posesión provisional de los bienes conforme a la ley.

25. El curador del asente tendrá cuenta de su administración tan largo como este termi- na.

26. Para establecer una denuncia judicial contra un asente que no deja poder para el bien curador se le deberá nombrar un curador ad hoc.

120 el 116.

CÓDIGO SARDON.

TÍTULO IV.

DE LOS ASENTES.

CAPÍTULO I.

De la declaración de ausencia.

76. Como el 112 del C. F.

77. Como el 113 del C. F., y se añade: Y sin el tribunal no se podrá hacer en la aprobación y resolución a que puedan dar lugar estos actos.

78. Como el 114 del C. F.

CAPÍTULO II.

De la declaración de ausencia.

79. Cuando después de cuatro años cumplidos no se hubiese recibido noticia del presente asente, sus herederos y representantes legítimos podrán hacer constar este tribunal compuesto en a favor de que se declare la ausencia. El mismo derecho tienen los herederos y representantes legítimos en un testamento público, así como cualquier otro interés que tenga sobre los bienes del asente de derechos relativos a la condición de un estatuto, pero no podrán ejercerlos sino contradictoriamente con los herederos legítimos.

80 y 81. Como el 115 y 117 del C. F.

82. Como el 116 del C. F.

83. En el momento que hayan sido presentadas las solicitudes, tanto interinstitutorias como definitivas, se publicaran por conducto del ministerio público, fijándose a la puerta de la casa del asiento el acto de ausencia y a la de su última habitación, si no y otro eran distintos. Esta publicación tendrá también lugar en la radicación y a la puerta del tribunal, y se insertará anualmente en la Gaceta del departamento donde el asente tenía su domicilio, y en la de Turín.

CAPÍTULO III.

De los efectos de la ausencia.

120. Cuando el juez sobre la decla- ción de ausencia hubiere sido publi- cado, el testamento, si lo hay, se deberá solicitar de cualquiera persona que esa teniendo interés en los bienes, los herederos testamentarios, a su solicitud los legítimos, para que se las ponga en la posesión provisional de los bienes que pertenecen al asente al que desapareció. El de sus últimos curadores, con la obligación de prestar custodia.

Los legítimos, donantes y todo el que pudiera tener en los bienes del asente derechos relativos a la
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<td>4. La préemption d'absence.</td>
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<td>111. Il y a préemption pour l'indemnisation de tout</td>
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2. Saint-Joseph

(De l'Absence.)

CONCORDANCIAS OF SAINT-JOSEPH

325

CONCORDANCE ENTRE LE CODE NAPOLÉON

2016]
LAW OF SPAIN AND MEXICO. 215

in its dispositions may apply to the judge, who must summon the witnesses present at the execution of the testament; and upon his finding that it has been duly made, he shall declare it a valid testament, and order it to be inscribed in the registers of some notary. 1

Art. 1016. The testament, which is made in secret, and is called a close testament, (testamento cerrado,) must be made before a notary and seven witnesses. 2

Art. 1017. The testator must declare before them, that the contents of the paper, which he presents to them closed, is his testament and last will. 3

Art. 1018. When this is done, the testator and the seven witnesses subscribe their names on the back of the envelop of the testament, and afterwards the notary adds his declaration on the same. If any one of the witnesses should not know how to write, another witness must sign for him, and so, if the testator cannot sign his name. If the testator does not know how to write, he cannot make a close testament. 4

Art. 1019. When the testator, who has made a close testament, is dead, the person believing himself heir or legatee must apply to the judge to have it opened. Thereupon the judge must order the person, who has possession of the testament, to bring it before him, and having summoned the witnesses, exhibit it to them for the acknowledgment of their signatures; when such acknowledgment has been made by all the witnesses,

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1. Fuero Juuso, l. 11, T. 5, R. 2; Partidas, l. 4, T. 2, P. 6.
3. 3d Law of Toro.
4. Ib.
a. In the French and Louisiana Code this is called a "Mystic Will."
4. García Goyena

DEL CÓDIGO CIVIL ESPAÑOL.

Épsum prestavi non potest, asationenem esse præstandum, ley 11, párrafo 17, libro 32 del Digesto; vé el artículo 1089 y las citas allí hechas.

Segundo párrafo. Si pecunia legata in bonis legantis non sit solvendo, tamen hereditas sit, heres pecuniam legatam dare compellitur sive de suo, sive ex venditione rerum hereditatarum, sive unde voluerit, ley 12, libro 31 del Digesto. En suma, este artículo no es más que la aplicación de la doctrina común a toda especie de deudores.

Tercer párrafo. Artículo 856 Sardo, 816 Frances, repetido en otros; este es común a todos los deudores según el artículo 1092.

ARTICULO 702.

Si los bienes de la herencia no alcanzan para cubrir todos los legados, serán preferidos los de cosa específica y determinada; y el resto de los bienes se repartirá a prorata entre los legatarios de cantidad de dinero.

Los legados hechos en recompenza de servicios no estarán sujetos a este descuento, y se pagarán con preferencia lo mismo se observará siempre que así lo determine expresamente el testador.

Es el artículo 1628 del Código de la Luisiana, que parece muy conforme a razón y a derecho. Los 691 y 692 Austriacos dicen: «Si la herencia no basta para pagar todos los legados, los de manutención y alimentos serán pagados los primeros y los otros serán reducidos.»

En el legado de cosa específica el dominio pasa al legatario así que muere el testador, y nada tiene que ver aquí con los otros legatos y bienes de la herencia; aunque estos sean cuantiosos, si la cosa específica perece, se extingue el legado; justo es, pues, que se conserve, aunque sean pocos.

Expressamente. La voluntad del testador es la ley, si pues quiso que tal legado de dinero fuese pagado con preferencia, quedará libre de la reducción o descuento, según se ha establecido al hablar de la legítima.

De servicios. En este caso hay por parte del testador una especie de deuda, al menos moral, la deuda de la gratitud; y debe presumirse que quiso preferirlo en el pago a los legados de pura y absoluta liberalidad.

ARTICULO 703.

El legado hecho simplemente á un menor para tomar estado, sin expresión del cual haya de ser, se entregará al legatario así que cumpla la mayor edad.
Enonces serán propietarios libres, y entre tanto se llamarán obligados temporeros. Esta nueva situación debe introducirse en el plazo de dos años. Hasta entonces quedan en su antigua dependencia, debiendo cumplir sin oposición su servicio. Los criados continuarán también el bienio. Los siervos a obrak, de capacitación, pagarán en dos años una pensión fija, y luego serán libres.

ORIENTALISMO.

CHINA.

Los esclavos están sujetos á los mismos castigos y autoridad, y protegidos por la ley casi lo mismo que los hijos, excepto en cuanto á la venta. Se anula el matrimonio de persona libre, restituyéndosele á su antigua clase; pero poseen sobre los hijos la ventaja de poder ser emancipados. Los esclavos deben ser bien tratados, y si algún amo mata á uno, su familia tiene derecho á emanciparse. Estan obligados á tratar con el mayor respeto á sus amos; pues las injurias verbales que les inflan en su presencia, con publicidad, les sujeta hasta la estrangulación.

INDIA.

Especies de servicio.—Emancipación de cuatro clases.—Solemnidad.—Peculio.—Matrimonio.

Se conocen cuatro clases de servicio: 1.° Shis, cuando uno aprende las ciencias, durante cuyo tiempo servirá á su maestro, entregándole lo que gane con motivo de ellas; 2.° Anti Bashi, cuando uno aprende pintura, dibujo, obra de agra u otro empleo semejante, durante cuyo aprendizaje, servirá al que le enseñe, y ganará para él; 3.° Bhertuk que es á recibir salario por el servicio, ó por cultivar tierras de otro, ó criar animales de otro, recibir parte de sus productos; 4.° Adhigiris Gerrut, es el servicio del pariente recogido en casa. De estas cuatro clases de servidores, no puede exigirse ningún servicio impuro, como limpiar la casa, su patio, entrada, ó en una enfermedad, algún servicio súcio que exija el pariente.

Estos servidores sólo pueden obtenerse de la quinta clase de servidores llamados Des, que son de quince especies: Gerkejat, el nacido de madre esclava; Kirti, comprado por cierto precio; Labach, encontrado casualmente; Dayavanapakut, o esclavo heredado; Iakal berhut, él alimentado y preservado de la muerte reinando el hambre; Ahut, el dado en prenda de una deuda; Mukhut, el que se da por siervo de una deuda; Jut Perraput, el esclavo por batalla; Punjít, el esclavo por la suerte del juego, ó por cualquier otro azar; Opukut, el que se le hace esclavo por opción suya; Perberjabeshit, el esclavo en pena de abandona una especie de vida monástica; Girut, el que se da en esclavitud durante cierto tiempo; Behkut, el que toma la servidumbre por oficio para ganarse la subsistencia; Berbakrut, el que se hace esclavo por poseer una muchacha esclava; y Bekrit, el que vende su libertad.