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The Digest Online Project: A Resource to Disseminate the Legal Heritage of Louisiana

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THE DIGEST ONLINE PROJECT: A RESOURCE TO DISSEMINATE THE LEGAL HERITAGE OF LOUISIANA

Agustín Parise*

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I. INTRODUCTION

The Digest Online Project (www.law.lsu.edu/digest)¹ was developed on the occasion of the bicentennial of the *Digest of the Civil Laws now in Force in the Territory of Orleans* (Digest of 1808).² The first ancestor of the Civil Code of the State of Louisiana turned 200 years on March 31, 2008. This brief note looks at the digitalization process one decade later and is divided into three parts. Firstly, it highlights the importance of the Digest of 1808. Secondly, it shares insights on the digitalization process.

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The author thanks Olivier Moréteau for sharing insights and constructive criticism when reading earlier drafts of this note. The author is likewise indebted to Samuel Levy, who engineered the digital platform, for providing the statistics on the Digest Online.

1. See DIGEST ONLINE, available at <https://perma.cc/YTT6-H7ST>.

2. See generally A DIGEST OF THE CIVIL LAWS NOW IN FORCE IN THE TERRITORY OF ORLEANS, WITH ALTERATIONS AND AMENDMENTS ADAPTED TO ITS PRESENT SYSTEM OF GOVERNMENT (Bradford & Anderson 1808).

Thirdly, it presents information on the impact of that digital resource during its first ten years.

II. RELEVANCE

Louisiana was among the first jurisdictions to embrace the nineteenth-century codification process.³ On March 31, 1808, the local Legislature promulgated the Digest of 1808.⁴ That text comprised 2160 articles, was divided into a Preliminary Title and three books,⁵ and was drafted in French and translated into English.⁶ The Digest of 1808 did not include an *exposé des motifs*.⁷ Nevertheless, a number of copies contain interleaves with manuscript notes attributed to one of the drafters, Louis Moreau-Lislet.⁸

One of these manuscripts, the de la Vergne copy, includes references to Roman and Spanish materials.⁹ That 1814 manuscript also includes references to French texts of Roman grounding.¹⁰ The content

3. Mitchell Franklin, *Concerning the Historic Importance of Edward Livingston*, 11 TUL. L. REV. 163, 169-170 (1937). See generally Agustín Parise, *A Brief on Codification in Louisiana (1803-1830)*, in EUROPEAN TRADITIONS: INTEGRATION OR DIS-INTEGRATION? 85 (J. Oosterhuis & E. van Dongen eds. 2013).

4. 1808 La. Acts No. 122. The complete French title is *Digeste des lois civiles actuellement en force dans le territoire d'Orléans, avec des changements et améliorations adaptés à son présent système de gouvernement*.

5. Preliminary Title of the General Definitions of Rights and the Promulgation of the Laws, and three books: Book I of Persons, Book II of Things or Estates, and Book III of the Different Manners of Acquiring the Property of Things.

6. See generally E.B. Dubuisson, *The Codes of Louisiana (Originals Written in French; Errors of Translation)*, LOUISIANA BAR ASSOCIATION ANNUAL REPORT 143 (1924); and John M. Shuey, *Civil Codes—Control of the French Text of the Code of 1825*, 3 LA. L. REV. 452 (1941).

7. Joseph Dainow, *Moreau Lislet's Notes on Sources of Louisiana Civil Code of 1808*, 19 LA. L. REV. 43, 43 (1958).

8. John W. Cairns, *The de la Vergne Volume and the Digest of 1808*, 24 TUL. EUR. & CIV. L.F. 31, 74 (2009).

9. See the text of the *avant-propos* at Digest Online, *supra* note 1. See also Cairns, *supra* note 8, at 76-77.

10. In addition, 645 articles do not have corresponding notes. See Vernon Valentine Palmer, *The Recent Discovery of Moreau Lislet's System of Omissions and Its Importance to the Debate over the Sources of the Digest of 1808*, 49 LOY. L. REV. 301, 337 (2003).

of this copy was tested in 1971 by Rodolfo Batiza,¹¹ who identified the textual origins of 2081 articles.¹² He concluded that approximately 85% of the text of the articles had been extracted from French texts (e.g., *Code Napoléon, Projet* of 1800).¹³ In 1972, Robert A. Pascal published a reply¹⁴ claiming that French law, composed after elements from Roman, Romanized Frankish, Burgundian, and Visigothic origin, habitually resembled the Spanish law that derived from Roman or Roman-Visigothic origins.¹⁵ He understood that the *Code Napoléon* provided a mine of texts written in French.¹⁶ Thus, the drafters used French texts that contained or could be modified to contain in substance the Spanish-Roman law then in force in Louisiana.¹⁷ The work of Batiza and Pascal reflected that whether French, Spanish, or Roman, the laws were mainly taken from the continental European system, and that the Digest of 1808 was not a mere copy of the *Code Napoléon* or of a single text.¹⁸ That *Tournament of Scholars*¹⁹ keeps alive the interest in the Digest of 1808 and in the Louisiana civil law system.

III. DIGITALIZATION

The Digest of 1808 was digitalized as part of the bicentennial events by the Center of Civil Law Studies (CCLS) of Louisiana State University (LSU), making it accessible freely online. The original French and the English translation can be viewed separately or together, as illustrated in Figure 1 below. The typing of both versions was

11. Rodolfo Batiza, *The Louisiana Civil Code of 1808: Its Actual Sources and Present Relevance*, 46 TUL. L. REV. 4 (1971).

12. *Id.* at 11.

13. *Id.* at 12.

14. Robert A. Pascal, *Sources of the Digest of 1808: A Reply to Professor Batiza*, 46 TUL. L. REV. 603 (1972).

15. *Id.* at 605.

16. *Id.*

17. *Id.* at 606.

18. SHAEL HERMAN, *THE LOUISIANA CIVIL CODE: A EUROPEAN LEGACY FOR THE UNITED STATES* 32 (1993).

19. That expression was presented in Joseph Modeste Sweeney, *Louisiana Civil Code of 1808: Tournament of Scholars over the Sources of the Civil Code of 1808*, 46 TUL. L. REV. 585 (1972).

extracted from the first edition; and with the exception of obvious typos, the Digest Online strictly follows the original wording and orthography. The manuscript notes from the De la Vergne copy are also available, in manuscript form for the whole text and in typed form for the Preliminary Title and Book I.

The De la Vergne copy, as the name indicates, is a volume that belonged to the de la Vergne family for generations, and is presently in possession of Tulane University, after a bequest that followed the death of Mr. Louis V. de la Vergne.²⁰ The volume was published by the LSU and Tulane law schools in 1968, and by Claitor's in 1971, with a bicentennial soft cover reprint in 2008. The right to reproduce the notes within the Digest Online Project was generously provided to the CCLS by Mr. de la Vergne.²¹

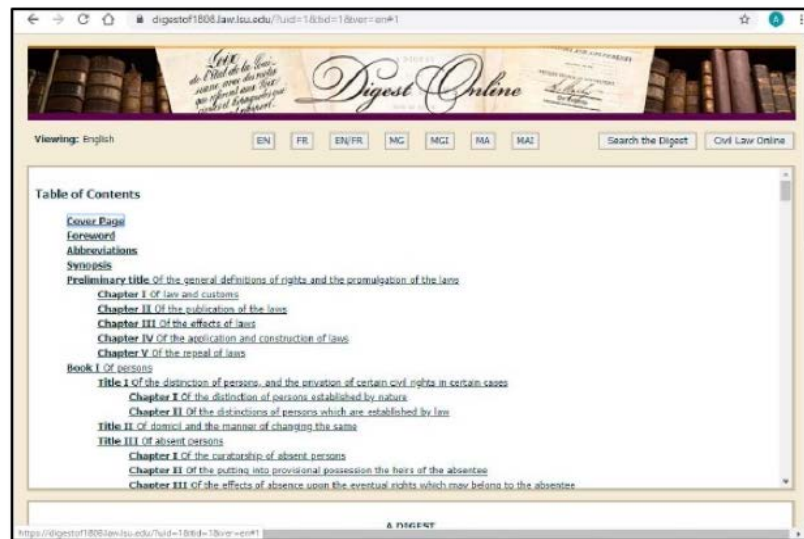


Figure 1. Homepage of the English version.

20. On the life of Mr. de la Vergne and his contribution to the study of Louisiana legal history, see Agustín Parise, *Louis Victor de la Vergne (1938-2017)*, 10 J. CIV. L. STUD. 3 (2017). On the bequest of the manuscript, see <https://perma.cc/3793-KY3A>.

21. See Olivier Moréteau and Agustín Parise, *The Bicentennial of the Louisiana Civil Code (1808-2008)*, 2 J. CIV. L. STUD. 195, 197-198 (2009).

The digitalization work was undertaken by an interdisciplinary team²² and can be traced to May 2007. In a 2007 communication, team members indicated that “once completed, the Digest On-Line project will enable research activities on the legal culture of Louisiana from every corner of the World.”²³ The idea was to build bridges between Louisiana and other jurisdictions. That communication indicated that *Bracton Online*²⁴ and William Blackstone’s work in the *Avalon Project*²⁵ had served as inspiration.²⁶ The Project Description, dated May 11, 2007, aimed to make available “the original French [FR], with the English official translation [EN], and also the manuscript notes of the principal draftsman, Louis Moreau-Lislet, which give the sources used for the drafting of the main divisions of the codes [MG] and the individual articles [MA].”²⁷ It further read that:

Technically, the Code will be broken down in units [U]. Each unit is composed of the corresponding sections of FR, EN, MG, MA, with the additional complexity that MG and MA will be accessible both in typed [MG] [MA] and in manuscript form [PDF/MG] [PDF/MA].

The Digest will be accessible from a content table in French [CT/FR] and in English [CT/EN], via hyperlinks leading from CT/FR to FR and CT/EN to EN.

Opening any Unit of FR or EN, one can navigate horizontally to the same unit of EN or FR, as well as to MA, MG (in PDF or typed form), with free horizontal navigation from one to the other. Also, from any of these, one may navigate vertically to the preceding or following unit of the same nature document.²⁸

22. All team members are mentioned in *Credits*, available at <https://perma.cc/7ZE8-947T>.

23. Agustín Parise, *Memorandum to Linda Rigell, Vic Erwin and Vicenç Feliú*, Oct. 19, 2007 (on file with the author).

24. See *Bracton Online*, available at <https://perma.cc/N44T-AS53>.

25. See *Blackstone’s Commentaries on the Laws of England*, available at <https://perma.cc/8KXS-2NHQ>.

26. Parise, *supra* note 23.

27. Olivier Moréteau, *Project Description*, May 11, 2007 (on file with the author).

28. *Id.*

When referring to the arrangement of units, the text read that “normally a unit will correspond to a chapter, occasionally a title when very short, but chapters will often be broken down into smaller units (one or several sections).”²⁹ Finally, the Project Description offered a matrix that served as blueprint, as illustrated in Chart 1 below.

CT/FR	CT/EN	FR	EN	MG	MA	PDF/ MG	PDF/ MA
B1T1C1	B1T1C1	Unit 1	Unit 1	Unit 1	Unit 1	Unit 1	Unit 1
B1T1C2	B1T1C2	Unit 2	Unit 2	Unit 2	Unit 2	Unit 2	Unit 2
B1T1C3	B1T1C3	Unit 3	Unit 3	Unit 3	Unit 3	Unit 3	Unit 3
B1T2C1	B1T2C1	Unit 4	Unit 4	Unit 4	Unit 4	Unit 4	Unit 4
B1T2C2	B1T2C2	Unit 5	Unit 5	Unit 5	Unit 5	Unit 5	Unit 5
B1T2C3	B1T2C3	Unit 6	Unit 6	Unit 6	Unit 6	Unit 6	Unit 6
B1T2C4	B1T2C4	Unit 7	Unit 7	Unit 7	Unit 7	Unit 7	Unit 7
B1T3	B1T3	Unit 8	Unit 8	Unit 8	Unit 8	Unit 8	Unit 8
B1T4C1	B1T4C1	Unit 9	Unit 9	Unit 9	Unit 9	Unit 9	Unit 9
B1T4C2	B1T4C2	Unit 10	Unit 10	Unit 10	Unit 10	Unit 10	Unit 10
B1T4C3	B1T4C3	Unit 11	Unit 11	Unit 11	Unit 11	Unit 11	Unit 11

Chart 1. Blueprint.

The Digest of 1808 was “physically” broken into units when sent to the IT team members. For example, Figure 2 shows how the manuscript notes for individual articles for Book I, Title I, Chapter I (MA B1T1C1) was shared with team members, who would then type in Word the notes and further digitalize them to “feed” the Digest Online.

29. *Id.*

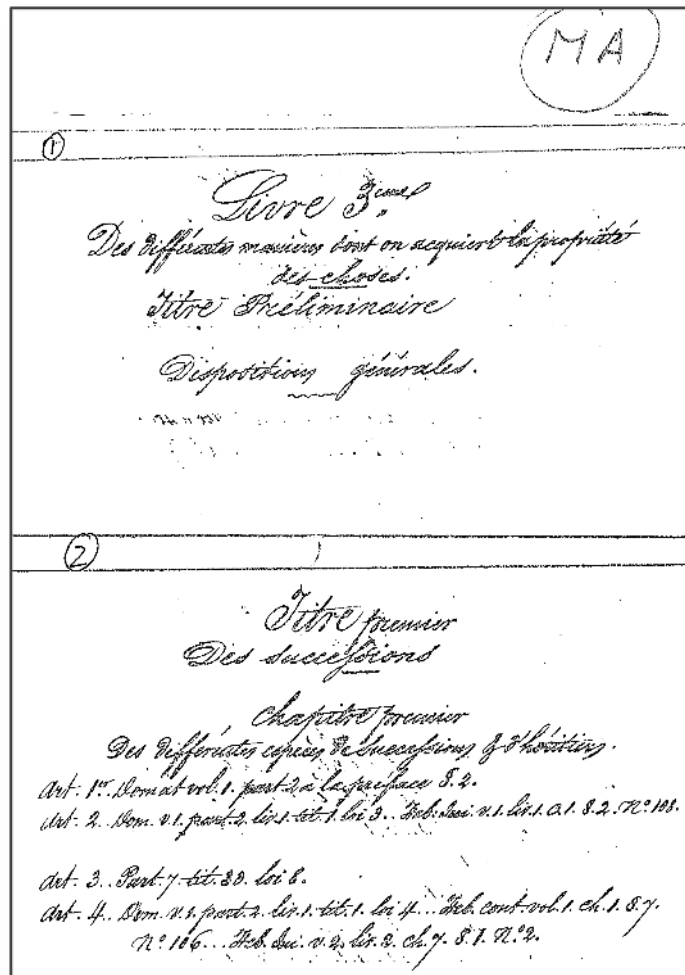


Figure 2. Manuscript notes for individual articles.

IV. IMPACT

The Digest Online is part of a larger project called Civil Law Online, intended to showcase the rich repository of Louisiana scholarship, while also incorporating civil law resources from other sister jurisdictions.³⁰ In recent years, other resources were made available

30. See *The Russell Long Chair and CCLS Newsletter*, No. 7, May 2008; and Agustín Parise, *Golden Jubilee of the Center of Civil Law Studies: Celebrating the Development of Legal Science in Louisiana*, 8 J. CIV. L. STUD. 1, 11 (2015).

beyond the Digest Online by the CCLS. These resources built on the expertise acquired in the Digest Online Project; and include the compiled³¹ and the current editions of the Civil Code, the latter in English and with a French translation.³²

The Digest Online includes a user guide,³³ aiming to facilitate the work of researchers. In similar lines, the resource offers a search engine³⁴ and instructions on how to cite its contents.³⁵ Scholars access the Digest Online from different parts of the world, focusing in different subject matters. Further, authors refer to the Digest Online in their writings,³⁶ hence proving that the digitalization process enabled users to approach the source.

2008-2014	2018
United States of America	United States of America
United Kingdom	United Kingdom
Chile	Russian Federation
Germany	South Korea
Italy	India

Chart 2. Country of origin (top 5).³⁷

Statistics on the visits to the Digest Online are preserved, with the exception of the period July 2014 to December 2017.³⁸ Statistics reveal the use by scholars. Access to the Digest Online was from

31. See *Compiled Edition of the Civil Codes of Louisiana*, available at <https://perma.cc/X7CE-MGQT>.

32. See *Louisiana Civil Code Online*, available at <https://perma.cc/YFK8-N6X4>.

33. See *User Guide*, available at <https://perma.cc/7AJ3-DKUR>.

34. See *Search the Digest of 1808*, available at <https://perma.cc/4EHG-8TA4>.

35. See *Citation*, available at <https://perma.cc/F5XL-CJA6>.

36. Rebecca J. Scott, “*She . . . Refuses to Deliver Up Herself as the Slave of Your Petitioner*”: *Émigrés, Enslavement, and the 1808 Louisiana Digest of the Civil Laws*, 24 TUL. EUR. & CIV. L.F. 115, 116 (2009).

37. The top countries for 2008-2014 in this note resulted from the visits to the homepage of the Digest Online. It should be noted that some visitors, once their research was ongoing, accessed other units multiple times, without visiting the homepage.

38. Servers were moved and reconfigured several times during that period.

across the globe, as demonstrated, for example, when looking at the 2018 visitors.³⁹ As reflected in Chart 2, in the ten-year period, most visitors were from the U.S., followed by the United Kingdom. Visitors were from different legal traditions, hence showing the diverse interest that scholars may have for a mixed jurisdiction. Statistics show that visits spread throughout all books. However, as Chart 3 shows, the most visited units were from the Preliminary Title and from Book I, dealing with persons. These units include images and transcription of manuscript notes. Further, a number of publications⁴⁰ deal with those units and could have triggered additional interest in readers. The 2007 statement on enabling research activities on the legal culture of Louisiana from every corner of the World was confirmed.

Units 2008-2014	Units 2018
5 Preliminary Title	5 Preliminary Title
33 Book II Of things and of the different modifications of property	22 Book I Of persons

39. Visits to the Digest Online during 2018 were from the following jurisdictions: Algeria, Argentina, Armenia, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Belize, Bosnia-Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Czech Republic, Denmark, Dominica, Ecuador, Egypt, Eritrea, Ethiopia, Finland, France, Germany, Greece, Honduras, Hong Kong, Hungary, India, Indonesia, Iran, Israel, Italy, Ivory Coast, Japan, Kenya, Liberia, Lithuania, Luxembourg, Macedonia, Malaysia, Malta, Mauritius, Mexico, Morocco, Nepal, Netherlands, New Zealand, Pakistan, Philippines, Poland, Portugal, Puerto Rico, Republic of Serbia, Romania, Russian Federation, Saudi Arabia, Seychelles, Singapore, Slovak Republic, South Africa, South Korea, Spain, Sudan, Switzerland, Taiwan, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, U.S., and Vietnam.

40. See, e.g., John W. Cairns, *Blackstone in the Bayous: Inscripting Slavery in the Louisiana Digest of 1808*, in RE-INTERPRETING BLACKSTONE'S COMMENTARIES: A SEMINAL TEXT IN NATIONAL AND INTERNATIONAL CONTEXTS 73 (Wilfrid Prest ed., 2014); Alejandro Guzmán Brito, *Las fuentes de las normas sobre interpretación de las leyes del "digeste des lois civiles" ("code civil") de la Luisiana (1808/1825)*, 31 REVISTA DE ESTUDIOS HISTÓRICO-JURÍDICOS 171 (2009); and Scott, *supra* note 36.

Units 2008-2014	Units 2018
<p>Title III Of usufruct, use and habitation Chapter I Of usufruct Section IV Of the obligations of the owner Section V How usufruct expires</p>	<p>Title VIII Of minors, of their tutorship, curatorship and emancipation Chapter I Of tutorship Section VII Of the causes which dispense or excuse from the tutorship Section VIII Of incapacity for, exclusion from and deprivation of the tutorship</p>
<p style="text-align: center;">6</p> <p>Book I Of persons Title I Of the distinction of persons, and the privation of certain civil rights in certain cases Chapter I Of the distinction of persons established by nature Chapter II Of the distinction of persons which are established by law</p>	<p style="text-align: center;">6</p> <p>Book I Of persons Title I Of the distinction of persons, and the privation of certain civil rights in certain cases Chapter I Of the distinction of persons established by nature Chapter II Of the distinction of persons which are established by law</p>
<p style="text-align: center;">22</p> <p>Book I Of persons Title VIII Of minors, of their tutorship, curatorship and emancipation Chapter I Of tutorship Section VII Of the causes which dispense or excuse from the tutorship Section VIII Of incapacity for, exclusion from and deprivation of the tutorship</p>	<p style="text-align: center;">101</p> <p>Book III Of the different manners of acquiring the property of things Title XIX Of privileges and mortgages Chapter I Of the nature of a mortgage and of its several sorts Chapter II Who may mortgage and what thing may be mortgaged Chapter III Of the effects of mortgage Section I Of the effects of mortgage with regard to the debtor</p>

Units 2008-2014	Units 2018
	Section II Of the effects of mortgage against third possessors and of the action of mortgage
<p style="text-align: center;">11</p> Book I Of persons Title IV Of husband and wife Chapter I On marriage Chapter II How marriages may be contractor or made Chapter III Of the nullity of marriages	<p style="text-align: center;">22</p> Book I Of persons Title VIII Of minors, of their tutorship, curatorship and emancipation Chapter I Of tutorship Section VII Of the causes which dispense or excuse from the tutorship Section VIII Of incapacity for, exclusion from and deprivation of the tutorship

Chart 3. Units consulted (top 5).⁴¹

V. CLOSING REMARKS

The mixed character of Louisiana and its legal heritage have proved to be of interest for scholars. As stated in 1933 by Mitchell Franklin—a leading scholar on the civil law heritage of Louisiana—the Civil Code of the State of Louisiana “is the most important contribution of Louisiana to an American culture.”⁴² At this stage in time, it is appropriate to extend the scope of this statement, claiming that the civil code, and its *ancestors*, are the most important contribution of Louisiana to the civil law worldwide.

The digitalization process of the Digest of 1808 indeed invited hundreds of scholars from different legal traditions to explore a sem-

41. This enumeration excludes the homepage, the cover page, the index, and the search engine.

42. Mitchell Franklin, *Civil Code of the State of Louisiana, Revision of 1870*, 7 TUL. L. REV. 632, 632 (1933) (book review).

inal building block for codification in the Americas. It further enabled the dissemination of an important component of Louisiana's legal heritage across the globe. This resource, a decade after its conception, continues contributing to the development of global perspectives and of comparative legal history.⁴³

43. On recent developments in these perspectives towards the study of law, see, e.g., Thomas Duve, *European Legal History—Concepts, Methods, Challenges*, ENTANGLEMENTS IN LEGAL HISTORY: CONCEPTUAL APPROACHES, GLOBAL PERSPECTIVES ON LEGAL HISTORY 29 (Thomas Duve ed., 2014); Aniceto Masferrer *et al.*, *The Emergence of Comparative Legal History*, in COMPARATIVE LEGAL HISTORY 1 (Olivier Moréteau *et al.* eds., 2019); and Agustín Parise, OWNERSHIP PARADIGMS IN AMERICAN CIVIL LAW JURISDICTIONS: MANIFESTATIONS OF THE SHIFTS IN THE LEGISLATION OF LOUISIANA, CHILE, AND ARGENTINA (16TH-20TH CENTURIES) (Brill 2017), especially chapter 2.