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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Keywords: civil codes, databases, digitalization, Louisiana civil law, preservation, rare books, research methods

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. On March 31, 1808, the local Legislature promulgated the Digest of 1808. That text comprised 2160 articles, was divided into a Preliminary Title and three books, and was drafted in French and translated into English. The Digest of 1808 did not include an exposé des motifs. Nevertheless, a number of copies contain interleaves with manuscript notes attributed to one of the drafters, Louis Moreau-Lislet.

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

4. 1808 La. Acts No. 122. The complete French title is Digeste des lois civils actuellement en force dans le territoire d’Orléans, avec des changemens et améliorations adaptés à son présent système de gouvernement.
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).
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, who identified the textual origins of 2081 articles. He concluded that approximately 85% of the text of the articles had been extracted from French texts (e.g., *Code Napoléon, Projet of 1800*). In 1972, Robert A. Pascal published a reply 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. He understood that the *Code Napoléon* provided a mine of texts written in French. 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. 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. That *Tournament of Scholars* 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

---

12. *Id.* at 11.
13. *Id.* at 12.
15. *Id.* at 605.
16. *Id.*
17. *Id.* at 606.
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. 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.

Figure 1. Homepage of the English version.


The digitalization work was undertaken by an interdisciplinary team 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.” The idea was to build bridges between Louisiana and other jurisdictions. That communication indicated that Bracton Online and William Blackstone’s work in the Avalon Project had served as inspiration. 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].” 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.

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

<table>
<thead>
<tr>
<th>CT/FR</th>
<th>CT/EN</th>
<th>FR</th>
<th>EN</th>
<th>MG</th>
<th>MA</th>
<th>PDF/MA</th>
<th>PDF/MG</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1T1C1</td>
<td>B1T1C1</td>
<td>Unit 1</td>
<td>Unit 1</td>
<td>Unit 1</td>
<td>Unit 1</td>
<td>Unit 1</td>
<td>Unit 1</td>
</tr>
<tr>
<td>B1T1C2</td>
<td>B1T1C2</td>
<td>Unit 2</td>
<td>Unit 2</td>
<td>Unit 2</td>
<td>Unit 2</td>
<td>Unit 2</td>
<td>Unit 2</td>
</tr>
<tr>
<td>B1T1C3</td>
<td>B1T1C3</td>
<td>Unit 3</td>
<td>Unit 3</td>
<td>Unit 3</td>
<td>Unit 3</td>
<td>Unit 3</td>
<td>Unit 3</td>
</tr>
<tr>
<td>B1T2C1</td>
<td>B1T2C1</td>
<td>Unit 4</td>
<td>Unit 4</td>
<td>Unit 4</td>
<td>Unit 4</td>
<td>Unit 4</td>
<td>Unit 4</td>
</tr>
<tr>
<td>B1T2C2</td>
<td>B1T2C2</td>
<td>Unit 5</td>
<td>Unit 5</td>
<td>Unit 5</td>
<td>Unit 5</td>
<td>Unit 5</td>
<td>Unit 5</td>
</tr>
<tr>
<td>B1T2C3</td>
<td>B1T2C3</td>
<td>Unit 6</td>
<td>Unit 6</td>
<td>Unit 6</td>
<td>Unit 6</td>
<td>Unit 6</td>
<td>Unit 6</td>
</tr>
<tr>
<td>B1T2C4</td>
<td>B1T2C4</td>
<td>Unit 7</td>
<td>Unit 7</td>
<td>Unit 7</td>
<td>Unit 7</td>
<td>Unit 7</td>
<td>Unit 7</td>
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<tr>
<td>B1T3</td>
<td>B1T3</td>
<td>Unit 8</td>
<td>Unit 8</td>
<td>Unit 8</td>
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</tr>
<tr>
<td>B1T4C1</td>
<td>B1T4C1</td>
<td>Unit 9</td>
<td>Unit 9</td>
<td>Unit 9</td>
<td>Unit 9</td>
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</tr>
<tr>
<td>B1T4C2</td>
<td>B1T4C2</td>
<td>Unit 10</td>
<td>Unit 10</td>
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<td>Unit 10</td>
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</tr>
<tr>
<td>B1T4C3</td>
<td>B1T4C3</td>
<td>Unit 11</td>
<td>Unit 11</td>
<td>Unit 11</td>
<td>Unit 11</td>
<td>Unit 11</td>
<td>Unit 11</td>
</tr>
</tbody>
</table>

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.*
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

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

The Digest Online includes a user guide, aiming to facilitate the work of researchers. In similar lines, the resource offers a search engine and instructions on how to cite its contents. 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, hence proving that the digitalization process enabled users to approach the source.

<table>
<thead>
<tr>
<th>2008-2014</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States of America</td>
<td>United States of America</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>Chile</td>
<td>Russian Federation</td>
</tr>
<tr>
<td>Germany</td>
<td>South Korea</td>
</tr>
<tr>
<td>Italy</td>
<td>India</td>
</tr>
</tbody>
</table>

Chart 2. Country of origin (top 5).

Statistics on the visits to the Digest Online are preserved, with the exception of the period July 2014 to December 2017. Statistics reveal the use by scholars. Access to the Digest Online was from

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. 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 publications 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.

<table>
<thead>
<tr>
<th>Units 2008-2014</th>
<th>Units 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Title</td>
<td>Preliminary Title</td>
</tr>
<tr>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Book II Of things and of the different modifications of property</td>
<td>Book I Of persons</td>
</tr>
<tr>
<td>33</td>
<td>22</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Units 2008-2014</th>
<th>Units 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title III Of usufruct, use and habitation</strong>&lt;br&gt;Chapter I Of usufruct&lt;br&gt;Section IV Of the obligations of the owner&lt;br&gt;Section V How usufruct expires</td>
<td><strong>Title VIII Of minors, of their tutorship, curatorship and emancipation</strong>&lt;br&gt;Chapter I Of tutorship&lt;br&gt;Section VII Of the causes which dispense or excuse from the tutorship&lt;br&gt;Section VIII Of incapacity for, exclusion from and deprivation of the tutorship</td>
</tr>
<tr>
<td><strong>6</strong>&lt;br&gt;Book I Of persons&lt;br&gt;Title I Of the distinction of persons, and the privation of certain civil rights in certain cases&lt;br&gt;Chapter I Of the distinction of persons established by nature&lt;br&gt;Chapter II Of the distinction of persons which are established by law</td>
<td><strong>6</strong>&lt;br&gt;Book I Of persons&lt;br&gt;Title I Of the distinction of persons, and the privation of certain civil rights in certain cases&lt;br&gt;Chapter I Of the distinction of persons established by nature&lt;br&gt;Chapter II Of the distinction of persons which are established by law</td>
</tr>
<tr>
<td><strong>22</strong>&lt;br&gt;Book I Of persons&lt;br&gt;Title VIII Of minors, of their tutorship, curatorship and emancipation&lt;br&gt;Chapter I Of tutorship&lt;br&gt;Section VII Of the causes which dispense or excuse from the tutorship&lt;br&gt;Section VIII Of incapacity for, exclusion from and deprivation of the tutorship</td>
<td><strong>101</strong>&lt;br&gt;Book III Of the different manners of acquiring the property of things&lt;br&gt;Title XIX Of privileges and mortgages&lt;br&gt;Chapter I Of the nature of a mortgage and of its several sorts&lt;br&gt;Chapter II Who may mortgage and what thing may be mortgaged&lt;br&gt;Chapter III Of the effects of mortgage&lt;br&gt;Section I Of the effects of mortgage with regard to the debtor</td>
</tr>
</tbody>
</table>
Units 2008-2014 | Units 2018
---|---
11 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 | 22 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).

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.” 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 semi-
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. 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.