

Louisiana Law Review

Volume 5 | Number 2

May 1943

LOUISIANA STATUTES RELATED TO THE
CIVIL CODE. Louisiana State Law Institute,
Harriet S. Daggett, Reporter, New Orleans, 1941.
Pp. xxxiii, 739.

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Repository Citation

Walter J. Suthon Jr., *LOUISIANA STATUTES RELATED TO THE CIVIL CODE*. Louisiana State Law Institute, Harriet S. Daggett, Reporter, New Orleans, 1941. Pp. xxxiii, 739., 5 La. L. Rev. (1943)

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Book Reviews

LOUISIANA STATUTES RELATED TO THE CIVIL CODE. Louisiana State Law Institute, Harriet S. Daggett, Reporter, New Orleans, 1941. Pp. xxxiii, 739.

The problem of modification or amplification of the rules enunciated in various and sundry articles of the Civil Code, by legislative action during the more than seventy years which have elapsed since the last official codal revision, has been a perplexing one to many a practitioner. The simpler aspect of that problem involves a legislative enactment specifically amending or repealing a particular codal article, and the lawyer who has failed to discover such specific legislation has simply failed to use properly the tools of research that have always been readily available to all members of the bar. But modification or amplification of a codal article may be effected by implication as well as expressly, and in such instances even diligent research has not always resulted in the discovery that some codal article or articles pertinent to the problem in hand have been supplemented, restricted, modified or amplified by a legislative act containing no reference at all to the specific article or articles which it thus affects.

Various annotated editions of the Civil Code published since 1870, and showing with fair accuracy all specific repeals or amendments of various articles, reflect some effort to correlate legislation affecting but not specifically naming articles, by either reproducing in full or else citing by reference certain legislative acts of this character in annotations to various articles affected thereby, but these references *ex necessitate* have fallen short of the desired measure of accuracy, comprehensiveness and completeness. Citor references to statutes of this character under various codal articles have been helpful, but do not entirely fill the need. Research in indices of statutory material, or in various compilations of statutes, has been an arduous task of more or less uncertain results. The mass of material to be examined and sifted in such research may lead to the result that the particular tree sought is not always found in the forest through which the seeker after legal information has had to roam.

To meet this need, not wholly met by any prior compilation, the Louisiana Law Institute undertook the preparation and pub-

lication of a volume containing "all of the statutes dealing with matters now covered by the Civil Code, but not actually integrated in the Code." The problems of preparing this compilation ranged from the primarily mechanical task of checking exhaustively the sources of statutory material "page by page" and through other means, to the intellectual problem of classifying the mass of material potentially susceptible of inclusion in such a compilation and determining a workable formula for what should go in and what should stay out, and for the classification and arrangement of the material selected for inclusion. The adoption of a "middle ground" in dealing with the problem of selecting material for inclusion, as noted in the Reporter's Foreword, represented excellent practical judgment.

Particularly good judgment was displayed by the compilers in excluding such well-known, lengthy and comprehensive statutes as the Uniform Negotiable Instruments Act, the Business Corporations Act, the Workmen's Compensation Act and other general statutes of similar outstanding character. The inclusion of all such statutes that might in a sense be deemed to deal here and there with some matter covered by the code would have made the publication not what it was intended to be, but rather a ponderous but incomplete and imperfect compilation of general statutes, neither needed by nor useful to the profession.

Bearing in mind that a statute of the sort to be included in this compilation is as likely to affect several related and adjacent articles as it is to affect a single article, the compilers have wisely refrained from endeavoring to correlate each statute with a specific and particular article. Instead, the compilation is subdivided by Titles. In no instance does the statutory material assigned to a particular title consist of as much as eighty pages, and in few instances only does it exceed fifty pages. Hence, when one is seeking light on some article or group of consecutive articles, the material in this compilation on the whole Title containing such article or group of articles can be thumbed through without much expenditure of time. The reproduction of the title, as well as the body, of each statute included facilitates quick determination of whether the reader is or is not interested in a particular statute.

Another useful feature is the cross-reference index, wherein all statutes in the compilation that particularly affect any specific article are indexed under that article. Apart from the utility of such an index as an aid to research for determining the mean-

ing or effect of a particular article, it saves a duplication of printing, and a consequent waste of space, in the instance of any statute which has this relation (as many of the statutes included have) to two or more articles in different Titles. This index also took some of the sting out of the often perplexing problem of where to put some statute that has a substantial relationship to the subject-matter of two or more Titles. The solution of that problem depended largely upon personal judgment, and in some instances a group of informed lawyers might divide very closely on whether a particular statute should have been printed under this Title or under that Title. The relationship between such a statute and the article or articles affected by it in the Title under which it is not printed being shown in the cross-reference index, the careful lawyer who fully explores all the possibilities of this publication will find the statute either in one place or the other.

The inclusion of statutes specifically amending or repealing particular articles might be viewed as unnecessary, since such material is found in the up-to-date edition of the Code itself, and might also be considered as beyond the letter of the authorizing resolution of the Council of the Institute, since such statutes are "actually integrated in the code." However, the inclusion of this material makes the compilation particularly helpful as an adjunct to the use of some early edition of the Code, and the authorizing resolution of the Council was simply a generalization which necessarily left details of policy as to inclusion or exclusion to be developed as the work progressed and to be reviewed by the appropriate agencies of the Institute itself. As far as considerations of space go, this particular sort of statutory material occupies at most only a comparatively few pages.

Of perhaps more doubtful justification are the inclusion of earlier statutes specifically repealed by later statutes (also of course included) and the reproduction of both the original material and the amendatory material in the instance of any amendment of an included statute. These policies have probably added a substantial number of pages to the volume. This material is unnecessary, if we were concerned only with the determination of the statutory content in force today. But it is useful, however, in studying the historical background and the development of a current statute, as well as in appraising the applicability or inapplicability to a current statute of some decision predicated upon an antecedent related statutory provision now repealed or revised

by amendment. In these senses, this included material may be deemed far from superfluous.

The Louisiana State Law Institute must justify itself, and has justified itself, by its work and by its publications, which are of course a most important element and a concrete proof of its work. This particular publication is indeed a concrete proof of the high quality and character of the work of the Institute, as well as of the utility of that work to the profession. The Reporter, the Advisers, and those lesser lights who have assisted them here, are all entitled to congratulations upon a difficult and important task well done.

WALTER J. SUTHON, JR.*

INSTITUTES OF THE ROMAN LAW OF CIVIL PROCEDURE. Revised Edition, by Leopold Wenger, translated by Otis Harrison Fisk, with an introduction by Roscoe Pound. Veritas Press, New York, 1940. Pp. xxx, 440. \$6.00.

The Roman law of civil procedure, in spite of its fundamental influence on the development and structure of the Roman system of private law, is usually confined to a more or less brief chapter in textbooks on Roman law. Such a chapter conveys to the reader only the outlines, but little or nothing of the numerous legal problems arising from the procedure and sometimes intermingled with highly interesting and important questions of substantive law. Therefore, a warm and well deserved welcome greeted Professor Wenger when in 1925 he first published his *Institutionen des römischen zivilprozessrechts*. Thus at last the long obsolete manuals of Keller and Bethmann-Hollweg were replaced with a detailed exposition, even more elaborate than Emilio Costa's excellent *Profilo storico del processo civile romano*, published a few years before.¹ A new view of the history and system of Roman procedure was presented as a result of the research conducted by a number of scholars during the past few decades. Now the English-speaking public interested in the history of legal institutions is enjoying the privilege of using a new English edition of this valuable book,² brought up to the status

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1. Rome 1918, Athenaeum.

2. An Italian translation, prepared by R. Orestano, was published in 1938 (Milan, Giuffrè).