
Walter J. Suthon Jr.
Book Reviews


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. Citator 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 integ-
rated in the Code." The problems of preparing this compilation
ranged from the primarily mechanical task of checking exhaust-
ively 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 Fore-
word, 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 spe-
cific 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 determina-
tion 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 Re-
porter, the Advisers, and those lesser lights who have assisted
them here, are all entitled to congratulations upon a difficult and
important task well done.

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INSTITUTES OF THE ROMAN LAW OF CIVIL PROCEDURE. Revised Edi-
tion, by Leopold Wenger, translated by Otis Harrison Fisk,
with an introduction by Roscoe Pound. Veritas Press, New

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 inter-
mingled with highly interesting and important questions of sub-
stantive 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 re-
placed 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 re-
search conducted by a number of scholars during the past few
decades. Now the English-speaking public interested in the his-
tory 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).