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leadership fraternity, was elected to student membership with a scholastic average of 2.667. Mr. Downing, who is from Monroe, Louisiana, was also the first recipient of the newly-established "honor award" which is to be made annually to the outstanding second year student in the law school. The 1944-45 selection is Mrs. Evelyn Pritchard Cole of Dunn, Louisiana. This award carries a scholarship of \$30 per month during the remainder of the recipient's course in the Law School.

DALE E. BENNETT,
Acting Dean.

Comments

CONSTITUTIONAL LIMITATIONS UPON STATUTE TITLES IN LOUISIANA

Included in the constitution of forty-one states¹ is what is commonly termed a "title-body clause." This clause provides certain requirements for the title of a statute, certain requirements for the body of the statute, and for a specified relationship between the title and the body of the statute. The title-body clause found in the Louisiana Constitution is expressed in these words:

"Every law enacted by the Legislature shall embrace but one object, and shall have a title indicative of such object."²

The historical evolution of the present-day title-body clause began with the appearance of such a provision in the Georgia Constitution of 1798.³ Its inclusion was due to the insistence of General James Jackson, who led the fight against the famed Yazoo Act of 1795,⁴ which, by means of its deceptively innocent title, passed the legislature with little difficulty. When the true nature of the Yazoo Act was discovered the public indignation

1. The exceptions are Connecticut, Maine, Massachusetts, New Hampshire, North Carolina, Rhode Island, and Vermont.

2. La. Const. of 1921, Art. III, § 16.

3. Ga. Const. of 1798, Art. I, § 17. C. H. Manson gives a much more complete historical background in "The Drafting of Statute Titles" (1934) 10 Ind. L.J. 155.

4. The act was entitled: "An act supplementary to an Act, entitled 'An Act for appropriating a part of the unlocated territory of this State for the payment of the State troops, and for other purposes therein mentioned,' declaring the right of this State to the unappropriated territory thereof for the protection and support of the frontiers of this State, and for other purposes."

was great; for while the title of the act gave no indication of any such purpose, one of the provisions granted full title to some thirty-five million acres of public land to certain men for about one and one-half cents an acre. Thereafter the constitutional conventions of the various states usually included such a provision in the instrument they were drafting. The use of the title-body clause became so wide-spread that today it is a part of the constitutions of forty-one states.⁵

Perhaps the dominant purpose of the title-body clause is to prevent the fraud and surprise in the legislature which arises when certain provisions of a statute are not indicated by its title.⁶ The requirement prevents the jockeying of bills through the legislature under a misleading and deceitful title, and, as a corollary, the public is apprised of the subject matter of the legislation being considered. In addition, the requirement that a bill have but one object defeats the old practice of "log-rolling,"⁷ which is the bringing together of several measures of a different character in one statute. This device was used to insure the passage of legislation by combining several measures in one bill thus securing the support of the advocates of each individual measure. It often succeeded in cases where no one of the several measures could, standing alone, secure passage on its own merit. Thus, the use of these constitutional limitations is undoubtedly justified by the abolition of those former evils of legislation.

The title-body clause first appeared in Louisiana as Article 118 of the Louisiana Constitution of 1845.⁸ The same language was included as Article 115 of the Louisiana Constitution of 1852 and as Article 118 of the Louisiana Constitution of 1864. A unique clause was inserted in the Louisiana Constitution of 1868⁹ which provided for the legality of a law containing two or more objects.¹⁰ In 1879, however, the new constitution reverted to the usual clause;¹¹ and the Constitutions of 1898 and 1913 again offered

5. See note 1, *supra*.

6. For other expressions of the purposes of the title-body clause, see Crawford, *Statutory Construction* (1940) 134, § 95; Manson, *supra* note 3, at 156; 1 Sutherland, *Statutory Construction* (3 ed. 1943) 287, § 1702.

7. A more difficult form of "log-rolling" which is now practiced is the combination for mutual strength of advocates of separate bills upon different subjects.

8. The wording of the clause is similar to that of the present clause. The 1845 clause read: "Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title."

9. La. Const. of 1868, Art. 114, read: "Every law shall express its object or objects in its title."

10. This is technically known as duality or plurality.

11. La. Const. of 1879, Art. 29.

the usual clause, which was Article 31 in each. The title-body clause is now designated as Article III, Section 16, of our present Louisiana Constitution of 1921.

The constitutional limitation has been uniformly held to be mandatory upon the legislature in Louisiana,¹² which is in accord with the weight of authority.¹³ The power of the legislature is thereby limited, and any statute failing to comply with the provision is void. However, rigorous and technical constructions of the limitations are avoided—the tendency being toward liberality of construction with the view of hampering as little as possible the legislative will.¹⁴

The title of a statute must be "indicative"¹⁵ of the object of the statute. Since this term is susceptible of several interpretations, considerable confusion has arisen regarding the composition of statute titles. To clarify the situation an examination of the cases dealing with statute titles and their content is necessary.

The Supreme Court of Louisiana repeatedly has held that the title of a statute conforms to the constitutional requirement when that title indicates the general purpose of the statute in a clear manner.¹⁶ One of the earlier cases which settled this question declared: "... but surely it is not necessary at this late day to say that the title of an act need not be a synopsis of its contents. It is sufficient if it indicate the general object or purpose of the law without signifying each provision made therein."¹⁷ Another

12. *State v. Heywood*, 38 La. Ann. 689 (1886); *Stewart v. Stanley*, 199 La. 146, 5 So.(2d) 531 (1941).

13. *Crawford*, op. cit. supra note 6, at 135, § 95; 1 *Sutherland*, op. cit. supra note 6, at 291, § 1703.

14. *State v. Hincy*, 130 La. 620, 58 So. 411 (1912); *Ramey v. Cudahy Packing Co.*, 200 So. 333 (La. App. 1941). See *Jackson v. Hart*, 192 La. 1068, 190 So. 220 (1939), and quotation from that case in footnote 15, infra.

15. La. Const. of 1921, Art. III, § 16. Commenting upon the effect of the change in wording of this provision wrought by the 1921 Constitution, Justice Rogers, in *Jackson v. Hart*, 192 La. 1068, 1073, 190 So. 220, 221 (1939), said: "The effect of the changing of the wording of the constitutional provision was to relax the previous requirement that the statute must 'express' its object, so now all that is required is that the title of the statute should be 'indicative' of its object. The constitutional provision must be construed broadly rather than narrowly with a view of effectuating, not of frustrating, the legislative purpose. This is the rule prevailing everywhere for the construction of such a constitutional provision."

16. Some of the later cases are *State v. Craig*, 158 La. 866, 104 So. 744 (1925); *Airey v. Tugwell*, 197 La. 982, 3 So.(2d) 99 (1941); *Ramey v. Cudahy Packing Co.*, 200 So. 333 (La. App. 1941), cited supra note 14, an exceptionally well reasoned opinion; *Ricks v. Department of State Civil Service*, 200 La. 341, 8 So.(2d) 49 (1942).

17. *Louisiana Board of Trustees of the American Printing House for the Blind v. Dupuy*, 37 La. Ann. 188, 191 (1885).

excerpt from one of the typical decisions reads: "There is no necessity of the title being a complete index to every section of the act. It is only necessary that it shall, in general terms, direct attention to the purpose of the law; . . ." ¹⁸ Hence, it will be seen that Louisiana is in accord with the weight of authority, to the effect that the title of a statute need not be a complete index, synopsis, epitome, abstract or catalogue, nor need it set out the details of the act. ¹⁹

All provisions of the enactment which are germane to the subject matter need not be particularly mentioned in the title. Such details as the means and instrumentalities provided for the accomplishment of the purpose of the statute (the "modus operandi") need not be included in the title. ²⁰ Material which is germane to the act, but which is "unusual" or "extraordinary," ²¹ must be indicated by the title in such a manner as to inform the public. For example, according to the title of Act 115 of 1928, ²² the statute provided for the exemption from garnishment of a portion of the wages of all employees and the method by which the non-exempt portion might be garnished, yet the body of the statute introduced a radical change in our laws by allowing garnishment of future credits and rights, which had never before been allowed in Louisiana. The Supreme Court in *Surety Credit Company v. Tieman* ²³ rightly held the title violative of the constitutional limitation on the grounds that such an innovation in our law should be particularly mentioned in the title of the statute in order to fairly apprise the public of the change.

The criterion would seem to be that the title of a statute is sufficient if it puts those who are to be affected by the act upon inquiry into its contents by fairly indicating the "objects" of the

18. *State v. Hincy*, 130 La. 620, 624, 58 So. 411, 412 (1912).

19. From Crawford, *op. cit. supra* note 6, at 142, § 99. "Hence, an elaborate statement is not required, or, in fact, desirable. Indeed a few well chosen words suggestive of the general subject is always to be preferred."

From 1 Sutherland, *op. cit. supra* note 6, at 307, § 1714: "A title need not fully express what is contained in the body of an act. It is not essential that the best, or even a highly accurate caption be affixed, provided that the legislative purpose is suggested in a general way."

20. *Edwards v. Police Jury of Avoyelles*, 39 La. Ann. 855, 2 So. 804 (1887); *Thornhill v. Wear*, 131 La. 479, 59 So. 909 (1912).

21. C. H. Manson terms this extraordinary matter "germane in the second degree." Manson, *supra* note 3, at 160.

22. The title reads: "Providing an exemption from seizure and garnishment of a portion of the wages or salaries of all laborers, wage earners, or employees, of any kind, whether skilled or unskilled; and providing the procedure by which the portion not exempt may be seized and garnished."

23. 171 La. 581, 131 So. 678 (1930).

law.²⁴ The object of a statute has been held to be the "aim or purpose of the enactment";²⁵ or, expressed differently, it is the "matter or thing forming the groundwork of the act."²⁶ Assuming that the object of the statute is expressed in such a manner as to provoke inquiry, still a further restriction is that the title must not mislead nor be such as to take one by surprise.²⁷ The matter is concisely stated in *Airey v. Tugwell* as follows: "... the title of an act of the Legislature is of the nature of a label, the purpose of which is to give notice of the legislative intent and purpose to those interested in, or who may be affected by, the terms of the act, and to prevent surprise and fraud upon members of the Legislature."²⁸

Three excellent examples of titles which fully meet the requirements of Article III, Section 16,²⁹ are the titles of the Uniform Business Corporations Act,³⁰ the Uniform Narcotics Act,³¹ and the Louisiana Criminal Code.³² The title of the Uniform Business Corporations Act reads:

"To provide for the Incorporation, Regulation, Merger, Consolidation and Dissolution of Certain Corporations for Profit; to Provide Penalties for the Violation of Certain Sections Hereof; and to Repeal Certain Laws and All Other Laws Inconsistent Herewith."

The statute was designed to, and does in fact, cover the whole subject matter of certain corporations from incorporation to dissolution. There are a multitude of provisions in the lengthy statute,³³ yet the title is short and concise; it expresses the object of the statute clearly, which is to provide for a system of law to control specified corporations; it is not misleading, and it puts those persons affected thereby upon inquiry as to its contents. The title is complete and sufficient and has been held to have com-

24. See *State ex rel. California Co. v. Jefferson and Plaquemines Drainage District*, 194 La. 312, 193 So. 657 (1939).

25. *State v. Ferguson*, 104 La. 249, 250, 28 So. 917, 918, 81 Am. St. Rep. 123, 124 (1900).

26. *Airey v. Tugwell*, 197 La. 982, 991, 3 So.(2d) 99, 102 (1941).

27. *Thornhill v. Wear*, 131 La. 479, 59 So. 909 (1912).

28. 197 La. 982, 991, 3 So.(2d) 99, 102 (1941).

29. La. Const. of 1921.

30. La. Act 250 of 1928, as amended by La. Act 65 of 1932 [*Dart's Stats.* 1942] §§ 1080, 1094; La. Act 34 of 1935 (4 E.S.).

31. La. Act 14 of 1934 (2 E.S.) [*Dart's Stats.* (1942) §§ 2162.1-2162.6].

32. La. Act 43 of 1942.

33. La. Act 250 of 1928 [*Dart's Stats.* (1942) §§ 1080-1084, 1086-1154] contains 74 sections and covers 52 pages of printed matter in the acts of 1928.

plied with the constitutional limitation³⁴ upon contest of the validity of several sections of the statute.³⁵

The title of the Uniform Narcotics Act³⁶ is in the following language:

“Providing for the regulation and control of the sale, prescribing, dispensing, dealing in, and distribution of narcotic drugs, defining and relating to narcotic drugs and to make uniform the law with reference thereto, and prescribing penalties for the violation of this Act.”

Although the statute is not as lengthy as the preceding statute, it is complex in its provisions.³⁷ Its title, however, is incomplex, being constructed in the best modern tradition and has been declared within the limitations of Article III, Section 16.³⁸

The title of the Louisiana Criminal Code,³⁹ prepared by the Louisiana State Law Institute, necessarily contains the usual retroactive, repealing, retaining and constitutionality provisos. Other than that, the title to this very comprehensive statute⁴⁰ succinctly states that it is the purpose of the enactment,

“To adopt a Criminal Code for the State of Louisiana; defining certain crimes, and fixing penalties for the violations thereof; providing”

The constitutionality of this title has recently been upheld by the Supreme Court of Louisiana in the case of *State v. Pete*.⁴¹

Conclusion

In conclusion, it appears that a statute title must meet three requirements: (1) It must indicate the object of the statute; (2) it must avoid being misleading or deceitful; (3) the statutory object

34. La. Const. of 1921, Art. III, § 16.

35. La. Act 250 of 1928, § 39 [Dart's Stats. (1942) § 1119] was declared valid within the meaning of La. Const. of 1921, Art. III, § 16, in *Tichenor v. Tichenor*, 184 La. 743, 167 So. 427 (1936). Section 74 of the act was declared valid in *Ramey v. Cudahy Packing Co.*, 200 So. 333 (La. App. 1941), cited supra note 16. The indisputable implication was that the act was valid in its entirety.

36. La. Act 14 of 1934 (2 E.S.) [Dart's Stats. (1942) §§ 2162.1-2162.6].

37. La. Act 14 of 1934 (2 E.S.) contains 26 sections and covers 14 pages of printed matter in the acts of 1934.

38. *State v. Martin*, 192 La. 704, 189 So. 109 (1939). Section 2 of the act was contested and the ruling pertained to that provision, but the implication was that the entire act was undoubtedly valid.

39. La. Act 43 of 1942.

40. La. Act 43 of 1942 is not printed in the acts of 1942, but is published in a separate volume containing 171 pages of printed matter.

41. La. Sup. Ct. Docket No. 37232 (October 1944).

must be indicated in such a manner as to provoke inquiry among those persons affected thereby. A number of our statutes comply with these requisites, but are of woeful composition—redundant and repetitious, laboriously lengthy, and of such complexity as to approach the unintelligible. The modern tradition in drafting statute titles calls for simple, direct language containing a short, concise statement of the object. As has been shown above, there is no constitutional objection in Louisiana to the direct, concise title. Such a title is commendable because of its undeniable worth to the bar, to the bench, and to the laity.

B. NEWTON HARGIS*

THE SHORT FORM INDICTMENT HISTORY, DEVELOPMENT AND CONSTITUTIONALITY

The common law indictment was, and is, in those jurisdictions still using it, a mass of verbose and technical allegations. An accumulation of "to wits," "then and theres," and "aforesaid" has not served to expedite the administration of justice. An accused may be convicted of the offense charged after a full and fair trial upon the merits, and then have the judgment reversed because of a technically insufficient or defective allegation.¹

The complex and technical form of the indictment served a very useful purpose during the period when the rules of criminal procedure were formulated. In the time of Blackstone there were one hundred and sixty capital offenses.² Consequently, many judges were very zealous in searching out and discovering technical insufficiencies in order to prevent injustice in cases where the punishment was grossly excessive in light of the offense committed.³ The prosecutors of that period, to combat this judicial leniency, attempted to formulate indictments which would be unimpeachable. Naturally the charge became highly technical and involved. Another substantial argument for the long form indictment was that the accused was furnished as a basis for his defense only what he could gather from a reading of the indictment to him at the arraignment. He could neither see the indictment nor receive a copy of it.⁴

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1. 4 Blackstone, *Commentaries on the Law of England* (1766-1769) 18.

2. Chitty, *Criminal Law* (3 ed. 1836) 114.

3. Perkins, *Short Indictments and Informations* (1929) 15 A.B.A.J. 292.

4. 1 Chitty, *op. cit. supra* note 2, at 403.