

Louisiana Law Review

Volume 4 | Number 1
November 1941

Table of Contents: Subject Index

Repository Citation

Table of Contents: Subject Index, 4 La. L. Rev. (1941)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol4/iss1/7>

This Front Matter is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Louisiana Law Review by an authorized editor of LSU Law Digital Commons. For more information, please contact kreed25@lsu.edu.

SUBJECT INDEX

* LOUISIANA LAW	† ARTICLES	‡ COMMENTS	Italic figures indicate CASE NOTES
A			
AGENCY <i>See Master and Servant</i> Revocability of power of sale coupled with an interest. *601 —American rule .. 602 —English rule 601 —French rule 603 —Roman rule .. 603			AGRICULTURAL MARKETING AGREEMENT ACT What is interstate commerce under same 613 ALIMONY <i>See Divorce</i>
B			
BUILDING RESTRICTIONS Extinction by acquiescence in violation *329			—Equitable restrictions running with the land *329 —Louisiana rules of servitude should be applied *331
C			
CARRIERS <i>See Damages</i> COMMUNITY PROPERTY Married woman can sue under workmen's compensation act. *179 Wife may prove property bought with separate funds although not stipulated in deed *180 COMPETITION <i>See Sales</i> CONTRACTS Rescission for misrepresentation—duty of vendee to disclose value *145 CONSTITUTIONAL LAW <i>See Elections; Legislation, Taxation</i> Amendments—right of taxpayer to contest *216 Appointment by governor to fill temporary vacancies *610 Commerce clause 614 Doctrine of retroactive invalidity *222 Interstate commerce under Agricultural Marketing Agreement Act 613 List of exemptions from taxation in Constitution is exclusive *220 Policy of New Deal court with regard to interstate commerce 617 Right of accused to be present when evidence is admitted 618 Statutes—body of act broader than title *219		CONTRACTS Collective bargaining contracts —damages for breach based on loss of membership dues *203 Reformation for mutual error *204 Sale and contract to sell distinguished *634 Specific performance 634 COPYRIGHTS AND PATENTS <i>See Trade Regulation</i> CORPORATIONS <i>See Municipal Corporations</i> Receivership —Distinction between temporary and permanent receivers .259, *335 —Ex parte appointment of temporary receiver *332 Restrictions on right to transfer stock —Louisiana courts generally uphold validity of option restriction except in exceptional cases *443 —Types of restrictions upheld. *441 COURTS Power of criminal court judges to appoint criminal sheriff *610 COVENANTS RUNNING WITH THE LAND <i>See Building Restrictions</i> CREDIT AGENCIES <i>See Libel</i>	

* LOUISIANA LAW

† ARTICLES

‡ COMMENTS

Italic figures indicate CASE NOTES

	PAGE		PAGE
CRIMINAL EVIDENCE		Continuance in criminal cases..	*280
Right of confrontation	622	Discrimination against negroes in selection of jury	*276
Waiver of evidential error	620	Failure of judge to check hos- tile demonstrations in court room	*281
CRIMINAL LAW AND PROCEDURE		Forgery—difficulty of interpret- ing statute	*273
Codification and general princi- ples of criminal law		Indictment and information— confusing wording in indict- ment	*279
—Attempted crime defined by statute	‡365	Joinder of criminal offenses	
—Chile follows territorial com- mission principle of jurisdic- tion	‡355	—Adoption of Article 218 of the Code of Criminal Procedure..	†*129
—Circumstances which exclude criminal responsibility	‡360	—Article 218 of the Code of Criminal Procedure held un- constitutional	†*130
—Circumstances which exting- uish criminal responsibility.	‡375	—Early cases interpreting Ar- ticle 218 of the Code of Crimi- nal Procedure	†*129
—Classification of participants in crime should depend on de- gree to which they further it.	‡366	—Louisiana cases since repeal of Article 218 of Code of Crimi- nal Procedure	†*131
—Codes apply principle of merg- er whenever several crimes are committed by one act.	‡372	—Proposes amendment to Code of Criminal Procedure to cov- er joinder of criminal offenses†	‡132
—Concept of crime in codes of Argentina, Mexico, and Chile	‡359	—Repeal of Article 218 by the Legislature	†*131
—Conspiracy as a special crime	‡370	—Rules at common law	†127
—Convicted has to pay damages to the injured under the codes	‡374	—Rule in Louisiana prior to adoption of Code of Criminal Procedure	†*127
—Criminal, not the crime, should be punished	‡376	Murder	
—Desirability of extension of jurisdiction	‡358	—The "year and a day" rule ..	*273
—Doctrine of merger at com- mon law limited	‡370	Prescription of criminal offenses	*275
—Excusable error or ignorance excludes criminal responsibil- ity	‡364	Presence of accused during trial	*618
—Extent of punishment depends largely upon the purpose of punishment	‡373	Questioning of prospective ju- rors	*278
—Jurisdiction at common law..	‡353	Recusation of judges for inter- est in the cause	*286
—Jurisdiction under Argentina Code	‡354	Right of attorney general to su- persede district attorney	*276
—Mens rea as defined in codes	‡359	Venue in crime of receiving stolen goods	*274
—Mens rea expressly excluded by drunkenness, voluntary or involuntary, in South Ameri- can codes	‡363	Venue where crime partly com- mitted in several parishes	
—Mexico's principle that com- mission of act as well as effect confers jurisdiction	‡355	—Constitutionality of broad ve- nue statute as in other juris- dictions	‡324
—Modern criminal law of United States tends to enlarge scope of jurisdiction	‡355	—Constitutional provisions	†*321
—Presumption of self defense during night and within the home	‡362	—Difficulty in determining prop- er venue	†*322
—Various methods to determine period of prescription	‡375	—Origin and history of revised statute 988	†*323
Conduct of the district attorney	*283	—Proposed amendment to Code of Criminal Procedure	†*328
Conduct of the judge	*285	CUSTODY OF CHILDREN	
		See <i>Divorce</i>	

* LOUISIANA LAW † ARTICLES ‡ COMMENTS *Italic figures indicate CASE NOTES*

D

	PAGE		PAGE
DAMAGES		DISINHERISON	
Right of abutting property owner with respect to the condition of the public way.....	*209	Parol admissible to show child forgiven after disinherited ...	*185
DEFAMATION		DIVORCE	
Suits for libel and slander require greater preponderance of proof than other civil cases	*213	Alimony	
		—When wife not at fault under Act 31 of 1932	*178
		Custody of children	
		—Broad discretion of juvenile court	*174
		Proof of adultery	*177

E

EDITORIALS		EVIDENCE	
The law school	107	Admissibility of evidence tending to prove criminal acts other than those charged....	*267
ELECTIONS		Confessions	
Injunction to prevent holding of recall election.....	*253	—Proof of voluntary nature of confession	*271
Primary elections—power of Congress to regulate.....	133	Effect of accused's absence during criminal trial	618
—Right of negro to vote.....	136	"Hostile demonstration" rule of Article 482 of Code of Criminal Procedure	*268
—When right to vote is secured by the constitution	136	Parol evidence rule—adoption by Louisiana of the common law rule	*272
Status of "write-in" candidates who receive majority of votes	*253	Qualifications of witness in a criminal case	*265
EMANCIPATION		EXECUTORS AND ADMINISTRATORS	
Consent of mother necessary under 387 of Civil Code.....	*175	See <i>Successions</i>	
EQUITY		EXPROPRIATION	
See <i>Trade Regulations</i>		Burden of costs in expropriation proceedings	*255
See also <i>Injunctions</i>			

F

FALSE REPRESENTATIONS		FOREIGN RELATIONS	
Action for distinguished from action to rescind contract	*147	Jones and Myers: Documents on American Foreign Relations (book rev.)	342
FELONY TRIALS		FORGERY	
See <i>Criminal Evidence</i>		See <i>Criminal Law</i>	
FORCED HEIRSHIP		FRAUD	
See <i>Successions</i>		Duty of vendee to disclose value of object purchased	*145

G

GOVERNMENT	
See also <i>Elections</i>	
Streit: Union now with Britain (book rev.)	153

* LOUISIANA LAW † ARTICLES ‡ COMMENTS *Italic figures indicate CASE NOTES*

I

	PAGE		PAGE
ILLEGITIMACY		—Only issue after hearing on merits or in support of a prohibitory injunction	†*428
Rights of inheritance			
—Adulterous illegitimate has no right to inherit from adulterous brother	*148	INSURANCE	
—Illegitimate children have no relatives in a legal sense	*148	Construction of contract in favor of insured	*264
IMMOVABLES		Failure of insured to notify company of change in ownership of premises	*260
See <i>Property</i>		Statute requiring reserve on policy after forfeiture to be applied to continue policy in force	*262
IMPEACHMENT		Venue of direct action against tortfeasors insurer	
Conflict whether proceedings are civil or criminal	138	—Conflict whether statute is procedural or substantive law	*457
Misconduct in personal capacity	*137	—Most jurisdictions all suit directly against insurer only when assured is insolvent or bankrupt	*458
Misconduct in prior term	*137	—Right of action is ex delicto, not ex contractu	*457
INDICTMENTS		—Right of action only in the parish where accident occurred or in parish where assured has his domicile	*459
See <i>Criminal Law and Procedure</i>		INTERNATIONAL LAW	
INHERITANCE		Streit: Union now with Britain (book rev.)	153
See <i>Illegitimacy</i>		INTERSTATE COMMERCE	
INJUNCTIONS		As construed under Agricultural Marketing Agreement Act....	613
Mandatory injunction in Louisiana		INTRASTATE COMMERCE	
—Code does not expressly provide for use as general remedial device	†*422	As construed under the Agricultural Marketing Agreement Act	613
—Code has detailed provisions regulating prohibitory injunctions	†*423		
—Courts have relied on Anglo-American equity authorities.†*425			
—General rule is that injunctions issue only in prohibitory form	†*425		
—Most cases only allow mandatory injunction pertaining to immovables	†*426		

J

JOINT OBLIGORS		—Civil Code permits indemnification	*453, *455
See <i>Joint Tortfeasors</i>		—Common law rule prohibits indemnification	*453
JOINT TORTFEASORS		—Indemnity based on subrogation	*458
Contribution and indemnity between joint tortfeasors		—Where one only constructively at fault may be indemnified..	*458

L

LAW SCHOOLS		LEASES AND ROYALTIES	
The law school (edit.)	107	See <i>Mines and Minerals</i>	
LEASE		LEGAL SCIENCE	
Cancellation for obstructing other property by sign	197	Voegelin: <i>The Theory of Legal Science</i> (book rev.)	1554

* LOUISIANA LAW † ARTICLES ‡ COMMENTS *Italic figures indicate CASE NOTES*

	PAGE		PAGE
Cairns: Comment on Voegelin's review	†471	—Louisiana constitutional provision	*445
LEGATEES AND LEGACIES		LIBEL	
See <i>Wills</i>		See <i>Defamation</i>	
LEGISLATION		Credit agency publications	
Constitutionality of amendment by implication		—Doctrine of privilege and qualified privilege	141
—Completeness and intelligibility is proper test	*446	—Publication issued to subscribers generally not a privileged communication	140
—Threat to effective legislation in precluding such amendments	*446	LIBRARY	
		Library of Michel de Armas....	†573
MANDATE		M	
See <i>Master and Servant</i>		Prescription	
MASTER AND SERVANT		—Extension by making joint lease beyond period of servitude	*194
Liability of master to third persons		—Suspension of prescription by minority	*188
—Connection between employment and tort	†33	Reservation of mineral rights	
—Difficulty of determining "within the scope of employment"	†39	—Necessity of express reservation	*144
—Distinction of servants from other employees	†18	—Recital of outstanding mineral rights in a deed of sale	*141
—Entrepreneur test in determining liability	†22	—When vendor conveys reversionary interest	*142
—Family members as servants	†32	Trespass in making a mineral survey	
—Influence of existing contractual relations upon liability ..	†8	—Destruction of value of property by dissemination of information	†*310
—Liability for independent contractors	†24	—Intentional distinguished from unintentional trespass	†*318
—Liability for negligence or absolute responsibility	†2	—Valuation of damages	†*309
—Liability where no contractual relation exists	†12	Valuation of damages for breach of contract to drill a well	*190
—Modern trend toward imposing absolute liability	†40	MINORS	
—Nature of the servants act... Respondent superior in the light of comparative law	†16	See <i>Custody; Tutors</i>	
	†1	MORTGAGES	
MINERAL RIGHTS		Rank of reinscriptions	*199
See <i>Mines and Minerals</i>		MUNICIPAL CORPORATIONS	
MINES AND MINERALS		Extent of police power.....	*240
See also <i>Taxation</i>		Liability to contractor for attorneys' fees and costs in suits to enforce special assessments against property owners....	*244
Lease—Meaning of clause "in paying quantities"	*192	MURDER	
		See <i>Criminal Law</i>	
NEGLIGENCE		N	
Liability to ultimate consumer for injury by defective products	*606	—Necessary allegations	*608
—Burden of proof	*609	NUISANCE	
		Funeral home in residential area not a nuisance per se...	*214

* LOUISIANA LAW

† ARTICLES

‡ COMMENTS

Italic figures indicate CASE NOTES

O

	PAGE		PAGE
OBLIGATIONS		OFFICERS	
<i>See Contracts; Sales</i>		Filling vacancy in office of District Judge in Orleans Parish	*250
OFFENSES AND QUASI OFFENSES		Scope of dual office holding statute, Act 259 of 1940.....	*247
<i>See Criminal Law and Procedure</i>			

P

PARTITION		tion of case by Supreme Court on certiorari	*300
<i>See Successions</i>		The trial—right to a continuance	*293
PEREMPTION		"Trial de novo" in appeals from judgments of courts of limited jurisdiction	*307
French theory	626	PLEDGE	
Interruption of workmen's compensation limitative period by filing suit	*624	Warren: <i>The Rights of Margin Customers against Wrongdoing Stockbrokers and Some Other Problems in the Modern Law of Pledge</i> (book rev.)...	344
PLEADING AND PRACTICE		PRESCRIPTION	
<i>See Joint Tortfeasors</i>		Action to reduce excessive donation—begins to run from probate of will.....	*206
Appellate jurisdiction of the supreme court	*295	Classification of action	*205
Conservatory writs — need of proving actual fraudulent intent of debtor for attachment on ground debtor about to mortgage, assign or dispose of property	*302	Interruption of workmen's compensation limitative period by filing suit	*624
Dart: <i>Code of Practice of the State of Louisiana</i> (book rev.)	462	Limitative period as to reconventional demand	629
Dilatory exceptions of misjoinder and nonjoinder.....	*289	Running of prescription against the state	*335
Disbarment		Running of prescription against the state—effect of Act 310 of 1936	*335
—Appointment of attorney to institute suit for removal of district attorney	*306	PRIVILEGED COMMUNICATIONS	
Dismissal of appeal for lack of jurisdiction	*296	<i>See Label</i>	
Exception of redhibitory defects	*629	PRIVILEGES AND CHATTEL MORTGAGES	
Executory process		Daggett: <i>Louisiana Privileges and Chattel Mortgage</i> (book rev.)	460
—Against surviving spouse alone when employed to enforce a mortgage securing a community debt	*305	PROCEDURE	
Extraordinary writs — mandamus to compel corporation to issue stock certificate.....	*303	<i>See Pleading and Practice</i>	
Judicial confessions and estoppel	*294	PROPERTY TAXATION	
Peremptory exceptions and no cause or right of action and prescription	*291	<i>See Taxation</i>	
Production of evidence — reasonableness of subpoena duces tecum	*292	PROPERTY	
Reconventional demand — used to invoke rule of <i>quae temporaria</i>	633	<i>See also Building Restrictions; Community Property</i>	
Supervisory jurisdiction and procedure — final determina-		Separate estates in timber under Act 188 of 1904	*200
		PUBLIC UTILITIES	
		<i>See Taxation</i>	

* LOUISIANA LAW † ARTICLES ‡ COMMENTS *Italic figures indicate CASE NOTES*

		Q		
	PAGE		PAGE	
QUAE TEMPORALIA				
Exceptions to which the rule applies	631	Rule applied when deficiency in quantity pleaded in suit for purchase price	632	
French adoption of rule	631	Rule applied when redhibition was defense for action for purchase price	632	
Pleaded by exception	630	Spanish adaptation	632	
Requisites for pleading rule....	633	QUASI CONTRACTS		
Roman origin of rule	629	See <i>Trade Regulations</i>		
R				
RECEIVERS				
See <i>Corporations</i>				
REDHIBITION				
See <i>Quae Temporalia</i>				
S				
SALES				
Certainty of price required by Article 2464		—Price need not be fixed but must be definitely ascertainable	†*410	
—Alternative prices	†*404	—Price partly in money and partly in some other consideration	†*384	
—Code is sufficiently broad to include modern price fixing devices	†*418	—Price to be fixed later	†*403	
—Determination of price by parties or by third persons	†*396	—Sale was a consensual contract at Roman Law	†*379	
—Difference between sale and dation en paiement	†*382	—Seriousness of the price	†*412	
—Effective date of contract when price to be set by third persons	†*402	—Test in Roman Law was susceptibility of ascertainment	†*379	
—Innominate contracts	†*384	—When price is payable in money	†*381	
—Louisiana Civil Code embodies same principles as Roman law	†*380	—When third party refuses to set price	†*399	
—Market price	†*404	Lesion beyond moiety	*197	
—Maximum and minimum prices	†*404	Rescission for misrepresentation—duty of vendee to disclose value	*145	
—Parol admissible when no price stated	†*390	Sale and contract to sell distinguished	*634	
—Parol evidence to prove real price	†*388	Specific performance	634	
—Parol rejected where price shown	†*392	SERVITUDES		
—Price in commodities having current value	†*383	See <i>Property</i>		
—Price in form of annuities	†*384	SHERIFF		
—Price in Roman Law required to be serious	†*380	Appointment for temporary vacancy for criminal sheriff of Orleans Parish		
—Price must be serious and in proportion to the value of the thing sold	†*416	610		
—Price need not be certain where transfer of property is mere incident to some other contract	†*387	SHERMAN ACT		
		Compared with Agricultural Marketing Agreement Act		
		616		
		SLANDER		
		See <i>Defamation</i>		

* LOUISIANA LAW

‡ ARTICLES

† COMMENTS

Italic figures indicate CASE NOTES

- | PAGE | PAGE |
|--|--|
| Property tax | |
| —Actual cash value criterion is source of difficulty‡*488 | —Pipe lines not "common carrier" lines assessed by local taxing authorities‡*513 |
| —Assessment laws are confusing and conflicting‡*481 | —Railroads valued on reproduction cost‡*538 |
| —Classification in terms of rates should be possible‡*479 | —Railway and related businesses‡*523 |
| —Classification of property for tax purpose‡*478 | —Rolling stock assessment‡*528 |
| —Collection by parish tax collectors‡*496 | —Separate system in valuation of rolling stock by unit rule method‡*546 |
| —Constitution gives exclusive list of tax exemptions‡*473 | —Telegraph, telephone, sleeping car and express business‡*531 |
| —Levy of property taxes‡*494 | —Water and gas distribution systems‡*519 |
| —Louisiana Tax Commission has final administrative determination of assessments‡*486 | Suits to annul tax sales |
| —No equalizations between parishes by tax commission in many years‡*493 | —Requirement of notice to tax debtor *229 |
| —Parish boards of equalization abolished‡*492 | —Sale in name of wrong party *232 |
| —Procedural aspects in assessments‡*483 | |
| —Property subject to taxation.‡*471 | TORTS |
| —Real and personal property subject to same statutory rule as to valuation‡*487 | See also <i>Damages; Joint Tortfeasors; Libel; Negligence; Workmen's Compensation</i> |
| —Real estate must be valued at actual cash value‡*478 | Damages for emotional disturbances by abusive language |
| —Requirement of uniformity in classification‡*476 | —Close connection between interest in reputation and interest in peace of mind‡*433 |
| —Revenue Code in Louisiana needed‡*470 | —Courts give scant legal protection‡*430 |
| —Special statutes give Orleans Parish materially different tax calendar‡*500 | —Courts hesitant to recognize as an independent tort‡*433 |
| —Statutory provisions as to review of assessments are in sad state of confusion‡*491 | —French law recognizes mental injury‡*431 |
| —Swollen lists of exemptions.‡*472 | —Louisiana code recognizes mental injuries‡*432 |
| —Three general classes of tax exemptions in Louisiana‡*474 | —Louisiana not bound by rigid common law rules‡*440 |
| Public utility assessment in Louisiana | —Recovery should be allowed although no injury to reputation‡*438 |
| —"Actual cash value" rule‡*534 | Liability to ultimate consumer for injury by defective products *606 |
| —Determination of value of utility property‡*532 | —Burden of proof *609 |
| —Direct assessment by tax commission‡*506 | —Necessary allegations *608 |
| —Electrical transmission lines.‡*517 | Prosser: Handbook on the law of torts (book rev.) 157 |
| —Evolution of Louisiana Tax Commission‡*502 | Res ipsa loquitur |
| —Gas and oil pipe lines assessed directly by tax commission.‡*513 | —Application of the doctrine to accidents involving dangerous substances and instruments. ‡*95 |
| —Jurisdictional limitations on the power of direct assessment by tax commission‡*504 | —Application of the doctrine to food and drink cases ‡*97 |
| —Local apportionment in assessments of utility property.‡*548 | —Burden of proof in res ipsa loquitur ‡*84 |
| —Obsolete statutes should be eliminated‡*553 | —Discussion of the Louisiana cases ‡*70 |
| | —Doctrine should not shift the burden of proof ‡*91 |
| | —Injuries on business premises ‡*99 |

* LOUISIANA LAW

‡ ARTICLES

† COMMENTS

Italic figures indicate CASE NOTES

	PAGE		PAGE
—Louisiana cases which hold that the res ipsa loquitur situation is a law unto itself, differing from usual damage suits for negligence	‡*83	—Contract cases	†122
—Meaning of the doctrine	‡*73	—Degree of novelty is important	†127
—Meaning of the term "accident," the res in res ipsa loquitur	‡*73	—Ideas without benefit of contract	†124
—Preliminary showing of causation necessary to use of the doctrine	‡*75	—Modern complex mercantile system requires greater protection	†119
—Res ipsa loquitur in the pleadings	‡*92	—Protection dependent on novelty, definiteness, and effort..	†127
—Traffic and transportation cases	‡*100	—The test of the "concrete" idea	†124
—Two conditions must be met before the doctrine will apply	‡*76	—What type ideas are worthy of legal protection	†122
TRADE REGULATIONS		TRIALS	
Protection of ideas		New trial—error not patent on face of record	618
—Administrative difficulties	†121	TUTORS	
		Minor bound by representations of tutor when accept benefits	*172
U			
USUFRUCT			
Legitime cannot be subjected to a usufruct except the usufruct of the surviving spouse			
‡*63			
W			
WARRANTY		Revocation of wills by subsequent birth of legitimate child	
Bottler's liability to ultimate consumer for breach of implied warranty as to his products	*607	†*62	
—Burden of proof	*609	WORKMEN'S COMPENSATION	
—Necessary allegations	*608	Interruption of prescription ...	*684
		Refusal to submit to operation	
		—Duty to minimize damage where reasonably possible ...	150
		—Louisiana courts hesitant in requiring operation	*151
		Validity of compromise	*338
		—Act silent on compromises ...	*340
		—Possible far reaching effects of <i>Puckner</i> decision	*341
		—Provisions in other states	341
WILLS			
Annulment on grounds of mental incapacity	*182		
Parol admissible to show disinherited child forgiven	*185		
Revocation of wills	*183		

LOUISIANA CIVIL CODE ARTICLES

CODE OF 1808		CODE OF 1870	
ART. NO.	PAGE	ART. NO.	PAGE
3.2.127	59	21	334
3.2.198	63	138	176
		180	178
		202	148
		214	61
		223	175
		226	175
CODE OF 1825			
1480	60		
1485	61		
1609	60		