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PLANIOL, CIVIL LAW TREATISE. An English translation prepared by the Louisiana State Law Institute from the original French Planiol, *Traité Élémentaire de Droit Civil* (3 vols., 11 and 12 ed., 1938 and 1939). West Publishing Company, 1959. Six volumes. \$120.00.

The publication of a single work will sometimes have a slowly reverberating but very far-reaching effect. Such may well be the case for this English translation of Planiol in the future development of the civil law of Louisiana.

The civil law in Louisiana is not the whole legal system but merely those parts contained in the Civil Code, namely, the law of persons and family, property, successions and donations, obligations and the various private contracts (most important of which are sale and lease), the security devices of pledge and suretyship as well as privileges and mortgages, plus the acquisitive and liberative prescriptions. In a civil law country, the so-called civilian method of thinking and the civilian techniques are considered as characterizing also the nature and development and interpretation of other areas of that country's legal system; but it is not within the scope of this review to discuss that question as it might relate to Louisiana.

It is pertinent, however, to note that, in a civil law system, relatively great importance is attached to the works of outstanding jurists and scholars. The comprehensive scope of their work and their penetrating analysis provide an understanding of the civil law type of a codified legal system. These works bring out the extensive meanings and potentialities of an integrated system of general principles such as embodied in a civil code. This systematic exposition is characteristic of the civil law and essential to its healthy growth and development.

In its one hundred and fifty years in the American polity, the Louisiana civil law has had very little of this kind of commentary. During the last few generations, the people as a whole and the legal profession in particular have lost the former language facility of utilizing French and Spanish materials. It was well to be expected that the development of the civil law areas of the Louisiana legal system would absorb many general influences as well as particular solutions and even fundamental techniques from other areas of its own law and from the common law of other jurisdictions. Socially desirable solutions which

best served all the interests involved were taken from wherever they could be found — almost exclusively of course from materials in the English language. There has been considerable difference of opinion as to the extent of this phenomenon and the degree of its effect, but it can hardly be disputed that the process was only natural under the circumstances.

During the past twenty-five years, the law schools and the law reviews have, in a modified manner, been reasserting the civilian approach. There has been a growing awareness of the situation and the problem, and in many quarters there has been a strengthening desire to recapture more fully and to appreciate more understandingly the real essence of Louisiana's civil law heritage.

When the Louisiana State Law Institute was created in 1938, its first major project was the Compiled Edition of the Civil Codes of Louisiana, the two parts of which appeared in 1940 and 1942, respectively. This was intended to serve not only as a reference work for immediate use but also as a basis or point of departure for other projects — hoping to culminate eventually in a complete and modern revision of the Civil Code itself. Now, the latest achievement of the Louisiana State Law Institute is the publication of the first English translation of Planiol's *Civil Law Treatise*, which has been for about two generations the leading basic and comprehensive treatise in France. Lacking the creative production of indigenous writings of comprehensive scope, the next best thing was to make accessible and encourage the use of one of the most outstanding basic treatises of recent and modern time.

The praises of Planiol as a thinker, jurist, and teacher have been chanted far and wide for over half a century, and in the preface of this edition, the collaborator who prepared it, Professor Georges Ripert, pays him a beautiful and descriptive tribute as teacher, scholar, jurist, and writer. Ripert evaluates the Planiol treatise as "the greatest contribution to French juridical science of the early part of the twentieth century."¹ In addition to all the other merits of Planiol's work, special mention should be made of two qualities. These are: first, his mastery of Roman law and his knowledge of history; and second, his appreciation and inclusion of comparative law. Furthermore, Planiol gave more attention than his predecessors to the

1. Preface, Vol. 1, Part 1, p. 18.

economic aspects and problems involved in the rules of law, and he also showed a greater and more realistic appreciation for the decisions of the courts.²

For the present translation project, the editions of 1939 (vols. 1 and 2) and 1938 (vol. 3) were chosen by the Louisiana State Law Institute because they are the last ones in which the spirit and content and form of Planiol's personal work were preserved. Thereafter, Ripert made substantial changes and incorporated more of his own ideas so that for the past twenty years Ripert's work has been identified with his own name.

It is during the past twenty-five years that a great many changes were made in the French civil law and its interpretations. The newer approaches and most recent works in France naturally reflect the evolution in its total social and political structure. While these are of great interest in Louisiana, they are less significant in the understanding and interpretation of the Louisiana Civil Code, which is closely related and largely derived from the older French texts and traditions.

The first Civil Code of Louisiana had a very substantial amount of Spanish influence, probably much more than was realized before the recent disclosure of the document which purports to be, and in all probability is, the notes on original sources by its principal redactor, Moreau Lislet.³ However, in the Louisiana Civil Code of 1825, the French influence became completely dominant in the adoption of texts not only from the Code Napoleon but also from the first French commentators whose works had already appeared.

In 1825 as well as in 1808, the official text of the codes was in both English and French, and although the 1870 revision was promulgated exclusively in English, there was no intent to alter the meaning of an article where the former English text was continued without change. Since so many of the present (Revised Civil Code 1870) articles are the same as they were in 1825, and since the French language text has been established as the more significant in cases of discrepancy, a particular similarity between the Louisiana French text and the Code Napoleon constitutes a bridge of reference which makes directly applicable to Louisiana the authoritative history and interpre-

2. Ripert, Preface, Vol. 1, Part 1, p. 16.

3. Dainow, *Moreau Lislet's Notes on Sources of Louisiana Civil Code of 1808*, 19 LOUISIANA LAW REVIEW 43 (1958).

tation of the corresponding text in France. In the absence of controlling Louisiana jurisprudence, the works of French jurists have very great weight in indicating the proper direction of interpretation in Louisiana. The lack of language fluency has kept the amount of such references to a much smaller quantity than it should have been during all these years. With the availability now of the Planiol *Civil Law Treatise*, this gap can in a substantial measure be bridged.

The clarity and readability of Planiol's original French are due not only to a simple straightforward literary style but perhaps in largest measure to the clarity and conciseness of Planiol's ideas. This factor confirmed the choice of Planiol for the translation project. The English text in its turn is also very clear and readable. The translators were Judge Pierre Crabites (vol. 1), Judge Robert L. Henry (vol. 2), and Professor Jaro Mayda (vol. 3); in the final editorial preparation of the manuscript by the Director of Legal Research of the Louisiana State Law Institute, Carlos E. Lazarus, the parts were coordinated into a coherent whole. The translation is of a high quality, and these persons have earned great commendation for their significant contribution.

In France practically all the universities are state institutions and for all the undergraduate law schools there was (until the 1954 establishment of a four-year curriculum) a specified program for every subject during the three years of law study. Planiol's work was primarily for students and is accordingly divided into three volumes corresponding to the respective civil law courses. The order does not strictly follow the Civil Code but covers it all. Thus, Volume 1 includes the part on general principles, persons and the family, and property. Volume 2 contains a part on proof, the general law of obligations and contracts, and the special contracts (sale, exchange, lease, partnership, loan, deposit, mandate, compromise) including the security contracts of suretyship and pledge as well as privileges and mortgages. Volume 3 is devoted to the third-year civil law program, which covered matrimonial property regimes (including community), successions, testaments, and donations.

Although intended primarily for students, the work is by no means the "elementary treatise" that Planiol called it. The profound humanistic and juridical thought is not to be underesti-

mated because of the simplicity of the language and form. The documentation to sources of history, doctrine, and decided cases is just about as complete as could be desired by anyone.

The three French volumes are in small print as well as substantial in size. The new English translation is set in a much more readable type and a more attractive format, thereby making a total of six volumes; however, to preserve the identity of the references to the French original, these are numbered "Volume 1, Part 1" and "Volume 1, Part 2," and so forth. Not only the printing and paper but also the binding and the entire makeup of the volumes are of outstanding quality and appearance.

In anticipation of this translation, and to facilitate its consultation and use, there was recently prepared a complete system of cross-references from the Louisiana Civil Code to the Planiol treatise. The references are to volume and section, and this arrangement of the French original has been preserved in the English translation. These cross-references first appeared in the *Louisiana Civil Code Annotated* (West Publishing Company, 1952) under each article as the first item in the cross-references group, and now the whole set of these cross-references to Planiol is incorporated as a single unit in the English translation as Concordance Table 1.⁴ It takes exactly no time at all to find the place in Planiol at which to begin an inquiry. There is also a converse Concordance Table 2, showing references from Planiol to the pertinent articles of the Code Napoleon and the Louisiana Civil Code.

The detailed Analytical Table of the contents⁵ of the whole work appears at the beginning of the first volume, and the alphabetical subject index appears at the end of the last volume. For convenience, there is a condensed Summary of Contents in the front of each of the six volumes; also, in the Part 1 of each of the three volumes, there is a Bibliographical Index of the most useful and most often cited works of civil law. A further research aid which has been inserted in this English edition is

4. Vol. 1, Part 1, pp. 151-176.

5. Presumably through editorial oversight, some headings in the Analytical Table and the Summary of Contents are not printed appropriately in order to show their correct status in the total classification system, e.g., there should be a heading for LEASE coordinate with EXCHANGE and SALE; COMPROMISE and SECURITY CONTRACTS should be coordinate with MANDATE; DOTAL SYSTEM should be a main heading like COMMUNITY OF PROPERTY, and a few others.

the topical section index at the beginning of each chapter. All told, every conceivable facility has been made available for the ready and useful consultation of this work.

The appearance of this first English translation of the universally renowned Planiol treatise is not only significant in Louisiana. It will also be appreciated as a great contribution by all English speaking countries because a realization of the importance and value of the comparative study of law is now spreading faster and wider. Furthermore, there are today more countries where English is coming to be the most used language after their own national tongue.

For all of this, the principal credit is due to the Louisiana State Law Institute. The Planiol translation was one of the very first projects it decided to adopt. Despite the many vicissitudes and delays, the Institute had the vision, the patience, and the perseverance to see it through to satisfactory completion. It is also in order at this point to give credit to the West Publishing Company for undertaking the job under the conditions that were established and for producing such a fine set of books.

It can hardly be expected that the publication of this Planiol *Civil Law Treatise* in English will immediately or in the very near future assure to the civil law of Louisiana all its ancestral character and flavor. It would be unrealistic to think of turning time back to the starting point. The present law incorporates the life of the people and cannot be erased. However, just as life moves on, so does a legal system live and breathe. In the evolution and development of the civil law that lies ahead in Louisiana, this English version of the Planiol *Civil Law Treatise* can have a long-range, pervasive, and healthy influence.

*Joseph Dainow**

GUIDE TO LOUISIANA REAL ACTIONS, TEN YEAR AND THIRTY YEAR PRESCRIPTIONS, by James D. Johnson, Jr. Claitor's Law Books, Baton Rouge, 1959. Pp. 214. \$15.00.

Mr. Johnson's comprehensive work is "intended to give the general practitioner a guide to the use of real actions in Louisiana and a rule of thumb by which he can reasonably predict in

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