

# A Recent Discovery: A Copy of the "Digest of the Civil Laws" of 1808 with Moreau Lisset's Hand

Robert A. Pascal

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# A RECENT DISCOVERY: A COPY OF THE "DIGEST OF THE CIVIL LAWS" OF 1808 WITH MARGINAL SOURCE REFERENCES IN MOREAU LISLET'S HAND

Robert A. Pascal\*

In 1941 Professor Mitchell Franklin of the Tulane Law School wrote of the fact that the de la Vergne family of New Orleans possessed a copy of *A Digest of the Civil Laws Now in Force in the Territory of Orleans, 1808*, often called the Louisiana Civil Code of 1808, bearing the name Moreau Lislet, and bound with interleaves containing references to general and particular sources of the laws contained in that *Digest*.<sup>1</sup> Much later, in 1958, Professor Joseph Dainow of the LSU Law School and Professor Franklin published separate accounts of the character of the de la Vergne document and its unquestionable importance as a source of information on the background of Louisiana civil law.<sup>2</sup>

Now another copy of the *Digest of 1808* bearing the name Moreau Lislet<sup>3</sup> and containing marginal references to Spanish and Roman sources has been discovered in the collection housed in the Louisiana Room of the Louisiana State University Library. The writer made this discovery in May 1965 quite by chance while searching for other materials. The records of the Louisiana State University Library indicate that the book was obtained from the State Library of Louisiana in 1877 and that in 1949 a microfilm copy of it was made by the Library of Congress.

The de la Vergne heirs<sup>4</sup> have very kindly permitted the writer to compare the LSU copy of the *Digest* with their own.

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\*Professor of Law, Louisiana State University.

1. Franklin, *Libraries of Edward Livingston and of Moreau Lislet*, 15 *TUL. L. REV.* 401, 404, n.10 (1941).

Louis Moreau-Lislet was one of the redactors of the *Digest*.

2. Dainow, *Moreau Lislet's Notes on Sources of Louisiana Civil Code of 1808*, 19 *LA. L. REV.* 43 (1958); Franklin, *An Important Document in the History of American, Roman and Civil Law: The de la Vergne Manuscript*, 33 *TUL. L. REV.* 35 (1958).

3. The name appears in manuscript on the title page, but it is not Moreau Lislet's signature.

4. The present owners of the document are Mr. Hugues de la Vergne II, Mr. Charles E. de la Vergne, Jr., and Mr. Louis V. de la Vergne.

A preliminary examination of the volumes indicates that probably all references in the margins of the LSU copy are to be found among the much more numerous notes on the interleaves of the de la Vergne copy. The notes in the respective copies of the *Digest* do not, however, appear to be in the same hand. The writer and Mr. Louis de la Vergne of the New Orleans bar, one of the owners of the interleaved copy, have compared the handwriting in each with that in the olographic will of Moreau Lislet and are satisfied that only the notes in the LSU copy are in his hand. This is not to say, of course, that the notes in the de la Vergne copy are not those of Moreau Lislet, but only that they were entered by someone other than Moreau Lislet himself.<sup>5</sup> Indeed, it is inconceivable to the writer that the notes in the de la Vergne copy could be those of anyone else. The special binding of the volume with interleaves for extensive notation, the care with which the notes were written, the introductory statement explaining the nature of the annotations,<sup>6</sup> the quality of the cover, and the stamping of Moreau Lislet's name thereon in gold, all indicate either that Moreau Lislet himself ordered it made as a permanent record, or that someone else did so in order to preserve his notes for posterity.

The de la Vergne copy of the *Digest* is dated 1814. The fact that the notes in the LSU copy seem to be in Moreau Lislet's hand, and with corrections, whereas those in the de la Vergne copy are much more numerous, include those in the LSU copy, and are most carefully entered in the hand of a practiced scrivener, lead the writer to believe that the LSU copy is the earlier of the two.

Both documents will facilitate research into the sources of Louisiana civil law and help demonstrate that the redactors of the *Digest* of 1808 did indeed consider it a digest of the Spanish laws then in force in Louisiana even though they cast it in the mold of the then new French *Code Civil*. To encourage the use of the notes in the LSU copy the Law Library of Louisiana State

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5. On October 19, 1965, Mr. Louis de la Vergne wrote the writer as follows: "Enclosed are a copy of Moreau Lislet's will and a copy of a page from our manuscript. It is my conclusion that the notes in the LSU code match the handwriting in the will. It is also my conclusion that the de la Vergne Manuscript came into my family's possession through my great, great grandfather, Hugues de la Vergne, who was associated in the practice of law with Moreau Lislet. The content of the manuscript must have its source from Moreau Lislet and through his direction it was written by a scrivener."

6. This introduction is to be found reproduced both in the original French and in English translation in Dainow, *supra* note 2. An English translation is also to be found in Franklin, *supra* note 2.

University has had the volume microfilmed and has ordered full-size copies made therefrom, all with funds obtained from the LSU Foundation. Other institutions, or persons desiring copies for their personal use, will be able to order them directly from University Microfilms, Inc., Ann Arbor, Michigan, which will have possession of the microfilm. The original, which will remain in the Louisiana Room of the Louisiana State University Library, will be preserved against the abuse of general use.