

# Louisiana Law Review

---

Volume 38 | Number 1  
*Fall 1977*

---

## Contents

---

### Repository Citation

*Contents*, 38 La. L. Rev. (1977)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol38/iss1/3>

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](mailto:kreed25@lsu.edu).

# Louisiana Law Review

VOLUME 38  
1977-1978

## CONTENTS

### Issue Number 1

#### ARTICLES

#### Moral Damages

*Saul Litvinoff* 1

#### FORUM JURIDICUM

#### The Faithless Elector: A Contracts Problem

*Charles L. Black, Jr.* 31

#### Allocating Deferred Compensation in Louisiana

*Gerald LeVan* 35

#### THE WORK OF THE LOUISIANA LEGISLATURE FOR THE 1977 REGULAR SESSION—A STUDENT SYMPOSIUM

*Linton W. Carney*

*Albert M. Hand, Jr.*

*William Hardy Patrick III*

*David S. Rubin*

*John Miller Shuey, Jr.*

*William E. Steffes* 51

#### Introduction

51

#### Private Law

Persons 55

Property 62

Matrimonial Regimes 84

Security Devices 86

Trusts and Estate Planning 89

Corporations 91

Financial Institutions 93

#### Public Law

Administrative Law and Procedure 96

Executive Reorganization 110

Expropriation 115

State and Local Government	116
State and Local Taxation	119
Criminal Law	125
Insurance	128
Workmen's Compensation	133
Consumer Protection	135
Environmental Law	141
Procedure	
Civil Procedure	152
Pre-trial Criminal Procedure	165
Postconviction Procedure	174
NOTES	
The Doctrine of Anticipatory Breach Revisited—Does Unnecessary Confusion Still Exist? ( <i>Lawton v. Louisiana Pacific Corp.</i> , La. App. 3d Cir. 1977)	
	<i>Michael D. Bewers</i> 177
All in the Family: Equal Protection and the Illegitimate Child in Louisiana Succession Law	
	<i>P. Keith Daigle</i> 189
Does the Defendant Have a Right of Access to Prospective Jurors' Prior Voting Records? ( <i>State v. Holmes</i> , La. 1977)	
	<i>James C. Hrdlicka</i> 205
Close Corporations: Strict Good Faith Fiduciary Duty Applied to Controlling Stockholders ( <i>Wilkes v. Springside Nursing Home, Inc.</i> , Mass. 1976)	
	<i>Homer Doster Melton III</i> 214
Disclosure of Presentence Reports in Capital Cases ( <i>Gardner v. Florida</i> , U.S. 1977)	
	<i>John A. Mouton III</i> 226
The Right to Counsel: An Alternative to <i>Miranda</i> ( <i>Brewer v. Williams</i> , U.S. 1977)	
	<i>Emily M. Phillips</i> 239
Exemption of Seniority Systems Under Title VII ( <i>International Brotherhood of Teamsters v. United States</i> , U.S. 1977)	
	<i>Wayne A. Shullaw</i> 249

- The Traditional Ban on Advertising by Attorneys and the  
Expanding Scope of the First Amendment  
(*Bates v. State Bar of Arizona*, U.S. 1977)  
*David Richard Taggart* 259

BOOKS RECEIVED 279

## Issue Number 2

### ARTICLES

- Official Immunity and the Civil Rights Act  
*William H. Theis* 281

### THE WORK OF THE LOUISIANA APPELLATE COURTS FOR THE 1976-1977 TERM—A FACULTY SYMPOSIUM

- Statistical Survey  
*David S. Clark* 313

### Private Law

- Persons  
*Katherine Shaw Spaht* 322

- Property  
*A.N. Yiannopoulos* 332

- Obligations  
*H. Alston Johnson III* 345

- Torts  
*William E. Crawford* 352

- Matrimonial Regimes  
*Robert A. Pascal* 355

- Sales  
*Alain A. Levasseur* 360

- Mineral Rights  
*Frederick W. Ellis* 377

- Commercial Paper and Bank Deposits and Collections  
*Ronald L. Hersbergen* 384

- Successions and Donations  
*Carlos E. Lazarus* 395

### Public Law

- Bankruptcy  
*J. Hector Currie* 409

Expropriation	<i>Melvin G. Dakin</i>	412
Criminal Law	<i>John S. Baker, Jr.</i>	424
Louisiana Constitutional Law	<i>Lee Hargrave</i>	438
Insurance	<i>W. Shelby McKenzie</i>	446
Professional Responsibility	<i>Henry A. Politz</i>	453
Local Government Law	<i>Kenneth M. Murchison</i>	462
Workmen's Compensation	<i>H. Alston Johnson III</i>	483
Procedure		
Civil Procedure	<i>Frank L. Maraist</i>	503
Pre-trial Criminal Procedure	<i>P. Raymond Lamonica</i>	516
Criminal Trial and Postconviction Procedure	<i>Cheney C. Joseph, Jr.</i>	533
Evidence	<i>George W. Pugh and James R. McClelland</i>	567
NOTES		
Shoreside Limits of the Longshoremen's and Harborworkers' Compensation Act ( <i>Northeast Marine Terminal Co. v. Caputo</i> , U.S. 1977)	<i>Albert M. Hand, Jr.</i>	603
Continuing Jurisdiction for Child Custody ( <i>Odom v. Odom</i> , La. 1977)	<i>Jan Marie Hayden</i>	613
The Human Cannonball and the Press ( <i>Zacchini v. Scripps-Howard Broadcasting Co.</i> , U.S. 1977)	<i>James N. Mansfield III</i>	619
Appellate Review of Damage Awards—An Affirmation of the Trial Court's "Much Discretion" ( <i>Coco v. Winston Industries, Inc.</i> , La. 1976)	<i>Ernest L. Nix, Jr.</i>	628

- The Post-*Katz* Problem of When “Looking” Will Constitute Searching Violative of the Fourth Amendment  
(*State v. Fearn*, La. 1977)  
*Susan Ann Swanner* 635
- Matrimonial Regime Reform—A Constitutional Necessity  
(*Kirchberg v. Feenstra*, E.D. La. 1977)  
*Nancy Clark Tyler* 642

### Issue Number 3

#### ARTICLES

- The Formalities of Private Real Estate Transactions In Spanish North America  
*A Report on Some Recent Discoveries*  
*Hans W. Baade* 655
- Recent Revisions of the French Civil Code  
*Bernard Audit* 747

#### COMMENT

- The Action of Nullity Under Louisiana Code of Civil Procedure Article 2004  
*Robert G. Nida* 806

#### NOTES

- The Exclusion of “Apparent” Mineral Leases from the Warranty Against Eviction (*Richmond v. Zapata Development Corp.*, La. 1977)  
*Richard Keith Colvin* 824
- Vicarious Liability and Intentional Torts:  
*LeBrane Refined (Miller v. Keating*, La. 1977)  
*Billy Joseph Domingue* 832

- The Right to Resist Unlawful Arrest  
*Jefferson D. Hughes III* 840
- Constitutional Limits on the Use of Contributions  
Compelled Under Agency Shop Agreements  
(*Abood v. Detroit Board of Education*,  
U.S. 1977)  
*Paul S. Hughes* 850
- Hearsay and the Confrontation Guaranty  
(*State v. Monroe*, La. 1977)  
*Gordon L. James* 858
- The Death Penalty for Rape—Cruel  
and Unusual Punishment? (*Coker v.*  
*Georgia*, U.S. 1977)  
*Constance R. LeSage* 868
- Racial Discrimination in Church Schools  
(*Brown v. Dade Christian Schools, Inc.*,  
USCA 5th Cir. 1977)  
*William W. Pugh* 874
- Defendant-Witnesses, Confessions, and a  
Limited Scope of Cross-Examination  
(*State v. Lovett*, La. 1977)  
*Stephen H. Vogt* 890
- Delving Into the Details of Prior  
Convictions: The New Louisiana Rule  
*Gerard E. Wimberly, Jr.* 899
- The Taxability of Cash Meal Allowances:  
Form Prevails Over Substance (*Commissioner*  
*of Internal Revenue v. Kowalski*,  
U.S. 1977)  
*Eric S. Ziegler* 907

#### Issue Number 4

##### ARTICLES

- Due Process and Substantive Accountability: Thoughts  
Toward a Model of Just Decisionmaking  
*J. Michael Veron* 919

1977-1978]

*VOLUME CONTENTS*

ix

COMMENTS

A New Look at *Lauritzen v. Larsen*, Choice of Law and  
Forum Non Conveniens

*C. John Caskey* 957

Oil Rights in the Gulf of Suez

*Richard A. Curry* 979

Fault of the Victim: The Limits of Liability Under  
Civil Code Articles 2317, 2318, and 2321

*Anne T. Lastilla* 995

Vertical Restrictions and the Distribution Process: A  
Practical Review of Economics and the Rule of Reason  
After *Sylvania*

*Homer Doster Melton III* 1022

NOTES

Appellate Review in Bifurcated Trials (*Thornton v.*  
*Moran*, La. 1977)

*Steven A. Glaviano* 1056

Louisiana's Useful Class Action: *Williams v. State*  
(La. 1977)

*Guy Holdridge* 1061

Special Problems of Interpretation Arising Out of Procedure  
for Levying Special Assessments (*Landry*  
*v. Parish of East Baton Rouge*, La. 1977)

*James Marshall Jones, Jr.* 1073

Fourth Amendment Remedies in Civil Proceedings  
(*Parish of Jefferson v. Bayou Landing*  
*Limited, Inc.*, La. 1977)

*Mark B. Meyers* 1086

Maternal Preference and the Double Burden:  
Best Interest of Whom? (*Bushnell*  
*v. Bushnell*, La. App. 3d Cir. 1977)

*Samuel N. Poole, Jr.* 1096



Home Rule and Local Ordinances Defining Gambling ( <i>City of Shreveport v. Kaufman</i> , La. 1977)	
	<i>James Joseph Sullivan</i> 1108
Bringing Order to a Disorderly Place ( <i>State</i> <i>v. Defrances</i> , La. 1977)	
	<i>Matthew Anthony Wellman</i> 1117
BOOKS RECEIVED	1129