Preliminary Title. Of the General Definitions of Law and the Promulgation of the Laws (Art. 1 - 23)

Louisiana

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of the

Civil Codes of Louisiana
PRELIMINARY TITLE

Of the General Definitions of Law and the Promulgation of the Laws

Chapter 1—Of Law

ART. 1. Law is a solemn expression of legislative will.


RCC 1870, Art. 1.
Same as above.

CC 1825, Art. 1. (Projet, p. 1. Amendment adopted; comment by redactors)
Same as above.

Law is a solemn expression of Legislative will, upon a subject of general interest and interior regulation.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Preliminary Book, Title I, Art. 6.
Among all peoples, law is a solemn expression of legislative authority, upon a subject of interior regulation and common interest.

ART. 2. It orders and permits and forbids, it announces rewards and punishments, its provisions generally relate not to solitary or singular cases, but to what passes in the ordinary course of affairs.

RCC—1967.

RCC 1870, Art. 2.
Same as above.

CC 1825, Art. 2. (No reference in Projet)
Same as above.

CC 1808, p. 2, Art. 2.
Same as above; but semicolon dash (;-) after “forbids”; and after “punishments”; comma (,) after “relate.”

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Preliminary Book, Title I, Art. 7, pars. 1, 2.

It orders and permits and forbids, it announces rewards and punishments.

It never legislates for individual cases; its provisions are presumed to relate, not to solitary or singular cases, but to what passes in the ordinary course of affairs.
ART. 3. Customs result from a long series of actions constantly repeated, which have by such repetition, and by uninterrupted acquiescence, acquired the force of a tacit and common consent.


RCC 1870, Art. 3.
Same as above.

CC 1825, Art. 3. (Projet, p. 1. Recommendation to suppress rejected; comment by redactors)
Same as above.

CC 1808, p. 2, Art. 3.
Same as above; but no punctuation after “acquiescence.”

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Preliminary Book, Title I, Art. 5.

La coutume résulte d'une longue suite d'actes constamment répétés, qui, par cette répétition et une soumission non interrompue, ont acquis la force d'un consentement tacite et commun.

Chapter 2—Of the Publication of the Laws

ART. 4. As laws can not be obligatory without being known, they must be promulgated.

RS—413, 2170.

RCC 1870, Art. 4.
Same as above.

CC 1825, Art. 4, par. 1. (No reference in Projet)
As laws cannot be obligatory without being known, they must be promulgated by the Governor of the State.

CC 1808, p. 2, Art. 4, par. 1.
As laws cannot be obligatory without being known, they shall be promulgated by the Governor of the Territory.

CN 1804. No corresponding article.

ART. 5. The laws shall be executed throughout every part of this State from the moment they shall be promulgated in the manner prescribed.

RCC 1870, Art. 5.
Same as above.

CC 1825, Art. 5. (Projet, p. 1. Amendment adopted; no comment)
The laws shall be executed through every part of this State from the moment they shall be promulgated in the manner prescribed.

Les lois seront exécutées dans toutes les parties de l'État, du moment où la promulgation en aura été faite de la manière prescrite.
Art. 6

The laws shall be executed through every part of this territory, from the moment their promulgation shall be known.

CN 1804, Art. 1, pars. 1, 2.

Laws become enforceable throughout the entire French territory by virtue of their promulgation by the First Consul.

They shall be enforced in every part of the Republic from the moment the promulgation can be known.

RCC 1825, Art. 6.

No reference in Projet

The promulgation made by the Governor, shall be presumed to be known in the parish which is the seat of government, three days after the day of promulgation, and in each of the other parishes, after the expiration of the said period, with the addition of one day for every four leagues between the place in which the promulgation shall have been made, and the place where the Court for such parish is held.

- Art. 4, pars. 2, 3.

The laws shall be directed to the authorities entrusted with their execution or application, and to such other persons as the law has designated or may designate, in the form and manner which is, or may be prescribed, to ensure their most extensive publicity.

The Clerks of all the Courts of Justice of this State, shall insert in a register to be kept for that purpose, the titles of all the laws which shall have been directed to them, together with the day on which they shall have received them.

- Art. 6 of Proposed Revision of 1869; same as Acts 1827, p. 172, §§1, 3, and Acts 1855, No. 282 (RS §§2168, 2169)

RCC 1870, Art. 6.

Same as above.

Les lois seront exécutées dans toutes les parties de ce Territoire, du moment où la promulgation en pourra être connue.

Les lois sont exécutoires dans tout le territoire français, en vertu de la promulgation qui en est faite par le Premier Consul.

Elles seront exécutées dans chaque partie de la République, du moment où la promulgation en pourra être connue.

Les lois seront adressées aux autorités chargées de les exécuter ou de les appliquer, et à telles autres personnes que la loi a désignées ou pourra désigner, dans la forme et de la manière qui est ou pourra être prescrite pour assurer aux lois la plus grande publicité possible.

Les greffiers de toutes les cours de justice de cet Etat inséreront dans un registre particulier, tenu à cet effet, le titre de toutes les lois qui leur auront été adressées, avec la date du jour où ils les auront reçues.
The promulgation made by the Governor shall be supposed to be known in
the parish where the government shall
be sitting, three days after the day of
promulgation; and in every one of the
other parishes, after the expiration of
the said delay, with the addition of one
day for every four leagues between the
city in which the promulgation shall
have been made, and the place where
the court for every parish is held.

Same as CC 1825, Art. 4, pars. 2, 3,
above; but no punctuation after “des-
ignate”, or after “is”; “territory” in-
stead of “State.”

The promulgation by the First Consul
shall be deemed known in the depart-
ment which is the seat of the govern-
ment one day after the promulgation;
and in each of the other departments,
after the expiration of the same delay,
with the addition of one day for every
ten myriameters (about twenty ancient
leagues) between the city at which the
promulgation shall have been made, and
the chief-city of each department.

Les lois seront adressées aux autorités
chargées de les exécuter ou de les appli-
quér, et à telles autres personnes que
la loi a, ou pourra désigner, dans la
forme et de la manière qui est, ou
pourra être prescrite pour assurer aux
lois la plus grande publicité possible.

Par. 3 same as CC 1825, Art. 4, par.
3, above; but “ce Territoire” instead of
“cet Etat”; comma (,) after “Terri-
toire”; no punctuation after “particu-
lier.”

After the promulgation, no one can allege ignorance of
the law.

Art. 8. A law can prescribe only for the future; it can have no
retrospective operation, nor can it impair the obligation of contracts.

Same as above.
Art. 9. The law is obligatory upon all inhabitants of the State indiscriminately; the foreigner, whilst residing in the State, and his property within its limits, are subject to the laws of the State.

RCC-491, 1596.

RCC 1870, Art. 9. (Same as Art. 9 of Proposed Revision of 1869)

Art. 10. The form and effect of public and private written instruments are governed by the laws and usages of the places where they are passed or executed.

But the effect of acts passed in one country to have effect in another country, is regulated by the laws of the country where such acts are to have effect.

The exception made in the second paragraph of this article does not hold, when a citizen of another State of the Union, or a citizen or subject of a foreign State or country, disposes by will or testament, or
by any other act *causa mortis* made out of this State, of his movable property situated in this State, if at the time of making said will or testament, or any other act *causa mortis*, and at the time of his death, he resides and is domiciliated* out of this State.


**RCC 1870, Art. 10.**

Same as above.

**CC 1825, Art. 10.**

Same as above; but comma (,) after "one country."

**CC 1808, p. 4, Art. 10.**
The form and force of acts and written instruments, depend upon the laws and usages of the places where they are passed or executed.

**CN 1804.** No corresponding article.

**Projet du Gouvernement (1800), Preliminary Book, Title IV, Art. 6.**
The form of acts is governed by the laws of the place where they are passed or executed.

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*English translation of French text incomplete; should include "with his family."

**ART. 11.** Individuals can not by their conventions, derogate from the force of laws made for the preservation of public order or good morals.

But in all cases in which it is not expressly or impliedly prohibited, they can renounce what the law has established in their favor, when the renunciation does not affect the rights of others, and is not contrary to the public good.

RCC—12, 19, 21, 129, 130, 559, 709, 1289, 1519, 1529, 1531, 1887, 1892, 1893, 1895, 2031, 2174, 2225, 2454, 2460, 2568, 2579, 2982, 3460.

**RCC 1870, Art. 11.**

Same as above.
Art. 12

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CC 1825, Art. 11. (Projet, p. 2. Amendment adopted; comment by redactors)

Same as above.

Les individus ne peuvent, par des conventions particulières, déroger aux lois qui sont faites pour le maintien de l'ordre public ou des mœurs.

Mais ils peuvent, dans tous les cas où cela n'est pas défendu d'une manière expresse ou implicite, renoncer à ce que les lois établissent en leur faveur, lorsque cette renonciation ne blesse pas les droits d'autrui, et n'est pas contraire au bien public.

CC 1808, p. 4, Art. 11. Same as par. 1, above. -p. 5, Art. 11.

Same as par. 1, above.

CN 1804, Art. 6.

One cannot, by private conventions, derogate from the force of laws which concern public order and good morals.

On ne peut déroger, par des conventions particulières, aux lois qui intéressent l'ordre public et les bonnes mœurs.

Art. 12. Whatever is done in contravention of a prohibitory law, is void, although the nullity be not formally directed.

RCC—11, 94, 95, 161, 1893, 1895, 2398, 2983.

RCC 1870, Art. 12.

Same as above.

CC 1825, Art. 12. (No reference in Projet)

Same as above.

Les lois prohibitives emportent peine de nullité, quoique cette peine n'y soit pas formellement exprimée.


Same as above.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Preliminary Book, Title IV, Art. 9.

Same as CC 1808, p. 4, Art. 12, above. Same as CC 1808, p. 5, Art. 12, above.

Chapter 4—Of the Application and Construction of Laws

Art. 13. When a law is clear and free from all ambiguity, the letter of it is not to be disregarded, under the pretext of pursuing its spirit.

RCC—14 et seq., 1950.

RCC 1870, Art. 13.

Same as above.

CC 1825, Art. 13. (No reference in Projet)

Same as above.

Quand une loi est claire et sans ambiguïté, il ne faut point en élever la lettre, sous prétexte d'en pénétrer l'esprit.


Same as above.

CN 1804. No corresponding article.
**Projet du Gouvernement (1800), Preliminary Book, Title V, Art. 5, clause 1.**

When a law is clear, the letter of it is not to be disregarded under the pretext of pursuing its spirit;

Quand une loi est claire, il ne faut point en éloigner la lettre sous prétexte d'en pénétrer l'esprit;

**ART. 14. The words of a law are generally to be understood in their most usual signification, without attending so much to the niceties of grammar rules as to the general and popular use of the words.**


**RCC 1870, Art. 14.**

(Same as Art. 14 of Proposed Revision of 1869)

Same as above.

**CC 1825, Art. 14.**

(No reference in Projet)

The words of a law are generally to be understood in their most known and usual signification, without attending so much to the niceties of grammar rules as to their general and popular use.

**CC 1808, p. 4, Art. 14.**

The words of a law are generally to be understood in their most known and usual signification, without attending so much to the niceties of grammar rules as to their general and popular use.

**CC 1804.** No corresponding article.

**Projet du Gouvernement (1800), Preliminary Book, Title V, Art. 5, clause 2.**

And in the application of an obscure law, preference should be given to the most natural meaning and that which is the least defective in execution.

Et dans l’application d’une loi obscure, on doit préférer le sens le plus naturel et celui qui est le moins défectueux dans l’exécution.

**ART. 15. Terms of art or technical terms and phrases, are to be interpreted according to their received meaning and acceptation with the learned in the art, trade or profession to which they refer.**

RCC—13, 14, 16 et seq., 1947.

**RCC 1870, Art. 15.**

Same as above.

**CC 1825, Art. 15.**

(No reference in Projet)

Same as above.

**CC 1808, p. 4, Art. 15.**

Terms of art or technical terms and phrases, are to be interpreted according to their received meaning and acceptation with the learned in each art, trade and (or) profession.

**CC 1804.** No corresponding article.
Art. 16. Where the words of a law are dubious, their meaning may be sought by examining the context with which the ambiguous words, phrases and sentences may be compared, in order to ascertain their true meaning.


RCC 1870, Art. 16.
Same as above.

CC 1825, Art. 16.
Same as above.

(No reference in Projet)

Quand les expressions d'une loi sont douteuses, on peut en rechercher la signification, en examinant et comparant les termes ou phrases ambigües avec les autres parties de la loi, afin de déterminer leur véritable sens.

CC 1808, p. 4, Art. 16.
Same as above; but comma (,) after "context"; no punctuation after "compared."

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Preliminary Book, Title V, Art. 6.

Pour fixer le vrai sens d'une partie de la loi, il faut en combiner et en réunir toutes les dispositions.

Art. 17. Laws in pari materia, or upon the same subject matter, must be construed with a reference to each other; what is clear in one statute may be called in aid to explain what is doubtful in another.


RCC 1870, Art. 17.
Same as above.

CC 1825, Art. 17.
Same as above.

(No reference in Projet)

Les lois in pari materia, ou sur un même sujet, doivent être interprétées suivant le rapport qu'elles ont l'une avec l'autre; ce qui est clair dans une loi peut servir de base pour expliquer ce qui est douteux dans une autre.

CC 1808, p. 4, Art. 17.
Same as above; but no punctuation after "materia"; colon (:) after "other"; comma (,) after "statute."

CN 1804. No corresponding article.

Art. 18. The universal and most effectual way of discovering the true meaning of a law, when its expressions are dubious, is by considering the reason and spirit of it, or the cause which induced the Legislature to enact it.

RCC—13 et seq., 1946, 1950.

RCC 1870, Art. 18.
Same as above.
ART. 18. The most universal and effectual way of discovering the true meaning of a law, when its expressions are dubious, is by considering the reason and spirit of it, or the cause which induced the legislature to enact it.

ART. 19. When to prevent fraud, or from any other motives of public good, the law declares certain acts void, its provisions are not to be dispensed with on the ground that the particular act in question has been proved not to be fraudulent, or not to be contrary to the public good.

ART. 20. The distinction of laws into odious laws and laws entitled to favor, with a view of narrowing or extending their construction, can not be made by those whose duty it is to interpret them.
Art. 21

CC 1808, p. 6, Art. 20.
The distinction between odious laws, and laws entitled to favor, made with a view of narrowing, or extending their construction, is a gross abuse.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Preliminary Book, Title V, Art. 10.

The distinction of odious laws and laws entitled to favor, made with the object of narrowing or extending their construction, is abusive.

ART. 21. In all civil matters, where there is no express law, the judge is bound to proceed and decide according to equity. To decide equitably, an appeal is to be made to natural law and reason, or received usages, where positive law is silent.


RCC 1870, Art. 21. (Same as Art. 21 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 21. (No reference in Projet)
In civil matters, where there is no express law, the Judge is bound to proceed and decide according to equity. To decide equitably, an appeal is to be made to natural law and reason, or received usages, where positive law is silent.

Same as above.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Preliminary Book, Title V, Art. 11.

In civil matters, where there is no express law, the judge must act as a minister of equity. Equity is the return to natural law, or to received usages where positive law is silent.

Same as above; but comma (,) after "repealed."

Chapter 5—Of the Repeal of Laws

ART. 22. Laws may be repealed either entirely or partially, by other laws.

RCC 1870, Art. 22.
Same as above.

CC 1825, Art. 22.
Same as above.

CC 1808, p. 6, Art. 23.
Same as above; but comma (,) after "repealed."

CN 1804. No corresponding article.
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ART. 23. The repeal is either express or implied:

It is express, when it is literally declared by a subsequent law;

It is implied, when the new law contains provisions contrary to, or irreconcilable with those of the former law.

The repeal of a repealing law does not revive the first law.

Constitution of 1921, III, 17.

Projet du Gouvernement (1800), Preliminary Book, Title VI, Art. 2.

Laws are repealed either entirely or partially, by other laws.

ART. 23. The repeal is either express or implied:

It is express, when it is literally declared by a subsequent law;

It is implied, when the new law contains provisions contrary to, or irreconcilable with those of the former law.

The repeal of a repealing law does not revive the first law.

Constitution of 1921, III, 17.

Projet du Gouvernement (1800), Preliminary Book, Title VI, Art. 3.

The repeal is either express or implied:

It is express when it is literally declared by a subsequent law.

It is implied when the new law contains provisions contrary to those of the former laws.