Beware of Alligator

Please Do Not Feed The Wildlife
Why Louisiana?


A Streetcar Named Desire (Warner Bros. 1951).
How would you classify the legal system in Louisiana?
THE CIVIL CODE
OF THE
STATE OF LOUISIANA,
REVISED, ARRANGED AND AMENDED
BY THE
Hon. John Ray, Revisor of the Statutes and Codes.
UNDER THE SUPERVISION
OF THE
JOINT COMMITTEE OF REVISION:
Hon. C. W. LOWELL, Chairman.
" HUGH J. CAMPBELL.
" W. L. BLACKMAN.
" FRANK MOREY.
" C. E. PRATT.
In Accordance with the Acts, Nos. 31 and 182 of 1888,
And No. 131 of 1889, for the use of the
Members of the General Assembly.

MONROE, LA.
PRINTED AT THE OFFICE OF THE "LOUISIANA INTELLIGENCER."
1889.

Legal Education - JD Plus

Louisiana State Uni - **Graduate Diploma in Comparative Law** (15 credit hours)

Tulane - **Civil Law Certificate** (15)

Loyola New Orleans - **Certificate in Civil Law** (12)

4th law school, Southern University - does not appear to have a separate certificate.
Civil Law = Private Law

Louisiana Civil Code (LA CC)

LA Revised Statutes Title 9 Civil Code Ancillaries (LA RS 9et seq.)
LA CC Structure

- Preliminary Title
- Book I. Of Persons
- Book II. Things and the Different Modifications of Ownership
- Book III. Of the Different Modes of Acquiring the Ownership of Things
- Book IV. Conflict of Laws
Title 9. Civil Code Ancillaries

- La R.S. T. 9, Refs & Annos
- Code Preliminary Title [Blank]
- Code Book I—of Persons
- Code Book II—Things and the Different Modifications of Ownership
- Code Book III—of the Different Modes of Acquiring the Ownership of Things
- Code Book IV—Conflict of Laws
Sources of Civil Law - Art. 1

The sources of law are legislation and custom.
Cases = *Jurisprudence constante*

Certainty is a supreme value in the civil law system to which we are heirs. . . . In Louisiana, courts are not bound by the doctrine of Stare decisis, but there is a recognition in this State of the doctrine of *Jurisprudence constante* Unlike Stare decisis, this latter doctrine does not contemplate adherence to a principle of law announced and applied on a single occasion in the past.

Colonial Legal History

France 1680-1762ish
(≈ Coutume de Paris)
Colonial Legal History

France 1680-1762ish
(∼ Coutume de Paris)

Spain 1762-1801ish
(∼ Siete Partidas)
Colonial Legal History

France 1680-1762ish
(≈ Coutume de Paris)

Spain 1762-1801ish
(≈ Siete Partidas)

France 1801-1803ish:
(≈ Siete Partidas)
Colonial Legal History

France 1680-1762ish (~ Coutume de Paris)

Spain 1762-1801ish (~ Siete Partidas)

France 1801-1803ish: (~ Siete Partidas)

United States 1803-present: ??????
Versions of the Civil Code

Digest of 1808

Civil Code of 1825

Civil Code of 1870

For sources of these, see William Tetley, Mixed Jurisdictions: Common Law v. Civil Law (Codified and Uncodified) in Some Latin American States, 60 Law & History Rev. 677 (2000).
Wait. Now, listen, did you ever hear of the Spanish community property regime, Stella?
“A Louisiana lawyer is no more of a civilian than a modern French police dog is wolf....

It is, therefore, inaccurate for us to proclaim that Louisiana is a great civil law state. It is not. It may have been before the Civil War. **We have been caught in the American maelstrom.**

The only salvage that remains is a Louisiana incrustation which has in it something of the Civil Law, and something of the Common Law, but which after all is an uncatalogued creation, but a viable institution because it typifies the composite genius of the soul of the true Louisianian.”

A. CIVIL CODE REVISION

1. Preliminary Title

Chapters 1 and 2 of the Preliminary Title were revised by Professor A.N. Yiannopoulos and the Preliminary Title Committee. Chapter 1 provides for the sources of law and the general principles of law. Chapter 2 provides for the interpretation of laws. These Chapters were enacted by Acts 1987, No. 124.

Chapter 3 of the Preliminary Title was revised by Professor Symeon Symeonides and the Conflict of Laws Committee. This Chapter provides briefly for the Conflict of Laws, and Book IV of the Civil Code provides most of the revised legislation on Conflict of Laws. Chapter 3 of the Preliminary Title and Book IV of the Civil Code were enacted by Acts 1991, No. 923.
LSA-C.C. Art. 3461

Art. 3461. Renunciation, interruption, or suspension ineffective

Currentness

Peremption may not be renounced, interrupted, or suspended.

Credits

Editors' Notes

REVISION COMMENTS—1982

(a) This provision is new. It is based on Louisiana jurisprudence and Article 280 of the Greek Civil Code. It does not change the law.
Legal Research Process in LA

Step 1 - Preliminary Analysis

Step 2 - Secondary Sources

Step 3 - Codified Law

Step 4 - Judicial Decisions
Step 1 - Preliminary Analysis

+ Questions → More or less traditional?

   Look to prior codes?

   Foreign influences?
Step 1 - Preliminary Analysis

<table>
<thead>
<tr>
<th>Civil-Law Concept</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Precarious possession</td>
<td>Precarious possession is the exercise of possession over a THING with the permission of or on the behalf of the owner or possessor.97</td>
</tr>
<tr>
<td>Predial servitude</td>
<td>See SERVITUDES.</td>
</tr>
<tr>
<td>Prescription of nonuse</td>
<td>See LIBERATIVE PRESCRIPTION.</td>
</tr>
<tr>
<td>Principal contract</td>
<td>See CONVENTIONAL OBLIGATION.</td>
</tr>
<tr>
<td>Private things</td>
<td>See COMMON, PUBLIC, AND PRIVATE THINGS.</td>
</tr>
<tr>
<td>Privilege</td>
<td>A right, which the nature of a debt gives to a creditor, and which entitles him to be preferred before other creditors, even those who have mortgages.98</td>
</tr>
<tr>
<td>Procedure: Concursus, Incidental demand, Reconvensional demand, Devolutive and Susptive appeals, Homolation, Petitory action, Possessory action</td>
<td>A concursus is equivalent to an interpleader.99</td>
</tr>
<tr>
<td>Incidental demands are reconvention, cross-claims, intervention, and the demand against third parties.100 A reconvensional demand is equivalent to a counterclaim.101</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Common-Law Term</th>
<th>Place Discussed In Civil-Law Table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appurtenant easement</td>
<td>Servitudes—Predial servitude</td>
</tr>
<tr>
<td>Arbitrator</td>
<td>Amicable compounder</td>
</tr>
<tr>
<td>Bilateral or Reciprocal Contract</td>
<td>Conventional obligation—Synallagmatic contract</td>
</tr>
<tr>
<td>Boat</td>
<td>Bateau</td>
</tr>
<tr>
<td>Canoe</td>
<td>Bateau—Pirogue</td>
</tr>
<tr>
<td>Chose in action</td>
<td>Corporeals—Incorporeals</td>
</tr>
<tr>
<td>Commitment</td>
<td>Interdiction</td>
</tr>
<tr>
<td>Commons, Common property, Commumia</td>
<td>Common, Public, and Private things</td>
</tr>
<tr>
<td>Condition precedent, Condition subsequent</td>
<td>Resolutory and Suspensive conditions</td>
</tr>
<tr>
<td>Consideration</td>
<td>Cause</td>
</tr>
</tbody>
</table>
Step 2 - Secondary Sources

Louisiana Civil Law Treatise Series
Big Names

A.N. Yiannopoulos

Cynthia Samuels

Ronald Scalise

John Lovett

Sally Brown Richardson

Vernon Valentine Palmer

Dian Tooley-Knoblett
Big Names

A.N. Yiannopoulos

Cynthia Samuels

Ronald Scalise

John Lovett

Sally Brown Richardson

Vernon Valentine Palmer

Dian Tooley-Knoblett
Historical (usually French) Doctrine

Identify civil law subject

OR

Secondary Source - Civil Law Treatise

Read CC text and comments

Historical doctrine
Civil Law Translation Set

- Marcel Planiol, Civil Law Treatise (La. St. L. Inst. trans., West, 1958, 3 v.)
- Charles Aubry & Charles Rau wrote several volumes all together under the title Cours de droit civil français:
  - Obligations (La. St. L. Inst. trans., West, 1965) - vol. 1;
  - Property (La. St. L. Inst. trans., West 1966) - vol. 2;
  - Testamentary Successions & Gratuitous Dispositions (La. St. L. Inst. trans., West 1969) - vol. 3; Intestate
  - Successions (La. St. L. Inst. trans., West 1971) - vol. 4;

Step 3 - Codified Law: LA CC + Title 9

Official publisher = West

Title of print publication = Louisiana Statutes
Annotated = Green Books
Step 3 - Codified Law:
LA CC + Title 9

- Text of code article
- Official comment
- Exposé des motifs
- Commercial annotations
Public Health is concerned with the conditions in our communities and the actions we take to improve the health of all people. It focuses on preventing illness and promoting health through evidence-based policies, programs, and practices. Public Health professionals work in a variety of settings, including government agencies, non-profit organizations, and private companies. They work with communities to identify and address public health issues, develop policies and programs, and evaluate the effectiveness of interventions.

LA CC 450

Credits
June 2019, 10:41, UC, AI, 1, L29

Editor’s Notes

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.

The marked paragraphs of this section reflect the objectives of public health to include public health goals. The original paragraphs in this section have been edited to reflect this focus. The paragraphs in this section have been edited to reflect this focus.
Editors' Notes

EXPOSÉ DES MOTIFS ¹

Section 1. General Principles

Article 448 of the Louisiana Civil Code of 1870 provides: “The word estate is applicable to any thing of which riches or fortune may consist. This word is likewise relative to the word things, which is the second object of jurisprudence, the rules of which are applicable to persons, things, and actions.” Cf. CC. art. 439 (1825); Civil Code p. 94, Art. 1 (1808). The French Civil Code has no corresponding article. It seems that the redactors of the Louisiana Civil Code derived the definition of things from eighteenth century civilian doctrine as well as from Spanish and Roman sources. The second sentence refers clearly to the text of Gaius and the division of civil law into the branches of persons, things, and actions.
Exposé des motifs

La C.C. BK. II, T. I, Refs & Annos

La C.C. BK. II, T. I, Refs & Annos
Step 4 - Judicial Decisions

- Supreme Court
  - Courts of Appeal
    - Judicial District Court (JDC)
Jurisprudence constante

“Consistent with jurisprudence constante, the Louisiana Supreme Court has, in some decisions, referred to judicial decisions as secondary authority. Yet, in different decisions, it has admonished appellate courts to follow its decisions.”

Finding Cases

One Good Case - using a secondary source or code article comments.

Then the usual.
contentions that Mr. Phipps' property is not enclosed either because of a Municipal Ordinance respecting access to Exposition Boulevard or because Mrs. Phipps, a co-owner in indivision with Mr. Phipps, having confessed under oath that she acquiesced to the construction made by the Schupps' vendor, self-enclosed their estate.

A

Forced passage in favor of an enclosed estate is a "legal servitude for the utility of individuals." § 59. This "legal servitude of passage is predicated on necessity," requiring that an estate have no access to a public road or that its access be insufficient for its use. § 50. [17] While the right of forced passage has been generally accepted as designed to benefit the landowner so he could produce profit for himself and obtain full utility of his land, it must now be deemed also to offer protection of public interest." § 58. (citing Rockhold, 237 So.2d at 688). As land becomes less available, more necessary for public habitation, use and support, it should run contrary to public policy to encourage land locking of such a valuable asset and forever removing it from commerce and from public as well as private benefit." § 58 (citing Rockhold, 237 So.2d at 688). See also Littlejohn v. Cox, 15 La.Ann. 67, 67 (La.1860).

The burden of the forced passage is the legal servitude, and the fixing of the passageway creates a conventional servitude right of way." A.N. Frameboids, The Legal Servitude of Passage, 71 Tul. L.Rev. 1, 5 (1996). Article 689 "does not by itself establish a right of way, nor does it confer on the owner of the enclosed estate authority to use a particular part of the neighboring lands as a passageway to a public road." § 513. The servitude of "passage must be fixed, that is, the location, length, and width, of the right of way on the servient estate must be designated by agreement of the parties or judicial decision." § 513. "The right of passage for the benefit of an enclosed estate shall be suitable for the kind of traffic . . . that is reasonably necessary for the use of that estate." La. Civil Code art. 690. This can include vehicular passage sufficient to permit Mr. Phipps' residential use of his enclosed estate. See § 54.

This legal servitude "burdens the estate or estates that surround the enclosed estate. The law makes no distinction; consequently, the servitude may burden all sorts of immovables, urban or rural, improved or unimproved, whether surround
Questions?

Janet Kearney
Foreign & International Law Librarian
Fordham Law School
jkearney15@fordham.edu