

DEFINING LOUISIANA LAW: LOUISIANA CIVIL LAW DICTIONARY[†] AND WEST'S LOUISIANA DIGEST[‡]

Reviewed by Phillip Gragg^{*}

The most recent addition to the list of works that provide access to Louisiana's Civil Code is the *Louisiana Civil Law Dictionary*. It is a tool designed for both the civil and common law attorney. The authors, Gregory W. Rome, a practicing attorney from Chalmette, Louisiana and N. Stephen Kinsella, general counsel for a corporation with ties to Louisiana, have succeeded admirably in providing an explanation of civil law terms in the most straightforward manner. The most useful aspect of the dictionary is that definitions are linked to specific provisions of Louisiana law (largely, but not exclusively, the Civil Code), as well as prominent Louisiana-specific secondary sources, cases and law review articles. In fact, the dictionary began life as an article published by Kinsella.¹

This work is a great access point to Louisiana law, particularly for those unfamiliar with the state. It is also a quick reference that could be used by practitioners. The volume concerns itself with Louisiana and therefore makes only incidental or fleeting references to other jurisdictions or languages, and then only that a word is of French origin, for example. In these instances there is no provenance or citation to another source to support the translation. That is not to call into question the accuracy of the work, but rather to suggest that a comparativist would find the depth of treatment wanting. However, that is not the purpose of this particular dictionary, and the authors have

[†] GREGORY W. ROME & N. STEPHAN KINSELLA, *LOUISIANA CIVIL LAW DICTIONARY* (Quid Pro, LLC 2011).

[‡] WEST'S LOUISIANA DIGEST (West 2d, 1987-2012; 148 vols.).

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1. See N. Stephan Kinsella, *A Civil Law to Common Law Dictionary*, 54 LA. L. REV. 1265 (1994).

accomplished what they set out to do admirably. The book is accessible in paperback and hardbound editions, and for the technologically-oriented, it can be used with Kindle or iPad (with the Kindle application, of course).

Now, if the reader will indulge us, we would like to take the reader one step further. The above resource is a good, quick reference to civil law terms, but we have in our jurisdiction the obligation to consider the full weight of the opinions of the judiciary. Precedence; a dirty word in some circles, but part of Louisiana's unique civil law tradition. In the process of drafting opinions, the court is frequently left to wrestle with the meaning of a term. With no judicial college² and formal internal techniques of interpretation upon which the judge can rely, they are left to consult the text of the code provision, its commentary, prior opinion, dictionaries and general commentary, not necessarily in that order.³

The resulting opinions create a record that can be easily and efficiently tracked, if one knows where to look. The *American Digest System*, published by West, contains a set of volumes called *Louisiana Digest*, published in two series covering 1809 through present day material. Within the digest are a smaller set of volumes called, *Words and Phrases*. These volumes provide an index of terms that have been judicially defined, and their corresponding case citations. This is indeed an unusual concept for our readers in jurisdictions outside of Louisiana and the United States, but it is the reality of our jurisprudence. These volumes have a practical use, but also might serve as a basis for evaluating the impact of our use of precedence as it relates to the application of the civil code.

2. This meant in the classical sense, the Louisiana Supreme Court does, in fact, provide continuing legal education for state judges. See http://www.lasc.org/la_judicial_entities/judicial_college.asp. See also Cheryl Thomas, *Review of Judicial Training and Education in Other Jurisdictions*, for the Judicial Studies Board. Part 7 should be of particular interest: http://www.ucl.ac.uk/laws/socio-legal/docs/Review_of_Judicial_Train.pdf

3. For the leading work on this issue, see Albert Tate, Jr., *Techniques of Judicial Interpretation*, 22 LA. L. REV. 727 (1961).

To illustrate the point, the term “compromise” can be found in *Words and Phrases*, and is defined in a manner consistent with other civil law jurisdictions. It is interesting to note that the term “compromise settlement” can also be found. “Settlement,” as a separate term, has caused some consternation in legal proceedings, but readers will be happy to note that “settlement” must be equated with “compromise” for purposes of statute governing “compromise agreements.”⁴

The *Words and Phrases* volumes of the *Louisiana Digest* can serve as a quick access point for the practitioner and comparativist alike. It provides easy access to materials that might be more obscure in modern databases. As the saying goes, do not do work that has already been done for you. The *Louisiana Civil Law Dictionary* is also such a resource. As we strive to explore, catalog and comment on the state of the civil code the world over, one might ask the question, what additional resources are of value? While we have focused on Louisiana-specific materials, it is not a stretch to say that English translations of civil law materials are the next logical frontier in promulgating and supporting the dissemination of the civil code around the globe.

4. *Townsend v. Square*, 643 So. 2d 787 (La. App. 4 Cir. 1994). Also, *see generally* LA. CIV. CODE art. 3071, and associated Notes on Decision.