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# 100 Years of LSU Law, 1906–2006: A Centennial Gloss

Paul R. Baier\*

*THIS IS THE SHOWING forth of the Inquiry of Herodotus of Halicarnassos so that neither the deeds of men may be forgotten by lapse of time, nor the works great and marvellous, which have been produced some by Hellenes and some by Barbarians, may lose their renown; and especially that the causes may be remembered for which these waged war with one another.*

—Herodotus, *The Histories*\*\*

PROLOGUE, PAULUS. *Et primo quidem temporibus diui Heberti*: The call of the *Louisiana Law Review* to pen a centennial gloss of Dean Paul M. Hebert's Law School touches me deeply. Dean Hebert hired me a fleeting generation ago. What dazzled me then, what dazzles me now, is Louisiana's civil law tradition—its Code, its scholars, the LSU Law faculty, our great library of books. Kate Wallach's sweet memory lingers.<sup>1</sup> When I arrived, I was in Bologna with its great doctors—Yiannopoulos was Justinian himself; Litvinoff, an Argentine Bartolus; Pascal, *Gaius Noster*.

Precious Joseph Dainow brought John Henry Wigmore's comparative spark to LSU Law.<sup>2</sup> I have the "Dainow

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\*\* Herodotus, *Prologues* to I THE HISTORIES 3 (Barnes & Noble Classics rev. ed. 2004) (George C. Macaulay trans., 1890).

1. Dean Hebert's *Dedication* quotes his letter to "Dear Kate" upon her retirement: "We have, as a result of your efforts, one of the outstanding research collections of the nation and this is especially true in the field of foreign, civil and comparative law." Paul M. Hebert, *Dedication*, 35 LA. L. REV. iv, v (1975). One of the great glories of LSU Law is our law library, our books, our librarians. All of this comes back to me when Kate Wallach smiles at me off the frontispiece of the dedication. See *id.* at iv.

2. Long before Yiannopoulos's seedling Louisiana Civil Law System coursebook, which nursed me in my youth, John Henry Wigmore extolled the virtues of comparative study of Louisiana's civil law system:

To the ordinary lawyer in one of our common-law States the jurisprudence of Louisiana is a mere rumor, an unprofitable subject, a matter of scantiest information . . . . Yet for this lack of appreciation there is no good reason. Few subjects so well reward attention as the unique position in American jurisprudence occupied by the law of

Code”—West’s Civil Code of Louisiana, Second Edition, 1961—in the museum of my office today, next to Jacques-Louis David’s portrait of Napoleon. My youthful exuberance persuaded Dean Hebert to allow me to teach the Louisiana Civil Law System course, always a riddle in the first year. I was anxious to make a top drawer Roman of myself. After a term or two, a visiting committee of Hebert, Pascal, and Dainow from the back bench turned thumbs down. Thereafter, I made myself a teacher, not of the Louisiana Civil Code, but of the United States Constitution.

Only because of the learning LSU Law School provides—universal learning Roscoe Pound recognized when the Old Law School was dedicated in 1938—do I see a link between the ways of François Géný in handling Napoleon’s *Code Civil* and the ways of Harry Blackmun in handling the United States Constitution. That has been LSU Law’s golden gift to me.

I owe much to Dean Hebert, to Bill Hawkland, to Chancellor Costonis. My colleagues, past and present, are a joy. A generation of law students has struggled to get to the bottom of the well with me in class. Their success is my great reward. Believe me, my emotions are deeply roused by the histories of LSU Law, 1906–2006.

B.1, 1 DEAN KELLY; TULLIS; BEUTEL. I did not know Joseph Kelly, our first Dean. His successor, Robert Lee Tullis, LL.B., Tulane 1887, carries us to 1934, in the midst of Franklin Roosevelt’s New Deal and an obstreperous Supreme Court. Tullis was forty-three when he joined the faculty. He died in 1955, at age ninety. He is a legendary figure still with us by way of the Tullis Moot Court Competition. Dean Hebert whispered in my ear that Dean Beutel, another ghost of our past, quit taking the bar examination, and not too deep into it, for fear of flunking. Thus, Dean Hebert cautioned me to study hard for the Louisiana bar examination. He was right.

1, 2 HARGRAVE’S HISTORIES. Professor W. Lee Hargrave’s fascinating book *LSU Law*<sup>3</sup> takes us up to 1977. It preserves the story of Dean Beutel’s boast that anyone could pass the Civil Code

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Louisiana, and the singularly interesting course of events which out of such varied material has given us the system of law now so much in contrast with the other systems of the Union.

John Henry Wigmore, *Louisiana: The Story of Its Jurisprudence*, 22 AM. L. REV. 890, 890 (1888).

3. W. Lee Hargrave, *LSU LAW: THE LOUISIANA STATE UNIVERSITY LAW SCHOOL FROM 1906 TO 1977* (2004). “For Dean Paul M. Hebert, a superb leader and Professor George W. Pugh, a great teacher.” *Id.* at v.

portions of the bar examination, of Beutel's busting out himself, of the story's accompanying lyric:

Tis said by some our boy was ill.  
Perhaps that was the case,  
But I for one, believe it was true  
That he quit to save his face.<sup>4</sup>

Lee Hargrave is LSU Law's Procopius, exposing its *anekdota*. Lee's book preserves his severe wit, his painstaking scholarship, his inviting portrait. It is his final centennial gift to us all.

1, 3 STATE LAW INSTITUTE; J. DENSON SMITH. Our Law School proudly houses the Louisiana State Law Institute. Its first Director, Professor J. Denson Smith, invited me to attend a meeting years ago. This was at the Monteleone Hotel in New Orleans. I marveled at it. I told Professor Smith ("Big Red") that I enjoyed myself. "You enjoyed us," he replied. Smith was a master of the Socratic method, predecessor of George Pugh and Wex Malone.

1, 4 COLONEL TUCKER. Colonel John H. Tucker, Jr., the State Law Institute's first President, lives on in the pages of the *Louisiana Law Review*. His portrait presides over the Tucker Room, gloriously refurbished, where our faculty meets. To my eye, here is our Hôtel Invalides—*le tombeau de l'Empereur*. "Most present in this place is the awe-evoking sense of human possibility, which is a different thing from hope."<sup>5</sup> The vital work of the State Law Institute keeps Louisiana's civil law up to date. Through it, our faculty stays in touch with the bar. Thus, as Dean Hebert envisioned, LSU's Law Center serves mankind's greater good through law. Louisiana's Civil Code endures, refreshed. And on its centennial, Paul M. Hebert's Law Center confidently turns its face to the globe.

1, 5 MASTER TEACHERS. But let me come back down to earth, to the classroom, to master teachers at LSU Law. Henry Politz described Dean Hebert as "The Tiger"—"when one sees a tiger come into the room it is not necessary for the tiger to roar to know it is there."<sup>6</sup> Before my time, Harriet Spiller ("Ma") Daggett, the first woman to achieve the rank of full professor in any accredited American law school, was captivating in the classroom—

4. *Id.* at 71.

5. Steven Englund, *Frisson to NAPOLEON: A POLITICAL LIFE* xiv (2004). Napoleon's Tomb, Hôtel des Invalides, Paris, is the frontispiece: "The abyss peers back." *Id.* at xii. Jim Bowers and Lucy McGough gave me this book: "Paul—France's answer to Holmes, to study while recuperating, Jan. 2004." I gave it in turn to Saul Litvinoff. It nursed us both back to health.

6. Hargrave, *supra* note 3, at 129.

“bombastic,” says Milton Harrison.<sup>7</sup> She taught here from 1926 until her retirement in 1961. Her book, *The Community Property System of Louisiana*,<sup>8</sup> is a paradigm of comparative scholarship. And without meaning to slight others, may I say that our colleague Katherine Shaw Spaht has succeeded Harriet Spiller Daggett magnificently. The reader may also recognize our Academic Vice-Chancellor Cheney Joseph as heir to Dale Bennett; Crawford to Smith; Maraist to Malone; and so forth. Litvinoff, of course, is *sui generis*. I once thought him either a genius or a fraud. He is the former, I am sure now. Thus, we come and go. I like to think that Mel Dakin and Hector Currie accompany me to my constitutional law classes. Both were courtly gentlemen of the old school. Thus, generation succeeds generation at LSU Law.

1, 6 GEORGE W. PUGH. Master teachers? My pick is George Willard Pugh. True, his federal courts class was known among students as—say it softly—“Pugh’s Mystery Hour.” But all recognize George Pugh as a master of the Socratic method, as LSU’s Samuel Williston. Why, here is a razor that cut Holmes’s *Polyblank* opinion to shreds while a Sterling Fellow at Yale Law School,<sup>9</sup> later to become Louisiana’s John Henry Wigmore by virtue of the Louisiana Code of Evidence,<sup>10</sup> of which George Pugh was masterful Reporter. George’s mind and spirit are sterling still. He retired in 1994, but I saw him (with Jean always) out of the corner of my eye this centennial fall term. He was guest of honor in Bernie Boudreaux’s criminal justice seminar, along with Chief Justice Calogero and Chief Judge Ginger Berrigan. The other day George Pugh and I had a good jaw over corn and crab soup at Parrain’s Seafood on Perkins Road. We talked about family first, LSU Law second. I told him that his backyard sausage grills (french bread, yellow mustard, beer) stick in memory. His students swarmed all over him. “It’s important for students to realize their professors are human.”

1, 7 TULLIS ON GRAMMAR AND SPELLING. One of my proudest boasts is that I succeeded George Pugh and Lee Hargrave in the law review seminar. For posterity, may I say we are trying to improve things at LSU Law. “The idea of students at a university being ignorant on the subjects of grammar and spelling! It should

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7. *Id.* at 88.

8. See Harriet S. Daggett, *THE COMMUNITY PROPERTY SYSTEM* (1931).

9. See George W. Pugh, *Historical Approach to the Doctrine of Sovereign Immunity*, 13 LA. L. REV. 476, 490–92 (1953).

10. See 1988 La. Acts No. 515.

be changed, it certainly should!”<sup>11</sup> This from Dean Tullis, circa 1918.

1, 8 LEGAL WRITING DEPARTMENT; MOOT COURT BOARD. Our Legal Writing Department’s professional upgrading is a centennial highlight. In 1935, under a heralded “modernization program,” the Student Moot Court Board was established. “Beutel’s announcement was typically boisterous—an ‘appellate moot court system, similar to those existing in all large universities, will be installed in the Louisiana State University Law School.’”<sup>12</sup>

1, 9 NATIONAL CHAMPIONS. Seventy years later, the Law Center’s centennial Moot Court teams brought national and international gold home to our trophy case. At the Paul M. Hebert Law Center, we like to think of ourselves as LSU National Champions, too.

B.2, 1 LAW REVIEW; HIGHLAND ROAD SUPREME COURT. The *Louisiana Law Review* dates from 1938, the year a scaled-down replica of the Supreme Court of the United States opened up on Highland Road. I recall Justice Sandra Day O’Connor’s visit to LSU Law: “Welcome home.” Architect Leon Weiss’s idea was prompted by Huey Long’s grand plans for LSU Law School. “Huey’s objective was to make LSU’s law program nationally recognized.”<sup>13</sup> He sought Wayne Morse, then at Oregon Law School. Morse declined on the ground that if Huey Long “could call me in the middle of the night to hire me, he could call me, also, in the middle of the night to fire me.”<sup>14</sup> Roscoe Pound’s article, *The Influence of the Civil Law in America*,<sup>15</sup> was read at the dedicatory symposium on April 8, 1938. Our venerable Professor Robert A. Pascal, who at 91 works daily in his Tucker Room office and paces our corridors with his head on straight (“I shoot trap on Wednesdays”), delights in recounting how he heard Roscoe Pound deliver his address live on the ascending steps off Highland Road.

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11. Hargrave, *supra* note 3, at 39. Professor Joseph Dainow, first faculty editor of the *Louisiana Law Review*, is mentioned in faculty minutes as urging “some action to require that students remedy deficiencies in English grammar, a cause he would maintain throughout his career.” *Id.* at 87 (citing Louisiana State University Law School, Faculty Minutes, Jan. 29, 1941).

12. *Id.* at 95.

13. *Id.* at 67.

14. *Id.*

15. Roscoe Pound, *The Influence of the Civil Law in America*, 1 LA. L. REV. 1 (1938).

The "Old Law School" is still with us—a Roman temple on Highland Road. Here is a living icon of our Romanist roots,<sup>16</sup> an umbilical cord to the "New Law Center" of my generation. Both are resuscitated, redesigned, and refurbished thanks to Governor Foster, Steve Perry, Cheney Joseph, Glenn Morris, and John Costonis, the latter, our architect as well as Chancellor, at the dawn of the twenty-first century.

2, 2 JUSTICE SCALIA. I recall hearing Justice Antonin Scalia of the Supreme Court of the United States at the rededication ceremony. He confessed error in thinking that a Supreme Court Justice is more important than a law teacher. He told us he knows better now. This sounded good to me and to Bill Hawkland, who sat with me in the hot sunshine of the Parade Ground.

2, 3 CHANCELLOR HAWKLAND. Bill Hawkland guided our Law Center humbly and miraculously through a lean decade. His Law Center Fellows' dinners at Nottoway sparked a new era of alumni support. Chaired professorships lifted our spirits. Justice Blackmun's dinner address at Nottoway: "Southerners on the Supreme Court," and Justice O'Connor's elegance will not be forgotten by alumni Fellows who responded to Bill's leadership. Bill's life was guided by what he called his "Rule of Serendipity"—take the opportunities life offers you, never fear where they may lead. Bill was lucky in life to have been Karl Llewellyn's research assistant at Columbia Law School. We are lucky in life that he shared his experience with us. I commend his twenty-third Tucker Lecture, *The Uniform Commercial Code and the Civil Codes*,<sup>17</sup> to centennial students who would care to know humility and greatness all of a piece. Professor Crawford has

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16. Chicago's great architect Louis Sullivan used to mock Roman temples on Monroe Street: "The Roman temple can no more exist in fact on Monroe Street, Chicago, U.S.A., than can Roman civilization exist there. Such a structure must of necessity be a simulacrum, a ghost." John J. Costonis, *Epilogue to ICONS AND ALIENS, LAW, AESTHETICS, AND ENVIRONMENTAL CHANGE* 115 (1989) (quoting Louis Sullivan, *KINDERGARTEN CHATS* 39 (Wittenborn, Schultz, New York rev. ed. 1947) (1918)). LSU Law's Highland Road Temple is hardly a ghost, be it noted; nor Louisiana's civil law a simulacrum.

17. William D. Hawkland, *The Uniform Commercial Code and the Civil Codes*, 56 LA. L. REV. 231 (1956). Hawkland's commercial law friend Boris Kozolchyk was our Visiting Professor of Law and Bailey Lecturer in Residence in the Spring of 1979. Kozolchyk's Tucker Lecture, delivered on March 22, 1979, *The Commercialization of Civil Law and the Civilization of Commercial Law*, 40 LA. L. REV. 3 (1979), brought to my mind the gentle mastery of Benjamin Cardozo, who appears along with Roscoe Pound in Volume 1, Issue 1, of the *Louisiana Law Review*. See Robert Lee Tullis, *Benjamin Nathan Cardozo: Jurist, Philosopher, Humanitarian*, 1 LA. L. REV. 147. The facing photograph of Cardozo catches a beautiful spirit.

recounted Bill's contributions as Chancellor and midwife of U.C.C. Article 9 into Louisiana law in an honorary symposium.<sup>18</sup> I would add that a "Bicentennial Live Oak," planted on the State Capitol grounds and celebrating 200 years of the United States Constitution, bears Louisiana Bicentennial Commissioner William D. Hawkland's name in bronze on a nearby granite marker. Bill Hawkland established our summer school in France. I wound up teaching constitutional law at Aix en Provence with Justice Harry A. Blackmun. Serendipity.

2, 4 *LAW REVIEW LIONS*. From Volume 1, Issue 1, through seventy years, the *Louisiana Law Review* is a portrait gallery of the intellectual personalities who have commanded these halls—the "Lions" of Hargrave's *History*. Here, you find a wondrous photograph of Robert Lee Tullis—June 10, 1864—February 26, 1955. The photograph is true to life: "He was an exemplar of rectitude, no less majestic than the law he loved."<sup>19</sup> Harriet Spiller Daggett's portrait shows up in a 1961 issue of the *Louisiana Law Review*.<sup>20</sup> Nina Nichols Pugh, whose recordings of faculty oral histories are a treasure, reports that Professor Daggett's portrait looks "ethereal," that she looks better than life, *sans* cigarette and nicotine stained fingers.<sup>21</sup> There is nothing new in this. Jacques Louis David knew how to depict his Emperor Napoleon. Other favorites? Dale Bennett's photograph catches his rounded face, his smile, his sweet manner.<sup>22</sup> The suit he is wearing is of another era. Dr. Bennett joined the law faculty in 1933. He was a star of the Law School's second generation. He wrote Louisiana's Criminal Code and its Code of Criminal Procedure. Students loved him. Dale Bennett always championed their cause. Professor J. Denson Smith's bold features are a powerful and glossy frontispiece, aside Dean Hebert's tribute:

In the realm of the intangible his impact will always be significant. Brilliant but humble, he has sought to build integrity and character in his students by precept and by example. He has been known as an exacting teacher who always treats students with scrupulous fairness.

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18. See generally William E. Crawford, *Foreword to William Dennis Hawkland: A Tribute*, 62 LA. L. REV. 991 (2002).

19. *In Memoriam*, 15 LA. L. REV. 507, 508 (1955).

20. See *Resolution of the Law School Faculty of Louisiana State University Honoring Professor Harriet Spiller Daggett in Connection with Her Retirement*, 21 LA. L. REV. 687 (1961).

21. Hargrave, *supra* note 3, at 157.

22. See *Professor Dale E. Bennett: A Dedication*, 36 LA. L. REV. iv, iv (1976).



Characteristic of the importance to the first year class is the fact that a percentage of failures is ever present. Yet students universally accept his rigid code of fairness. It is a tribute to Denson Smith that he stands high in the regard even of those students who have not made the grade in his courses.

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What he has done is too indelible ever to fade away.<sup>23</sup>

2, 5 WEX MALONE. His commanding photograph—thick dark glasses, broad forehead, eyes peering out at you—catches a giant figure of our past. *Ruminations on Tort Law: A Symposium in Honor of Wex Malone* features Alston Johnson reminiscing about “The Great Ruminator.”<sup>24</sup> Wex Malone’s accompanying photograph recalls to mind a conversation in his Tucker Room office, to which he had retired, about the possibility of a new tort of intentional interference with the relational interests of husband, wife, and obstetrician in the delivery room at Woman’s Hospital. Wex saw a creative analogy from the tort liability of funeral directors. But again, Dean Hebert was right: “You’ll have to be a magician to win that suit.” This was the *Baier Baby Case*,<sup>25</sup> of the Law Center’s not too secret *anekdota*.

2, 6 GEORGE WILLARD PUGH. Pugh—younger, but true to life—appears as a Socratic frontispiece to Lee Hargrave and Frank Maraist’s crisp, beautifully written, two pages.<sup>26</sup> “Memories of George Pugh as a teacher? Intense questioning, a ‘reverence’ for the facts, an enthusiasm for the law, and almost incredible knowledge of his subject. But not all work.”<sup>27</sup>

And, to bring us down to the present, the reader (if not my posterity) may want to inspect Doug Carmouche’s color glossy of yours truly, standing on the same ascending steps where Roscoe Pound faced Robert Pascal when the Old Law School was dedicated. There I am, framed between two Corinthian columns and crowned, as it were, by the faint overlay, “LAW.”<sup>28</sup>

23. Paul M. Hebert, *Dedication*, 33 LA. L. REV. i, iv (1973).

24. Alston Johnson, *Reminiscing About the Great Ruminator*, 44 LA. L. REV. 1167 (1984).

25. *Baier v. Woman’s Hosp. Found.*, 340 So. 2d 360 (La. App. 1st Cir. 1976), *writ refused*, 342 So. 2d 224 (La. 1977).

26. Lee Hargrave & Frank L. Maraist, *Retirement: George Willard Pugh, Julius B. Nachman Professor of Law*, 54 LA. L. REV. 489 (1994).

27. “His commitment inspired the new group of teachers that followed in his path. He has fostered our institutional memory as the custodian of our institutional common law.” *Id.* at 490.

28. Paul R. Baier, *On Being Knighted by the Louisiana Bar Foundation: Distinguished Professor 2004*, 65 LA. L. REV. 1159 (2005).

2,<sup>7</sup> JUDGE ALBERT TATE, JR. One last photograph misses its mark.<sup>29</sup> I mean Al Tate's green visor and his effusive sound effects. Justice Mack Barham's memorial tribute, *A Civilian for Our Times: Justice Albert Tate, Jr.*,<sup>30</sup> brings back glorious memories of the Appellate Judges' Conference at LSU Law and of NYU's Appellate Judges' Seminar at Washington Square, where miles from his beloved Ville Platte, Judge Tate, green visor plopped on his head, was scribbling away an article on Louisiana history. He was another amazing genius of our past. He saw how Gény's *Méthode* could be applied in handling Louisiana's Civil Code. Cardozo saw the same thing in constitutional interpretation in his immortal classic *The Nature of the Judicial Process*. Judge Tate urged me to come to LSU Law School. "You'll have fun," he told me. Al Tate was right. Because of Judge Tate's keen interest in the judicial process, I have followed him and Cueto-Rua in the same field of legal science ever since. Julio Cueto-Rua, another of our Argentine Doctors of Law, conducted a seminar for Louisiana's appellate judges in the early 1980s. They were dumbstruck by his brilliance. Julio's great book, *Judicial Methods of Interpretation of the Law*, keeps him with us.

B.3, 1 OUR INTELLECTUAL ARCHIVE. The *Louisiana Law Review* is not only a portrait gallery. It is also the archive of LSU Law's intellectual endeavor, its scholarship, its outpourings. Dean Hebert's *Editorial* in the first volume of the *Louisiana Law Review* indicates a policy favoring publication of articles on civil and comparative law.<sup>31</sup> "[W]ith common law influences pressing down on us from every side, the very existence of the juridical method of the civil law in Louisiana is seriously threatened," Hebert warned.<sup>32</sup> He looked to the *Law Review* to keep Louisiana's civilian flame alive. Looking back over seventy years, a sampling of its volumes shows the *Louisiana Law Review* has kept Dean Hebert's promise magnificently. Pound and John Henry Wigmore recognized the treasures of Louisiana's civil law heritage that our *Law Review* would cultivate. In this, the *Louisiana Law Review* is a worthy successor to Gustavus Schmidt's Volume 1, Issues 1 and 2, of the *Louisiana Law Journal*, of which Joseph Story, writing from Massachusetts, said:

29. Mack E. Barham, *In Memoriam*, 47 LA. L. REV. 920 (1987).

30. Mack E. Barham, *A Civilian for Our Times: Justice Albert Tate, Jr.*, 47 LA. L. REV. 929 (1987).

31. See Paul M. Hebert, *Editorial: The Law Review and the Law School*, 1 LA. L. REV. 157 (1938).

32. *Id.* at 158.

*Dear Sir*—I have just had the pleasure of receiving the first number of the Louisiana Law Journal, which you have so obligingly sent me. I hail it as an important addition to our juridical literature, and coming from that part of the Union whose jurisprudence presents the most valuable means of improving the science of the common law.<sup>33</sup>

Enter Joseph Dainow in the 1938–39 session, first faculty editor of the *Louisiana Law Review*. Enter the Old Law School's Justinian, A.N. Yiannopoulos—"Megas Yiannopoulos." His *Brokerage, Mandate, and Agency in Louisiana: Civilian Tradition and Modern Practice*,<sup>34</sup> is magisterial in command. Judge Tate's book review of François Gény's *Méthode d'Interpretation et Sources en Droit Privé Positif* tells the American judiciary of one of the civil law's crown jewels, translated into English by the Louisiana State Law Institute.<sup>35</sup> Thus, at LSU Law, Joseph Dainow and J. Denson Smith carried forward Wigmore's comparative masterpiece, *Science of Legal Method*.

Litvinoff shows himself Pothier in *Offer and Acceptance in Louisiana Law: A Comparative Analysis*.<sup>36</sup> Volume 33, Issue 3, is dedicated to Dr. Dainow, Chief Reporter for the *Compiled Edition of the Civil Codes of Louisiana*, published by the State Law Institute. The one-volume "Dainow Code" dates from 1947. You can have a centennial look at Joseph Dainow, first Director of the Institute of Civil Law Studies at Louisiana State University, opposite Dean Hebert's *Dedication*,<sup>37</sup> by turning back time to 1973. This was the same year that Justice Mack Barham lifted Theodora's veil, so to speak: *A Renaissance of the Civilian Tradition in Louisiana*.<sup>38</sup> Justice Barham was galvanic and a great

33. Letter from Joseph Story to Gustavus Schmidt (July 11, 1841), reprinted in 1 (2) LA. L.J. 158 (1841). Story is the great classical jurist of American law, of Massachusetts glory, Associate Justice of the Supreme Court of the United States, and Dane Professor of Law at the Harvard Law School. THE CENTENNIAL HISTORY OF THE HARVARD LAW SCHOOL, 1817–1917, at 10 (1918).

34. See A.N. Yiannopoulos, *Brokerage, Mandate, and Agency in Louisiana: Civilian Tradition and Modern Practice*, 19 LA. L. REV. 777 (1959).

35. Albert Tate, Jr., Book Review, *Method of Interpretation and Sources of Private Positive Law*, 25 LA. L. REV. 577 (1965) (La. State Law Inst. trans., 1965) (1963).

36. See Saul Litvinoff, *Offer and Acceptance in Louisiana Law: A Comparative Analysis Part I—Offer*, 28 LA. L. REV. 1 (1967).

37. See Hebert, *supra* note 23, at i.

38. Mack E. Barham, *A Renaissance of the Civilian Tradition in Louisiana*, 33 LA. L. REV. 357 (1973).

friend.<sup>39</sup> The 1974 and 1975 special issues feature the first four Tucker Lectures and Colonel Tucker himself, *Au delà du Code Civil, mais par le Code Civil*.<sup>40</sup>

I will never forget the gentle spirit of René David, his Tucker Lecture *The Civil Code in France Today*,<sup>41</sup> or his little book, *French Law*.<sup>42</sup> Those who heard Professor T.B. Smith's 1975 Tucker Lecture, *Law Reform in a Mixed "Civil Law" and "Common Law" Jurisdiction*,<sup>43</sup> will certainly remember Smith. Our Procopius Hargrave tells us: "A professor at the University of Edinburgh, he lectured wearing traditional kilts, and his lecture is remembered more for its style than its substance."<sup>44</sup>

As for substance, my pick in Joseph Dainow's two special issues is Julio Cueto-Rua's *Abuse of Rights*. We are told: "The civilian mind is a systematic mind, while the common law lawyer's mind is mainly analytical."<sup>45</sup> Here is an enduring centennial insight culled from the pages of the *Louisiana Law Review*.

3, 2 BARTOLUS OF SASSOFERRATO. Another favorite screed is *Bartolus of Sassoferrato* by Augusto P. Miceli.<sup>46</sup> It explains the glory of our Law School: *Nullus bonus jurista nisi sit Bartolista*. "There can be no good jurist unless he is a follower of Bartolus."<sup>47</sup> Let the centennial trumpets peal forth: "We follow Bartolus at LSU Law." A century of excellence in teaching boasts that we are followers indeed:

Bartolus always frankly expressed his views on the laws on which he was lecturing. He expressed admiration for useful laws, condemnation for poor or ill-conceived legislation and scorn for opinions which he considered

39. Our colleague Ken Murchison has pulled back a veil of his own through his keen portrayal of the artistry of Justice Tate, Justice Barham, and Chief Justice Dixon. See Kenneth M. Murchison, *The Judicial Revival of Louisiana's Civilian Tradition: A Surprising Triumph for the American Influence*, 49 LA. L. REV. 1 (1988).

40. John H. Tucker, Jr., *Au delà du Code Civil, mais par le Code Civil*, 34 LA. L. REV. 957 (1974) ("Beyond the Civil Code, but through the Civil Code.").

41. René David, *The Civil Code in France Today*, 34 LA. L. REV. 907 (1994).

42. René David, *FRENCH LAW, ITS SOURCES, STRUCTURE, METHODOLOGY* (Michael Kindred trans., 1972).

43. T.B. Smith, *Law Reform in a Mixed "Civil Law" and "Common Law" Jurisdiction*, 35 LA. L. REV. 927 (1975).

44. Hargrave, *supra* note 3, at 227.

45. Julio Cueto-Rua, *Abuse of Rights*, 35 LA. L. REV. 965, 970 (1975).

46. Augusto P. Miceli, *Bartolus of Sassoferrato*, 37 LA. L. REV. 1027 (1977).

47. *Id.* at 1027.

foolish. He frequently used the expression: "Sed Truffa est" (but this is nonsense). When he did not understand a law or its interpretation, Bartolus admitted it freely, and asked his students to supply suggestions.<sup>48</sup>

3, 3 CHIEF JUDGE BERRIGAN. Another *Forum Juridicum* column is Ginger Roberts's *Edward Livingston and American Penology*.<sup>49</sup> Our future Chief Judge Ginger Berrigan tells us: "To those who take seriously the role of citizenship, Livingston continues to be an inspiration."<sup>50</sup> Like Livingston, and through George Pugh, Chief Judge Berrigan is a centennial inspiration herself.

3, 4 PETER STEIN. A favorite visitor of the 1980s, and thereafter a friend, is Peter Stein, Regius Professor of Civil Law at the University of Cambridge. His 1985 Tucker Lecture, *Judge and Jurist in the Civil Law: A Historical Interpretation*,<sup>51</sup> graces the *Louisiana Law Review*. Peter is an elegant scholar who forages local eateries for tripe. My new fourth floor colleagues Andrea Carroll and Ronald Scalise, who teach the civil law system course in the first-year, wisely use Peter Stein's *Roman Law in European History* (the English translation from the German).

3, 5 ROMAN BANQUET. The mid-1990s feature a Roman banquet, a Justinian dinner party: *The Romanist Tradition in Louisiana: Legislation, Jurisprudence, and Doctrine: A Symposium*.<sup>52</sup> Our lost colleague Symeon Symeonides's *Introduction, One Day in the Life of Louisiana Law*,<sup>53</sup> makes me long for him as of old. The fraternity of the Law Center, however distant our offices, rings down the corridors of time.

3, 6 HEBERT'S PROPHECY. The twenty-first century comes in with Professor Kathryn Venturatos Lorio's Tucker Lecture, *The Louisiana Civil Law Tradition: Archaic or Prophetic in the Twenty-First Century?*<sup>54</sup> Kathryn is of the Loyola University (New Orleans) Law School. So was Paul M. Hebert in his earliest teaching.

48. *Id.* at 1034.

49. Ginger Roberts, *Edward Livingston and American Penology*, 37 LA. L. REV. 1037 (1977).

50. *Id.* at 1037.

51. Peter Stein, *Judge and Jurist in the Civil Law: A Historical Interpretation*, 46 LA. L. REV. 241 (1985).

52. This symposium appears in Volume 56, Issue 2 of the *Louisiana Law Review*.

53. Symeon C. Symeonides, *An Introduction to "The Romanist Tradition in Louisiana": One Day in the Life of Louisiana Law*, 56 LA. L. REV. 249 (1995).

54. Kathryn Venturatos Lorio, *The Louisiana Civil Law Tradition: Archaic or Prophetic in the Twenty-First Century?*, 63 LA. L. REV. 1 (2002).

I daresay Paul Hebert knew the Louisiana civil law tradition was prophetic for American law. His *Editorial* in the 1953–54 volume of the *Louisiana Law Review* proudly quotes what Dean Erwin N. Griswold of the Harvard Law School told a Chicago conference of legal educators in December 1952:

He pointed out the multiplication of cases will lead to renewed emphasis on theory which for our common law jurisdictions will “result in a more generalized approach toward law, bringing our system closer to the civil law system, derived from Roman law, though without anything like abandonment of the common law approach.”<sup>55</sup>

3, 7 M. LEVASSEUR. Alain Levasseur’s historical sensibility continues Dean Hebert’s founding prescription for the *Louisiana Law Review*. Levasseur, *mon cher collègue*, is our resident French *Jurisconsult*, Director of our Center for European Studies, and my personal trainer in French. We owe to his industry, and to his contributing authors, a magisterial symposium, *Louisiana Bicentenary: A Fusion of Legal Cultures 1803–2003*.<sup>56</sup>

B.4, 1 *DROIT PUBLIC*. And what of *Droit Public*? Our Highland Road Roman temple is also a symbol of public law, of the United States Constitution and Louisiana’s Criminal Code, to mention only two of its columns. They are wholly legitimate heirs in this place.

The Louisiana Criminal Code is the brainchild of Dale Bennett, from Crooksville, Ohio, amazingly!<sup>57</sup> He was a follower of Edward Livingston who got the Code done. In public law, therefore, first in our intellectual archive is Dale E. Bennett, *The Louisiana Criminal Code*.<sup>58</sup> These were World War II years and the *Louisiana Law Review* was thinner. George Pugh’s doctoral thesis at Yale Law School, *Historical Approach to the Doctrine of Sovereign Immunity*<sup>59</sup> is pure Pugh.

55. Paul M. Hebert, *Editorial: The Law School and Legal Education*, 14 LA. L. REV. 3, 9 (1953) (quoting Erwin N. Griswold, *The Future of Legal Education*, Address to the Conference on the Profession of Law and Legal Education (Dec. 4, 1952)).

56. This symposium appears in Volume 63, Issue 4 of the *Louisiana Law Review*.

57. Hargrave, *supra* note 3, at 80.

58. See Dale E. Bennett, *The Louisiana Criminal Code: A Comparison with Prior Louisiana Criminal Law*, 5 LA. L. REV. 6 (1942).

59. George Pugh, *Historical Approach to the Doctrine of Sovereign Immunity*, 13 LA. L. REV. 476 (1953).

He cross-examines Holmes as if in class.<sup>60</sup> I managed to put Holmes's Civil War enemy Ned White into the *Louisiana Law Review* in the 1980s<sup>61</sup> with a color photograph of the Rosenthal portrait of Chief Justice White courtesy of the Supreme Court Historical Society. When Chief Justice Warren E. Burger visited LSU Law Center in 1987 to deliver an Edward Douglass White Lecture,<sup>62</sup> he was impressed with White's portrait, as well as our spacious faculty offices, which he saw before the restoration of the Law School. "Have you seen the cubicles at NYU," he exclaimed!

4, 2 JUSTICE OLIVER WENDELL HOLMES. As an antidote to Pugh's taking Holmes apart, I made O. W. H., Jr., a centerpiece of honors law at LSU.<sup>63</sup> *Mea culpa*.

4, 3 LOUISIANA CONSTITUTIONAL LAW. *State Constitutional Law: A Tribute to Lee Hargrave*<sup>64</sup> carries Katherine Spaht's loving dedication and an ethereal photograph of Procopius himself, strangely without a photo credit to Rocky Perkins, a slip Lee's book corrects. Not to be left out, Lee Hargrave contributes to his own symposium: *Limits on Borrowing and Donations in the Louisiana Constitution of 1975*.<sup>65</sup> I cited Justice Dennis's contribution, *Judicial Power and the Administrative State*,<sup>66</sup> in an

60. Professor Pugh queries:

Justice Holmes of course admits that the sovereign is not immune from suit when it has consented to be sued. But what is created when the sovereign so consents? Is not a right thereby created? Is it not a legal right? If so, whom is it against? Is it not in fact a "legal right as against the authority that makes the law on which the right depends"? Yet Justice Holmes states as a universal rule that on a "logical" ground, there can be no such right.

*Id.* at 491.

61. See Paul R. Baier, *Edward Douglass White: Frame for a Portrait*, 43 LA. L. REV. 999 (1983).

62. Warren E. Burger, John Marshall and the Origins of Judicial Review, Address at the Louisiana State University Union Theater (Mar. 15–16, 1987). Earlier, Justice William H. Rehnquist, who succeeded Warren Burger as Chief Justice, delivered Edward Douglass White Lectures, *Lions Under the Throne*, Address at the Louisiana State University Union Theater (Mar. 10–11, 1983). Their lectures are preserved in print. See *LIONS UNDER THE THRONE: THE SUPREME COURT IN THE MIRROR OF CHIEF JUSTICES* (Paul R. Baier ed., Louisiana Bar Foundation 1995).

63. Paul R. Baier, *Holmes and Honors Law at LSU—From the Great Hall to La Maison Française*, 63 LA. L. REV. 53 (2003).

64. Katherine Shaw Spaht, *Dedication of Louisiana Law Review, Volume 62, Issue 1, to Professor Lee Hargrave*, 62 LA. L. REV. 1 (2001).

65. Lee Hargrave, *Limits on Borrowing and Donations in the Louisiana Constitution of 1975*, 62 LA. L. REV. 137 (2001).

66. James Dennis, *Judicial Power and the Administrative State*, 62 LA. L. REV. 59 (2001).

amicus brief filed in the Louisiana Supreme Court. I am afraid the court paid no attention to my brief.<sup>67</sup> *Mea maxima culpa.*

4, 4 DEAN HEBERT JUDGES NUREMBERG. And I want to mention the centennial contribution to the *Louisiana Law Review* of my new Argentine colleague, by way of Germany, Alberto Zuppi, a scholar of public international law. To him, we owe Dean Hebert's return home from judging at Nuremberg, the War Crimes tribunals, prosecuted by Mr. Justice Jackson while he was on leave. Another prophetic moment: *Slave Labor in Nuremberg's I.G. Farben Case: The Lonely Voice of Paul M. Hebert.*<sup>68</sup>

B.5, 1 OF BRONZE AND BRICKS; THE RESTORATION. The centennial restoration of the Law Center is Chancellor Costonis's great legacy. Our connected buildings, the Old Law School of 1936 and the "new" building of 1969, have changed dramatically, almost overnight it seems. The McKernan Auditorium, off Highland Road, is restored to past glory. Up the breezeway, students chatter in their new lounge, draped by Jules and Frances Landry's art glass, a touch of Byzantium. Escalators carry us to and fro, easing traffic. On the second floor, Dean Tullis and Ira Flory greet you. The lustrous walnut, the hand-carved bench, the judicial alumni of the Robinson Courtroom duly impress. Plaques listing Tucker lecturers, Edward Douglass White lecturers, and Tullis Moot Court champions keep our memory alive. "I think it a noble and pious thing to do whatever we may by written word and molded bronze and sculptured stone to keep our memories, our reverence, and our love alive and to hand them on to new generations all too ready to forget."<sup>69</sup>

5, 2 BOUGERE-BUSENLENER CLASSROOM. On the ground level, our restored classrooms are amphitheatres fit for Langdell Hall. A bronze roster of the law faculty from 1906—forward adorns the foyer. The Bougere-Busenlener classroom is a showcase of twenty-first century educational gadgetry. Here, truly, is the heart of LSU Law—the classroom, the students, the faculty. "A teacher affects eternity; [s]he can never tell where h[er] influence stops."<sup>70</sup>

5, 3 CHANCELLOR'S SUITE. The Chancellor's Suite is now on the fourth floor. Portraiture, distinguished alumni, trustees, and professorships line the walls. Our past is a stroll down the

67. See *Wooley v. State Farm Fire & Cas. Ins. Co.*, 893 So. 2d 746 (La. 2005).

68. See Alberto Zuppi, *Slave Labor in Nuremberg's I.G. Farben Case: The Lonely Voice of Paul M. Hebert*, 66 LA. L. REV. 495 (2006).

69. Oliver Wendell Holmes, Jr., *Ipswich, At the Unveiling of Memorial Tablets*, in THE OCCASIONAL SPEECHES OF JUSTICE OLIVER WENDELL HOLMES 136 (M.D. Howe ed., 1962).

70. Henry Adams, THE EDUCATION OF HENRY ADAMS 300 (1931).



Chancellor's corridor. You pass Dean Kelly, Dean Beutel, Chancellor Hawkland. The faces of our history are etched in bronze: Harriet Daggett, J. Denson Smith, Dale Bennett, Wex Malone, Judge Albert Tate, Jr., Alvin and Janice Rubin, Senator Russell Long, and three-score other of our alumni. "Stretch across the reaching dark: here, scholars chat across the centuries; pull up a chair."<sup>71</sup> Dean Hebert's portrait is magically retouched. His Legion of Merit lapel pin catches the eye. The Hebert portrait guards the portals of the Chancellor's Suite with its LSU brass door knob, its etched-glass egrets, and its wooden inlay of the State's pelican feeding her young.

5, 4 GOVERNOR FOSTER'S RESOLUTIONS. Here a visitor finds Governor Foster's resolutions, October 23, 2003, proclaiming the restoration:

NOW, THEREFORE, I, M. J. "Mike" Foster, Jr., Governor of the state of Louisiana, do hereby commend (posthumously) Dean Paul M. Hebert for his dedicated service to Louisiana State University and the people of Louisiana. This beautifully restored Paul M. Hebert Law Center shall serve as a continuous reminder of the educational and ethical ideals of the great man for whom this institution is named.

The Restoration Day brochure is a triumph of public relations gloss and reality. "We shape our buildings; afterwards our buildings shape us." The classical architecture of Huey Long's Supreme Court on Highland Road appears beneath the flyleaf. Rededication brought Justice Antonin Scalia to the LSU Parade Ground. To my eye, Justinian joined us. His Court was our backdrop.

The Program of the Golden Anniversary Celebration of the Law School, 1906–1956, also brought Justinian to Highland Road, an excerpt from Dean Tullis's 1908 address, "The Mission of a Louisiana Law School":

That mission is, not to exercise the faculties of its students with mere conning of texts and statutes; not to send forth only the trained artisans of a craft, to strive for material rewards; but to fulfill the purpose which the citizens of an American state may well proclaim, in the words of Justinian's directions to the professors of the law:

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71. This passage is taken from "On Reading Law," a poem by Janice Rubin, inscribed on the Rubin bronze.

“Begin, then, to instruct, with the guidance of God, your scholars in the science of the law, and guide them in the way we have opened, to the end that they may be made worthy ministers of justice and of the Republic.”<sup>72</sup>

5, 5 CENTENNIAL PLAZA; RUSSELL LONG MEMORIAL FOUNTAIN. Our Centennial Plaza is another Costonis triumph. Drake Elms promise shade. Senator Russell Long’s bronze sits lifelike on the edge of a marble fountain.<sup>73</sup> Gurgling waters cool summer heat. Joseph Ryan LoProto’s magnolia grows sturdy. Faculty and students mingle. Our spirit is refreshed. “This school has turned into the Law Center I always wanted when I was a student.” Mass attrition is a thing of the past. Higher admission standards, smaller classes, and the bi-jural double degree are all centennial cornerstones.

5, 6 RUSSELL B. LONG EMINENT SCHOLARS CHAIR. Senator Russell Long’s great gift of his Eminent Scholars Chair brings Professor Olivier Moreteau to us, a worthy successor to Litvinoff The Incomparable. Doubtless, the Center of Civil Law Studies will blossom *les fleurs bi-jural*.

B.2006, 1 THE GLORY OF ROME. The year of our centennial, high atop the fourth floor, Chancellor Costonis tells the world we are no longer the orphan child of American law. We are the glory of Rome. I think of what Chief Justice Hughes said: “An institution takes its tone from the top.” John Costonis’s Centennial Plaza welcomes the world to LSU Law.

2006, 2 ISIDOROS COSTONIS. In short, John Costonis is our Isidoros—Constantinople builder of Hagia Sophia, co-architect of Justinian. After Justinian comes Huey Long. To repeat Hargrave’s *Histories*: “Huey’s objective was to make LSU’s law program nationally recognized.”<sup>74</sup> Let our centennial trumpets peal, John Costonis has built upon our past well. “Our identity comprehends the past but is not completed by it. We must take care that icons become not barriers but bridges to whatever lies ahead.”<sup>75</sup>

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72. *Proceedings of the Golden Anniversary Celebration of the Louisiana State University Law School, November 16, 1956*, 17 LA. L. REV. 505, 508 (1957).

73. Senator Long said of Professor J. Denson Smith:

After I reached the Senate I soon found out that if one could attend the L.S.U. Law School and keep Professor J. Denson Smith from finding out how ignorant he really is, one would have little difficulty as a new Senator in performing the same sort of task in the United States Senate.

Hargrave, *supra* note 3, at 80.

74. *Id.* at 67.

75. Costonis, *supra* note 16, at 115.

2006, 3 COLONEL PRESCOTT. Fifty years ago, Dean Hebert hosted our golden anniversary at LSU Law School. He recited the founding idea of Colonel Prescott. It was Prescott's idea to establish a law school within the University. President Thomas D. Boyd's 1904 report to the Board of Supervisors heartily endorses the idea. Thus, our founder is Colonel Arthur T. Prescott. What did he teach? Guess—constitutional law!

2006, 4 THE REWARDS OF TEACHING. Our centennial inquiry concludes with the LSU Board of Supervisors' resolution in memory of Harriet Spiller Daggett, who died on July 22, 1966. One line from the resolution is a centennial pennon for those who are to come: "It has been said that the rewards of a life of teaching include the sight of a professor surrounded by groups of students, both young and old, but that this reward comes only to those whose hearts are true and warm."<sup>76</sup>

EPILOGUE, ACTS OF 1806. As we celebrate our centennial, Herodotus reminds us how 200 years ago the Legislative Council of the Territory of Orleans passed "An Act Declaring the Laws Which Continue to Be in Force." Governor Claiborne, who championed the common law, vetoed the Act. Legislators resigned *en masse*. The Legislative Council dissolved itself. What was the cause for which these waged war with one another? In a tight paragraph of the Act of 1806, one name stands out. The name?—"Justinian."<sup>77</sup>

On this, the centennial of the Paul M. Hebert Law Center, we also celebrate the bicentennial of the royal purple, of the gold, of Justinian. Two hundred years ago, his foot touched the Port of Orleans.

*Salve Justinianus!*

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76. *In Memoriam: Harriet Spiller Daggett 1891-1966*, 27 LA. L. REV. 1, 4 (1966).

77. Symeonides, *supra* note 53, at 252:

[T]he laws which remain in force, and those which can be recurred to as authorities in the tribunals of this Territory . . . are the laws and authorities following to wit:

1°. The [R]oman Civil Code, as being the foundation of the [S]panish law, by which this country was governed before its cession to France and to the United States, which is composed of the institutes, digest and code of the emperor Justinian . . . .