

LOUISIANA'S UNIQUE ADJUNCT TO LAW SCHOOL TRAINING

J. DENSON SMITH*

The Louisiana State Law Institute is described in its legislative charter as an "official advisory law revision commission, law reform agency and legal research agency" of the State of Louisiana.¹ Since its organization in 1938, it has produced reprints of the *Projets* of the Louisiana Civil Code and Code of Practice of 1825; a Compiled Edition of the Civil Codes, including the Codes of 1808 and 1825, the Revised Civil Code of 1870, and corresponding articles or provisions of the Code Napoleon; a volume containing a compilation of statutes related to the provisions of the Civil Code; a modern Criminal Code; and proposed statutes dealing with a number of subjects, including a comprehensive non-profit corporation act. It has completed the translation of the first volume of Planiol's *Traité Élémentaire de Droit Civil* and is hopeful of being able to resume work on this project at an early date. For the past two years it has been engaged in making a complete revision of the Louisiana General Statutes, and in preparing a draft or project of a new constitution for Louisiana. Both of these projects should be completed in 1949. It has also undertaken, at the request of the Louisiana State Bar Association, a thorough review of the mineral law looking toward needed improvements. The Institute's major effort for the foreseeable future has been directed by an act of the Legislature of 1948 instructing it to undertake the revision of the Louisiana Civil Code and Code of Practice.²

The Institute has a general membership of several hundred, composed of all judges of the state and federal courts in Louisiana, 150 selected practicing attorneys, all members of the law faculties of the Louisiana State University, Loyola University of the South, and Tulane University, and all members of the state legislature licensed to practice law in Louisiana. Its governing authority is vested in a much smaller group denominated the Council. The Council is made up of a representative of each of the several kinds of courts in Louisiana, the Attorney General, the executive counsel to the governor, the president of the Louisiana State Bar Association, the Louisiana members of the Council of the American Law Institute, the chairman of each of the judiciary committees of the Senate and House of Representatives, the dean and three additional representatives from each of the three accredited Louisiana law schools, and fifteen members of the bar. The officers of the Institute, who are ex-officio members of the Council, include a president, two vice-presidents, a secretary and assistant secretary, a treasurer, and a director and assistant director.

Although the appointment of a full-time director is envisaged, until the present time this office, as well as that of assistant director, has been held by a member of the faculty of the Louisiana State University Law School.

* Professor of Law, Louisiana State University; Director, Louisiana State Law Institute.

¹ La.Act 166 of 1938.

² La.Act 335 of 1948.

In addition to its official attributes, the Institute has served as a very significant medium affording unique facilities and opportunities for undergraduate and post-graduate training of law students in legal research, analysis, and writing, with particular emphasis on statutory drafting, and in the formulation and exposition of ideas. These functions have developed as a consequence of the composition of the Institute and the procedures it has adopted for discharging the mandates that have been directed to it, from time to time, by the legislature.

In adopting a method of procedure for the discharge of its duties, the Institute was guided in part by the experience of the American Law Institute. Having a given project to accomplish, the normal procedure calls for the appointment of a reporter or reporters, an adequate number of research assistants, and advisory groups of specially qualified members of the profession to direct and initially review the work of the reporters.

The organizational arrangement for preparing a *projet* of a new constitution was varied somewhat. The work of drafting was assigned to seven subcommittees, each having responsibility for certain titles. Certain of the subcommittees were afforded the specialized assistance of advisory committees on important and particular subjects such as education. A complete research service was provided by the creation of a research staff headed by a director of research. The staff is composed almost entirely of either students enrolled in the law school or students who have elected government as a field of concentration.

Because of the greater opportunity for organized and continuous research and writing enjoyed by the law schools, the selection of reporters has been confined almost entirely to the members of the Tulane, Loyola, and Louisiana State University law faculties. By way of illustration, for the Compiled Edition of the Civil Codes one reporter was chosen, for the preparation of the draft of a criminal code three were appointed, one from each of the three law faculties, and for the work of revising the Louisiana General Statutes, nine reporters and a co-ordinator were selected.

As their research assistants the reporters customarily choose either law students of proved capabilities or recent law graduates. The assistants are usually held responsible for all necessary research, including the preparation of reports thereon, the confection of preliminary drafts of proposed statutes, articles, or provisions, and sometimes final drafts subject to instructions given. In connection with the work of revising the general statutes the research assistants, in the course of examining, comparing, and correlating existing statutes, have been called upon to make extensive editorial and stylistic changes, to determine and resolve inconsistencies and incongruities and remove redundancies, and to consolidate existing statutes into single redrafts. In their work on the Constitution project they have produced more than seventy-three studies ranging from constitutional problems of fundamental significance to those largely statistical in nature.

When the reporters are called upon to submit the product of their labors, their reports, after being submitted to the proper advisory committee for review, are presented to the Council of the Institute. The reports may be made by the reporters personally, or, as has been frequently the case with the revised statutes project, may be made by the research assistants who have

done the actual work. Even if the assistant does not present the report, he will be present and prepared to make any explanations that may be requested, or to give the benefit of his research and study not reflected in the report proper. The reports, as presented, are subjected to the very careful scrutiny of the Council as to language, style, and substance. Full discussion and exchange of views are stimulated by conducting the sessions of the Council without undue formality. In this fashion the assistants have the benefit of detailed criticism of their efforts by a group possessing special and varied qualifications, and are encouraged to explain and defend their points of view. They thus have the opportunity to observe and compare the reactions and beliefs of judges, practitioners, specialists, and law instructors, and to gain invaluable experience in oral presentation and argument. They learn wherein their work is deficient and how it can be improved, and receive on-the-spot instruction in method and detail against a background that assures understanding of the reasons underlying the action taken.

Students whose draftsmanship and the product of whose research have been subjected to this type of critical appraisal while the issues are very much alive, and who are called upon to take the necessary corrective action, receive a quality of training the opportunity for which can be made available only through work of this character. The sessions of the Council afford an especially effective medium for practical training in skills the development of which cannot be adequately assured by standard law instruction as offered in the schools. From the ranks of the assistants should come members of the legal profession uniquely schooled in the art of statutory draftsmanship, interpretation, and construction, in the possibilities of effective research, and in the niceties of language, its subtleties of meaning, its pitfalls and its limitations. Training of this type will necessarily be reflected in carefully drawn, concise yet adequate pleadings and briefs. It will also assure a greatly enhanced ability to read and understand, accurately and with discrimination, statutes and related rulings and regulations, court opinions, contracts, pleadings, and all other writings of legal importance and concern, and to express argument and opinion clearly and succinctly.

Preliminary and exploratory meetings are now being held concerning the proposed *Projets* of a Civil Code and a Code of Practice. Fortunate will be the students who are selected to participate in these important projects. In many respects these subjects will involve more intimately their service as future practicing lawyers than any of the projects that have gone before. Although in the course of the work, which will perhaps require many years of effort, the assistants will from time to time graduate and enter the practice of law, their work on the codes will have given them a degree of understanding of these basic works and will have generated an interest the intimacy and influence of which will never be completely lost.

The work of the Institute is sustained by legislative appropriation. Reporters receive by way of compensation only a nominal honorarium. Research assistants are paid in accordance with their status as part-time student assistants or full-time graduates. Experience and length of service are taken into account. Likewise, the stipends payable by the schools for work of a similar nature are given consideration in order that the affairs of the Institute may not occupy a place more favorable than similar law school op-

portunities for remunerative employment. The members of the Council of the Institute serve without pay.

From this type of concentrated effort, participated in by representatives of all levels of legal endeavor—judges, general practitioners, legal specialists, instructors, and students—the State secures, at a truly nominal cost, improvements in its system of law that constitute the product of extensive research, thorough analysis, detailed discussion, and carefully reviewed draftmanship. And while this product is being produced, an investment of immeasurable significance is being made in its future public servants, not to mention the benefits received by all who have participated in the endeavor. Indeed, to the judge and practitioner, meetings of this kind provide a clinic for post-graduate instruction of a high order.

The Louisiana State Law Institute thus serves as an important adjunct to the law schools in the training of students along lines that must largely be neglected in the regular curriculum. And it does this with peculiar effectiveness because of the active participation of members of the bench and bar in its work. In this respect its significance is at least equal to that of law review activities as a medium for specialized training in legal writing and research. In establishing and supporting the Institute the State of Louisiana has incidentally created a facility of great potentiality in its program of education for the profession of law.