Between Colony and State
LOUISIANA
IN THE TERRITORIAL PERIOD
1803-1812

The Historic New Orleans Collection
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AN EXHIBITION
September 30, 2009–May 2, 2010

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New Orleans Collection
The history we live differs from the history we write. Viewed in retrospect, history resolves into a series of watershed episodes and clearly demarcated epochs. Hindsight tempts historians to organize events in an intelligible—and comforting—way, a chronological sequence of cause and effect. But history, as lived, is replete with messy details. Disorder is the engine of historical change, complexity the keynote of historical analysis. With this exhibition, *Between Colony and State: Louisiana in the Territorial Period, 1803–1812*, the curators embrace the chaos of a transformative era.

The date markers that stake out the territorial period are precise: December 20, 1803, and April 30, 1812. The first denotes the transfer of the former French colony of Louisiana to the United States, the latter the entrance into the Union of the state of Louisiana. Very little about the intervening period can be summarized with similar precision. *Between Colony and State* offers a thematic survey of the unfolding drama: the clash of agendas, the swelling of population, and the striving of different cultural groups for prominence (and survival). In the end, we learn as much from those themes that remain unresolved as we do from those that teach clear lessons. The alliances created, destroyed, and rejoined in the territorial period foreshadow many of the cultural conflicts of modern Louisiana history.
in flux: three written languages (French, Spanish, and English) were in common use, and the dominance of the Catholic population would soon be challenged by citizens who practiced other faiths. Some residents of the territory pressed for immediate statehood, while others advocated independence from the United States. Indeed, the viability of the United States of America remained in question throughout this period. Unsettled boundary claims with Spain (including the de facto annexation of West Florida in 1810) and rumblings of war with Great Britain were persistent cause for concern.

And yet day-to-day life went on. The city expanded through the addition of suburbs. Émigrés from the former French colony of St. Domingue, some 10,000 strong, reinvigorated the area’s Gallic disposition. The performing arts thrived in theaters and playhouses, and governmental structures and the legal system began to take shape. Port activities provided a constant commercial hum in the background.

Items on display were chosen, whenever possible, to reflect the multiple perspectives that characterized life in the territory. Attitudes toward slavery, security, and economic development differed radically across the region. Even those groups that had no official voices—Native Americans, slaves, and women of all colors and ethnicities—could exert occasional influence through “back channel” efforts. Throughout the exhibition, representative historical figures have been selected to symbolize particular viewpoints or constituencies.

Internal discord complicated the path to statehood. Debates over property—the right to land previously granted, the right to import slaves—proved particularly contentious. Cultural identity remained

Louisiana’s first constitution was drafted in convention at New Orleans and signed on January 22, 1812, by the convention’s president, Julien Poydras, and its secretary, Eligius Fromentin. The document (composed in French as well as English) also bore the signatures of 41 delegates representing the territory’s 12 counties. The surnames of these signers—Marigny, Watkins, Prud’homme, and Wikoff, to list but a few—imply a mosaic of different backgrounds, perspectives, and priorities. Consensus could not have been easy, but it was achieved. Within four months of the convention, Louisiana became the Union’s 18th member. Between Colony and State emphasizes the creative tension that existed in the territory of Orleans, ultimately yielding the multicultural, multifaceted territory known as Louisiana today.

— John T. Magill, Pamela D. Arceneaux, and John H. Lawrence
Exhibition Curators
As the boundaries of empire and state shift over time, so too do linguistic norms. The territory mapped in this exhibition has been known by a variety of names, including Louisiana, la Louisiane, and la Luisiana. The following summary traces the history of the linguistic labels applied to the territory in its various forms between 1683 and 1819.

La Louisiane is the term most often used to describe the North American colony under French governance. The name first appeared on maps in 1683, a year after René-Robert Cavelier, sieur de la Salle, claimed the Mississippi valley in the name of Louis XIV. Louisiana under France was a colony with poorly defined boundaries to the east and west. Cartographers wishing to promote French hegemony in North America showed la Louisiane extending from Canada to the Gulf of Mexico and from the Appalachian Mountains to the Pacific Ocean, though this may seem preposterous in light of British and Spanish holdings to the east and west.

In 1762 France ceded la Louisiane to Spain, its ally in the Seven Years' War, and la Luisiana remained a Spanish colony through 1800, when it was returned to France via the secret treaty of San Ildefonso. Spanish administration persisted, however, for a three-year span during which the colony was la Luisiana in practice and la Louisiane in fact. The ratification of the Louisiana Purchase Treaty, on October 20, 1803, brought this period of indeterminacy to an end. On November 30, at a transfer ceremony in New Orleans, Spain formally retroceded the colony to France; less than three weeks later, on December 20, a second ceremony transferred possession to the United States.

In the immediate aftermath of the 1803 Purchase, the entire territory ceded by France was known as the Louisiana Territory. American administrators quickly adopted more precise designations, dividing the vast territory into Lower Louisiana (the lands below the confluence of the Mississippi and Ohio rivers) and Upper Louisiana. Then, in 1804, the U.S. Congress carved the territory of Orleans from Lower Louisiana as a separate governmental entity. This territory roughly conforms to the contours of today’s state of Louisiana, admitted to the Union in 1812. However, boundary disputes endured until 1819, when the United States and Spain signed the Adams-Onís Treaty, fixing the state’s southwestern limits.

The remainder of the Louisiana Purchase territory became the District of Louisiana following the creation of the territory of Orleans. Later, after Louisiana’s assumption of statehood in 1812, this district was renamed the Missouri Territory.
LOUISIANA
Commission for William C. C. Claiborne
granting him temporary powers
as general governor and intendant
of the province of Louisiana
October 31, 1803
by Thomas Jefferson, author
Twenty days after officially assuming possession of Louisiana for Napoleon's France, Pierre Clément Laussat transferred the property to William Charles Cole Claiborne and General James Wilkinson, agents of the United States appointed by President Thomas Jefferson.

With the purchase of Louisiana, President Jefferson faced the challenging task of selecting a leader capable of integrating a population whose language, political customs, and religion differed greatly from those of the majority of the American populace. The capacity to guide Louisiana's inhabitants toward a political landscape that was more representative of the emerging American model was a fundamental component of Jefferson's expectations for the incoming governor. Yet despite repeated attempts to appoint an experienced leader, Jefferson failed to convince any of his preferred candidates (including James Monroe and Revolutionary War hero the Marquis de Lafayette) of the political gains to be had from entering what were essentially the uncharted waters of American colonization.

Instead, Jefferson granted an appointment as governor of the Purchase territory to the 28-year-old Claiborne, then serving as governor of nearby Mississippi Territory. The commission was intended to be a temporary one, until Jefferson managed to coax a more qualified candidate into accepting the post. The most important political appointment of William Claiborne's career, then, resulted not from any remarkable display of leadership skills but rather from the convenience of his being “on the spot.” Jefferson continued to search for a more suitable, and preferably French-speaking, candidate until 1807, when it appears he resigned himself to Claiborne's permanency.

During Claiborne's tenure as territorial governor, he made political opponents of several influential Anglo-Americans, including Edward Livingston, Daniel Clark, and James Workman. But his marriages to well-connected Louisiana natives Clarissa Duralde of Attakapas (who died in 1809 of yellow fever) and Cayetena Susanna Bosque y Fangui of New Orleans, and his swift suppression of the 1811 slave uprising along the German Coast, improved his standing. Claiborne's appointment was renewed each year until 1812, when the governor won a sizable majority in a race against native Jacques Villeré to become the state of Louisiana's first elected governor.
Exploring the Territory

The Corps of Discovery, the name given to the expedition led by Meriwether Lewis (President Thomas Jefferson’s personal secretary) and William Clark (a retired U.S. Army captain), is the fact-finding mission most associated with the Louisiana Purchase. Following congressional authorization granted in March 1804, the 43-member Corps departed from St. Louis on May 14. For 28 months the party rode, floated, and walked the northwestern reaches of the territory, all the while compiling data on the territory’s Native American population, flora, fauna, geology, and climate. The map accompanying the three-volume 1815 account of the journey suggests the expedition’s scale.

The Lewis and Clark expedition, though the most celebrated, was not the only government-sponsored trip launched to explore the reaches of the Louisiana Purchase territory. Two notable exploratory journeys took place under the command of Lieutenant Zebulon M. Pike. Under General James Wilkinson’s orders, Pike left St. Louis in August 1805, ascending the Mississippi River with a laundry list of objectives ranging from the discovery of the Mississippi’s source to the establishment of friendly relations with Native Americans. Pike’s expedition lasted nine months and covered 5,000 miles yet produced little accurate or useful information; it was, however, important in establishing Minnesota as part of the Louisiana Purchase and defining the territory’s northern reaches.

Pike’s next command differed greatly in both its location and result. He set out again from St. Louis in July 1806 with orders from General Wilkinson to explore the southwestern areas of the Purchase territory, adjacent to Spanish lands. Pike’s second journey blazed what ultimately became known as the Santa Fe Trail. His explorations of the drainage basins of the Arkansas and South Platte rivers resulted in improved maps of the region, though the expedition failed to fulfill one of its primary mandates: to explore the Red River. The party traveled northwest as far as present-day Colorado, where the mountain peak that now bears Pike’s name was identified.

Wary of Pike’s presence along their border, Spanish troops captured Pike and his party and sent him back to St. Louis in chains.

Travels to the Source of the Missouri River and across the American Continent to the Pacific Ocean
by Meriwether Lewis; London: Longman, Hurst, Rees, Orme, and Brown, 1815
on the Rio Grande and brought them first to Santa Fe and then to Chihuahua, Mexico, where they were held months for questioning before being escorted through Texas to the territory of Orleans. Upon his return to St. Louis, Pike faced charges of conspiracy with the Wilkinson-Burr intrigues but was cleared. Publication of his journal in 1811 brought Pike a brief moment of fame before his 1813 death.

Unlike the Lewis and Clark or Pike expeditions, Captain Amos Stoddard’s exploration of the Purchase territory took place in the course of his duties as a military commander. On March 10, 1804, one day after receiving Upper Louisiana from Spain on behalf of France, Stoddard took control of the territory for the United States. Seven months later, Stoddard began his extensive travels throughout the territory of Orleans and the District of Louisiana. His observations and commentary on subjects ranging from agriculture and geography to politics and culture were published in 1812 as *Sketches, Historical and Descriptive, of Louisiana*. Stoddard’s *Sketches* remains an important source for the study of Louisiana’s territorial period.

**The Lay of the Land**

The gross contours of Louisiana—first as European colony, later as United States territory—have been drawn and redrawn in war and in peace, in diplomatic session and in legislative debate. The Louisiana Purchase, an undisputed political coup for the United States, failed to resolve the region’s ongoing boundary disputes. Spain and Great Britain continued to jockey for territory, and Louisiana’s borders remained in flux even after the assumption of statehood in 1812. The 1810 annexation of the Florida Parishes (land formerly part of Spanish West Florida) was not confirmed by treaty until 1819, nor was the Texas border secured until the conclusion of the Mexican War in 1848.

But boundary disputes tell only part of the story. Effective governance demands that internal as well as external lines be clearly drawn. Here enters the land surveyor, charged with reconciling the political language of treaty, the physical reality of terrain, and the insistent claims of personal property. Over the nine-year span of Louisiana’s territorial period, geographic knowledge advanced by leaps and bounds. Yet this knowledge was gained at great physical cost. Even a quick glance at Juan Pedro Walker’s *Baxa Luisiana* (Lower Louisiana) suggests the unforgiving environment in which surveyors labored: trackless stretches of prairie lands and swamps, bayous and marshes, and sinuous and shifting coastal areas.

The surveyor’s task was complicated in Louisiana by the need to reconcile older (French, Spanish, and British) systems of
measurement with newer models established by the U.S. government. The Public Lands Survey System (PLSS), first implemented in the Ohio River valley in 1785, set standards for surveying lands in the public domain. The U.S. General Land Office (a predecessor of the Bureau of Land Management) commenced surveying the territory of Orleans in 1807. Unlike the long-lot system favored in much of colonial Louisiana, the PLSS carved terrain into regular grids. Any point on the map could be measured against a fixed vertical meridian and horizontal baseline; in Louisiana, these lines stood at 92° 24' 55" west and 31° 00' 31" north. Working in the field with basic tools—typically a compass and a rod and chain—surveyors proceeded to block out and subdivide sections of the territory.

Early 19th-century maps of Louisiana reveal the evolution of the surveyor’s craft. The first official map of the territory of Orleans, commissioned by Governor Claiborne and produced by Barthélémy Lafon in 1806, shows natural boundaries on three sides: the Sabine River to the west, the Mississippi River to the east, and the Gulf of Mexico (and tidal lakes) to the south. Only the northern boundary is artificial: a line of latitude corresponding to 33° north. The first map to depict Louisiana as a state—issued by Matthew Carey in 1813 and published the following year in Carey’s *General Atlas*—includes the recently annexed Florida parishes north and east of Baton Rouge. William Darby was the first surveyor to cover the southwestern reaches of the territory; his 1816 map is rich in detail where Carey’s is lacking.
In newspapers across the country, slave sale and runaway notices appeared alongside ship schedules and advertisements for livestock, real estate, and dry goods. Federal census returns indicate that Orleans Territory was home to more than 33,000 slaves in 1810, with some 10,824 (32.7%) residing in Orleans Parish. Runaway ads are an exceptionally rich source for details on individual slaves, as they provide intimate physical descriptions of skin, hair, and eye color, body markings (including scarification and “country marks”), and clothing.

The Indian population in Orleans Territory was a diverse assortment of established and recently arrived tribes. Some, like the Biloxi, Pascagoula, Alibamon, Upper Creek, and Choctaw Indians, migrated to the region west of the Mississippi during the latter half of the 18th century, while others, including the territory’s largest tribe, the Caddo, called the region home long before the arrival of European explorers. Historian Daniel Usner estimates the total Indian population during the territorial period to have been as high as 5,000. More precise estimates are difficult to establish, as federal policy excluded Indians from census enumerations until 1860.
The City of New Orleans

Just how many individuals resided in the city of New Orleans at the time of the Purchase remains unclear. Estimates fall between 6,000 and 20,000, though a census completed in August 1805 makes the latter estimate seem unlikely. The 1805 census was part of a series of reforms and public works projects made possible by the organization of the territory of Orleans and the subsequent passage of a city charter for New Orleans on February 17, 1805. The charter provided for 14 elected city council members, a governor-appointed mayor and city recorder, and a council-appointed city treasurer. The census, authorized by the newly formed council on May 11, 1805, captured 8,475 permanent residents of the city of New Orleans and its first suburb, the Faubourg Ste. Marie. This figure included 3,551 whites (41.9%), 1,566 free people of color (18.5%), 3,105 slaves (36.6%), and 253 “other free persons” (2.9%), a vague category typically reserved for Native Americans.

The territorial period was one of rapid expansion for New Orleans. Farmers and rivermen from Upper Louisiana and Appalachia flooded the city, taking full advantage of their newly secured access to the Mississippi River and port of New Orleans. For those bringing their goods to market, residency was often temporary; most shepherded their cargo downriver, oversaw its sale, and headed home. Other Anglo-Americans, however, viewed New Orleans as a city where fortunes—both political and monetary—could be made, especially if the number of permanent English-speaking residents reached the critical mass necessary to tilt the balance in their favor.

But as had so often been the case in New Orleans’s colonial past, events taking place in Europe conspired to change the course of the city’s development. In an 1808 bid to secure newly conquered Spain, Napoleon Bonaparte forced the Spanish royal family from the throne and installed his brother Joseph. Spaniards’ animosity toward France quickly spilled over into Spain’s Caribbean colony of Cuba, where many former residents of French St. Domingue had settled during and after the Haitian Revolution. In Cuba, property confiscation and harassment of French-speaking settlers soon turned into a general order of expulsion. On April 10, 1809, Havana governor Sebastian Kindelan issued a ban requiring that “all free French settlers and foreigners regardless of class, status, sex, color, and age, residing in Santiago de Cuba or its vicinities since the advent of the French Revolution” leave the island.

In the span of less than three months, from early May to late July 1809, more than 5,700 refugees from Cuba descended on the city of New Orleans. In total, some 10,000 French-speaking refugees—including whites and free people of color, and their slaves—arrived in New Orleans in 1809–10. Their arrival ensured that New Orleans would remain predominantly Gallic or Afro-Gallic until the late 1840s. It also meant that for decades to come the city would remain linguistically and racially stratified in ways that made New Orleans more similar to urban environments throughout Latin America and the Caribbean than to those elsewhere in the United States.

<table>
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<td>3,043</td>
<td>1,408</td>
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<td>Faubourg Ste. Marie</td>
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<td>421</td>
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<td>Total by group</td>
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*free people of color
A View of New Orleans Taken from the Plantation of Marigny
November 5, 1803; aquatint with etching and watercolor
by John L. Boqueta de Woiseri, printmaker

Drawn and painted views of New Orleans at the time of the Louisiana Purchase are scarce, but Woiseri’s sweeping effort permits a view of the city at a critical moment in time. Woiseri’s depiction shows that New Orleans was not a political and strategic abstraction but a substantial place with solid buildings, an active port, and a diverse population. Bernard de Marigny’s house and plantation lands, the vantage point for this panorama, would soon be subdivided to accommodate the city’s growing population. In trumpeting the United States’ acquisition of Louisiana, Woiseri was either a gambler or clairvoyant. He published his print some six weeks prior to the official transfer.
By 1803 New Orleans had already spread beyond the boundaries of the original 1718 French settlement. Faubourg Ste. Marie was established in 1788, adjacent to the city’s southwestern, or upriver, border, and was home to many of the city’s Anglo-American residents and business interests. In the decade following the Purchase, the city’s footprint more than tripled as new subdivisions carved from land owned downriver by Bernard de Marigny (1806) and to the northwest by Claude Tremé (1810) provided room for New Orleans’s rapidly growing population. The new faubourgs attracted an economically and racially mixed population, primarily French-speaking, including a sizable proportion of free people of color. By 1815, faubourgs Ste. Marie and Marigny themselves were surrounded by newly subdivided lands that included faubourgs Delord (1806), La Course (1807), Annunciation (1807), Saulet (1810), and Nouveau Marigny (1810).
Territorial Economy

John McDonogh receipt
December 10, 1804

Louisiana’s role as provisioner to the French and Spanish Caribbean, established in the colonial period, continued in the years following the Purchase. Between 1804 and 1814, 64% of all flour passing through the port of New Orleans was bound for Caribbean markets, where it helped fuel the plantation economies of places like Cuba and Jamaica. The Purchase also opened up new markets for the region’s foodstuffs in communities east of the Mississippi. The receipt depicted at left shows a typical provisioning transaction between local merchant and planter John McDonogh (future benefactor of the New Orleans public schools) and William Little, captain of the slave ship Sarah. Between September 24 and December 10, 1804, McDonogh supplied more than 1,100 pounds of meat to the Sarah, a ship likely engaged in the domestic slave trade on the Baltimore-to-New Orleans circuit.

Steamboat New Orleans
1911; relief halftone
by the Historical Society of Western Pennsylvania, publisher

Commissioned by Nicholas and Lydia Roosevelt (Theodore Roosevelt’s great-uncle and -aunt) in 1810, the steamboat New Orleans began its maiden voyage from Pittsburgh to New Orleans on October 11, 1811. The New Orleans measured 148' 6" in length, 32' 6" in width, and weighed just over 370 tons. Designed and built by New Yorkers Robert Fulton and Robert Livingston, the New Orleans was the first steam-powered vessel to travel the Ohio and Mississippi rivers. Its January 1812 arrival in its namesake city helped launch steam power’s century-long domination of America’s waterways.
New Orleans’s first theater, the Spectacle de la Rue Saint-Pierre, opened on October 4, 1792. Located on St. Peter Street between Bourbon and Royal, the theater was renamed the Théâtre de Saint-Pierre sometime between 1792 and 1796. The first documented operatic performance in New Orleans, André Grétry’s *Sylvain*, took place here on May 22, 1796. Grétry, whose *Sylvain* debuted in Paris in 1770, was celebrated for his pastoral style. His popularity in New Orleans spanned three decades, with over 100 performances of Grétry operas in the city between 1796 and 1821.

The Théâtre de Saint-Pierre operated as the city’s only theater until the 1807 opening of the Variétés Amusantes. The Variétés were first housed in a ballroom on St. Philip Street that had once been the site of racially mixed balls, but the theater’s popularity soon prompted its owners to construct a larger performance space. The new theater, renamed the Théâtre de la Rue St. Philippe, opened on January 30, 1808.

The presence of two rival theaters in a small city posed problems. Initially the St. Pierre and St. Philippe alternated performances, preventing direct competition, but when they began simultaneous performances, it strained the pool of local actors and theater personnel. Plans were made to unite the two troupes and operate out of the larger, finer St. Philippe, but the deep rift between the two theater companies prevented a merger. Both theaters operated...
When Governor Claiborne arrived in New Orleans in 1803, there was only one public and a handful of private schools in operation. Literacy hovered just under 50%. Concerned about the population’s limited access to education, Claiborne sought and received the territorial legislature’s support for public education. Education acts passed in 1805, 1806, and 1811 met with mixed success. With the support of the legislature, Claiborne established a territorial school system with affiliated schools in each county. But insufficient funding and a lack of public support caused the territory-wide system to fail. In New Orleans the push for education was more successful. In 1812 the Collège d’Orléans opened its doors in the newly created Faubourg Tremé. The school was not free, though there were a limited number of city-council-sponsored scholarships available to needy students. Classes were conducted in French and competition for scholarships was fierce, especially among the children of St. Domingue refugees. Internal struggles at the Collège resulted in its closure in the 1820s.

Education

on shaky ground between 1808 and 1810, but another facelift at the St. Philippe secured its survival. The remodeled St. Philippe opened on December 7, 1810; two days later the St. Pierre closed for good. In 1811 the St. Philippe, under the guidance of an American company, began hosting the city’s first organized English-language productions.
Maryland native James Wilkinson first served as an officer in the Revolutionary War. After settling in Kentucky in the 1780s, he cultivated relationships with Spanish officials in New Orleans. In exchange for trading rights, land, and pension payments granted by Spanish officials, Wilkinson swore an oath of allegiance to Spain and provided intelligence on American political and military objectives in the Trans-Appalachian West. Wilkinson successfully concealed his role as dual agent, and in 1803 he became one of two U.S. commissioners to formally take possession of the Louisiana Purchase territory for the United States. In 1805 President Thomas Jefferson appointed Wilkinson governor of the Louisiana Territory. This powerful position—headquartered in St. Louis and far from official oversight—emboldened Wilkinson to continue in his intrigues with Spanish officials. He appears to have been actively involved in the Burr Conspiracy and was also accused of misuse of public funds. In the broadside printed at right, the “Watchmen” accuse Wilkinson of “public plunder” of the U.S. Treasury in excess of $56,000. Wilkinson was eventually court-martialed and subjected to congressional inquiries for his suspicious activities. He escaped indictment, but his reputation was forever tarnished.
The corsair *Alligator* was likely a privateer, a private vessel of war issued letters of marque and reprisal by a sponsoring government. The use of private vessels of war was critical to U.S. defense throughout the territorial period because America lacked a strong standing naval fleet. In Louisiana, both Governor Claiborne and U.S. Navy Commandant Daniel Todd Patterson repeatedly complained to Washington that naval assets in New Orleans were insufficient to police territorial waters. Once open war broke out with Great Britain in 1812, the use of privateers augmented the national force and helped disrupt enemy commerce.
In 1712, six years before the founding of New Orleans, France established civil government in Louisiana based upon the Coutume de Paris, a code of 16 titles and 362 articles. These laws and ordinances, with the addition of the 1724 Code Noir—which regulated the treatment and actions of slaves and free people of color—formed the basis of the French colonial legal system.

In 1769 Spanish Governor Don Alejandro O’Reilly replaced the French code with one based on Las siete partidas, an encyclopedic summary of Spanish law dating to the 13th century. Code law, in both its French and Spanish forms, was based on a civil tradition in which the community property system, principles of forced heirship and implied warranty, free alienation of property, and freedom of contract protected the rights of families and their members and simplified the laws of property and obligations.

Code law differed greatly from the English common law tradition in use throughout the United States in 1803, in which trial by jury, the writ of habeas corpus, and reliance upon legal precedent were hallmarks. At the time of the Purchase the federal government agreed—at least provisionally—to continue the system of code law. But although President Jefferson intended to eventually replace Louisiana’s civil system with the English common law system in use throughout the rest of the American states and territories, this strategy required thoughtful implementation. As Jefferson’s appointed representative of federal policy, Claiborne understood that hasty action might antagonize the French Creole population or be seen as reneging on the federal government’s initial agreement to respect the territory’s existing laws. He proceeded with caution.

In “An Act for the punishment of crimes and misdemeanors,” approved May 4, 1805, by the Legislative Council of the Territory of Orleans, common law was introduced to address all criminal matters, except those involving slaves. After some acrimony between the governor and the territorial legislature, the lawmakers passed a resolution in 1806 appointing jurisconsults Louis Moreau-Lislet and James Brown to compile a civil code. The resulting code, adopted March 31, 1808, drew from a dizzying variety of legal sources, including the recently issued Napoleonic Code.

The 1808 code was useful but incomplete. For some areas of jurisprudence, lawyers, judges, and legislators still had to consult earlier, hard-to-locate, and often obscure volumes of colonial law to settle cases. Publications released in 1818 and 1820 attempted to fill the legal gaps, but the issue was not fully addressed until the 1825 publication of the Civil Code of the State of Louisiana—which, with the exception of a handful of revisions made in 1870, governed vast areas of Louisiana’s private law into the late 20th century. ★
The Batture Controversy

Before late 19th-century efforts by the United States Army Corps of Engineers began to confine the channel of the Mississippi River with levees and dredging, the waterway’s natural meandering routinely added and removed land along its banks. The beachlike swath of shifting land along the river’s edges was called the batture. The batture’s utility and accessibility varied with the height of the river and the erosive actions of the channel. The case to decide batture ownership became a celebrated—and protracted—legal battle during the territorial period. In 1803, Jean Gravier, a planter and real estate developer whose property fronted the riverbank, claimed ownership of the batture lands adjoining his own. His claim countered the longstanding assumption that the batture was public property. With the help of attorney Edward Livingston, Gravier successfully brought suit against the city, with Livingston receiving a portion of Gravier’s batture claim as his fee. Despite Gravier’s legal triumph, however, the case did little to alter the popular perception that the batture was public land, and the city distanced itself from further legal dispute by declaring the batture federal land.

By late summer 1807, persistent questions about batture ownership and growing public contention over the issue led Governor Claiborne to petition President Jefferson in hopes of resolving the situation. Jefferson asserted that the batture belonged to the United States and attempted to use the Squatters’ Act of 1807 to force Livingston from his batture property. Before Jefferson’s order could be carried out, Livingston obtained an injunction from the Superior Court of the Territory of Orleans, but the federally appointed marshal ordered Livingston off the land anyway. With this, a war of pamphlets authored by some of New Orleans’s leading citizens ensued, with each side presenting arguments and counterarguments for rightful ownership. The pamphlet campaign spilled over into the pages of the nation’s leading newspapers, and batture ownership became the subject of court cases and congressional debate.

In 1817 Livingston and others who claimed private ownership of batture property proposed a compromise: they agreed to relinquish claims to the levee and a portion of the batture, as long as the city agreed not to interfere with improvements made to the property. On September 20, 1820, the agreement was finalized.
On April 30, 1812, Louisiana became the 18th member of the United States. The road to statehood had been long. Residents of Orleans Territory first pressed for statehood in December 1804, when Edward Livingston delivered the “Louisiana Remonstrance” to the U.S. Congress on behalf of Louisiana’s Creole and American planters. In the Remonstrance, the authors railed against restrictions on slavery, the lack of representative government, and Governor Claiborne’s excessive powers and his ignorance of French language and customs. Though the Remonstrance failed to bring about immediate statehood, it did influence a congressional decision in 1805 that made Orleans Territory’s legislative branch an elected one. Six years later, in February 1811, Congress passed the Enabling Act, permitting the territory to draft a constitution and apply for statehood.

For all of the differences in linguistic, cultural, and religious practices that made Louisiana so unlike the other 17 states, its first constitution was modeled largely on a 1799 model drafted for the Commonwealth of Kentucky. Perhaps not coincidentally, two framers of Louisiana’s constitution—Allan B. Magruder and James Brown—had recently moved from Kentucky to Louisiana. Like many other models of its day, Louisiana’s constitution limited suffrage to property-owning, tax-paying white males who met the one-year residency requirement and turned 21 prior to casting their vote.

Unlike previous state constitutional conventions, however, the Louisiana convention was conducted in French. Julien Poydras of Pointe Coupée Parish was the chairman. The convention mandated that the final draft be promulgated in English; though a French version was not proscribed, one was indeed published. Another key difference was the perpetuation of Louisiana’s civil law tradition. Article IV, Section 11 maintained “the existing laws in this territory” and provided that “the legislature shall never adopt any system or code of laws, by general reference to the said system or code, but in all cases, shall specify the several provisions of the laws it may enact.” This article, authored by Bernard de Marigny, maintained civil law in Louisiana and prevented the wholesale adoption of English common law—in use throughout the rest of the nation—despite Claiborne’s objections.

The 1812 constitution maintained New Orleans as the seat of government. And although provisions for amending the constitution were present, no amendments were ever added. The 1812 constitution remained in effect for 33 years, until a new one was adopted in 1845. Of the original framers, only Bernard de Marigny participated in the 1845 convention.
18-star American flag
ca. 1812; silk and cotton
by the female residents of Hope Plantation for Colonel Philip Hicky
Foundations

Remarks on the Late Infraction of Treaty at New Orleans
by William Stephens Smith under the pseudonym Coriolanus; New York: Vermilye and Crooker, 1803
76-649-RL

Acts Passed at the First Session of the Eighth Congress of the United States of America
Washington, 1803
99-123-RL

Bonaparte Discussing the Louisiana Purchase Treaty with Talleyrand and Marbois
June 1904; photomechanical halftone print by Jean André Castaigne, draftsman and artist; H. Davidson, engraver
1974.25.10.64

Signing of the Louisiana Purchase Treaty by Marbois, Livingston, and Monroe
1904; halftone
by Jean André Castaigne, delineator; H. Davidson, engraver
1974.25.10.65

Model of the Cabildo
early 20th century; plaster
by John Boffato, model maker
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Scene of Transfer of Louisiana from France to the United States in the Place d'Armes at New Orleans
©1901; Goupil gravure by T. de Thulstrup, artist; Goupil and Company, publisher
1991.34.25
gift of Mr. Thomas Lennox

Louisiana
published 1805; hand-colored engraving by Samuel Lewis, delineator; Henry Schenck Tanner, engraver; Aaron Arrowsmith, publisher
1974.74.2

Proclamation au nom de la République Française
1803; broadside
by Pierre Clément Laussat, author
96-446-RL

Conjectural View of the Government House, 1761
1960s; ink on tracing paper
by Henry W. Krotzer Jr., draftsman and artist
1978.245.7
gift of Mr. Leonard V. Huber

Comission for William C. C. Claiborne granting him temporary powers as general governor and intendant of the province of Louisiana
October 31, 1803
by Thomas Jefferson, author
78-115-L
gift of Mr. Claiborne Perrilliat

William Charles Cole Claiborne
©1903; Goupil gravure
by Goupil and Company, publisher
1991.34.26
gift of Mr. Thomas Lennox

General James Wilkinson
©1903; Goupil gravure
by Goupil and Company, publisher
1991.34.17
gift of Mr. Thomas Lennox

Commission for Benjamin Morgan to the post of Secretary of the Territory of Orleans
July 19, 1807
by Thomas Jefferson, author
lent by the Louisiana State Museum

Commission for Peter Derbigny to the post of French and Spanish Interpreter
December 23, 1803
by William C. C. Claiborne, author
70-07-L
gift of General L. Kemper Williams

Land and Demographics

Laws, Treaties and Other Documents, Having Operation and Respect to the Public Lands 1810
by Jun. Joseph Gales, printer
2002-91-RL

The Laws of the Territory of Louisiana Comprising All Those Which Are Now Actually in Force within the Same
St. Louis: J. Charless, 1808
97-382-RL

Sketches, Historical and Descriptive, of Louisiana
by Amos Stoddard; Philadelphia: Mathew Carey, 1812
72-90-L.6
73-989-L
76-709-RL, gift of Mr. Ralph M. Pons
95-508-RL, bequest of Mrs. Anita M. Nolan Pitot

Report of the Committee of Commerce and Manufactures
1804
by Samuel L. Mitchell, author
99-263-RL.2

Exploratory Travels through the Western Territories of North America
by Zebulon Montgomery Pike and Thomas Rees; London: Longman, Hurst, Rees, Orme, and Brown, 1811
73-29-L

Travels to the Source of the Missouri River and across the American Continent to the Pacific Ocean
by Meriwether Lewis; London: Longman, Hurst, Rees, Orme, and Brown, 1815
73-991-L

Anonymous letter and map of southeast Louisiana
February 30, 1807
2009.0201

Carte générale du Territoire d’Orléans comprenant aussi la Floride Occidentale et une portion du Territoire du Mississipi
1806; engraving
by Barthélemy Lafon
1971.52
bequest of Richard Koch

A Map of the State of Louisiana with Part of the Mississippi Territory ca. 1816; hand-colored engraving by William Darby, surveyor; Samuel Harrison, engraver; John Melish, publisher
1957.57
gift of Richard Koch

Baxa Luisiana
between 1799 and 1803; ink, watercolor, and pencil
by Juan Pedro Walker, cartographer
1977.97

Louisiana 1814; hand-colored engraving by Mathew Carey, publisher
1958.21

Sauvages du Mississipi
1821; lithograph
by Edouard de Montulé, draftsman and artist; Brocas, publisher
1974.25.10.159
A Plan of a Tract of Land on Bayou Boeuf
October 12, 1803; ink and watercolor
by Samuel Wells, surveyor
1986.142

Border bottle with sealed stopper
c. 1840; glass
lent by the Louisiana State Museum

Jean Etienne de Boré
©1903; Goupil gravure
by Goupil and Company, publisher
1991.34.28 iv

A View of New Orleans Taken from
the Plantation of Marigny
November 5, 1803; aquatint with etching
and watercolor
by John L. Boqueta de Woiseri, printmaker
1958.42

Plan de la ville de la Nouvelle-Orléans
January 31, 1936, from an 1808 original by
Gilbert Joseph Pilié; blueline print
by L. Pelletier
2008.0001.3

Plan de la ville et des faubourgs incorporés
de la Nouvelle-Orléans
1870s; ink with watercolor
by Claude Jules Allou d’Hémécourt, draftsman
1966.33.30

Plan de la ville et des faubourgs incorporés
de la Nouvelle-Orléans
1870s; ink with watercolor
by John L. Boqueta de Woiseri, printmaker
1958.42

Plan de la ville de la Nouvelle-Orléans
January 31, 1836, from an 1808 original by
Gilbert Joseph Pilié; blueline print
by L. Pelletier
2008.0001.3

Plan of the City and Suburbs of New Orleans
from an Actual Survey Made by J. Tanesse
in 1815
April 29, 1817; engraving
by Jacques Tanesse, surveyor; Rollinson,
engraver; Charles Del Vecchio and
Pierre Maspero, publishers
1971.4

Plan de la ville de la Nouvelle-Orléans
January 31, 1836, from an 1808 original by
Gilbert Joseph Pilié; blueline print
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2008.0001.3

Plan de la ville et des faubourgs incorporés
de la Nouvelle-Orléans
1870s; ink with watercolor
by Claude Jules Allou d’Hémécourt, draftsman
1966.33.30

Plan de l’habitation de M. Solet divisée
en lots
September 17, 1810; ink
by Barthélemy Lafon, draftsman
1980.14.2

Subdivision of Robin and Livaudais tracts
c. 1811; ink
1981.297

Plan of the Front Part of the City of
New Orleans in 1818
1827; wood engraving
by Gilbert Joseph Pilié, surveyor
2003.0016.4.7

gift of Mr. Frederick Lee Lawson

Plan des terres appartenant à By. Lafon
et distribués pour être vendus le 15 d’Avril
between 1807 and 1812; ink and watercolor
by Barthélemy Lafon, draftsman
1978.57

Plan of the Port of New Orleans
1810; ink
by Jacques Tanesse, draftsman
1986.18

gift of Mr. Samuel Wilson Jr.

Delord-Sarpy House, Jefferson Parish
1956; watercolor
by Clay Watson, painter
1979.25.7

Plan de l’habitation de M. Solet divisée
en lots
September 17, 1810; ink
by Barthélemy Lafon, draftsman
1980.14.2

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gift of Mr. Samuel Wilson Jr.

Territorial Economy

Side elevation of the first steamboat
New Orleans used to construct a model
cia. 1911
1974.25.33.17

Steamboat New Orleans
1911; relief halftone
by the Historical Society of Western
Pennsylvania, publisher
1974.25.33.84

The Navigator
by Zadok Cramer; Pittsburgh: Zadok Cramer,
1806
2008.0085.1

Regulations for the Port of New-Orleans
1808; broadside
86-2139-RL

Jean Noël Destréhan
©1903; Goupil gravure
by Goupil and Company, publisher
1991.34.28 ii

gift of Mr. Thomas Lennox

Destréhan Plantation
1940; oil on board
by Homer E. Turner, painter
2002.66.10

gift of Beverly Turner Lynds

Valcour Aime
©1903; Goupil gravure
by Goupil and Company, publisher
1991.34.28 v

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Maison Duverjé à Alger
c. 1887; watercolor and pencil
by William R. Shaw, draftsman and artist
1964.12

John McDonogh receipts
between 1804 and 1806
70-49-L

Slave sale and runaway advertisements
from the Courrier de la Louisiane
New Orleans: Thierry & Co., January 24, 1810
86-2119-RL

Plan figurativo de la posesion dada
al Soguero Elias Winters
1819; ink
by Vicente Sebastián Pintado, surveyor
1979.243

gift of Mr. Samuel Wilson Jr. in
memory of Mrs. Albert Lieutaud

John McDonogh land transaction
1809
89-32-L

John McDonogh Land Tenure Records,
Williams Research Center

Extract from the Rules and Regulations
of the Bank of Orleans
ca. 1810; broadside
by the Bank of Orleans, author; John Dacqueny,
printer
86-1998-RL

Map of the South central United States
showing the Natchez Trace
between 1812 and 1817; engraving
1958.22

Abandoned Trace, Madison County
between 1940 and 1947; photoprint
1974.25.10.156
Natchez Trace Road, Claiborne County, near Coonbox Crossroads between 1940 and 1947; photoprint
1974.25.10.157

Grindstone Ford between 1940 and 1947; photoprint 1974.25.10.158

Model of the Custom House early 20th century; plaster by Thompson and Foster, model makers lent by the Louisiana State Museum

One-real coin (Spain) 1805; silver by T. H., assayer lent by the Louisiana State Museum

One-real coin (Spain) 1812; silver by Henrique Buenaventura Azorin and Joaquin Davila Madrid, assayers lent by the Louisiana State Museum

Eight-real coin (Spain) 1810; silver by Henrique Buenaventura Azorin and Joaquin Davila Madrid, assayers lent by the Louisiana State Museum

Four-maravedí coin (Spain) 1807; copper lent by the Louisiana State Museum

Orleans Theater [detail] from Plan of the City and Suburbs of New Orleans from an Actual Survey made by J. Tanesse in 1815 April 29, 1817; engraving by Jacques Tanesse, surveyor; Rollinson, engraver; Charles Del Vecchio and Pierre Maspero, publishers 1971.4

Collège d’Orléans [detail] from Plan of the City and Suburbs of New Orleans from an Actual Survey made by J. Tanesse in 1815 April 29, 1817; engraving by Jacques Tanesse, surveyor; Rollinson, engraver; Charles Del Vecchio and Pierre Maspero, publishers 1971.4

Model of the St. Philip Theater early 20th century; plaster by Thompson and Foster, model makers lent by the Louisiana State Museum

Silvain [Sylvain]: Comédie en un acte et en vers by André-Ernest-Modeste Grétry; Paris: Montulai, ca. 1770 2007.0313

Le Moniteur de la Louisiane New Orleans: J. B. L. S. Fontaine, July 22, 1809 70-76-L.9

Natura lenguarum or Theory and Practice of Three Languages Compared and Easely Learned by G. Mt. De Pays; New Orleans: Jerome Bayon, 1832 79-923-RL

On Royal Street, New Orleans June, 1871; pencil and white wash by Alfred Rudolph Waud, draftsman and artist 1865.19

Aaron Burr ©1903; Goupil gravure by Goupil and Company, publisher 1991.34.27 gift of Mr. Thomas Lennox

Philemon Thomas ©1903; Goupil gravure by Goupil and Company, publisher 1991.34.32 iii gift of Mr. Thomas Lennox

Survey of land on north shore of Lake Pontchartrain at junction with Tchefuncta River July 23, 1804; ink by David Bannister Morgan, draftsman 1977.128

Plan of the Fort of Baton Rouge 1814; ink and watercolor by Barthélémy Lafon, draftsman and artist 1970.2.16 i, ii

Letter from John Randolph to Secretary of War Henry Dearborn requesting information on the state of American and Spanish forces in the Territory of Orleans and environs December 10, 1806 by John Randolph, author 86-2129-RL

Postillon del mensagero Luisianes July 22, 1811; broadside by Vincente Folch, author; Joaquin de Lisa and José Antonio Boniquet, publishers 2007.0068

Politics and the Law

Regulations for the port of New Orleans 1803; broadside by William Charles Cole Claiborne, author 96-225-RL

Police Code by New Orleans City Council; New Orleans: Jean Renard, 1808 56-6-L

Corsair Alligator 1813; watercolor by C. Roussel, painter 1939.7

Plan of the Fort Claiborne, Natchitoches 1814; ink and watercolor by Barthélémy Lafon, draftsman and artist 1970.2.17

Acts Passed at the First Session of the Legislative Council of the Territory of Orleans New Orleans: James M. Bradford, 1805 60-30-L

Orleans Term Reports or Cases Argued and Determined in the Superior Court of the Territory of Orleans by François-Xavier Martin; New Orleans: John Dacqueny, 1811

Message of the President of the United States, Communicating Information of the Situation of Sundry Parcels of Ground, in and Adjacent to the City of New Orleans by Thomas Jefferson; Washington: A. & G. Way, 1808

Copy and Translation from the Original Spanish Plan Dated 1798 Showing the City of New Orleans, Its Fortifications and Environs April 1875; lithograph with watercolor by Carlos Laveau Trudeau, draftsman; Alexander Debrunner, draftsman

A Review of the Cause of the New Orleans Batture and of the Discussions That Have Taken Place Respecting It by Peter Stephen Du Ponceau; Philadelphia: Jane Aitken, 1809

Julien Poydras ©1903; Goupil gravure by Goupil and Company, publisher 1991.34.28 i gift of Mr. Thomas Lennox

Speech of Julien Poydras, Esq., the Delegate from the Territory of Orleans, in Support of the Right of the Public to the Batture in front of the Suburb St. Mary by Julien Poydras; Washington: A. & G. Way, 1810

Pierre Derbigny ©1903; Goupil gravure by Goupil and Company, publisher 1991.34.33 i gift of Mr. Thomas Lennox

Mémoire à consulter, sur la réclamation de la batture : située en face du faubourg Sainte-Marie de la Nouvelle-Orléans by Pierre Derbigny; New Orleans: Jean Renard, 1807

Edward Livingston ©1903; Goupil gravure by Goupil and Company, publisher 1991.34.28 ii gift of Mr. Thomas Lennox

The Laws of Las siete partidas translated by Louis Moreau-Lislet and Henry Carleton; New Orleans: James M'Karather, 1820

The Proceedings of the Government of the United States, in Maintaining the Public Right to the Beach of the Mississippi, Adjacent to New-Orleans, against the Intrusion of Edward Livingston by Thomas Jefferson; New York: Ezra Sargeant, 1812

A Translation of the Titles on Promises and Obligations, Sale and Purchase, and Exchange from the Spanish of Las siete partidas by Louis Moreau-Lislet and Henry Carleton; New Orleans: Roche Brothers, 1818

Map from Saulet et al. vs. Shepherd: New Orleans Batture Case ca. 1858

Jacques Villeré ©1903; Goupil gravure by Goupil and Company, publisher 1991.34.33 ii gift of Mr. Thomas Lennox


A l’éditeur de la Louisiana Gazette / To the Editor of the Louisiana Gazette 1812; broadside by William Charles Cole Claiborne and Albert Gallatin, authors

The Eighteenth State

Constitution or Form of Government of the State of Louisiana New Orleans: Jo. Bar. Baird, 1812

Constitution ou forme du gouvernement de l’état de la Louisiane New Orleans: Thierry, 1812

18-star American flag ca. 1812; silk and cotton by the female residents of Hope Plantation for Colonel Philip Hicky lent by the Louisiana State Museum

Note: All titles follow original spellings

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endpapers:
Commission for William C. C. Claiborne granting him temporary powers as general governor and intendant of the province of Louisiana [detail]
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