

## KREYOL-YE, KADJEN-YE, E LALWA A LANGAJ DAN LALWIZYANN

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Artik-sila se va pa èt en saboule de mèt- e metrès-lekòl a Franse dan Lalwizyann. M'ole jis ekrir en ti peu on paròl-la “Kreyòl,” e osit on lalwa a langaj dan Lalwizyann.

Dan Lalwizyann, lanbrouy e lostinasyon va rive nenpòt-ki-tan moun diskite paròl-la “Kreyòl.”<sup>1</sup> E mo vreman swèt sa va pa rive avèk Artik-sila. Tanka mwen, mo kwa sèl moyen-la pou define “Kreyòl” se pou konmonse avèk en kestyon: “Dan ki syèk,

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1. See SHANE K. BERNARD, THE CAJUNS: AMERICANIZATION OF A PEOPLE xxiv (2003) (noting that the “word *Creole* . . . is a slippery one”); JAY DEARBORN EDWARDS & NICOLAS KARIOUK PECQUET DU BELLAY DE VERTON, A CREOLE LEXICON: ARCHITECTURE, LANDSCAPE, PEOPLE 76 (2004) [hereinafter EDWARDS, CREOLE LEXICON] (stating that Creole “is a complex term, but central to Louisiana’s culture”); JOSEPH G. TREGLE, JR., LOUISIANA IN THE AGE OF JACKSON: A CLASH OF CULTURES AND PERSONALITIES 337 (1999) (“The literature on the meaning of *creole* is both voluminous and contentious.”).

dan ki lannen, dan ki laparwas, e dan ki lantourmon se paròl-la ‘Kreyòl’ ape èt sèrvi?’”<sup>2</sup>

Par egzanmp, Joseph Tregle,<sup>3</sup> Jay Dearborn Edwards,<sup>4</sup> e dezot profèsèr dekouvèr ke dan diznevyenm syèk, “Kreyòl” te min “nenpòt-kikchòz ne, ou fe, ondan Lalwizyann,” swa moun ou zanimò ou zafè.<sup>5</sup> Alòrs, Kreyòl osit te vini pou min kikchòz meye e pli fòr pase lòt chòz dan menm kalite, paske si ye vini deu Lalwizyann, ye se “acclimated,” e sa fe ye se meye e pli fòr. Sa fe, konm enn adjectif, “Kreyòl” se toujou sèrvi konm en paròl lannèr ou ekselans. Alòrs, aprezan dan Lalwizyann, dan langaj Kreyòl e dan langle osit, vou va tande moun ape pale on tomat-kreyòl, zonyon-kreyòl, poul-kreyòl, bèt-kreyòl, poulen-kreyòl, e tou kikchòz konm sa.<sup>6</sup> Tou kalite a zafè Kreyòl, ye se konsidèrè meye e pli fòr pase lòt kalite a menm zafè.<sup>7</sup>

Aprezan, paròl-la Kreyòl gen osit en sans ètnik: li ka min en laras moun avèk disan-mele—moun osit konne dan tan istorik konm milat, grif, kaldron, ou marayni—e ye se moun ki peutèt pal Franse-Kreyòl, e ki gen menm relijyon, e menm koutim-ye, konm Kadjen-ye.<sup>8</sup>

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2. Konm istoriyen Carl Brasseaux ekri, “The term *Creole* often varies in meaning depending on who is speaking and what is spoken about.” CARL A. BRASSEAU, FRENCH, CAJUN, CREOLE, HOUMA: A PRIMER ON FRANCOPHONE LOUISIANA 92 (2005) [hereinafter BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA]. See also Marcia Gaudet, *Mardi Gras, Gumbo, and Zydeco: An Introduction to Louisiana Culture*, in MARDI GRAS, GUMBO, AND ZYDECO: READINGS IN LOUISIANA CULTURE x (Marcia Gaudet & James C. McDonald eds., 2003) (“Creole is an elusive term that seems to shift in meaning both in time and place.”).

3. See Joseph G. Tregle, Jr., *Creoles and Americans*, in CREOLE NEW ORLEANS: RACE AND AMERICANIZATION 131, 133 (Arnold R. Hirsch & Joseph Logsdon eds., 1992) [hereinafter CREOLE NEW ORLEANS].

4. EDWARDS, CREOLE LEXICON, *supra* note 1, at 77 (noting that in early 19th-century Louisiana, “*Creole* was applied to locally bred, locally adapted, and locally invented products” such as “localized breeds of animals and plants,” like “creole chickens, creole ponies, creole rice”).

5. BERNARD, *supra* note 1, at xxiv (describing the word *creole* as “meaning in a broad sense ‘native to Louisiana’”); BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 88 (“The word *Creole* itself simply means native or indigenous to an area . . . .”); *Preface* to CREOLE NEW ORLEANS, *supra* note 3, at ix, xi n.4 (“The word *creole* is used here . . . in its eighteenth- and early nineteenth-century sense, that is, meaning indigenous to Louisiana or New Orleans.”).

6. See Gaudet, *supra* note 2, at x (“At present, the term *Creole* is used in Louisiana to designate anything that is ‘home-grown’ or native to Louisiana—e.g., Creole tomatoes.”); see also *supra* note 4.

7. JAMES F. BROUSSARD, LOUISIANA CREOLE DIALECT vii (1942).

8. See BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 151

Konm en paròl-a-kote, lès mwen mansyonnen ke en ta moun-saye—sa se pou di Kreyòl koulèr—ye kwa ye-menm meye pase Kadjen-ye.<sup>9</sup> E moun Franse dan Nouvèl-òleyan (ki se souvantfwa pele Kreyòl-blan ou senmpleman Kreyòl)—Kreyòl-saye dan Nouvèl-òleyan, ye kwa ye-menm meye pase Kreyòl koulèr e Kadjen osit.<sup>10</sup> Plizyèr vye moun osit te di mwen ke dez ane pase—alantou diz-nèf san karant-ye—Fanse on-vil e Kreyòl-koulèr, ye tou-le-deu te pa pèrmèt Kadjen ondan ye lamezon.<sup>11</sup>

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(“[T]he modern Cajun and Creole communities are both products of cross-cultural borrowing across a local racial divide.”); JAMES H. DORMON, *THE PEOPLE CALLED CAJUNS: AN INTRODUCTION TO AN ETHNOHISTORY* 50 (1983) (“There can be little doubt that what came to be accepted as Cajun . . . ‘folkways’ were patently influenced by Afro-Americans, and particularly by Afro-Caribbean culture elements that diffused to the Cajun subculture by way of group contact.” (footnote omitted)); EDWARDS, *CREOLE LEXICON*, *supra* note 1, at 77 (“In New Orleans and southern Louisiana the term [*Creole*] is often generalized as a synonym for ‘Louisiana African-American,’ with the connotation of participation in a distinctive and regionally dominant form of culture.”); MARJORIE R. ESMAN, HENDERSON, *LOUISIANA: CULTURAL ADAPTATION IN A CAJUN COMMUNITY* 7 (1985) (“The consensus today is that local blacks are not considered Cajuns, nor do most think of themselves as Cajuns. Nonetheless, blacks and whites share virtually identical cultures, and the distinction between white Cajuns and black Cajuns is recent and in many ways artificial.”).

9. See also CARL A. BRASSEAU, *ACADIAN TO CAJUN: TRANSFORMATION OF A PEOPLE, 1803-1877*, at 150-51 (1992) [hereinafter BRASSEAU, *ACADIAN TO CAJUN*] (noting that even freedmen “quickly emulated their former masters in viewing their Cajun neighbors with derision”); BRASSEAU, *PRIMER ON FRANCOPHONE LOUISIANA*, *supra* note 2, at 72; Barry Jean Ancelet, *From Evangeline Hot Sauce to Cajun Ice: Signs of Ethnicity in South Louisiana*, 12 *LA. FOLKLORE MISCELLANY* 29, 33-34 (1997) (noting that for contemporary South Louisiana blacks, the word *Cajun* “connotes little more than ‘poor white French-speaking trash’”); *id.* at 39 (“There remains considerable uneasiness over the public image of the term *Cajun*, symptomatic in part of the negative value ascribed to the word *Cajun*, especially among black Creoles.”); Thad St. Martin, *Letters and Comment – Cajuns*, 26 *YALE REV.* 859 (1937), *quoted in* RYAN ANDRÉ BRASSEAU, *CAJUN BREAKDOWN: THE EMERGENCE OF AN AMERICAN-MADE MUSIC* 132 (2009) (stating that “Cajun was a fighting word” in Louisiana and that, for example, “an old Negro nanny did not say ‘poor white trash,’” but instead would say “‘Cajun’—or ‘blue-bellied Cajun’”).

10. BRASSEAU, *PRIMER ON FRANCOPHONE LOUISIANA*, *supra* note 2, at 90 (“[T]oday, when white Louisianians of French ancestry call themselves Creole, what they really mean is that they are not Cajuns, a group that they traditionally considered ‘white trash.’”); *id.* at 91 (“In Louisiana the term Creole can . . . refer to black and mixed-race speakers of the French Creole dialect, much to the white Creoles’ chagrin.”).

11. See ALFRED OLIVIER HERO, JR., *LOUISIANA AND QUEBEC: BILATERAL RELATIONS AND COMPARATIVE SOCIOPOLITICAL EVOLUTION, 1673-1993*, at 198 (1995) (“A majority of [Cajuns] for nearly two centuries since their arrival in Louisiana had maintained their social and cultural distinctiveness from white Creoles and foreign French alike, both of whom prospered in the nearby plantation economy, and from

Ye gen osit en lòt sans a paròl-la “Kreyòl” ki te sèvi dan pase-la pour moun ki aprezan se pele “Kadjen” toujou. E se en sans ki boukon Kadjen-astèr pu konne te sèvi dan pase-la; dez anne pase, moun-saye pa pele ye-menm “Kadjen.” Se entèresan pou konne ke dez anne pase—dan prenmye motche Ventyenm Syèk—moun aprezan pele “Kadjen” (moun ki te boujwa), ye te di “Kreyòl” pou min ye-menm.<sup>12</sup> Ekan ye t’ape pale Franse-Lalwizyann, ye pa pele ye-menm “Kadjen” ou “Franse”—pito ye pele ye-menm “Kreyòl.” E sa fe jiska lanne senkant-ye ou swasant-ye, ekan boujwa Kadjen-ye pele kikenn “Franse,” ye te min en moun dan Frans ou en moun dan Nouvèl-Òleyan.<sup>13</sup>

E pou menm boujwa Kadjen, ye te sèvi paròl-la “Kadjen” pou min moun dan lakanpany ki te biyen pòv e bas klas, e ki te pa gen ledikasyon—moun ki te souvantfwa bitan-ongaje ou pyejè.<sup>14</sup> Sa fe dan jou-saye, alantou lanne senkant-ye, en “Kadjen,” sa te en moun ki aprezan vou pèl on langle “a Coonass.”<sup>15</sup> Alòrs, dan jou-saye, “Kadjen” ou “Cajun” te min “fatra-blan” ou “bitako.”<sup>16</sup>

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Creole-speaking free people of color as well.”); *id.* at 200 (“Conflicts and tensions of Cajuns with Creoles prevailed from the . . . original settlement into the 1960s. . . . Few middle-class francophone Creoles or Anglophones even in heavily Cajun southwestern Louisiana accepted Cajuns socially.”); *see also supra* note 9.

12. *See* BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 102 (“The fallen [white] Creole elite [have] a continuing sense of social prominence based upon perceived past glories. This was absolutely necessary, the Creoles believed, to avoid social leveling with the Acadians, . . . and with those ‘other’ white Creoles—the poor white Creoles that the genteel Creoles never mentioned in polite society . . .”); BRASSEAU, ACADIAN TO CAJUN, *supra* note 9, at 110-11 (“A great deal of confusion regarding [Francophones on the Opelousas and Attakapas prairies] existed among outsiders, who in [the years 1865-95] sometimes labeled them Creoles, sometimes Cajuns. But by 1900, *Américains* . . . had succeeded in permanently affixing the Cajun identity to poor Francophones in Avoyelles and northwestern Imperial St. Landry Parish, even though members of these groups did not identify themselves as such. . . . Residents of French descent in Evangeline and Avoyelles parishes today still privately concede their Creole background.” (footnote omitted)); R.L. Daniels, *The Acadians of Louisiana*, 19 SCRIBNER’S MONTHLY 383, 383 (1880) (“Among themselves [i.e., among the humbler classes of French origin in Louisiana] they are the *Créole Français*; and Acadian—or rather its corruption ‘Cajun,’ as they pronounce it—is regarded as implying contempt.”).

13. *See* RANDY WHATLEY, “DU CHICOT”: A COLLECTION OF ESSAYS 68-69 (1983); Interview with Professor Robert A. Pascal, New Orleans, La., at 1 (April 29, 2001) [hereinafter Pascal Interview] (copy on file with author).

14. *See* WHATLEY, *supra* note 13, at 68; *see also* HERO, *supra* note 11, at 198.

15. *See* Ancelet, *supra* note 9, at 39 (“The slur *coonass*, a derogatory reference to Cajuns . . . , is . . . openly vulgar and offensive . . .”).

16. *See* BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 72

O menm ton, kan moun-saye—sa se pou di, boujwa-Kadjen-ye ki te konne pele ye-menm “Kreyòl”—ekan ye t’ape pale langle, ye pele ye-menm “French.”<sup>17</sup> Alòrs, on palon langle, Kadjen Kreòl-ye konne pele ye-menm “French,” pa jame “Cajun”; e on palon franse, ye konne pele ye-menm “Kreyòl,” pa jame “Kadjen.”<sup>18</sup>

Astè, peutèt vouzòt ka wa kofèr, dan Lalwizyann, ye gen si tan lostination otou paròl-la “Kreyòl,” paske li min en ta zafè difèran pou moun difèran.<sup>19</sup> E sa te osit manyèr-la loubrouge pou nonme moun dan Lalwizyann dez ane pase. Si-tan ke plizyèr lanne-ye pase, ekan mo mande mo zami Misye Adner Ortego, en vye bitan ki pal Kadjen e ki te ne e èlve alantou vilaj Washinton dan la Parwas Sen Landri—ekan mo mande li sa Kreyòl min pou li, Misye Ortego te di mwen, “Ti konne, Etchenn, le nèg Franse, sa nou za vole sèt paròl-la.”<sup>20</sup> Sa fe pou Misye Ortego, ankò jodi,

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(“[In the late 19th Century,] the educated [Cajun] elite turned its back on its heritage altogether. They increasingly wished to avoid the onerous social stigma born by those identified increasingly as ‘Cajuns’ (an Anglo corruption of Acadians) . . . , the apparent result of much unfavorable publicity by the Northern popular press.”); DORMON, *supra* note 8, at 72 (“Even as late as the 1930’s and 1940’s, then, the Cajuns were still deemed (by close and sometimes critical observers) to be isolated, unacculturated to American middle-class norms, provincial, insular, illiterate, poor . . . .”); Shana Walton, *Louisiana’s Coonasses: Choosing Race and Class over Ethnicity*, in SIGNIFYING SERPENTS AND MARDI GRAS RUNNERS: REPRESENTING IDENTITY IN SELECTED SOUTHS 38, 48 (Celeste Ray & Luke Eric Lassiter eds., 2003) (“The transformation from Cajun as white trash to Cajun as ethnic minority is a product of the phenomenal Acadian ethnic revitalization [of the 1970s and 1980s] and is clearly welcomed by most Acadians.”); *see also* Hero, *supra* note 11, at 198; Ancelet, *supra* note 9, at 33-34.

17. *See* MARILYN J. CONWELL & ALPHONSE JUILLAND, *LOUISIANA FRENCH GRAMMAR I: PHONOLOGY, MORPHOLOGY, AND SYNTAX* 18 (1963) (“It is still more or less true that anyone who does not speak French and is not a Catholic remains a stranger in the area; it is not unusual for Acadians to refer to such individuals as Americans and to themselves as Frenchmen.”).

18. WHATLEY, *supra* note 13, at 68-69.

19. *See supra* notes 5-7, 10-12 and accompanying text.

20. Konvèrsasyon èk Misye Adner Ortego, Washington, Louisiane (8 janvier 2005). For one factor that perhaps contributed to the racial appropriation of “Creole,” *see* Eric Waddell, *French Louisiana: An Outpost of l’Amérique Française or Another Country and Another Culture?*, in *FRENCH AMERICA: MOBILITY, IDENTITY, AND MINORITY EXPERIENCE ACROSS THE CONTINENT* 229, at 233-34 (Dean R. Louder & Eric Waddell eds., 1983) [hereinafter *FRENCH AMERICA*] (“[A]fter the Civil War [1861-1865], one of the names much used by [Louisiana] francophones to identify their own collectivity—Creole—was given another application by the English-speaking American majority, who wished to impose a new racial order in Louisiana. . . . [T]hey believed that *Creole* should be restricted to people of mixed racial origins. . . . The rural [Francophone] whites had no alternative but to assume

li se pa Kadjen: li se relman Kreyòl, ka-menm tou moun konsidè e pèl li en “Kadjen.”<sup>21</sup>

Astè, se lè ke mo chanj mo sije e mo lalang osit; sa fe mo va glise ondan langle: so now this Article shifts to English, for the next topic concerns American law and politics.

Among legal scholars and political theorists, the rights of minorities have now become an important topic worldwide;<sup>22</sup> and the rights of *linguistic* minorities have likewise become an important topic, because it is one area where virtually every country has a stake in the debate,<sup>23</sup> for there are but few countries that have only one language spoken within their national borders. Significantly, and perhaps paradoxically, the increasing trend towards commercial and cultural globalization seems to incite increased rising awareness of and organization around differences.<sup>24</sup> Furthermore, as part of this trend toward the politics of identity and an increasing interest in diverse cultures, it is understandable that—much as happened in the United States as a result of the civil rights movement of the 1960s<sup>25</sup>—ethnic groups worldwide (including Louisiana Cajuns<sup>26</sup>)

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an identity as Cajuns.”).

21. See BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 103-05 (“The prairie Creoles, like the genteel Creoles, are descendants of French colonists who were in Louisiana before the arrival of the Acadians. . . . These [Francophone colonists] migrated to settlement sites near present-day Washington, Louisiana, from which they quickly migrated to modern-day Evangeline Parish. . . . Even today the residents of Mamou will tell you privately that they ‘are not really Cajuns.’ But in recent years white prairie Creoles have nevertheless adopted the Cajun identity. . . . (To identify themselves as Creole would inevitably entail confusion with the persons of mixed racial background who now call themselves Creoles of Color or, more commonly in recent years, simply Creole.)”); BRASSEAU, ACADIAN TO CAJUN, *supra* note 9, at 110-11, *quoted in supra* note 12.

22. Adeno Addis, *Cultural Integrity and Political Unity: The Politics of Language in Multilingual States*, 33 ARIZ. ST. L.J. 719, 720 (2001).

23. See *id.* at 720-23; see also WILL KYMLICKA, MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS 1 (1995); KENNETH MCROBERTS, QUEBEC: SOCIAL CHANGE AND POLITICAL CRISIS (3d ed. 1993); JEANNE M. WOODS & HOPE LEWIS, HUMAN RIGHTS AND THE GLOBAL MARKETPLACE: ECONOMIC, SOCIAL, AND CULTURAL DIMENSIONS 534-79 (2005).

24. Addis, *supra* note 22, at 722 n.7 (citing Jan Jindy Pettman, *Border Crossing/Shifting Identities: Minorities, Gender, and the State in International Perspective*, in CHALLENGING BOUNDARIES: GLOBAL FLOWS, TERRITORIAL IDENTITIES 261, 268 (Michael J. Shapiro & Hayward R. Alker eds., 1996)).

25. See DORMON, *supra* note 8, at 80 (“By 1966, the Cajun ethnic revitalization movement was on the verge of its seedtime if not its full bloom. If the decade of the 1970s was . . . an ‘Age of Ethnicity,’ the ethnic phenomenon was prefigured at least to

have become interested in their own cultural heritages and thus more interested in their native languages.<sup>27</sup>

A question arises, then: how crucial is the survival of a minority's language for the survival of the minority as a distinct cultural group?<sup>28</sup> Sociolinguists have come to regard language as an important "cultural software" through which members of linguistic groups both discern the world around them and also develop and structure their cultural activities and rituals.<sup>29</sup> Since language is the only dimension of knowledge and the only medium of ideational communication, any language will both contain implicit assumptions and express culturally precise perceptions about the world.<sup>30</sup> Any particular language will therefore enable its speakers to have particular perceptions and draw particular analogies about the world and society.<sup>31</sup>

Our language, then, contains and communicates to us the complexities of the social world, as conceived by the particular

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a degree by events of the late 1960s."); Jacques Henry, *What Has Become of the Cajuns of Yore?*, 46 LA. HIST. 465, 467 (2005) ("American society became increasingly interested in its ancestral 'roots' during the decades of the Civil Rights Movement and white ethnic movements [in the 1960s and 1970s].").

26. See Robert Lewis, *L'Acadie Retrouvée: The Re-making of Cajun Identity in Southwestern Louisiana, 1968-1994*, in DIXIE DEBATES: PERSPECTIVES ON SOUTHERN CULTURES 67, 73-74 (Richard H. King & Helen Taylor eds., 1996) ("The 1960s and 1970s were a time of ethnic-minority consciousness throughout the Western world. . . . But nowhere were cultural nationalism and ethnic revivalism more explosive than in francophone Canada. . . . In Louisiana, a small but influential group of young intellectuals were inspired by events in New Brunswick . . . to revive pan-Acadian identity."); Walton, *supra* note 16, at 41 ("The Cajun movement also parallels other white, voluntary ethnic movements . . ."); see also *supra* note 25.

27. See Addis, *supra* note 22, at 723.

28. See KEVIN J. ROTTET, LANGUAGE SHIFT IN THE COASTAL MARSHES OF LOUISIANA 22 (2001) ("Ethnic groups differ in the degree to which they view their language as an integral part of their identity.").

29. J.M. BALKIN, CULTURAL SOFTWARE: A THEORY OF IDEOLOGY 24 (1998).

30. See *id.*; Drucilla Cornell & William W. Bratton, *Deadweight Costs and Intrinsic Wrongs of Nativism: Economics, Freedom, and Legal Suppression of Spanish*, 84 CORNELL L. REV. 595, 671, 679-82 (1999); James Fife, *The Legal Framework for Indigenous Language Rights in the United States*, 41 WILLAMETTE L. REV. 325, 328-29 (2005); Michael Jordan, *Law Teachers and the Educational Continuum*, 5 S. CAL. INTERDISC. L.J. 41, 62 (1996) ("We literally think through and experience the world through language."); James Etienne Viator, *Legal Education's Perfect Storm: Law Students' Poor Writing and Legal Analysis Skills Collide with Dismal Employment Prospects, Creating the Urgent Need to Reconfigure the First-Year Curriculum*, 61 CATH. U. L. REV. 735, 742 (2012).

31. See Fife, *supra* note 30, at 328-29.

culture that developed and evolved with the language that both shaped and expressed that culture. As the Supreme Court of Canada stated in an opinion treating language rights as a fundamental human right, “Language is not merely a means or medium of expression. It is a means by which a people may express its cultural identity. It is also the means by which one expresses one’s personal identity and sense of individuality.”<sup>32</sup> Thus, the survival of a language is fundamental to the survival and flourishing of a particular group’s culture.<sup>33</sup> And since the survival of a language is central to any cultural group’s continuing existence,<sup>34</sup> the question presents itself: whose responsibility is it to insure that a minority or endangered language survives? Hence, there has been nowadays a growing debate about whether governments are morally, or perhaps even legally, required to support minority languages.<sup>35</sup>

The people of Louisiana, speaking through the state legislature, seemed to provide their own answer to this juridico-linguistic question with Acts 408 and 409 of the Regular Legislative Session of 1968, which acts provided the opening

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32. *Ford v. Quebec (Attorney Gen.)*, [1988] 2 S.C.R. 712, 748-49 (Can.); *see also id.* at 750 (citing JOSHUA A. FISHMAN, *THE SOCIOLOGY OF LANGUAGE: AN INTERDISCIPLINARY SOCIAL APPROACH TO LANGUAGE IN SOCIETY* 4 (1972)).

33. Addis, *supra* note 22, at 773.

34. *See id.* at 773-74; *see also* JACQUES M. HENRY & CARL L. BANKSTON, III, *BLUE COLLAR BAYOU: LOUISIANA CAJUNS IN THE NEW ECONOMY OF ETHNICITY* 148 (2002) (“French-language use continues to be a major aspect of ethnic self-identification, despite the language’s rapid decline.”). *But see* ESMAN, *supra* note 8, at 9-10 (“A recent study revealed that Cajuns no longer consider French language . . . to be particularly significant to modern Cajun identity.”); *id.* at 128 (“Louise Theriot is a grandmother who acknowledges that her grandchildren do not speak French . . . . But she does not regret their inability to speak French because she believes that French is of little use to them in the modern world. . . . She can accept that her grandchildren are Cajuns, but in a different way than she is.”); Lewis, *supra* note 26, at 78-79 (“Paradoxically, given [the] new emphasis on the French heritage, there is a real prospect of a ‘French’ Louisiana without the French language. After 25 years, CODOFIL’s programme appears to be successful. It has established [French] instruction in the schools. . . . Yet decline in French language usage is slow but sure. . . . The decline of Creole French is equally marked. . . . *Indeed, language is now seen as largely irrelevant to ethnic identity.* ‘A Cajun who speaks no French is not considered to be any less a Cajun than is a French-speaking one’, reports an anthropologist who carried out extensive fieldwork in Lafayette, Breaux Bridge and Baton Rouge in the late 1970s and early 1980s.” (emphasis added) (footnote omitted)).

35. *See* KYMLICKA, *supra* note 23, at 1; WOODS & LEWIS, *supra* note 23, at 534-79; Martin Loughlin, *Constitutional Theory: A 25th Anniversary Essay*, 25 OXFORD J. LEGAL STUD. 183, 199-200 (2005).

statutory salvo of what came to be called the Louisiana French Movement or the Cajun Renaissance.<sup>36</sup> Before discussing those statutes and their interesting wording, however, one must first briefly consider why a modern movement for the preservation of Louisiana French was thought to be imperative, at least by South Louisiana's political and cultural elite.

The place of French was *fairly* secure in Louisiana through the first half of the nineteenth century,<sup>37</sup> but the Reconstruction years (1864-1877) witnessed the increasing Americanization of the southern francophone region of the State—due in large part to commercialization and industrialization<sup>38</sup> and, somewhat later, to a local version of globalization known as “Texasization,” which was prompted by, among other phenomena,<sup>39</sup> the discovery of oil

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36. See BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 132 (noting “the beginning of the Cajun cultural renaissance in 1968”); Jacques Henry, *The Louisiana French Movement: Actors and Actions in Social Change*, in FRENCH AND CREOLE IN LOUISIANA 183, 185, 190 (Albert Valdman ed., 1997); Barry Jean Ancelet, *Louisiana Cajun French and Creole*, available at <http://web.archive.org/web/20050104083845/http://www.cajunnetwork.com/ccfma/Anccelet4.htm> (last visited Apr. 8, 2014); *see also supra* notes 25-26 and accompanying text.

37. Ancelet, *supra* note 36, at 1; Henry, *supra* note 36, at 197; Lewis, *supra* note 26, at 69 (“The French language lost status rapidly in the late nineteenth century. By 1845 . . . Anglo-Americans were the majority.”).

38. Of particular importance to the decline of the French language and folkways were two factors not sufficiently emphasized by Louisiana scholars, namely, the mechanization of agriculture and New Deal agriculture policies, which led, symbiotically, both to the end of share-cropping and tenancy and to the consolidation of *petit-habitant* farms into large-scale farms, thereby depopulating the rural francophone communities known as “*anses*” or “*coves*.” *See* Lewis, *supra* note 26, at 70; Waddell, *supra* note 20, at 234-35. *See generally* DAVID EUGENE CONRAD, THE FORGOTTEN FARMERS: THE STORY OF SHARECROPPERS IN THE NEW DEAL (1965); PAUL E. MERTZ, NEW DEAL POLICY AND SOUTHERN RURAL POVERTY 253-62 (1978).

39. *See* ROTTET, *supra* note 28, at 57 (identifying three basic factors that contributed to French-language loss in 1930s South Louisiana: (1) new communication networks, from roads to radio; (2) technological and occupational changes; and (3) growth of the petroleum industry); Alain Larouche, *The Cajuns of Canal Yankee: Problems of Cultural Identity in Lafourche Parish*, in FRENCH AMERICA, *supra* note 20, at 276, 282 (same); *see also* Gerald L. Gold, *The Cajun French Debate in Louisiana*, in ISSUES IN INTERNATIONAL BILINGUAL EDUCATION: THE ROLE OF THE VERNACULAR 221, 222 (Beverly Hartford et al., 1982) (“Modernization, brought about through the schools and the general extension of state services, new technology such as air conditioning and the automobile, and the availability of mass media, has had far more extensive an influence on spoken French than the expansion of the oil industry or even development of large scale sugar and rice production at the expense of small farming.”).

in southwest Louisiana early in the twentieth century.<sup>40</sup> With this ever-increasing Americanization, Louisiana French eventually lost its dominant position, even in its own natural South Louisiana habitat.<sup>41</sup>

Furthermore, the Louisiana Constitutions of 1864 through 1921 marked a change from the largely language neutral constitutions of 1812, 1845, and 1852, which contained no provisions about the language to be used in public school instruction;<sup>42</sup> both reflecting and encouraging the move toward cultural Americanization, they contained provisions requiring, in purpose or effect, that only English be used in public schools.<sup>43</sup>

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40. BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 76; Ancelet, *supra* note 36, at 1.

41. See JOE GRAY TAYLOR, LOUISIANA: A BICENTENNIAL HISTORY 182 (1976); BENNETT H. WALL ET AL., LOUISIANA: A HISTORY 117 (2d ed. 1990); Gabriel Audisio, *Crisis in Baton Rouge, 1840-1860: Foreshadowing the Demise of Louisiana's French Language?*, 29 LA. HIST. 343, 355, 361 (1988).

42. See James Harvey Domengeaux, Comment, *Native-Born Acadians and the Equality Ideal*, 46 LA. L. REV. 1151, 1191 (1986). See generally Roger K. Ward, Comment, *The French Language in Louisiana and Legend Education: A Requiem*, 57 LA. L. REV. 1283, 1291-1301 (1997) (stating that "each [Louisiana] constitution offers some insight into the status of the French language at that particular moment in Louisiana history").

43. See LA. CONST. art. 142 (1864) ("The general exercises in the common schools shall be conducted in the English language." (emphasis added)); LA. CONST. art. 138 (1868) ("The general exercises in the public schools shall be conducted in the English language." (emphasis added)); LA. CONST. art. 226 (1879) ("The general exercises in the public schools shall be conducted in the English language . . . *provided*, that [the] elementary branches may be also taught in the French language in those parishes in the State or localities in said parishes where the French language predominates, *if no additional expense is incurred thereby*." (emphasis added)); LA. CONST. art. 251 (1898) ("The general exercises in the public schools shall be conducted in the English language; *provided*, that the French language may be taught in those parishes or localities where the French language predominates, *if no additional expense is incurred thereby*." (emphasis added)); LA. CONST. art. 251 (1913) (same); LA. CONST. art. 12, § 12 (1921) ("The general exercises in the public schools shall be conducted in the English language." (emphasis added)).

Carl Brasseaux, Shane Bernard, and Tim Hebert have, like other historians and commentators, emphasized the "English only" instruction provision of the 1921 Constitution, while overlooking or slighting the similar constitutional provisions dating back to 1864. See, e.g., BERNARD, *supra* note 1, at xxii-xxiii; BRASSEAU, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 75-76 (linking the 1921 Constitution and the 1916 compulsory attendance statute as part of "the early-twentieth-century movement to Americanize the Acadians"); Tim Hebert, *History of the Cajuns: Encyclopedia of Cajun Life: Language*, ACADIAN-CAJUN GENEALOGY & HIST., [www.acadian-cajun.com/clang.htm](http://www.acadian-cajun.com/clang.htm) (last visited Apr. 8, 2014) ("At the beginning of the 20th century, there was a progressive movement to standardize Americans. In Louisiana, the constitution was changed so that only English would

be used in school.”); Michael D Picone & Amanda LaFleur, *French*, in 5 THE NEW ENCYCLOPEDIA OF SOUTHERN CULTURE: LANGUAGE, 60, 63 (Michael Montgomery & Ellen Johnson eds., 2007) (“Cajun French . . . did not begin its demise until the 20th century, with the advent of compulsory schooling in English in 1916.”). These authors’ foreshortened view of the State government’s role in the decline of French may have resulted partly from the fact that it was not until 1916 that a school “compulsory attendance” law was enacted in Louisiana. 1916 La. Acts No. 27 (Reg. Sess.) (“AN ACT To provide for the compulsory school attendance of children between the ages of seven and fourteen years . . .”). As noted *supra*, however, the constitutional-legal depreciation of French began long before 1916. Moreover, prior to the 1916 compulsory-attendance law, and even for some years thereafter, most working-class Cajuns did not send their children to school anyway. HERO, *supra* note 11, at 202.

The efficiency of compulsory attendance laws for eradicating politically powerless minority languages has been examined by political economist Ludwig von Mises. In a manner perfectly descriptive of the plight of Cajun and Creole in Louisiana, Mises noted the problems created by compulsory attendance laws in jurisdictions where people do not all speak the same language:

[In such jurisdictions] the question of which language is to be made the basis of instruction assumes critical importance. A decision one way or the other can over the years, determine the nationality of a whole area. The school can alienate children from the nationality to which their parents belong and can be used as a means of oppressing whole nationalities. Whoever controls the schools has the power to injure other nationalities and to benefit his own.

. . . .  
 . . . In all areas of mixed nationality, the school is a political prize of the highest importance. It cannot be deprived of its political character as long as it remains a public and compulsory institution.

LUDWIG VON MISES, LIBERALISM: THE CLASSICAL TRADITION 114-15 (Ralph Raico trans., 1996).

To the extent that mandatory English instruction was, indeed, part of a “movement to Americanize the Acadians,” it should not be surprising that the first Louisiana constitution to include such a provision was that of 1864: the constitutional convention of 1864 was dominated by middle-class New Orleans Unionists, many of whom had been born in the North and had emigrated to New Orleans for business opportunities, WILLIAM C. HARRIS, WITH CHARITY FOR ALL: LINCOLN AND THE RESTORATION OF THE UNION 184 (1997); JAMES G. HOLLANDSWORTH, JR., AN ABSOLUTE MASSACRE: THE NEW ORLEANS RACE RIOT OF JULY 30, 1866, at 20 (2001), and the convention debates were punctuated with frequent manifestations of xenophobia. See Kathryn Page, *A First-Born Child of Liberty: The Constitution of 1864*, in IN SEARCH OF FUNDAMENTAL LAW: LOUISIANA’S CONSTITUTIONS, 1812-1974, at 52, 60, 63 (Warren M. Billings & Edward F. Haas eds., 1993).

The political force of anglophone New Orleans also showed itself in several other provisions of the 1864 constitution besides Article 142 on teaching in English. For example, also on the topic of officially approved language, the 1864 constitution reversed the bilingual policy of the prior constitution (1852) by providing that government records be published only in English. Compare LA. CONST. art. 103 (1864) (“The laws, public records, and the judicial and legislative written proceedings of the State shall be promulgated, preserved, and conducted in the language in which the Constitution of the United States is written.”), with LA. CONST. art. 129 (1852) (“The constitution and laws of this State shall be promulgated in the English and French languages.”). See also LA. CONST. art. 101 (1852) (“The secretary of the senate

Although thousands of Creoles and Cajuns still learned their French at home, thousands more would grow up without fluent knowledge of their cultural language as American radio and popular music, English-language newspapers, and school instruction in English began to crowd out any public or quasi-official recognition of Louisiana French.<sup>44</sup>

The Americanization and de-Gallicization of south Louisiana had thus continued in lockstep for many decades, when in 1967 an article appeared in *Life* magazine, entitled “A Waning Echo in Cajun Country.”<sup>45</sup> This article and other journalistic

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and clerk of the house of representatives shall be conversant with the French and English languages, and members may address either house in French or English language.”).

Another “language provision” of the 1864 constitution, article 128, has generally been misinterpreted as a pro-French measure. *See, e.g.*, Page, *supra*, at 63 (“[A]rticle (128) prohibited the legislature from passing any law that forbade public office to those Louisianians who could not speak English.”); Alden L. Powell, *A History of Louisiana Constitutions*, in 1 LOUISIANA STATE LAW INSTITUTE, PROJET OF A CONSTITUTION FOR THE STATE OF LOUISIANA WITH NOTES AND STUDIES 271, at 365 (1954) (“In fixing the qualifications for any public office, the legislature was forbidden [by article 128] to require . . . ability to speak the English language as [a] prerequisite[] for holding office.” (footnote omitted)). Actually, in keeping with the dominance of the somewhat xenophobic anglophone delegates in the 1864 convention, article 128 is a pro-*English* measure, although its turgid prose has understandably led to misreadings such as those of Page and Powell. The article reads in pertinent part: “The legislature shall pass no law excluding citizens of this State from office for not being conversant with any language except that in which the Constitution of the United States is written.” LA. CONST. art. 128 (1864). For article 128 to bear the pro-French interpretation, it would have to read: “The legislature shall pass no law excluding citizens of this State from office for not being conversant with the language in which the Constitution of the United States is written.” As it is, and phrased affirmatively, the article means that the legislature can pass laws excluding from office citizens, and *only* those citizens, not conversant with the English language.

Other constitutional provisions reflecting the political strength of anglophone New Orleans were article 130, making New Orleans the State capital again, and article 10, establishing the basis of representation in the Louisiana House of Representatives. *See* LA. CONST. arts. 10, 130 (1864). Also, article 10 provided that the legislative districts must be “equal and uniform” and must be apportioned according to the number of “qualified electors,” not according to population, which had been the basis of representation in the prior constitution. *Compare* LA. CONST. art. 10 (1864), *with* LA. CONST. art 8 (1852). This shift to “registered voters” as the basis of representation “was designed to reduce the power of rural parishes and increase that of New Orleans.” HARRIS, *supra*, at 184; *see also* Page, *supra*, at 64.

44. BRASSEAUX, PRIMER ON FRANCOPHONE LOUISIANA, *supra* note 2, at 76; Hebert, *supra* note 43.

45. *See* David Snell, *A Waning Echo in Cajun Country*, LIFE, Mar. 14, 1969, at 18B; *see also* Hebert, *supra* note 43.

presentations estimated that the French language would eventually disappear from Louisiana, perhaps by the end of the century.<sup>46</sup> Alarmed by these articles and also by the decreasing use of the French language in south Louisiana, four Cajun state legislators (including State Senator Edgar G. Mouton, Jr.<sup>47</sup>) and other politicians and civic leaders hoped for a linguistic renaissance through a comprehensive program of French education in Southwestern Louisiana.<sup>48</sup> Act 409 of 1968 entitled, “AN ACT To authorize the establishment of Council for the Development of Louisiana-French,” created CODOFIL, an official State Agency.<sup>49</sup> CODOFIL is now widely recognized in Louisiana as the acronym for Council for the Development of French in Louisiana (*Conseil pour le developpement du Francais en*

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46. Henry, *supra* note 36, at 185-86; Snell, *supra* note 45, at 18B.

47. BERNARD, *supra* note 1, 90-91 (“[On February 9, 1968], four Cajun state legislators, Senator Edgar G. Mouton Jr. and Representatives J. Luke LeBlanc, O.C. ‘Dan’ Guilliot, and Fredric G. Hayes, announced their support for a comprehensive French education program in southwestern Louisiana. . . . A few weeks later, twenty-two legislators signed a petition, suggested by [USL’s Professor Raymond S.] Rodgers and sponsored by Mouton, calling on the governor and the superintendent of education to offer French courses from elementary to university levels. . . . This petition directly inspired State Act 409, passed July 20, 1968. . . . [T]he legislation established the Council for the Development of Louisiana-French . . .”).

As reflected in the preceding quotation from Shane K. Bernard’s monograph, in a recent interview, former state senator Edgar G. Mouton explained that he was one of several sponsors of Acts 408 and 409 of 1968 and that the idea of creating CODOFIL came about through “brainstorming” done by him and Jimmy Domengeaux. Telephone Interview by Donna Marchand Spears with Edgar G. Mouton, Jr. (May 13, 2005) [hereinafter Mouton Interview] (notes on file with author); *see also* Henry, *supra* note 36, at 188 (“Drafted to Domengeaux’s specifications by his legislative friends, the [1968] acts reflected his views . . .”). Mr. Mouton also indicated that their shared goal was to preserve Louisiana (Cajun) French, but to teach it with a formal lexicon and grammar so that “our French could be written,” because having an unwritten language is “what had held the Cajuns back for years.” Mouton Interview, *supra*. Mr. Mouton was uncertain as to why “Parisian French” (Standard French) came to be taught in the CODOFIL programs rather than Cajun French, but he surmised that perhaps it was because “Parisian French” was the “modern” French and thus there were “Parisian French” instructional materials “ready to go.” *Id.* at 1; *see also* Henry, *supra* note 36, at 189 (reporting statements of James Domengeaux that the problem with Cajun French is that it has “no literature, no grammar . . . no formality” and that it is not worthy to be taught because it is the French equivalent of “redneck English”).

48. *See* BERNARD, *supra* note 1, at 89-91.

49. 1968 La. Acts No. 409 (Reg. Sess.) (codified as amended at LA. REV. STAT. ANN. § 25:651 (2014)); *see* Henry, *supra* note 36, at 185 (“CODOFIL was created in July 1968 by a unanimous vote of the Louisiana Legislature [in Act 409].”); *French Renaissance*, 20 ACADIANA PROFILE, no. 1, 1999, at 6.

*Louisiane*),<sup>50</sup> the state agency dedicated to the preservation of “Louisiana’s French language, heritage and culture”<sup>51</sup>—and Act 409 both established and gave the Council its charge: “[S]aid Council is empowered to do any and all things necessary to accomplish the development, utilization, and preservation of the French language *as found in the State of Louisiana . . .*”<sup>52</sup>

This legislative charge was essentially ignored, however. As the author of the entry on “Language” in the *Encyclopedia of Cajun Life* has pointed out, “Unfortunately, most of the French that is taught [in Louisiana Schools] is not Cajun French.”<sup>53</sup>

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50. Note the telling change in the official name of CODOFIL from the Act 409 iteration “Council for the Development of Louisiana-French” to the current “Council for the Development of French in Louisiana.” As Creole linguistics professor Albert Valdman observed, “[l]inguistic revival, involving the promotion of the vernacular varieties, was not part of the CODOFIL agenda, although it could be read into the language of Act 409 . . .” Albert Valdman, *Introduction, in FRENCH AND CREOLE IN LOUISIANA*, *supra* note 36, at 1, 9. See also *infra* text accompanying note 52. Thus, as an indication of the CODOFIL—Domengeaux disinterest in Louisiana French, at the very first CODOFIL meeting, held in October of 1968, a motion was passed to change the agency’s name to the “French in Louisiana” rubric in order not to alienate or antagonize non-Cajun politicians and school officials in the anglophone parts of the State. See Henry, *supra* note 36, at 189 n.5. Senator Mouton then acted on this motion in the 1968 Extraordinary Session of the Louisiana legislature by introducing Senate Bill 21, which became Act 22, entitled “AN ACT . . . to change the name of the Council for the Development of Louisiana-French to the Council for the Development of French in Louisiana.” 1968 La. Acts No. 22 (Extra. Session).

Historian Shane Bernard noted in passing that CODOFIL has had three names, the second one being “Council for the Development of French-Speaking Louisiana.” After explaining that the original “legislation established the Council for Development of Louisiana-French,” Bernard observed that “[a]fter experimenting with a new name, the Council for the Development of French-Speaking Louisiana, the organization settled in December 1968 on a third name, the Council for the Development of French in Louisiana.” BERNARD, *supra* note 1, at 91.

51. *French Renaissance*, *supra* note 49, at 6.

52. 1968 La. Acts No. 409 (Reg. Sess.) (codified as amended at LA. REV. STAT. ANN. § 25:651 (2014)).

Act 409 of 1968 reads in pertinent part:

The Governor is hereby authorized to establish Council for the Development of Louisiana-French, said agency to consist of no more than fifty (50) members and including a chairman appointed by the Governor from names recommended to him by legislators, and said Council is empowered to do any and all things necessary to accomplish the development, utilization, and preservation of the *French language as found in the State of Louisiana* for the cultural, economic, and tourist benefit of the State.

*Id.* (emphasis added).

53. Hebert, *supra* note 43; see also BERNARD, *supra* note 1, at 110 (listing CODOFIL’s “emphasis on standard French” as one of the reasons so many Cajuns were apathetic about CODOFIL and its educational program); Gold, *supra* note 39, at 228 (noting “the CODOFIL commitment to standard or international French”);

Hence, a recent Loyola law student's description of her mid-1980s grammar-school education under the companion statute, Act 408 of 1968,<sup>54</sup> is sadly typical. This statute authorized local school boards to use public funds for a five-year French instruction program that, as mandated in this statute, was supposed to be based on the French found in Louisiana;<sup>55</sup> but as this Loyola student explained, her French-language schooling at Prairie Elementary in Lafayette Parish was entirely in "Parisian French," as standard French is often called in South Louisiana, and she learned little enough of that.<sup>56</sup> This occurred during the

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Jacques Henry, *Homing in on the Field*, in *WORKING THE FIELD: ACCOUNTS FROM FRENCH LOUISIANA* 118, 131 (Jacques Henry & Sara Le Menestrel eds., 2009) ("It is now well-documented that CODOFIL's strategy of teaching Standard French . . . alienated working-class Cajuns, the movement's main target . . ."); *infra* notes 56-58.

54. 1968 La. Acts No. 408 (Reg. Sess.) (codified as amended at LA. REV. STAT. ANN. § 17:272 (2014)):

Section 1. The French language and the culture and history of French populations in Louisiana and elsewhere in the Americas shall be taught for a sequence of years in the public elementary and high school systems of the State, in accordance with the following general provisions:

(A) As of the start of the 1969-1970 school year, all public elementary schools shall offer at least five (5) years of French instruction starting with oral French in the first grade; *except that* any parish or city school board, upon request to the State Board of Education, *shall be excluded* from this requirement, *and such request shall not be denied*. . . .

(B) As of the start of the 1970-1971 school year, all public high schools shall offer a program of at least three (3) years of instruction in the French language and at least one course included in the culture and history of the French populations of Louisiana and other French speaking areas in the Americas; *except that* any parish or city school board *may request* the State Board of Education *to be excluded* from this requirement *and such request shall not be denied*. . . .

Section 3. The State Board of Education, the State Superintendent of Education, and all other public educational officials and administrators are properly charged with the implementation of this act.

Section 4. The State Board of Education, the State Superintendent of Education, and the Parish School Boards participating in the program set forth in this act shall include in their budget provision for the implementation of this program; and may avail themselves of any funds which may be provided by the Federal Government or other sources in accordance with the existing law and regulations of this State.

*Id.* (emphasis added).

55. 1968 La. Acts No. 408 (Reg. Sess.) (codified as amended at LA. REV. STAT. ANN. § 17:271 (2014)). The preamble to Act 408 declared its purpose: "To further the preservation and utilization of *the French language* and culture of Louisiana by strengthening its position in the public schools of the State, and requirements that *the French language* and the culture and history of *French populations in Louisiana* and elsewhere in the Americas, shall be taught for a sequence of years in the public elementary and high school systems of the State." *Id.* (emphasis added).

56. Interview with Donna Marchand Spears, New Orleans, Louisiana (May 10, 2005) (notes on file with author). When asked what she could recall of her grammar-

1970s, shortly after the creation of CODOFIL, and the same is true today—“standard” French is taught in the vast majority of, and for the vast majority of time in, public-school French classes in Louisiana.<sup>57</sup>

The first CODOFIL leaders, as instigators and drafters of Acts 408 and 409, were doubtless aware of the specific statutory language about preserving *Louisiana* French. Furthermore, as many people know—indeed, as a Professor at Paul Valery University in Montpellier, France, Prof. Louis Assier-Andrieu, knows first-hand from his years as a CODOFIL instructor in Mamou, Louisiana—it was frequently pointed out to CODOFIL leaders that it would be more efficient and more productive to teach Creole and Cajun French to South Louisiana students<sup>58</sup>

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school French instruction, Ms. Spears explained that she remembered how to ask about someone as a greeting (“Comment ça vas”) and how to say the word for hog (“cochon”), which she then proceeded to mispronounce as “couchon.” *Id.* Shane Bernard has noted the same lack of linguistic progress among Louisiana students and explains why:

[C]hildren enrolled in CODOFIL programs received only a half-hour of French instruction daily, which left *virtually no impression* on the English-speaking youths. When a *New York Times* reporter visited a classroom in St. James Parish, he witnessed Cajun children struggling with basic conversational French. . . . [A] teacher patiently coached a young girl on the correct pronunciation of *au revoir*, but the student “finally left without really getting it right.”

BERNARD, *supra* note 1, at 100 (emphasis added).

57. See Becky Brown, *The Development of a Louisiana French Norm*, in FRENCH AND CREOLE IN LOUISIANA, *supra* note 36, at 215-35, (“Traditionally, CODOFIL officially promoted the French of France only . . .”); Henry, *supra* note 36, at 188 (“CODOFIL implemented an education program aimed at teaching Standard French (SF) to Louisiana elementary students . . .”).

58. Conversation with Prof. Louis Assier-Andrieu, New Orleans, Louisiana (March 27, 1992) [hereinafter Assier-Andrieu Conversation] (notes on file with author). Professor Assier-Andrieu, while serving as a French-language instructor in Mamou in the early 1970s, composed a report for CODOFIL, based on his first-hand observations of the total failure of CODOFIL’s language-instruction program. See *id.*; see also DORMON, *supra* note 8, at 85 n.88 (describing “my interview with the French foreign service officer who . . . coordinat[ed] the efforts of the ‘International Brigades’” and stating that “the interviewee termed the French-language program ‘a waste, a total waste of time, energy, and money’”). At the time, Professor Assier-Andrieu was a member of the “International Brigades,” the Foreign Associate Teachers (FATs) who solely staffed CODOFIL’s French-education program from 1969-1978. See BERNARD, *supra* note 1, at 99; Henry, *supra* note 36, at 191. But unlike most FATs, who only signed up for duty in Louisiana to avoid military conscription in France, Belgium, and Canada, and who felt “culturally superior” to Cajuns and Creoles of Color, see MARK MATTERN, ACTING IN CONCERT: MUSIC, COMMUNITY, AND POLITICAL ACTION 95 (1998), Assier-Andrieu respected and enjoyed the Mamou Francophone community and was thoroughly dismayed when Director James Domengeaux and other CODOFIL executives chose to ignore his

because of the pedagogical synergy that could be achieved: the French taught in schools could be reinforced at home with Louisiana French-speaking parents and grandparents.<sup>59</sup>

Moreover, this sort of home-grown, organic approach to instruction would also actually make progress toward the preservation of the unique French-based culture of South Louisiana by preserving the indigenous languages rather than implanting what is essentially a foreign dialect; for although, to be sure, there was a sizeable community of “Colonial French” or “Plantation Society French” speakers in New Orleans and its environs in the very early twentieth century, only a relatively few such speakers were still alive in the 1960s and 1970s.<sup>60</sup> Thus, if the French contemporaneously found in Louisiana was to be taught and promoted, as Acts 408 and 409 declared,<sup>61</sup> then it would have to be Cajun French and Louisiana Creole.<sup>62</sup>

As for the current leaders of CODOFIL, they too are aware of the charge of Act 409, for it is on the first page of the CODOFIL website.<sup>63</sup> The “Bienvenue!” page of the website quotes the pertinent language of the Act about “French as found in Louisiana” and then declares that “as everywhere in the francophone world, we [in Louisiana] speak several varieties of French each having their [sic] own particular flavor. For these reasons, we have tried to include as often as possible on this web site ‘French as it is found in Louisiana.’”<sup>64</sup> Unfortunately, a

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report. Assier-Andieu Conversation, *supra*, at 1.

59. See Assier-Andrieu Conversation, *supra* note 58, at 1; Brown, *supra* note 57, at 225.

60. See CONWELL & JUILLAND, *supra* note 17, at 2 (noting that “Colonial French was considered the nearest equivalent of Standard French,” but that it “has practically disappeared”); THOMAS A. KLINGLER, IF I COULD TURN MY TONGUE LIKE THAT: THE CREOLE LANGUAGE OF POINTE COUPEE PARISH, LOUISIANA xxix (2003); Pascal Interview, *supra* note 13, at 2.

61. See *supra* notes 52, 54 and accompanying text.

62. See KLINGLER, *supra* note 60, at xxviii (stating that as of 2003, “there remain somewhat fewer than 50,000 speakers of Louisiana Creole”); Hosea Phillips, *The Spoken French of Louisiana*, in THE CAJUNS: ESSAYS ON THEIR HISTORY AND CULTURE 173-74 (Glenn R. Conrad, ed. 1978) (“Acadian French [is] the most widespread variety of French in Louisiana.”).

63. *Bienvenue!*, CODOFIL, <http://web.archive.org/web/20020604070635/http://www.codofil.org/english/index.html> (last visited Apr. 8, 2014).

64. *Louisiana’s French Language*, CODOFIL, <http://web.archive.org/web/20021014221937/http://codofil.org/english/lafrenchlanguage.html> (last visited Apr. 8, 2014).

diligent search of the website for Cajun French, much less Creole, turned up only one page using French “as it is found in Louisiana,”<sup>65</sup> and that was merely a short list of indigenous Louisiana French words, such as “espérer” (to wait), “ouaouaron” (bullfrog), and “cocodril” (alligator).<sup>66</sup> Other than that, the entire website is composed in Standard French, with an occasional Louisiana tokenism, such as “icite” for “ici.”<sup>67</sup>

This disregard of the legislative charge has not gone without notice or comment, whether recently or from the earliest days of CODOFIL.<sup>68</sup> There is, for example, this recent letter posted on CODOFIL’s website chat-room, “Le Forum CODOFIL,” on April 22, 2005:

I think it is a shame that CODOFIL does not provide scholarships to study Cajun French at LSU. On the CODOFIL website, it states, “according to legislative Act 409, CODOFIL is empowered to ‘do any and all things necessary to accomplish the development, utilization, and preservation of the French language as found in Louisiana . . .’” Take note that it says “the French language as found in Louisiana.” Now if they are out to preserve the French found in Louisiana, then why don’t they provide a scholarship to send students to LSU in order to learn Cajun French, instead of sending them abroad to learn French?<sup>69</sup> It boggles the mind! If more students would minor in Cajun French at LSU, then more teachers could teach Cajun French in the [local] schools!<sup>70</sup>

This recent correspondent voiced a fairly common and longstanding complaint about CODOFIL’s refusal to follow

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65. *Id.*

66. *Id.*

67. *Louisiana’s French Language*, *supra* note 64, *passim*.

68. See David Peyton, *Look What They’ve Done to my French Mama: Attempts to Save Louisiana French*, ALICIA PATTERSON FOUND. (Dec. 10, 1975), <https://web.archive.org/web/20041228224326/http://aliciapatterson.org/APF001975/Peyton/Peyton08/Peyton08.html> (discussing Richard C. Landry, Letter published in *The Daily Advertiser*, Lafayette’s Newspaper) (last visited Feb. 17, 2014).

69. The on-line author is here referring to the CODOFIL study-abroad scholarship program that underwrites the sending of Louisiana college and high-school students to Belgium, France, and Canada for French-immersion programs. *Education*, CODOFIL, <http://web.archive.org/web/20021015063152/http://codofil.org/english/education.html>. (last visited Apr. 8, 2014).

70. *Le Forum*, CODOFIL, [www.codofil.org/english/leforumcodofil.html](http://www.codofil.org/english/leforumcodofil.html) (last visited Apr. 26, 2006).

legislative command, a lament that began to appear within a few years of the establishment of CODOFIL.<sup>71</sup> Another representative example is a letter written by a Cajun, Milburn Richard,<sup>72</sup> and in order to present Monsieur Richard's letter, let me return to the French languages spoken in my home state of Louisiana:

E pou fini jodi, mo gen en lalèt ekri par en Kadjen, Milburn Richard, e li te poubliye dan en colonn a lagazèt, "*Du Chicot*," alantou diz-nèf san katreu-ven-deu. E sa donn santiman-ye a moun ki se pou montraj-la deu "Franse Kadjen" dan lekòl-ye dan Lalwizyann. On swivan se paròl-kadjen-ye a Misye Richard:

Quand j'étais ein petit de à peu près neuf ans, j'ai essayé d'arrêter d'être Cajin. Depuis j'avais commencé l'école en parlant juste français, "cassé" et que j'ai été dit [par des maitresses d'école] que la langue que je parlait . . . était pas assez bonne. Par quec manière, j'étais l'exception et j'ai pas réussi dans mes efforts d'arrêter [d'être] Cajin et j'sus content.

Asteur je chèche pour des vrais Cajins, ceux-là qu'est les fiers descendants d'ein monde smat qu'a fait des richesses d'huile et eine bonne terre endéors de des pays bas et des meches.

Et y'ou ils sont quand dessus ein programme de télévision publique fait pour préserver le français dans la Louisiane, j'attende que mes taxes est après supporter des Canadiens, des Belges et des Français pour montrer [nos] enfants le français Standard avec l'implication que ça qu'est parlé à la maison est "pas bon."

Depuis les jours quand le gòvernement [sic] Anglais et plus tard l'état de la Louisiane a déclaré les Acadiens eine bande de paysans desquels leurs langue doit être détruit, juste qu'à aujourd'hui, quand le système d'éducation supporte eine manière de parler étrange, le tuage de notre culture a pas manqué ein pas.

Est'ce que c'est tellement pas bien de vouloir notre langue et manières de vivre Cajin reste en vie? Les vrai manières de

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71. See *supra* notes 44-45, 51.

72. Randall Whatley describes Mr. Richard's letter as "articulating the sentiments of Cajun purists who support classroom instruction of Cajun French." WHATLEY, *supra* note 13, at 148.

vivre et pas ce cochonnerie qu'est pompé dans nos têtes; la vraie langue, et pas cette râle désagréable français d'école qu'est être après montré.

Nous-autres comme les derniers parleurs de la langue Cajin a besoin de montrer notre jeune monde le français Cajin avec le fierté, en connaissant que ça peut pas être montré mieux. On a besoin d'arrêter de dénier notre héritage et commencer une bataille pour sauver notre manière de parler français. On a pas pour écouter les ceux qu'après nous mettre en bas.

Rappelle toi que si le passé et le présent veut dire quelque chose, la seule affaire qu'ils vont nous donner c'est plus de la misère qui dans la fin va vouloir dire moins des Cajins.<sup>73</sup>

E la, ese-la se fini, e sete mo gran plezi pou poubliye dan *Loyola Law Review* e pale avèk vouzòt on sije-sa-ye, kèk sije-ye ki mo kwa se biyen enportan e, mo swèt, biyen entèresan pou tou moun dan Lalwizyann.

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73. WHATLEY, *supra* note 13, at 149. Randall Whatley provides a translation of Monsieur Richard's letter as follows:

When I was a child of 9, I tried to stop being Cajun. Ever since I started school speaking only French, I was told that the language I spoke was "broken" French and that my Cajun culture was inferior. Somehow I was the exception and failed in my efforts to stop being Cajun, and I am glad.

Now I search for real Cajuns, those who are proud descendants of an intelligent, quick-witted people who created an oil empire and a fertile food-producing land from swamps and marshes.

Where are they when on a public television program designed to promote the preservation of French in Louisiana, I hear that my tax dollars are supporting Canadians, Belgians, and Frenchmen to teach our children Standard French with the implication that what is spoken at home is "wrong."

From the days when the British government and later the State of Louisiana declared the Acadians to be peasants whose language must be destroyed, until the present, when the educational system sanctions an alien dialect, the killing of our culture has not missed a step.

Is it so wrong to want our native Cajun dialect and customs to survive? The real customs, and not this media-induced hybrid being pumped into our heads; the real language, and not the rasping, grating textbook French being taught in our schools.

We as the last remaining Cajun French speakers need to teach our youth Cajun French with pride, knowing that they cannot be taught better. We need to stop denying our heritage and put up a fight to save our own French dialect. And we need to tune out the ever-present critics of our self-preservation cause.

Remember, if past and present action is any indication, the only thing they will give us is more obstacles, which, in the long run, means less Cajuns. *Id.* at 148.

## APPENDIX\*

This article is not a reprimand of Louisiana French teachers. Instead, it examines the word “Creole” and the law relating to the French language in Louisiana.

Confusion and quarreling occur in Louisiana whenever there is a discussion of the word “Creole.”<sup>1</sup> And that is really not my desire for of this article. My belief is that the only way to define “Creole” is to begin with a question: “In what century, in what year, in what parish, and in what circumstances or context is the word ‘Creole’ being used?”<sup>2</sup>

For example, Joseph Tregle,<sup>3</sup> Jay Dearborn Edwards,<sup>4</sup> and other professors have discovered that in the 19th century, “Creole” meant anything born, or made, in Louisiana, whether people or animals or other things.<sup>5</sup> Thus, Creole also came to mean something better or stronger than other things of the same kind, because if they come from Louisiana, they are “acclimated,” and so they are better and stronger. Therefore, as an adjective, “Creole” is always used as a word of honor and excellence. Thus, nowadays in Louisiana in the Creole language and in English too, one can hear people speaking of Creole tomatoes, Creole onions, Creole chickens, Creole cattle, Creole ponies, and such things as that.<sup>6</sup> In sum, all kinds of things “Creole” are considered better and fitter than other types of the same things.<sup>7</sup>

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\* The footnotes in this translation correspond to the footnotes in the original Creole version found at the beginning of this article. The footnotes here are not intended to provide the reader with authorities for the stated propositions, for those authorities can be found in the original version. Rather, the footnotes are intended to help readers find their places in the Creole original.

Currently, the word Creole also has an ethnic meaning: it can mean a mixed-race people—people also known historically as mulatto, griffe, quadroon, or octoroon—and these are persons who perhaps speak Creole and who generally have the same religion and customs as the Cajuns.<sup>8</sup>

As an aside, it is worth noting that many Creoles of Color consider themselves socially superior to Cajuns.<sup>9</sup> And the French of New Orleans (who are often called white Creoles or simply Creoles), they think themselves superior to Creoles of Color and also Cajuns.<sup>10</sup> Several elderly informants have also told me that some years ago—around the 1940s—the New Orleans French and the Creoles of Color both refused to socialize with Cajuns.<sup>11</sup>

There is also another sense or meaning to the word Creole, for it was used in the past by people who currently are called “Cajuns.” And it’s a meaning many Cajuns today are unaware was used in the past, because some years ago, these people did not always call themselves “Cajuns.” During the first half of the twentieth century, the people at present called Cajuns, the land-owning Cajuns, called themselves “Creole.”<sup>12</sup> And when speaking Louisiana French, these people did not call themselves “Cajuns” or “French”—rather they called themselves “Creole.” And likewise, until the 1950s or 1960s, when these land-owning Cajuns called someone “French,” they meant somebody from France or from New Orleans.<sup>13</sup>

And these same land-owning Cajuns used the word “Cajun” to mean impoverished, uneducated tenant farmers and trappers.<sup>14</sup> In the 1950s to early 1960s, then, a “Cajun” meant approximately the same thing connoted by the English word “Coonass.”<sup>15</sup> Thus, in mid-century Louisiana, “Cadien” (in French) or “Cajun” (in English) meant “poor white trash” or “country bumpkin.”<sup>16</sup>

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At the same time, the land-owning Cajuns, who called themselves “Creole” when speaking French, described themselves as “French” when speaking English.<sup>17</sup> Thus, when speaking English, the Cajun-Creoles usually called themselves “French,” never “Cajun”; and when speaking French, they usually called themselves “Creole,” never “Cajun.”<sup>18</sup>

Now, perhaps, it has become clear to my readers exactly why, in Louisiana, there are so many disagreements over the word “Creole,” for it means so many different things to different people.<sup>19</sup> And it was the confusing way in which people were named in Louisiana some years ago that incited disagreement. So much so that when a few years ago I asked a friend, Mr. Adner Ortego—an elderly farmer who speaks Cajun French and who was born and raised near the small town of Washington in St. Landry Parish—exactly what the word Creole meant to him, he answered, “You know Etienne, the Afro-French, they stole that word from us.”<sup>20</sup> So for Mr. Ortego himself, still today, he is not Cajun: he is really Creole, even though everyone considers him to be, and calls him, a “Cajun.”<sup>21</sup>