Title IV. Of Husband and Wife (Art. 86 - 137)

Louisiana
ART. 85. The same thing shall take place if the husband or wife who has disappeared, has left minor children born of a former marriage.

RCC—83, 84, 267, 270.

RCC 1870, Art. 85. (Same as Art. 85 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 86. (No reference in Projet)
The same thing shall take place if the husband or wife who have disappeared, have left minor children born of a former marriage.

CC 1808, p. 22, Art. 32.
It will be the same thing in case the husband or wife who shall have disappeared, shall leave minor children born of a former marriage.

CN 1804, Art. 143.
Same as above.

TITLE IV—OF HUSBAND AND WIFE
Chapter 1—ON MARRIAGE

ART. 86. The law considers marriage in no other view than as a civil contract.

RCC—87 et seq., 90, 91, 1934(3).

RCC 1870, Art. 86.
Same as above.

CC 1825, Art. 87. (No reference in Projet)
La loi ne considère le mariage que comme un contrat civil.

CC 1808, p. 24, Art. 1.
Same as above. (Same as Acts 1807, Chap. 17, 11)

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Book I, Title V, Art. 1.
The law considers marriage in its civil and political aspects only.
La loi ne considère le mariage que sous ses rapports civils et politiques.

ART. 87. The laws prescribe:
1. The manner of contracting and celebrating marriages;
2. The legal effects and consequences of marriage;
3. The manner in which marriages may be dissolved; [.] 49
ART. 88

Such marriages only are recognized by law as are contracted and solemnized according to the rules which it prescribes.

RCC—86, 87, 99 et seq., 102, 105 et seq. RS—2212 et seq.

ART. 89.

Marriage is a contract intended in its origin to endure until the death of one of the contracting parties; yet this contract may be dissolved before the decease of either of the married persons, for causes determined by law.


ART. 90.

Marriage is a contract intended in its origin, to endure until the death of one of the contracting parties; yet this contract may be dissolved before the decease of either of the married persons, for causes determined by law. (Similar to Acts 1807, Chap. 17, §14)
Chapter 2—How Marriages May be Contracted or Made

Art. 90. As the law considers marriage in no other view than that of a civil contract, it sanctions all those marriages where the parties, at the time of making them, were:
1. Willing to contract;
2. Able to contract;
3. Did contract pursuant to the forms and solemnities prescribed by law.


RCC 1870, Art. 90.
Same as above.

CC 1825, Art. 91. (No reference in Projet)
Same as above; but comma (,) after "marriages", after "Willing to contract", and after "Able to contract."

La loi ne considérant le mariage que comme un contrat civil, elle sanctionne, comme valide, tout mariage, lorsque les parties, au moment où elles ont contracté,
1. Voulaient contracter,
2. Pouvaient contracter,
3. Ont contracté conformément aux formes et solemnités prescrites par la loi.

CC 1808, p. 24, Art. 4.
Par. 1 and subd. 1 same as par. 1 and subd. 1, above; but no punctuation after "marriages"; comma (,) after "were"; semicolon (;) after "contract."
2dly, Able to contract; and,
Subd. 3 same as subd. 3, above. (Same as Acts 1807, Chap. 17, §5)

CN 1804. No corresponding article.

Art. 91. No marriage is valid to which the parties have not freely consented.
Consent is not free:
1. When given to a ravisher, unless it has been given by the party ravished, after she has been restored to the enjoyment of liberty;
2. When it is extorted by violence;
3. When there is a mistake respecting the person, whom one of the parties intended to marry.

RCC—86, 90, 110, 117, 118, 1819, 1834, 1852, 1853, 1854.
Art. 92

RCC 1870, Art. 91.
Same as above.

RCC 1825, Art. 92.
Same as above.

CC 1808, p. 24, Art. 5.
Same as above; but semicolon (;) after "consented"; comma (,) after "free"; no punctuation after "person." (Same as Acts 1807, Chap. 17, §6)

CN 1804, Art. 146.
There is no marriage when there is no consent. (C.)

Projet du Gouvernement (1800), Book I, Title V, Art. 5.
A marriage is not valid, if the two spouses have not freely and formally consented.
Consent is not free:
1. When given to a ravisher, unless it has been given by the party ravished after she had been restored to the full enjoyment of liberty;
2. When it is the effect of violence;
3. When there is error concerning the person whom one of the parties intended to marry.

ART. 92.* Ministers of the Gospel and magistrates, intrusted with the power of celebrating marriages, are prohibited to marry any male under the age of eighteen years, and any female under the age of sixteen, and if any of them are convicted of having married such persons, he shall be removed from his office, if a magistrate, or deprived forever of the right of celebrating marriage [marriages], if a minister of the gospel. (As amended by Acts 1934, No. 140, §1)

RCC—97, 112, 113.

RCC 1870, Art. 92.
Ministers of the gospel and magistrates, intrusted with the power of celebrating marriages, are prohibited to marry any male under the age of fourteen years, and any female under the age of twelve, and if any of them are convicted of having married such persons, he shall be removed from his office, if a magistrate, or deprived forever of the right of celebrating marriages, if a minister of the gospel.
CIVIL CODES OF LOUISIANA

Art. 93

CC 1825, Art. 93. (No reference in Projet)
Same as above; but semicolon (;) after “twelve.”


CC 1808, p. 24, Art. 6.

It is prohibited to the ministers of the gospel and to the magistrates entrusted with the power of celebrating marriages, to marry any male under the age of fourteen years and any female under the age of twelve, and if any of them are convicted of having married such persons, he or they shall be removed from his office, if a magistrate, or deprived forever of the right of celebrating marriages, if a minister of the gospel.

CN 1804, Art. 156.

The civil officer who shall have proceeded to the celebration of marriages contracted by males under twenty-five years complete, or by females under twenty-one years complete, without having the consent of their fathers and mothers, grandfathers and grandmothers, and of the family, in the cases in which such consent is required, declared in the act of marriage, shall on prosecution by the parties interested and by the commissaire du Gouvernement in the court of first instance of the place where the marriage shall have been celebrated, be sentenced to the fine imposed by Article 192, and, in addition, to imprisonment for not less than six months.

*In connection with this article see Acts 1934, No. 140, §2.

ART. 93. Persons legally married are, until a dissolution of marriage, incapable of contracting another, under the penalties established by the laws of this State.


RS—800.

RCC 1870, Art. 93.
Same as above.

CC 1825, Art. 94. (No reference in Projet)
Same as above.

Les personnes qui sont légalement mariées, sont, jusqu'à la dissolution de leur mariage, incapables d'en contracter un autre, sous les peines portées par les lois de cet État.
Art. 94  

CC 1808, p. 24, Art. 7.
Persons legally married are until a dissolution of marriage, incapable of contracting another, under the penalties prescribed by the statute of this territory. (Similar to Acts 1807, Chap. 17, §10)

CN 1804, Art. 147.
A second marriage cannot be contracted before the dissolution of the first.

ART. 94. Marriage between persons related to each other in the direct ascending or descending line is prohibited. This prohibition is not confined to legitimate children, it extends also to children born out of marriage. Marriage between white persons and persons of color is prohibited, and the celebration of all such marriages is forbidden and such celebration carries with it no effect and is null and void. (As amended by Acts 1894, No. 54)


RCC 1870, Art. 94.
Marriage between persons related to each other in the direct ascending or descending line is prohibited. This prohibition is not confined to legitimate children, it extends also to children born out of marriage.

CC 1825, Art. 96.
Same as above.

-Art. 95-
Free persons and slaves are incapable of contracting marriage together; the celebration of such marriage is forbidden, and the marriage is void; there is the same incapacity and the same nullity with respect to marriages contracted by free white persons with free people of color.

CC 1808, p. 24, Art. 9.
Same as CC 1825, Art. 96, above; but comma (,) after "line." (Same as Acts 1807, Chap. 17, §14)

-p. 24, Art. 8.
Free persons and slaves are incapable of contracting marriage together; the celebration of such marriages is forbidden, and the marriage is void; it is the same with respect to the marriages contracted by free white persons with free people of color. (Similar to Acts 1807, Chap. 17, §13)

CN 1804, Art. 161.
In the direct line, marriage is prohibited between all ascendants and de-
Art. 95. Among collateral relations, marriage is prohibited between brother and sister, whether of the whole or the half blood, whether legitimate or illegitimate, between uncle and niece, between aunt and nephew, and also between first cousins.

That no marriage contracted in contravention of the above provisions in another State by citizens of this State, without first having acquired a domicile out of this State, shall have any legal effect in this State.

No officer whose duty it is to issue a marriage license shall do so until he shall have received an affidavit from one of the parties to be married to the effect that he or she is not related to the other party within the degree prohibited hereinbefore. (As amended by Acts 1902, No. 9)

RCC-12, 38 et seq., 94, 96, 117, 118, 204, 889 et seq. Acts 1884, No. 78; 1906, No. 180; 1980, No. 54.

Art. 95.

Among collateral relations marriage is prohibited between brother and sister, whether of the whole or of the half blood, whether legitimate or illegitimate, and also between the uncle and the niece, the aunt and the nephew.

CC 1825, Art. 97. (No reference in Projet)

Same as above.

CC 1806, p. 26, Art. 10.

Same as above; but comma (,) after "relations." (Same as Acts 1807, Chap. 17, §15)

CN 1804, Art. 162.

In the collateral line, marriage is prohibited between brother and sister, legitimate or natural, and between those connected by marriage in the same degree.

-Art. 163.

Marriage is also prohibited between uncle and niece, aunt and nephew. (C.)

En ligne collatérale, le mariage est prohibé entre le frère et la sœur, les alliés dans le même degré.

Le mariage est encore prohibé entre l’oncle et la nièce, la tante et le neveu.
Art. 96. All other impediments on account of relationship or affinity are abolished.

RCC-95.

RCC 1870, Art. 96.
Same as above.

CC 1825, Art. 98.
Same as above.

Tout autre empêchement, pour raison de parenté ou d'affinité, est aboli.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 97. The minor of either sex, who has attained the competent age to marry, must have received the consent of his father and mother or of the survivor of them; and if they are both dead, the consent of his tutor.

He must furnish proof of this consent to the officer to whom he applies for permission to marry.

RCC—92, 112, 216, 379, 386, 1621(10).

RCC 1870, Art. 97.
Same as above.

CC 1825, Art. 99.

Tout mineur des deux sexes, qui a atteint l'âge compétent pour se marier, est tenu de prendre le consentement de ses père et mère, ou du survivant d'entre eux; et si tous les deux sont morts, celui de son curateur.

Il doit fournir la preuve de ce consentement au juge à qui il s'adresse pour obtenir une permission de mariage.

CC 1808, p. 26, Art. 11.

Le fils qui n'a pas atteint l'âge de vingt-cinq ans accomplis, la fille qui n'a pas atteint l'âge de vingt-un ans accomplis, ne peuvent contracter mariage sans le consentement de leurs père et mère: en cas de dissentiment, le consentement du père suffit.

CN 1804, Art. 148.

Le fils qui n'a pas atteint l'âge de vingt-cinq ans accomplis, la fille qui n'a pas atteint l'âge de vingt-un ans accomplis, ne peuvent contracter mariage sans le consentement de leurs père et mère: en cas de dissentiment, le consentement du père suffit.

Art. 149.

Si l'un des deux est mort, ou s'il est dans l'impossibilité de manifester sa volonté, le consentement de l'autre suffit.
Art. 150. If the father and mother are dead, or if they are under an incapacity of manifesting their will, the grandfathers and grandmothers shall supply their place; if there be a disagreement between the grandfather and grandmother of the same line, the consent of the grandfather shall suffice. If the disagreement be between the two lines, this division shall import consent. (B.I.T.)

Si le père et la mère sont morts, ou s'ils sont dans l'impossibilité de mani­fester leur volonté, les aieux et les aïeules les remplacent; s'il y a dissentiment entre l'aïeul et l'aïeule de la même ligne, il suffit du consentement de l’aïeul. S'il y a dissentiment entre les deux lignes, ce partage emportera consentement.

Chapter 3—Of the Celebration of Marriages*

*See general comment by redactors, Projet, p. 8.

Art. 98. Those who have attained the age of majority, on their demanding permission to marry, must furnish the officer proof of their having attained that age.

RCC 1870, Art. 98. (Same as Art. 98 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 100. (Projet, p. 8. Addition adopted; no comment)
Those who have attained the age of majority, on their demanding permission to marry, must furnish the judge proof of their having attained that age. (Analogous to Acts 1807, Chap. 17, §33)

CC 1808. No corresponding article; but see Acts 1807, Chap. 17, §33.
CN 1804. No corresponding article.

Art. 99. Licenses to celebrate marriages in the parish of Orleans shall be granted by the Board of Health and Judges of the City Courts, in and for the said parish, and in the other parishes of the State by the Clerks of the Courts, unless the clerk himself should be a party to the marriage, when the license shall be granted by the District Judge.

All marriage licenses shall be issued in duplicate. (As amended by Acts 1882, No. 25)


RCC 1870, Art. 99. (Same as Art. 99 of Proposed Revision of 1869; In conformity with Acts 1855, No. 251, §1 [RS 122021])

Licenses to celebrate marriages in the parishes of Orleans and Jefferson, shall be granted by the justices of the peace in and for said parishes, and for the other parishes of the State, by the clerks of the district courts; such licenses shall be issued in duplicate.
Whensoever the clerk shall be a party to a marriage, the license shall be issued by the parish recorder.

CC 1825. No corresponding article.
CC 1808. No corresponding article; but see Acts 1807, Chap. 17, §33.
CN 1804. No corresponding article.
ART. 100. Licenses for marriage can only be granted by the person authorized to issue the same in the parish in which one at least of the parties is domiciliated.

RCC—99, 104.

RCC 1870, Art. 100. (Same as Art. 100 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 106. (Projet, p. 9. Addition adopted; general comment by redactors, p. 8)
Licenses for marriage can only be granted by the judge of the parish in which one at least of the parties is domiciliated.

CC 1808. No corresponding article; but see Acts 1807, Chap. 17, §§33-35.

CN 1804. No corresponding article.

ART. 101. Before granting the license, the person authorized to issue the same shall require of the intended husband a bond, with a surety in a sum proportioned to his means, with condition that there exists no legal impediment to the marriage. The duration of the security is limited to two years.


RCC 1870, Art. 101. (Same as Art. 101 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 105. (Projet, p. 9. Addition adopted; general comment by redactors, p. 8)
Before granting the license, the judge shall require of the intended husband a bond, with a surety in a sum proportioned to his means, with condition that there exists no legal impediment to the marriage. The duration of the security is fixed to two years.

CC 1808. No corresponding article; but see Acts 1807, Chap. 17, §133.

CN 1804. No corresponding article.

ART. 102. Any minister of the gospel, or priest of any religious sect, whether a citizen of the United States or not, may celebrate marriages within this State, upon complying with the regulations of the law.

RCC—103, 104. RS—2174, 2204-2209, 2211.

RCC 1870, Art. 102. (Same as Art. 102 of Proposed Revision of 1869; in conformity with Acts 1826, p. 26, and Acts 1841-42, No. 86; similar to Acts 1855, No. 251, §2 (RS 122031))
Same as above.

CC 1825, Art. 101. (Projet, p. 8. Addition adopted; general comment by redactors, p. 8)
Any priest, or minister of a religious sect, domiciled in any one of the parishes of this State, shall have the right of celebrating marriages therein. (In conformity with Acts 1809, Chap. 18) Tout prêtre ou ministre d'une secte religieuse, domicilié dans une des paroisses de cet Etat, aura le droit d'y célébrer des mariages. (In conformity with Acts 1809, Chap. 18)
ART. 103. Parish judges and justices of the peace may celebrate marriages within their respective parishes, upon complying with the regulations of the law.

RCC—102, 104. RS—2208.

ART. 104. No minister of the gospel, or other person, shall celebrate any marriage in this State, unless he shall have obtained previously a special license to him directed, issued by the person appointed by law to grant licenses in the parish wherein the marriage is to be celebrated, authorizing him to celebrate such marriage.

RCC—99, 100, 101 et seq. RS—2174 et seq., 2204, 2212 et seq.

ART. 105. The marriage must be celebrated in presence of three witnesses of full age, and an act must be made of the celebration, signed by the person who celebrates the marriage, by the parties and the witnesses.

This act must be made in duplicate and appended to the license issued in duplicate; one of these acts, appended to the license must be returned within thirty days from the date of celebration by the person celebrating the marriage to the person who granted the license, who shall file and record the same in his office.

RCC—88.
Art. 106

RCC 1870, Art. 105.
Same as above.

CC 1825, Art. 107.
Same as par. 1, above.

CC 1808. No corresponding article; but see Acts 1807, Chap. 17, §36.

ART. 106. In case of an opposition to the marriage, if it be supported by the oath of the party making it, and by reason sufficient in the opinion of the judge to authorize a suspension of the marriage, it shall be notified to the parties, and a day shall be assigned for a hearing thereon.

RCC 1870, Art. 106.
Same as above.

CC 1825, Art. 108.
Same as above.

CC 1808. No corresponding article; but see Acts 1807, Chap. 17, §§38-40, 45.

CN 1804, Art. 75.

On the day set by the parties after the delays of the publications, the registrar, in the city hall, in the presence of four witnesses, either related or not, will read to the parties the instruments named above, relating to their state and the formalities of the marriage, and chapter VI of the title of marriage, on the respective rights and duties of spouses. He will take from each party, one after the other, the declaration that they wish to take each other for husband and wife; he will state, in the name of the law, that they are united in marriage, and he will draw up the act of marriage forthwith.

Le jour désigné par les parties après les délais des publications, l'officier de l'état civil, dans la maison commune, en présence de quatre témoins parens ou non parens, fera lecture aux parties, des pièces ci-dessus mentionnées, relatives à leur état et aux formalités du mariage, et du chapitre VI du titre du mariage, sur les droits et les devoirs respectifs des époux. Il recevra de chaque partie, l'une après l'autre, la déclaration qu'elles veulent se prendre pour mari et femme; il prononcera, au nom de la loi, qu'elles sont unies par le mariage, et il en dressera acte sur-le-champ.

ART. 106. (Same as Art. 105 of Proposed Revision of 1869; par. 2 in conformity with Acts 1855, No. 251, §4 (RS §22051))

(Same as Art. 105 of Proposed Revision of 1869; par. 2 in conformity with Acts 1855, No. 251, §4 (RS §22051))

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ART. 107. The time fixed for the hearing of the parties and the decision on the opposition, shall not exceed ten days, from the day on which the opposition shall have been made.

RCC 1870, Art. 107. 
Same as above.

CC 1825, Art. 109. 
(Projet, p. 9. Addition adopted; general comment by redactors, p. 8) 
Le délai pour entendre les parties et prononcer sur la contestation, ne doit pas excéder dix jours, à dater du jour où l'opposition a été formée.

CC 1808. No corresponding article; but see Acts 1807, Chap. 17, §41.

CN 1804, Art. 177. 
The court of first instance shall decide within ten days, from the day on which the opposition shall have been made.

ART. 108. Any person may make opposition to a marriage, but if the opposition be overruled, the party making it shall pay costs.

RCC 1870, Art. 108. 
(Same as Art. 108 of Proposed Revision of 1869) 
Same as above.

CC 1825, Art. 110. 
(Projet, p. 9. Addition amended and adopted; general comment by redactors, p. 8) 
Toute personne peut former opposition à un mariage; mais dans le cas où l'opposition est rejetée, l'opposant doit payer les frais de la procédure.

CC 1808. No corresponding article; but see Acts 1807, Chap. 17, §§42-44, 46.

CN 1804, Art. 172. 
The right of making opposition to a marriage belongs to the person united by marriage to one of the two contracting parties.

-Art. 173. 
The father, and in default of the father, the mother, and in default of the father and mother, the grandfathers and grandmothers, may oppose the marriage of their children and descendants, even though they may have reached twenty-five years of age.

-Art. 174. 
In default of ascendants, the brothers, sisters, uncles, aunts or first cousins, having attained the age of majority, may make opposition in the two following cases only:
1. When the consent of the family meeting, as required by Article 160, has not been obtained;
2. When the opposition is based upon the insanity of the future spouse: this opposition, which the court may dismiss summarily, shall never be received except upon the condition that
Art. 109

COMPILED EDITION

the party making the opposition shall bring interdiction proceedings and have a decision thereon within the delay which shall be fixed by the judgment.

- Art. 175.

In the two cases contemplated by the preceding article, the tutor or curator shall not be able, during the tutorship or curatorship, to make any opposition, unless he shall have been authorized by a family meeting, which he may convene.

- Art. 179.

If the opposition is rejected, those making it, except ascendants, may be ordered to pay damages.

ART. 109. No marriage can be contracted or celebrated by procuration.

RCC 1870, Art. 109.
Same as above.

CC 1825, Art. 111. (Projet, p. 9. Addition adopted; comment by redactors)
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Chapter 4—Of the Nullity of Marriages

ART. 110. Marriages celebrated without the free consent of the married persons, or of one of them, can only be annulled upon application of both the parties, or of that one of them whose consent was not free.

When there has been a mistake in the person, the party laboring under the mistake can alone impeach the marriage.

RCC—90, 91, 111, 117, 118, 1819, 1834, 1838.

RCC 1870, Art. 110.
Same as above.

CC 1825, Art. 112. (No reference in Projet)
Same as above.
ART. 112. The marriage of minors, contracted without the consent of the father and mother, can not for that cause be annulled, if it is otherwise contracted with the formalities prescribed by law; but such want of consent shall be a good cause for the father and mother to disinherit their children thus married, if they think proper.

RCC—92, 97, 1621 (10), 2330.

RCC 1870, Art. 112.
Same as above.

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Art. 113

Every marriage contracted under the other incapacities or nullities enumerated in the second chapter of this title may be impeached either by the married persons themselves, or by any person interested, or by the Attorney General; however, marriages heretofore contracted between persons related within the prohibited degrees, either or both of whom were then and afterwards domiciled in this State, and were prohibited from intermarrying therein, shall nevertheless be deemed valid in this State, where such marriages were celebrated in other States or countries under the laws of which they are not prohibited; but marriages hereafter contracted between persons, either or both of whom were domiciled in this State and are forbidden to intermarry shall not be deemed valid in this State, because contracted in another State or country where such marriages are not prohibited, if the parties after such marriage, return to reside permanently in this State. (As amended by Acts 1938, No. 426)

RCC—92, 94, 117, 118. Acts 1914, No. 151; 1930, No. 54.

Art. 113.

Every marriage contracted under the other incapacities or nullities enumerated in the second chapter of this title may be impeached either by the married persons themselves, or by any person interested, or by the Attorney General; however, first, that marriages heretofore contracted between persons related within the prohibited degrees, either or both of whom were then and afterwards domiciled in this State, and were prohibited from intermarrying therein, shall nevertheless be deemed valid in this State, where such marriages were celebrated in other States or countries under the laws of which they were not prohibited; second, that marriages hereafter contracted between persons, either or both of whom were domiciled in this State and are forbidden to intermarry shall not be deemed valid in this State, because contracted in another State or country where such marriages are not prohibited, if the parties after such marriage, return to reside permanently in this State. (As amended by Acts 1912, No. 54)
CIVIL CODES OF LOUISIANA

Art. 113.

Every marriage contracted under the other incapacities or nullities enumerated in the second chapter of this title, may be impeached either by the married persons themselves, or by any person interested, or by the Attorney General; however, first, that marriages heretofore contracted between persons, related within the prohibited degrees either or both of whom were then and afterward domiciled in this State and were prohibited from intermarrying here, shall nevertheless be deemed valid in this State, where such marriages were celebrated in other States or countries under the laws of which they were not prohibited; second, that marriages hereafter contracted between persons, either or both of whom are domiciled in this State and are forbidden to intermarry, shall not be deemed valid in this State, because contracted in another State or country where such marriages are not prohibited, if the parties, after such marriage, return to reside permanently in this State. (As amended by Acts 1904, No. 129)

RCC 1870, Art. 113.

Every marriage contracted under the other incapacities or nullities enumerated in the second chapter of this title, may be impeached either by the married persons themselves, or by any person interested, or by the Attorney General.

CC 1825, Art. 115. (No reference in Projet)

Same as above.

CC 1808, p. 26, Art. 16.

Every marriage contracted under the other incapacities or nullities enumerated in the preceding chapter, may be impeached, either by the married persons themselves, or by any persons interested, or by the attorney general. (Analogous to Acts 1807, Chap. 17, §§50, 51)

CN 1804, Art. 184.

Every marriage contracted in violation of the provisions of Articles 144, 147, 161, 162, and 163, may be impeached by the married persons themselves, or by any person interested, or by the Public Prosecutor.

ART. 114. But in all cases where, conformably to the preceding article,* the action of nullity may be instituted by any person having a pecuniary interest, it can not be brought during the life of the two married persons by the collateral relations or by the children born of a previous marriage, until they have acquired an actual interest.

RCC—116, 117, 118.

RCC 1870, Art. 114. (Same as Art. 114 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 117. (No reference in Projet)

But in all cases where, conformably to the preceding article,* the action of nullity may be instituted by any interested person, collateral relations, or children born of another marriage, cannot bring such an action during the life of the married persons, but only when they have acquired an actual interest therein.

Dans tous les cas où l'action en nullité peut être intentée par tous ceux qui y ont un intérêt, elle ne peut l'être par les parents collatéraux ou par les enfants nés d'un autre mariage, du vivant des deux époux, mais seulement lorsqu'ils y ont un intérêt né et actuel.
Art. 115. The other causes of nullity which existed by the ancient laws, are abolished.

RCC-117, 118, 137, 161.

RCC 1870, Art. 115.

Same as above.

CC 1825, Art. 116. (Projet, p. 9. Addition amended and adopted; comment by redactors)

Same as above; but comma (,) after "nullity."

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 116. A married person to whose prejudice a second marriage has been contracted can sue for the nullity of such marriage, even during the life of the other party with whom he or she had contracted the first marriage. In case the second marriage has been contracted in this State and the defendant has left the State, an attorney shall be appointed by the court to represent the absent defendant. (As amended by Acts 1906, No. 150)

RCC-93, 114, 117, 118, 137.

RCC 1870, Art. 116. (Same as Art. 116 of Proposed Revision of 1869)

The married person, to whose prejudice a second marriage has been contracted, can sue for the nullity of such marriage, even during the life of the other party with whom he or she had contracted the first marriage.

CC 1825, Art. 118. (No reference in Projet)

The married person, to whose prejudice a second marriage has been contracted, can sue for the nullity of such marriage, even during the life of the other party.

CC 1808, p. 26, Art. 18.

The married person to whose prejudice a second marriage has been contracted, can sue for the nullity of such marriage, even during the life of his or her partner.
ART. 117. The marriage, which has been declared null, produces nevertheless its civil effects as it relates to the parties and their children, if it has been contracted in good faith.

RCC—90 et seq., 110 et seq.

RCC 1870, Art. 117.
Same as above.

CC 1825, Art. 119. (Projet, p. 10. Addition adopted; comment by redactors)
Same as above.

CC 1808. No corresponding article.

ART. 118. If only one of the parties acted in good faith, the marriage produces its civil effects only in his or her favor, and in favor of the children born of the marriage.

RCC—90 et seq., 110 et seq.

RCC 1870, Art. 118.
Same as above.

CC 1825, Art. 120. (Projet, p. 10. Addition adopted; comment by redactors)
Si la bonne foi n'existe que de la part de l'un des époux, le mariage ne produit les effets civils qu'en faveur de cet époux, et des enfants issus du mariage.

CC 1808. No corresponding article.

ART. 119. The husband and wife owe to each other mutually, fidelity, support and assistance.


RCC 1870, Art. 119.
Same as above.
ART. 120. The wife is bound to live with her husband and to follow him wherever he chooses to reside; the husband is obliged to receive her and to furnish her with whatever is required for the convenience of life, in proportion to his means and condition.

RCC—39, 119, 143 et seq.

RCC 1870, Art. 120. (Same as Art. 120 of Proposed Revision of 1869)

Same as above.

ART. 121.* The wife can not appear in court without the authority of her husband, although she may be a public merchant, or possess her property separate from her husband.

RCC—131, 1316. Acts 1918, No. 244 (as am. by 1920, No. 219); 1926, No. 132; 1928, No. 283.

RCC 1870, Art. 121. Same as above.

ART. 123. (No reference in Projet)
ART. 21.  

Same as above; but comma (,) after "court." (Similar to Acts 1807, Chap. 17, §62)

CN 1804, Art. 215.  

A wife cannot appear in court without the authority of her husband, although she may be a public merchant, or not in community with him, or separated in property.

La femme ne peut ester en jugement sans l'autorisation de son mari, quand même elle serait marchande publique, ou non commune, ou séparée de biens.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

ART. 122.*  

The wife, even when she is separate in estate from her husband, can not alienate, grant, mortgage, acquire, either by gratuitous or incumbered title, unless her husband concurs in the act, or yields his consent in writing.


RCC 1870, Art. 122.  

(Same as Art. 122 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 124.  

(The wife, even when she is separate in estate from her husband, cannot alienate, grant, mortgage or acquire, either by gratuitous or incumbered title, unless her husband concurs in the act, or yields his consent in writing.)

La femme, même lorsqu'elle est séparée de biens de son mari, ne peut donner, aliéner, hypothéquer ou acquérir, à titre onéreux ou gratuit, sans le concours de son mari dans l'acte, ou son consentement par écrit.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

ART. 123.*  

The woman separated from bed and board has no need in any case of the authorization of her husband, as this separation carries with it not only a separation of property, but a dissolution of the community of acquets and gains.


RCC 1870, Art. 123.  

Same as above.
**Art. 124**

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CC 1825, Art. 125. (Projet, p. 10. Addition amended and adopted; comment by redactors)

Same as above; but “acquests” spelled “acquests.” La femme, séparée de corps, n’a besoin, en aucun cas, de l’autorisation de son mari, attendu que cette séparation entraîne non seulement la séparation de biens, mais la dissolution de la communauté d’acquêts et de gains.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

**ART. 124.** If the husband refuses to empower his wife to appear in court, the judge may give such authority.

Acts 1920, No. 219; 1926, No. 132; 1928, No. 283.

RCC 1870, Art. 124.

Same as above.

CC 1825, Art. 126. (No reference in Projet)

Same as above.

Si le mari refuse d’autoriser sa femme à ester en jugement, le juge peut donner l’autorisation.

CC 1808, p. 28, Art. 23. -p. 29, Art. 23.

Same as above; but no punctuation after “court.” (Similar to Acts 1807, Chap. 17, §64)

CN 1804, Art. 218.

Same as above.

Same as above.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

**ART. 125.** If the husband refuses to empower his wife to contract, the wife may cause him to be cited to appear before the judge, who may authorize her to make such contract, or refuse to empower her, after the husband has been heard, or has made default.


RCC 1870, Art. 125.

Same as above.

CC 1825, Art. 127. (No reference in Projet)

Same as above; but “refuses to” spelled “refuses te.”

Si le mari refuse d’autoriser sa femme à passer un acte, la femme peut le faire citer devant le juge, qui peut l’autoriser à passer cet acte, ou lui refuser cette autorisation, après que le mari aura été dûment entendu ou appelé devant lui.

CC 1808, p. 28, Art. 24.

-p. 29, Art. 24.

Same as above; but no punctuation after “juge”, or after “cet acte”; comma (,) after “l’autoriser.” (Similar to Acts 1807, Chap. 17, §65)
ART. 128. * If the wife shall satisfy the judge that the money about to be borrowed or debt contracted is solely for her separate advantage, or for the benefit of her paraphernal or dotal property, then the judge shall furnish her with a certificate setting forth his having made such examination of the wife as is required by article 127.
Art. 129

which certificate, on presentation to a notary, shall be his authority for drawing an act of mortgage, or other act which may be required for the security of the debt contracted, and shall be annexed to the act, which act, when executed as herein prescribed, shall furnish full proof against her and her heirs, and be as binding in law and equity in all courts of this State, and have the same effect as if made by a femme sole.


RCC 1870, Art. 128. (Same as Art. 128 of Proposed Revision of 1869; similar to Acts 1855, No. 200, §3 (RS 13983))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

Art. 129.* Married women above the age of twenty-one years, shall have the right with the consent of their husbands by act passed before a notary public, to renounce in favor of third persons, their matrimonial, dotal, paraphernal, and other rights. The notary public, before receiving the signature of any married woman, shall detail in the act, and explain verbally to said married woman, out of the presence of her husband, the nature of her rights and of the contract she agrees to.


RCC 1870, Art. 129. (Same as Art. 129 of Proposed Revision of 1869; same as Acts 1835, p. 153, §2 (RS 13985))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

Art. 130.* A married woman having a mortgage or privilege on the property of her husband may appoint one or more agents, with power in her behalf during her temporary or permanent absence from the State, to intervene in any contract of mortgage or sale made by the husband, and sign in her behalf such renunciation of said mortgage or privilege as the wife herself might do if personally present, and such power may be either general or special, and may be executed in the United States before any judge or justice of the peace, or notary, or commissioners of this State, and in foreign countries, before any consul, vice consul, or consular or commercial agent of the United States.

ART. 131. If the wife is a public merchant, she may, without being empowered by her husband, obligate herself in anything relating to her trade; and in such case, her husband is bound also, if there exists a community of property between them.

She is considered as a public merchant, if she carries on a separate trade, but not if she retails only the merchandise belonging to the commerce carried on by her husband.


RCC 1870, Art. 130. (Same as Art. 130 of Proposed Revision of 1869; same as Acts 1853, No. 126 IRS §§1718, 39861)

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

CC 1808, p. 28, Art. 25.

If the wife is a public merchant, she may without being empowered by her husband, obligate herself for what relates to her trade; and in such case her husband is bound also, if there exists a community of property between them.

She is not considered as a public merchant, whilst she retails only the effects of her husband's commerce, but when she carries on a separate trade.

(Similar to Acts 1807, Chap. 17, 166)

CN 1804, Art. 220.

Same as above.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

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ART. 132.* If the husband is under interdiction or absent, the judge may, when satisfied of the fact, authorize the wife to sue or be sued, or to make contracts.

Acts 1920, No. 219; 1926, No. 132; 1928, No. 283.

RCC 1870, Art. 132. (Same as Art. 132 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 129. (No reference in Projet)
If the husband is under interdiction or absent, the judge may, when satisfied of the fact, authorize the wife to sue or be sued, or to make contracts.

Same as above; but no punctuation after "sued." (Similar to Acts 1807, Chap. 17, §67)

CN 1804, Art. 222.
Same as above. Same as above; but comma (,) after "peut."

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

ART. 133.* Every general authority, even although stipulated for in the marriage contract, is void, except so far as it respects the administration of the property of the wife.


RCC 1870, Art. 133.
Same as above.

CC 1825, Art. 130. (No reference in Projet)
Toute autorisation générale, même stipulée par contrat de mariage, n’est valable que quant à l’administration des biens de la femme.

CC 1808, p. 28, Art. 27.
Same as above. (Same as Acts 1807, Chap. 17, §68)

CN 1804, Art. 223.
Same as above. Same as above.

*In connection with this article see Acts 1926, No. 132; 1928, No. 283.

ART. 134.* Proceedings to annul the acts of the wife for want of authority, can be instituted only by the husband or wife, or by their heirs.


RCC 1870, Art. 134.
Same as above.

CC 1825, Art. 131. (No reference in Projet)
La nullité, fondée sur le défaut d’autorisation, ne peut être opposée que par la femme, par le mari ou par leurs héritiers.
Chapter 6—Of the Dissolution of Marriage

Art. 136. The bond of matrimony is dissolved,
1. By the death of the husband or wife;
2. By a divorce legally obtained;
3. Whenever the marriage is declared null and void, for one of the causes mentioned in the fourth chapter of this title; or when another marriage is contracted, on account of absence, when authorized by law.

Separation from bed and board does not dissolve the bond of matrimony, since the separated husband and wife are not at liberty to marry again; but it puts an end to their conjugal cohabitation, and to the common concerns, which existed between them.


RCC 1870, Art. 136.
Same as above.

CC 1825, Art. 133. (Projet, p. 10. Amendment adopted; comment by redactors)
Same as above; but “fourth” spelled “4th.”

Le lien du mariage se dissout:
1. Par la mort de l’un des époux;
2. Par le divorce légalement prononcé;
Chapter 7—Of Second Marriages

ART. 137. The wife shall not be at liberty to contract another marriage, until ten months after the dissolution of her preceding marriage.


RCC 1870, Art. 137.
Same as above.

CC 1825, Art. 134. (No reference in Projet)
Same as above.

CC 1808, p. 28, Art. 31.
Same as above; but no punctuation after “marriage.”
TITLE V—OF SEPARATION FROM BED AND BOARD 
AND OF DIVORCE

Chapter I—Of the Causes of Separation from Bed and Board and of Divorce

Art. 138.* Separation from bed and board may be claimed reciprocally for the following causes:

1. In case of adultery on the part of the other spouse;
2. When the other spouse has been condemned to an infamous punishment;
3. On account of habitual intemperance of one of the married persons, or excesses, cruel treatment, or outrages of one of them towards the other, if such habitual intemperance, or such ill-treatment is of such a nature as to render their living together insupportable;
4. Of a public defamation on the part of one of the married persons towards the other;
5. Of the abandonment of the husband by his wife or the wife by her husband;
6. Of an attempt of one of the married persons against the life of the other;
7. When the husband or wife has been charged with an infamous offense, and shall actually have fled from justice, the wife or husband of such fugitive may claim a separation from bed and board, on producing proofs to the judge before whom the action for separation is brought, that such husband or wife has actually been guilty of such infamous offense, and has fled from justice.


*Art. 138, additional paragraph.**

Married persons may reciprocally claim a divorce on account of excesses, habitual intemperance, cruel treatment, and any such misconduct repugnant to the marriage covenant as permanently destroys the happiness of the petitioner, or of outrages of one of them towards the other, if such outrages or ill treatments be of such a nature as to render their living together insupportable. (This paragraph enacted by Acts 1870, No. 76, but repealed by Acts 1877, No. 122, §2)

RCC 1870, Art. 138. (Same as Art. 138 of Proposed Revision of 1869; similar to Acts 1827, p. 130, §1, and Acts 1855, No. 307 [RS §1190])

Same as par. 1 and subds. 1-7, above.

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