Title IV. Of Predial Servitudes or Servitudes of Land (Art. 646 - 822)

Louisiana

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Art. 646

But if he receives only a part of the fruits of the estate, or if he occupies only a part of the house, he contributes his share of said expenses in proportion to what he enjoys.

RCC—571 et seq., 578, 580 et seq., 631, 632, 637.

RCC 1870, Art. 645.
Same as above.

CC 1825, Art. 641. (No reference in Projet)

Si l’usager absorbe tous les fruits du fonds pour ses besoins, ou s’il occupe la totalité de la maison, il est assujetti aux frais de culture et d’exploitation, aux réparations d’entretien, au paiement des contributions et aux autres charges annuelles, comme l’est l’usufruitier.

Mais s’il ne prend qu’une partie des fruits du fonds, ou s’il n’occupe qu’une partie de la maison, il contribue à tous ces frais, au prorata de ce dont il jouit.

Par. 2 same as par. 2, above.

CC 1808, p. 126, Art. 80.

If the person who has the use consumes all the fruits of the estate for his wants, or if he occupies the whole house, he is bound to defray the expenses of cultivation and plantation work: he is liable to the individual* repairs, to the payment of taxes, and to the other annual charges no less than the usufructuary.

Par. 2 same as par. 2, above.

CN 1804, Art. 635.

If the person who has the use consumes all the fruits of the estate, or if he occupies the whole house, he is bound to defray the expenses of cultivation; he is liable to the ordinary repairs, to the payment of taxes, in the same manner as the usufructuary.

If he receives only a part of the fruits, or if he occupies only a part of the house, he contributes in proportion to what he enjoys.

*Note error in English translation of French text; “individual” should be “ordinary.”

TITLE IV—OF PREDIAL SERVITUDES OR SERVITUDES OF LAND

Chapter 1—GENERAL PRINCIPLES

Art. 646. All servitudes which affect lands may be divided into two kinds, personal and real.

Personal servitudes are those attached to the person for whose benefit they are established, and terminate with his life. This kind of servitude is of three sorts: usufruct, use and habitation.

Real servitudes, which are also called predial or landed servitudes, are those which the owner of an estate enjoys on a neighboring estate for the benefit of his own estate.
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Art. 647

They are called predial or landed servitudes, because, being established for the benefit of an estate, they are rather due to the estate than to the owner personally.

This kind of servitude forms the subject of the present title.


RCC 1870, Art. 646.
Same as above.

CC 1825, Art. 642.  (Projet, p. 68. Addition † adopted; comment by redactors)

Same as above; but comma (,) after “sorta”; colon (:) after “habitation”; no punctuation after “because.”

Toutes les servitudes qui peuvent affecter les fonds de terre, se divisent communément en deux espèces: les personnelles et les réelles.

Les servitudes personnelles, sont celles qui sont attachées à la personne pour l'utilité de laquelle elles ont été constituées, et qui finissent avec elle.

Ce genre de servitude se divise en trois sortes: l'usufruit, l'usage et l'habitation.

Les servitudes réelles qu'on appelle aussi servitudes préfadielles ou foncières, sont celles dont jouit le propriétaire d'un héritage, sur un héritage voisin, pour l'utilité du sien.

On les appelle réelles ou foncières, parce qu'étant établies pour l'utilité d'un héritage, elles sont plutôt dues à l'héritage qu'à la personne.

C'est de ces servitudes réelles ou foncières qu'il est traité sous ce titre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 647. A real or predial servitude is a charge laid on an estate for the use and utility of another estate belonging to another owner.

RCC—487, 646, 648 et seq., 653, 659, 660 et seq., 664 et seq., 709 et seq., 729, 772.

RCC 1870, Art. 647.  (Same as Art. 647 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 643.  (Projet, p. 68. Amendment † adopted; comment by redactors)

A real or predial servitude is a charge laid on an estate for the use and utility of another estate belonging to another proprietor.

CC 1808, p. 126, Art. 1.

Predial services or services of land are a charge laid on an estate to the use and utility of another estate belonging to another proprietor.

CN 1804, Art. 637.

A servitude is a charge laid on an estate for the use and utility of another estate belonging to another owner.

Une servitude réelle ou foncière, est une charge imposée sur un héritage, pour l'usage et l'utilité d'un héritage appartenant à un autre.


On appelle servitudes ou services fonciers, une charge imposée sur un héritage, pour l'usage ou l'utilité d'un héritage appartenant à un autre propriétaire.

Une servitude est une charge imposée sur un héritage pour l'usage et l'utilité d'un héritage appartenant à un autre propriétaire.
ART. 648. From the definition contained in the preceding article, it follows that to establish a predial or real servitude there must first be two different estates, one of which owes the servitude to the other.

If then a stipulation be made of a servitude in favor of a person, and not in favor of an estate, the obligation will not be null on that account, but it will not create a real servitude.

RCC—647, 650, 651, 653, 693, 709, 718, 745 et seq., 755.

RCC 1870, Art. 648. (Same as Art. 648 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 644. (Projet, p. 68. Addition & adoption; comment by redactors)

From the definition contained in the preceding article it follows, that to establish a predial or real servitude, there must first be two different estates, one of which owes the servitude to another.

Par. 2 same as par. 2, above.

CC 1808. No corresponding article.

CC 1804. No corresponding article.

ART. 649. It is necessary, in the second place, that these two estates belong to two different persons, for if they are both the property of one person the application which the owner makes of one to the advantage of the other is not called a servitude, but a disposition of the owner, which will be explained hereafter.

RCC—650, 767 et seq., 805.

RCC 1870, Art. 649.
Same as above.

CC 1825, Art. 645. (Projet, p. 69. Addition & adoption; comment by redactors)

Same as above; but comma (,) after "person", and after "other."

Il est nécessaire, en second lieu, que ces deux héritages appartiennent à deux personnes différentes; car s‘ils sont la propriété d’une seule, l‘usage auquel le propriétaire applique l‘un à l‘utilité de l‘autre, ne s‘appelle [s‘appelle] pas servitude; c‘est ce qu‘on nomme destination du père de famille, dont il est traité ci-après.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 650. It is necessary, in the third place, that the servitude have for its object the use or benefit of the estate in favor of which it is established.

But it is not necessary that this benefit exist at the time of the contract; a mere possible convenience or remote advantage is sufficient to support a servitude.
In order to render a servitude null, it is not enough that it should appear to be useless, it must be shown that at no time, and under no circumstances, can it possibly become useful to the person in whose favor it is enacted.***

RCC—648, 649.

RCC 1870, Art. 650. (Same as Art. 650 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 646. (Projet, p. 69. Addition ‡ adopted; comment by redactors)

In order to render a servitude null, it is not enough that it should appear to be useless, it must be shown that at no time, and under no circumstances, it can possibly become useful to the person in whose favor it is enacted.***

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “or” should be “and.”
**English translation of French text incomplete; should include “proximate or.”
***Note error in English translation of French text; par. 3 should be, “It would be necessary then that the uselessness be manifest, in order for the servitude to be null; and he who has granted it cannot avoid it if the uselessness be only apparent.”

ART. 651. Predial servitudes, being due from one estate to another, it commonly happens that these estates are in the same neighborhood.

Nevertheless this neighborhood is not a* condition essential to the existence of the servitude.

Nor is it necessary that the estate, which owes the servitude, and that to whom** it is due, be contiguous; it suffices [suffices] that they be sufficiently near, for one to derive benefit from the servitude on the other.

RCC—648, 660, 699, 719.

RCC 1870, Art. 651. (Same as Art. 651 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 647. (Projet, p. 69. Addition ‡ adopted; comment by redactors)

Les servitudes foncières étant dues par un héritage à un autre héritage, il suit assez naturellement que ces fonds doivent être voisins.

Néanmoins, le voisinage est plutôt l’effet de l’état assez habituel des choses qu’une* condition essentielle de la servitude.
Art. 652

Nor is it necessary that the estate, which owes the servitude, and that to whom** it is due, be contiguous; it suffices that they be sufficiently near, for one to derive benefit from the service in the other.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

**Note error in English translation of French text; “not a” should be “rather the result of the usual state of things than a.”

ART. 652. A servitude is an incorporated [incorporeal] right which can not exist without the estate to which it belongs, and of which it is an accessory.

RCC—783, 2219.

RCC 1870, Art. 652. (Same as Art. 652 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 648. (Projet, p. 69. Addition adopted; comment by redactors)

Same as above; but “incorporated” correctly spelled “incorporeal.”

La servitude est un droit incorporel qui ne peut subsister sans le bien-fonds auquel elle est attachée, et dont elle est l’accessoire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 653. Servitudes being essentially due from one estate to another for the advantage of the latter, they remain the same as long as no change takes place in regard to the two estates, whatever change may take place in the owners.

RCC—565, 647, 2011.

RCC 1870, Art. 653.

Same as above.

CC 1825, Art. 649. (Projet, p. 69. Addition † adopted; no comment)

La servitude étant essentiellement due par l’héritage asservi, pour l’utilité de l’héritage auquel elle est due, elle reste la même, tant qu’il n’y a rien de changé à l’égard de ces deux fonds, malgré les changemens arrivés dans la personne de leurs propriétaires.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 654. Servitude is a right so inherent in the estate to which it is due, that the faculty of using it, considered alone and independent of the estate, can not be given, sold, let or mortgaged without the estate to which it appertains, because it is a servitude which does not pass to the person but by means of the estate.

RCC—754, 2011, 2449, 2461.

RCC 1870, Art. 654.

Same as above.
ART. 655. One of the characteristics of a servitude is, that it does not oblige the owner of the estate subject to it to do anything, but to abstain from doing a particular thing, or to permit a certain thing to be done on his estate.

RCC—1926 et seq.

ART. 656. The rights of servitudes, considered in themselves, are not susceptible of division, either real or imaginary. It is impossible that an estate should have upon another estate part of a right of way, or of view, or any other right of servitude, and also that an estate be charged with a part of a servitude.

The use of a right of servitude may be limited to certain days or hours; but thus limited, it is an entire right, and not part of a right.

From thence it follows that a servitude existing in favor of a piece of land, is due to the whole of it, and to all the parts of it, so that if the land be sold in parts, every purchaser of a part has the right* of using the servitude in toto.

RCC—657, 763, 2109.

ART. 655. Un des caractères des servitudes est qu'elles n'ont pas pour objet d'obliger le propriétaire du fonds asservi à faire quelque chose, ou à souffrir qu'une chose soit faite dans son héritage.

ART. 656. Les droits de servitude considérés en eux-mêmes, sont indivisibles, et ne sont pas susceptibles de parties, ni réelles, ni même intellectuelles; car il répugne qu'un héritage ait pour partie, sur
ART. 657

Though the right of servitude be indivisible, and must be established for the whole, and not for a part, nothing prevents the advantage resulting from it from being divided, if it be susceptible of division; as, for example, the right of taking a certain number of loads of earth from the land of another, or of sending to pasture a certain number of animals on the land of another.

RCC—656, 2108, 2111.

ART. 658. The part of an estate upon which a servitude is exercised, does not cease to belong to the owner of the estate; he who has the servitude has no right of ownership in the part, but only the right of using it.

Hence the soil of public roads belongs to the owner of the land on which they are made, though the public has the use of them; the owners of the land can not change the roads except in conformity with the regulations of the police established on this subject.

RCC—453, 482, 707.

(RCC 1870, Art. 658.)

(Same as Art. 658 of Proposed Revision of 1869)
ART. 660. It is a servitude due by the estate situated below to receive the waters which run naturally from the estate situated above, provided the industry of man has not been used to create that servitude.*

The proprietor below is not at liberty to raise any dam, or to make any other work, to prevent this running of the water.
The proprietor above can do nothing whereby the natural servitude due by the estate below may be rendered more burdensome.

RCC—484, 647, 651, 661, 698, 713, 752, 777, 778, 795.

Art. 661

Les fonds inférieurs sont assujettis envers ceux qui sont plus élevés, à recevoir les eaux qui en découlent naturellement, sans que la main de l'homme y ait contribué.*

Le propriétaire inférieur ne peut point élever de digues ou autres ouvrages qui empêchent cet écoulement.

Le propriétaire supérieur ne peut rien faire qui aggrave la servitude naturelle du fonds inférieur.

Par. 1 same as par. 1, above; but no punctuation after "naturellement."

Le propriétaire inférieur ne peut point élever de digues qui empêchent cet écoulement.

Le propriétaire supérieur ne peut rien faire qui aggrave la servitude du fonds inférieur.

Projet du Gouvernement (1800), Book II, Title IV, Art. 2.

Par. 1 same as CC 1808, p. 129, Art. 4, par. 1, above.

Le propriétaire inférieur ne peut point élever de digues qui empêchent cet écoulement.

Par. 3 same as CC 1808, p. 129, Art. 4, par. 3, above.

*Note error in English translation of French text; "been used to create that servitude" should be "contributed to the flow."

Art. 661. He whose estate borders on running water, may use it as it runs, for the purpose of watering his estate, or for other purposes.
He through whose estate water runs, whether it originates there or passes from lands above, may make use of it, while it runs over his lands; but he can not stop or give it another direction, and is bound to return it to its ordinary channel, where it leaves his estate.


RCC 1870, Art. 661. (Same as Art. 661 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 657. (Projet, p. redactors)
Par. 1 same as par. 1, above.

He through whose estate water runs, whether it originates there or passes from lands above, may make use of it, while it runs over his land; but he can not stop nor give it another direction, and is bound to return it to its ordinary channel, where it leaves his estate.

CC 1808, p. 128, Art. 8.
He whose estate borders on running water, may use it as it runs, for the purpose of watering his estate.

He through whose estate this water runs, may make use of it in the space which it runs over, but he is bound to return it to its ordinary channel when it leaves his estate.

CN 1804, Art. 644.
He whose estate borders on running water, other than that which is declared to belong to the public domain by article 538, under the title of the Classification of property, may use it as it runs for the purpose of watering his estate.

Par. 2 same as par. 2, above.

ART. 662. Every proprietor has a right to make an inclosure around his lands.

RCC—491, 675, 677, 686 et seq., 699.

RCC 1870, Art. 662.
Same as above.

CC 1825, Art. 658. (No reference in Projet)
Same as above.

CC 1808, p. 128, Art. 10.
Every proprietor has a right to run a fence around his estate.

-p. 129, Art. 10.
Same as above.
Art. 663

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CN 1804, Art. 647.
Every proprietor may make an in¬
closure around his estate, except as pro¬
vided in article 682.

Projet du Gouvernement (1800), Book II, Title IV, Art. 6.
Same as CC 1808, p. 128, Art. 10, above.

ART. 663. He may compel his neighbors to fix and mark the
limits of their estates which are contiguous to his.
The limits are established, and boundary stones or posts placed
at their joint expense.

RCC—677, 678, 686 et seq., 823, 826, 2011.

RCC 1870, Art. 663.
Same as above.

CC 1825, Art. 659.
(No reference in Projet)
Il peut obliger son voisin au bornage
de leurs propriétés contiguës. Le
bornage se fait à frais communs.

CC 1808, p. 128, Art. 11.
He may compel his neighbors to fix
and mark the limits of their contiguous
estates.
Said limits are run and stones or
posts placed at a joint expense.

CN 1804, Art. 646.
Every owner may compel his neigh¬
bors to fix and mark the limits of their
 contiguous estates. Said limits are run
and stones or posts placed at a joint
expense.

Projet du Gouvernement (1800), Book II, Title IV, Art. 7.
Same as CC 1808, p. 128, Art. 11, above.

Chapter 3—OF SERVITUDES IMPOSED BY LAW

ART. 664. Servitudes imposed by law are established either
for the public or common utility, or the utility of individuals.
RCC—659, 666, 752.

RCC 1870, Art. 664.
(Same as Art. 664 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 660.
(No reference in Projet)
Les servitudes établies par la loi, ont
pour objet l’utilité publique ou com-
munale, ou celle des particuliers.

CC 1808, p. 128, Art. 12.
Services imposed by law are estab-
lished either for the public or common
utility, or for the utility of individuals.

CN 1804, Art. 649.
Same as above; RCC 1870 preferred.

Les servitudes établies par la loi ont
pour objet l’utilité publique ou com-
munale, ou l’utilité des particuliers.
ART. 665. Servitudes imposed for the public or common utility, relate to the space which is to be left for the public use by the adjacent proprietors on the shores of navigable rivers, and for the making and repairing of levees, roads and other public or common works.

All that relates to this kind of servitude is determined by laws or particular regulations.

RCC—455, 458, 509, 707.

RCC 1870, Art. 665. (Same as Art. 665 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 661. (No reference in Projet)
Services imposed for the public or common utility, relate to the space which is to be left for public use by the adjacent proprietors on the shores of navigable rivers, and for the making or repairing of levees, roads and other public or common works.
Par. 2 same as par. 2, above.

CC 1808, p. 128, Art. 13.
Par. 1 same as par. 1, above; but no punctuation after "utility", or after "rivers."
All that relates to this kind of service is determined by laws or particular regulations.

CN 1804, Art. 650.
Servitudes imposed for the public or common utility relate to the foot-path along navigable or floatable rivers, and the making or repairing of roads, and other public or common works.
Par. 2 same as par. 2, above.

ART. 666. The law imposes upon the proprietors various obligations towards one another, independent of all agreements; and these are the obligations which are prescribed in the following articles.

RCC—491, 659, 667 et seq., 699.

RCC 1870, Art. 666. (Same as above.

CC 1825, Art. 662. (No reference in Projet)
La loi assujettit les propriétaires à différentes obligations, l'un à l'égard de l'autre, indépendamment de toute convention; ce sont celles qui sont prescrites dans les articles suivants.

Same as above; but no punctuation after "another."

Same as above; but no punctuation after "obligations."

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Art. 667

The law imposes upon the proprietors various obligations towards one another, independent of all agreements.

ART. 667. Although a proprietor may do with his estate whatever he pleases, still he cannot make any work on it which may deprive his neighbor of the liberty of enjoying his own, or which may be the cause of any damage to him.

RCC—484, 491, 666, 668 et seq., 691, 692.

ART. 668. Although one be not at liberty to make any work by which his neighbor's buildings may be damaged, yet every one has the liberty of doing on his own ground whatsoever he pleases, although it should occasion some inconvenience to his neighbor.

Thus he who is not subject to any servitude originating from a particular agreement in that respect, may raise his house as high as he pleases, although by such elevation he should darken the lights of his neighbor's house, because this act occasions only an inconvenience, but not a real damage.

RCC—484, 491, 666, 667, 669, 716 et seq.
ART. 669. If the works or materials for any manufactory or other operation, cause an inconvenience to those in the same or in the neighboring houses, by diffusing smoke or nauseous smell, and there be no servitude established by which they are regulated, their sufferance must be determined by the rules of the police, or the customs of the place.*

RCC—484, 668.

RCC 1870, Art. 669.
Same as above.

CC 1825, Art. 665. (No reference in Projet)
Same as above; but comma (,) after "established."

Les ouvrages ou autres choses que chacun peut faire ou avoir chez soi, et qui répandent dans les appartements de ceux qui ont une partie de la même maison, ou chez les voisins, une fumée ou des odeurs incommodes, comme les ouvrages des tanneurs, des teinturiers, et les autres différentes incommodes qu'un voisin peut causer à l'autre, doivent se souffrir, si la servitude en est établie; ou s'il n'y a point de servitude, l'incommodité sera soufferte ou empêchée, selon que les règles des police ou l'usage y auront pourvu.*

-p. 131, Art. 17.
Same as above; but no punctuation after "soi", or after "teinturiers."

CC 1808, p. 130, Art. 17.
The works or other things which every one may make or have in his own grounds, and which send into the apartments of others who dwell in the same house, or into the neighboring houses, a smoke or smells that are offensive, such as the works of tanners and diers,

que bon lui semble, quoique, par cette élévation, il ôte les jours de celle de son voisin, parce qu'il ne résulte de ce fait qu'une incommodité et non un dommage réel.

-p. 131, Art. 16.
Same as above; but comma (,) after "fonds", after "fait", and after "qu'une incommodité"; no punctuation after "quoique."
Art. 670

and the other different inconveniences (inconveniences) which one neighbor may cause to another, ought to be borne with, if the service of them is established, or if there be no service settled, the inconvenience shall either be borne with or hindred (hindered), according as the rules of the police or usage may have provided in said matters.

CN 1804. No corresponding article.

*The English text of CC 1808 is a more complete and preferable translation of the French text than the present English text.

ART. 670. Every one is bound to keep his buildings in repair, so that neither their fall, nor that of any part of the materials composing them, may injure the neighbors or passengers,* under the penalty of all losses and damages, which may result from the neglect of the owner in that respect.

RCC—177, 671 et seq., 2322, 2695.

RCC 1870, Art. 670. (Same as Art. 670 of Proposed Revision of 1869)
Same as above.

RCC 1825, Art. 666. (No reference in Projet)
Every one is bound to keep his buildings in repair, so that neither their fall, nor that of any part of the materials composing them, may injure the neighbors or passengers,* under the penalty of all losses and damages, which may result from the neglect of the proprietor in that respect.

CC 1808, p. 130, Art. 18.
Every one is bound to keep his buildings in repair, so that their ruins, or the materials which may fall from them, may not hurt the neighbors or the passengers,* under the penalty of all losses and damages which may result from the neglect of the proprietor in that respect.

CN 1804. No corresponding article.

*Note error in English translation of French text; “passengers” should be “passers-by.”

ART. 671. When a building threatens ruin, the neighbor has a right of action against the owner to compel him to cause such a building to be demolished or propped up. In the meantime, if there be danger of any damage by its fall, he may be authorized to make the necessary works,* for which he shall be reimbursed,** after the danger shall have been ascertained by experts.

RCC—670, 672, 2322.

RCC 1870, Art. 671. (Same as Art. 671 of Proposed Revision of 1869)
Same as above.
When a building threatens ruin, the neighbor has a right of action against the proprietor to compel him to cause such a building to be demolished or propped up. In the mean time, if he incurs the danger of any damage by its fall, he may be authorized to make the necessary works,* for which he shall be reimbursed,** after the damage*** shall have been ascertained by persons of the art.

When a building threatens ruin, the neighbor has a right of action against the proprietor to compel him to cause such a building to be demolished or propped up. In the mean time, if he incurs the danger of any damage by its fall, he may be authorized to make the necessary works,* for which he shall be reimbursed,** after the damage*** shall have been ascertained by persons of the art.

*Note error in English translation of French text; “works” should be “proppings.”
**English translation of French text incomplete; should include “out of the thing.”
***Note error in English translation of French text; “damage” should be “danger.”

ART. 672. The councils and other municipal bodies of cities and other incorporated places of this State, are authorized to make such regulations as they may think proper to determine the mode of proceeding in the case of fire, when it becomes necessary in order to arrest its progress, to pull down houses which may have taken fire, or even those which the fire has not reached.

But in this case the proprietors whose houses have been thus pulled down before they have taken fire, shall have a right to an indemnification in proportion to their loss, which indemnification shall be paid by the corporation of the city or place where the conflagration has taken place, by means of an extraordinary and proportional tax, which shall be laid to this effect upon all the proprietors of houses of the said place, or in any other manner, from the funds of the corporation.


RCC 1870, Art. 672. (Same as Art. 672 of Proposed Revision of 1869)

Same as above.

RCC 1825, Art. 668. (Projet, p. 71. Amendment † adopted; comment by redactors)

The councils and other municipal bodies of cities and other incorporated places of this state, are authorized to

Les conseils et autres corps municipaux des villes et autres lieux incorporés de cet État, pourront faire tels
make such regulations as they may think proper, to determine the mode of proceeding in case of fire, when it becomes necessary in order to arrest its progress, to pull down houses which have taken fire, or even those which the fire has not reached.

But in this case the proprietors whose houses have been thus pulled down before they have taken fire, shall have a right to an indemnification in proportion to their loss, which indemnification shall be paid by the corporation of the city or place where the conflagration has taken place, by means of an extraordinary and proportional tax, which shall be laid to this effect upon all proprietors of houses of the said place, or in any other manner, from the funds of the corporation.

CC 1808, p. 130, Art. 20.
Should a conflagration take place in the cities, towns and suburbs of this territory, the mayor or any justice of the peace of the place, may by and with the advice of six proprietors of houses, situated within the city, town or suburb in which such conflagration has taken place, order to be pulled down the house or houses where the fire shall have made its appearance, and even the adjacent house or houses, although not yet injured by the fire, if a majority of said proprietors be of opinion that this measure is necessary to stop the progress of the conflagration.

In such case the proprietors whose houses have been thus pulled down, without being at the time injured by fire, shall have a right to an indemnification in proportion to their loss, which indemnification shall be paid by the corporation of the city or town where the conflagration has taken place, according to a proportional tax which shall be laid to this effect, upon all proprietors of houses of the said place.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "the house or."

Art. 673. He who builds either above or below his soil, adjoining the property of his neighbor, is bound to build in a perpendicular line.*

RCC—505, 506.

RCC 1870, Art. 673.
Same as above.

CC 1825, Art. 669.
Same as above.

(No reference in Projet)

Celui qui édifie, soit dessus, soit dessous son sol, contre un voisin, doit bâtir à plomb et sans saillie.*
ART. 674. The other particular servitudes imposed by law relate to the following objects:
1. To boundary walls, inclosures and ditches;
2. To cases where it is necessary to have double or counter walls;
3. To the right of lights and of view on the property of a neighbor;
4. To carrying off water from roofs.
5. To the right of passage and of way.

RCC-675 et seq., 692 et seq., 696, 698, 699.

RCC 1870, Art. 674.
(Same as Art. 674 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 670.
(No reference in Projet)
The other particular services imposed by law, relate to the following objects:
Pars. 2, 3 same as subs. 1, 2, above; but period (.) after "ditches", and after "counter walls"; comma (,) after "cases."
To the right of lights on the property of a neighbor;
To carrying off water from roofs;
And to the right of passages.

CC 1808, p. 132, Art. 22.
The other particular services imposed by law relate to the following objects:
To walls, fences and ditches in common.
Para. 3-5 same as paras. 3-6, above; but no punctuation after "cases"; comma (,) after "walls", after "neighbor", and after "roofs."

CN 1804, Art. 652, par. 2.
The others relate to boundary walls and ditches, to cases when it is necessary to have double or counter walls, to the right of lights on the property of a neighbor, to carrying off water from roofs, and to the right of passage.

Projet du Gouvernement (1800), Book II, Title IV, Art. 11, paras. 2-6.
The others relate to boundary walls and ditches;
Para. 3-6 same as CC 1825, Art. 670, paras. 3-6, above.

Les autres sont relatives au mur et au fossé mitoyens, au cas où il y a lieu à contre-mur, aux vues sur la propriété du voisin, à l'égout des toits, au droit de passage.
Section 1—OF WALLS, FENCES, AND DITCHES IN COMMON

Art. 675. He who first builds in the cities and towns, or their suburbs, of this State, in a place which is not surrounded by walls, may rest one-half of his wall on the land of his neighbor, provided he builds with stones or bricks at least as high as the first story, and not in frame or otherwise; and provided the whole thickness of this wall do not exceed eighteen inches, not including the plastering,* which must not be more than three inches.

But he can not compel his neighbor to contribute to the raising of this wall.

RCC—676, 682 et seq., 686, 687, 693 et seq., 856.

RCC 1870, Art. 675. (Same as Art. 675 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 671. (No reference in Project)

He who first builds in the cities, towns or suburbs of this state, in a place which is not surrounded by walls, may rest one half of his wall on the land of his neighbor, provided he builds with stones or bricks at least as high as the first story, and not in frame or otherwise; and provided the whole thickness of this wall do not exceed eighteen inches, not including the plastering,* which must not be more than three inches.

Par. 2 same as par. 2, above.

CC 1808, p. 132, Art. 23.

He who builds first in the cities, towns or suburbs of this territory, in a place which is not surrounded by walls, may rest one half of his wall on the land of his neighbor, provided he build with stones or bricks at least as high as the first story, and not in frame or otherwise; and provided the whole thickness of this wall do not exceed eighteen inches, not including the plastering[*] which must not be more than three inches.

Par. 2 same as par. 2, above.

CN 1804. No corresponding article.

*The French "empattement" is generally translated as "foundation." The editorial staff is not prepared to say that "plastering" is an error.

Art. 676. If the neighbor be willing to contribute for his half to the building of the wall thus raised, then this wall is a wall in common between the proprietors.

The neighbor who has refused to contribute to the raising of this wall, preserves still a right of making it a wall in common, by paying to the person who has made the advance, the half of what he has laid out for its construction, according to the rules hereafter established.

RCC—675, 683, 684.
ART. 677. Every wall which is a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities and towns, and their suburbs, of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

RCC—678, 684 et seq., 688, 689, 691 et seq.

RCC 1870, Art. 677. (Same as Art. 676 of Proposed Revision of 1869)

RCC 1870, Art. 676.

Same as above.

CC 1825, Art. 672.

(No reference in Projet)

Par. 1 same as par. 1, above.

The neighbor, who has even refused to contribute to the raising of this wall, preserves still a right of making it a wall in common, by paying to the person who has made the advance, the half of what he has laid out for its construction, according to the rules hereafter established.


If the neighbor be willing to contribute for his half to the building of the wall thus raised, then this wall is a wall in common between the two proprietors.

The neighbor who has even refused to contribute to the raising of this wall, preserves still the right of making it a wall in common, by paying to the person who has made the advance, the half of what he has laid out for its construction, according to the rules hereafter established.

CC 1808, p. 132, Art. 25.

Same as above; but “territory” instead of “state.”

CN 1804, Art. 653.

In the cities and in the country, every wall which is a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

RCC—678, 684 et seq., 688, 689, 691 et seq.

RCC 1870, Art. 677. (Same as Art. 677 of Proposed Revision of 1869)

RCC 1825, Art. 677.

(No reference in Projet)

Every wall being a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

CC 1808, p. 132, Art. 25.

Same as above; but “territory” instead of “state.”

CN 1804, Art. 653.

In the cities and in the country, every wall which is a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

RCC—678, 684 et seq., 688, 689, 691 et seq.

RCC 1870, Art. 677. (Same as Art. 676 of Proposed Revision of 1869)

RCC 1825, Art. 677.

(No reference in Projet)

Every wall being a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

CC 1808, p. 132, Art. 25.

Same as above; but “territory” instead of “state.”

CN 1804, Art. 653.

In the cities and in the country, every wall which is a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

RCC—678, 684 et seq., 688, 689, 691 et seq.

RCC 1870, Art. 677. (Same as Art. 677 of Proposed Revision of 1869)

RCC 1825, Art. 677.

(No reference in Projet)

Every wall being a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

CC 1808, p. 132, Art. 25.

Same as above; but “territory” instead of “state.”

CN 1804, Art. 653.

In the cities and in the country, every wall which is a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

RCC—678, 684 et seq., 688, 689, 691 et seq.

RCC 1870, Art. 677. (Same as Art. 676 of Proposed Revision of 1869)

RCC 1825, Art. 677.

(No reference in Projet)

Every wall being a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

CC 1808, p. 132, Art. 25.

Same as above; but “territory” instead of “state.”

CN 1804, Art. 653.

In the cities and in the country, every wall which is a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

RCC—678, 684 et seq., 688, 689, 691 et seq.

RCC 1870, Art. 677. (Same as Art. 677 of Proposed Revision of 1869)

RCC 1825, Art. 677.

(No reference in Projet)

Every wall being a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.

CC 1808, p. 132, Art. 25.

Same as above; but “territory” instead of “state.”

CN 1804, Art. 653.

In the cities and in the country, every wall which is a separation between buildings as high as the upper part of the first story,* or betwixt the yard and garden in the cities, towns and suburbs of this State, and even any other enclosure in the fields, shall be presumed to be in common, if there be no title, proof or mark to the contrary.
buildings up to the point of disjunction, or betwixt the yard and garden, and even any other inclosure in the fields, is presumed to be in common, if there be no title or mark to the contrary.

*Note error in English translation of French text; “as high as the upper part of the first story” should be “up to the point of disjunction.”

**ART. 678.** The repairs and building* of walls in common are to be made at the expense of all who have a right to the same, and in proportion to their interest therein.


RCC 1870, Art. 678.
Same as above.

CC 1825, Art. 674.
(No reference in Projet)

Same as above.

Same as above; but comma (,) after “common”; no punctuation after “same.”

CC 1804, Art. 655.
The repairs and rebuilding of walls in common are to be made at the expense of all who have a right to the same and in proportion to their interest therein.

Same as above; but comma (,) after “mitoyenneté”; no punctuation after “droit.”

*Note error in English translation of French text; “building” should be “rebuilding.”

**ART. 679.** Nevertheless every coproprietor of a wall in common, may be exonerated from contributing to the repairs and rebuilding, by giving up his right of common; provided no building belonging to him be actually supported by the wall thus held in common.

RCC—678, 686, 815.

RCC 1870, Art. 679.
Same as above.

CC 1825, Art. 675.
(No reference in Projet)

Same as above; but comma (,) after “of common.”

CC 1808, p. 132, Art. 27.
Same as above.

CN 1804, Art. 656.
Same as above.

*Note error in English translation of French text; “building” should be “rebuilding.”
ART. 680. Every coproprietor may build against a wall held in common, and cause beams or joists to be placed within two inches of the whole thickness of the wall, saving to the neighbor the right of diminishing with the chisel the length of the beam till it do not exceed the half of the thickness of the wall, in case he himself should wish to fix beams in the same place, or to build a chimney against it.

RCC—684, 685, 692 et seq.

RCC 1870, Art. 680.
Same as above.

CC 1825, Art. 676.
Same as above.

CC 1808, p. 132, Art. 28.
Same as above; but comma (,) after "beam"; no punctuation after "place."

CN 1804, Art. 657.
Every coproprietor may build against a wall held in common, and cause beams or joists to be placed within fifty-four millimeters (two inches) of the whole thickness of the wall, saving to the neighbor the right of diminishing with the chisel the length of the beam till it do not exceed the half of the thickness of the wall, in case he himself should wish to fix beams in the same place, or to build a chimney against it.

ART. 681. Every coproprietor is at liberty to increase the height of the wall held in common, but he alone is to be at the expense of raising it, and of repairing and keeping the part above the height of the wall in common, in good order; and besides he alone is liable for all expenses arising from its being raised higher according to its value.*

RCC—682 et seq., 718.

RCC 1870, Art. 681.
Same as above.

CC 1825, Art. 677.
Same as above; but no punctuation after "wall in common"; comma (,) after "order."

Tout co-propriétaire peut faire bâtir contre un mur mitoyen, et y faire placer des poutres et solives, dans toute l'épaisseur du mur, à deux pouces près, sans préjudice du droit qu'a le voisin de faire réduire à l'ébauchoir la poutre jusqu'à la moitié du mur, dans le cas où il voudrait lui-même asseoir des poutres dans le même lieu, ou y adosser une cheminée.

p. 133, Art. 28.
Same as above; but no punctuation after "mitoyen", after "solives", or after "lieu"; comma (,) after "l'ébauchoir."

Tout copropriétaire peut faire bâtir contre un mur mitoyen, et y faire placer des poutres ou solives dans toute l'épaisseur du mur, à cinquante-quatre millimètres (deux pouces) près, sans préjudice du droit qu'a le voisin de faire réduire à l'ébauchoir la poutre jusqu'à la moitié du mur, dans le cas où il voudrait lui-même asseoir des poutres dans le même lieu, ou y adosser une cheminée.

* Art. 681. Every coproprietor is at liberty to increase the height of the wall held in common, but he alone is to be at the expense of raising it, and of repairing and keeping the part above the height of the wall in common, in good order; and besides he alone is liable for all expenses arising from its being raised higher according to its value.*

RCC—682 et seq., 718.
Art. 682

Every co-proprietor is at liberty to raise higher than the wall in common, but he is to be alone at the expense of raising it, and of repairing and keeping in good order, the part above the height of the wall in common, and besides he is alone liable for all expenses arising from its being raised higher according to its value.*

CN 1804, Art. 658.
Every coproprietor is at liberty to increase the height of the wall held in common; but he alone must pay the cost of raising it, and of repairing and keeping it in good order above the height of the wall in common; and besides he is liable for an indemnity for the added burden, by reason of the increase of height and according to its value.

*Note error in English translation of French text; "he alone is liable for all expenses arising from its being raised higher according to its value" should be "he is liable for an indemnity for the added burden, by reason of the increase of height and according to its value."

ART. 682. If the wall held in common can not support the additional weight of raising it, he who wishes to have it made higher is bound to rebuild it anew entirely, at his own expense, and the additional thickness must be taken from his property.
RCC—675, 681.
RCC 1870, Art. 682.
Same as above.
CC 1825, Art. 678. (No reference in Projet)
Same as above; but comma (,) after "higher."
CC 1808, p. 132, Art. 30.
Same as above.
CN 1804, Art. 659.
Same as above.

ART. 683. The neighbor who did not contribute to the raising of the wall held in common, may cause the raised part to become common, by paying one-half the expense of such raising, and the value of the half of the soil employed for the additional thickness, if there is any.
RCC—675, 676, 678, 682, 684, 687.
RCC 1870, Art. 683.
Same as above.
ART. 684. Every proprietor adjoining a wall has, in like manner, the right of making it a wall in common, in whole or in part, by reimbursing to the owner of the wall one-half of its value, or the half of the part which he wishes to hold in common, and one-half of the value of the soil upon which the wall is built, if the person who has built the wall has laid the foundation entirely upon his own estate.

RCC—497, 675, 676 et seq., 696.

RCC 1870. Art. 684. (Same as Art. 684 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 680. (No reference in Projet)

Same as above; but “enjoying” misspelled “adjoining”; comma (,) after “built the wall.”

CC 1808, p. 134, Art. 32.

Same as above; but “enjoying” correctly spelled “adjoining”; comma (,) after “of the wall”; no punctuation after “wall, has”, after “manner”, or after “built the wall.”

CN 1804, Art. 661.

Every proprietor adjoining a wall has, in like manner, the right of making it a wall in common, in whole or in part, by reimbursing to the owner of the wall one-half of its value, or the half of the value of the part which he wishes to hold in common, and one-half of the value of the soil upon which the wall is built.

Tout propriétaire joignant un mur, a de meme la faculte de le rendre mitoyen, en tout ou en partie, en remboursant au maître du mur la moitie de sa valeur, ou la moitie de la portion qu’il veut rendre mitoyenne, et moitie de la valeur du sol sur lequel le mur est bati, si celui qui a fait le mur l’a fait porter entierement sur son heritage.

-p. 135, Art. 32.

Same as above; but “joignant” spelled “joignant”; comma (,) after “du mur.”

Le voisin, qui n’a pas contribué à l’exhaussement, peut en acquérir la mitoyenneté, en payant la moitié de la dépense qu’il a coûté, et la valeur de la moitié du sol fourni pour l’excédent d’épaisseur, s’il y en a.

-p. 135, Art. 31.

Same as above; but no punctuation after “voisin”, or after “coûté.”


The neighbor who did not contribute to the raising of the wall held in common, may cause the raised part to become common, by paying one half of the expence of such raising, and the value of the half of the soil employed for the additional thickness, if there is any.

CN 1804, Art. 660.

Same as above.

Tout voisin, qui n’a pas contribué à l’exhaussement, peut en acquérir la mitoyenneté, en payant la moitié de la dépense qu’il a coûté, et la valeur de la moitié du sol fourni pour l’excédent d’épaisseur, s’il y en a.

-p. 135, Art. 31.

Same as above; but no punctuation after “voisin”, or after “coûté.”

CC 1825, Art. 679. (No reference in Projet)

Same as above.
ART. 685. Neither of the two neighbors can make any cavity within the body of the wall held by them in common, nor can he affix to it any work without the consent of the other, or without having, on his refusal, caused the necessary precaution to be used, so that the new work be not an injury to the rights of the other, to be ascertained by persons skilled in building.

RCC—680, 692 et seq.

RCC 1870, Art. 685.
Same as above.

CC 1825, Art. 681.
Same as above. (No reference in Projet)

L’un des voisins ne peut pratiquer dans le corps d’un mur mitoyen aucun enfoncement, ni y appliquer ou appuyer aucun ouvrage, sans le consentement de l’autre, ou sans avoir, à son refus, fait régler par experts, les moyens nécessaires pour que le nouvel ouvrage ne soit pas nuisible aux droits de l’autre.

CC 1808, p. 134, Art. 33.
Neither of the two neighbors can make within the body of the wall held by them in common, any cavity, nor can he affix to it, any work without the consent of the other, or without having on his refusal, caused to be ascertained by persons of the art, the necessary precaution to be used so that the new work be not an injury to the rights of the other.

p. 135, Art. 33.
Same as above; but “régler” misspelled “règle”; comma (,) after “mitoyen”; no punctuation after “avoir.”

CC 1804, Art. 662.
Same as above.

Same as above; but “règle” correctly spelled “régler”; no punctuation after “mitoyens”, after “ouvrage”, or after “experts”; comma (,) after “avoir.”

Projet du Gouvernement (1800), Book II, Title IV, Art. 21.
Same as CC 1808, p. 135, Art. 33, above; but “règle” correctly spelled “régler”; comma (,) after “avoir”, and after “régler.”

ART. 686. Every one has a right to compel his neighbor within the cities and towns, and their suburbs, of this State, to contribute to the making and repairing of the fences held in common, by which their houses, yards and gardens are separated, which shall be made in the manner in which is or may be prescribed by the regulations of the police on this subject.

And if one of the proprietors has been alone at the expense of making the inclosures held in common,* he may compel the other to make it in his turn, and the presumption shall be that the inclosure was made by him on whose side it is nailed, unless there exists a voucher or proof to the contrary.

RCC—662, 663, 678, 679, 687, 690, 2011.

RCC 1870, Art. 686.
Same as above. (Same as Art. 686 of Proposed Revision of 1869)
CIVIL CODES OF LOUISIANA

Art. 687

Every one has a right to compel his neighbor within the cities, towns and suburbs of this state, to contribute to the making and repairing of the fences held in common, by which their houses, yards and gardens are separated, which shall be made in the manner which is or may be prescribed by the regulations of the police on this subject.

Par. 2 same as par. 2, above.

CC 1808, p. 134, Art. 34.

Every one has a right to compel his neighbor within the cities, towns and suburbs of this territory, to contribute to the making and repairing of the fence held in common by which their houses, yards and gardens are separated, which inclosure shall be made with pieux ten feet high in the manner which is in use within this territory, or which is or may be prescribed by the regulations of the police on that subject.

And if one of the proprietors has been alone at the expense of making the inclosure held in common,* he may compel the other to make it in his turn, and the presumption shall be that the inclosure was made by him on whose side it is nailed, unless there exists a voucher or proof to the contrary.

CN 1804, Art. 663.

Every one has a right to compel his neighbor, within the cities and suburbs, to contribute to the making and repairing of the fence separating their houses, yards and gardens in such cities and suburbs: the height of the fence shall be fixed according to special regulations or consistent and recognized usages; and, in the absence of usages or regulations, every boundary wall between neighbors, which shall be built or rebuilt in the future, shall be of a height of at least thirty-two decimeters (ten feet) including the coping, in cities of fifty thousand souls and over, and twenty-six decimeters (eight feet) in other cities.

*Note error in English translation of French text; “inclosures held in common” should be “boundary inclosures.”

Art. 687. In the country the common boundary inclosures between two estates are made at the expense of the adjacent estates,
Art. 688

Every fence, which separates rural estates, is considered as a boundary enclosure, unless there be but one of the estates inclosed, or unless there be some title or proof to the contrary.

RCC—677, 689, 823 et seq.

RCC 1870, Art. 688.

Same as above.

CC 1825, Art. 684.

Same as above; but "separates" misspelled "separate."

CC 1808. No corresponding article.

ART. 689. Every ditch between two estates shall be supposed held in common, unless there be a voucher or proof to the contrary.

RCC—677, 688, 690.

RCC 1870, Art. 689.

Same as above.

CC 1825, Art. 685.

Same as above.

CC 1808, p. 134, Art. 36.

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

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ART. 690. A ditch held in common is to be kept at the expense of the two contiguous proprietors.

RCC—689.

RCC 1870, Art. 690.
Same as above.

CC 1825, Art. 686. (No reference in Projet)
Same as above.

Le fossé mitoyen doit être entretenu à frais communs.

A ditch held in common is to be kept up at a common expense.

Same as above.

ART. 691. Every proprietor in the cities, towns or suburbs of this State, is forbidden to plant on the boundary line which separates his estate from that of his neighbor, trees which may be of any injury whatsoever to his neighbor.

And if his neighbor suffers any damage from them, he can oblige the owner to have them torn up or the branches of them cut off, which extend over his estate.

If the roots only extend themselves on his estate, the neighbor has the right to cut them up himself.


RCC 1870, Art. 691.
Same as above.

CC 1825, Art. 687. (Projet, p. 73. Addition + adopted; no comment)
Il est interdit à tout propriétaire, dans les villes et faubourgs de cet État, de planter sur la limite qui le sépare d'avec son voisin, des arbres qui puissent lui nuire en aucune manière quelconque.
Si le voisin en reçoit quelque dommage, il peut faire condamner le propriétaire à les arracher, ou à couper les branches qui s'étendent sur son héritage.
Si ce sont des racines qui s'avancent sur son héritage, le voisin a le droit de les couper lui-même.

CC 1808. No corresponding article.

CN 1804, Art. 671.

Trees with tall trunks may be planted only at the distance prescribed by special regulations actually existing, or by consistent and recognized usages; and, in the absence of regulations and

Il n'est permis de planter des arbres de haute tige qu'à la distance prescrite par les règlements particuliers actuellement existants, ou par les usages constants et reconnus; et, à défaut de règle-
Art. 692

He who wishes to dig a well or a necessary, to build a chimney or hearth, a forge, an oven, a furnace or stable, to put up shelves to store salt or other corrosive substances near a wall, whether held in common or not, is bound to leave the distance, and to cause to be made the works prescribed by the regulations of the police, in order that his neighbor be not injured thereby.

And if there be no regulations of police upon all or any of these subjects, he shall conform to the following rules, in cases which have not been foreseen.

RCC—505, 667, 675, 680, 685.

RCC 1870, Art. 692. (Same as Art. 692 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 688. (No reference in Projet)

He who wishes to dig a well or a necessary near a wall whether held in common or not, is bound to leave the distance, and to cause to be made the works prescribed by the regulations of the police, in order that his neighbor be not injured thereby.

Par. 2 same as par. 2, above.

CC 1808, p. 134, Art. 38.

He who wishes to dig a well or a necessary near a wall whether held in common or not, is bound to leave the distance, and to cause to be made the works prescribed by the regulations of the police, in order that his neighbor be not injured thereby.

Or rest against this wall a quantity of salt or other corrosive substances,
Is bound to leave the distance, and to cause to be made the works prescribed by the regulations of the police, in order that his neighbor be not injured thereby.

And if there be no regulations of police upon all or some of these objects, he shall conform to the following rules in cases which have not been foreseen.

CN 1804, Art. 674.

Par. 1 same as par. 1, above.

He who wishes to build against it a chimney, or hearth, a forge, an oven or a furnace,

Or build against it a stable,

Or rest against this wall a quantity of salt or other corrosive substances,

Is bound to leave the distance prescribed by the special regulations and usages concerning such things, or to make the works prescribed by such regulations and usages, in order that his neighbor be not injured thereby.

ART. 693. He who wishes to build a chimney or hearth against a wall held in common, is bound to make a double wall of brick or other proper material six inches thick.

RCC—675, 685.

RCC 1870, Art. 693.

(Same as Art. 693 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 689.

(No reference in Projet)

He who wishes to build a chimney or hearth against a wall held in common, is bound to make a double wall of brick or other proper materials six inches thick.


He who wishes to build a chimney or hearth against a wall held in common, is bound to make a double wall of tiles or other proper materials six inches thick.

CN 1804. No corresponding article.

ART. 694. He who wishes to build an oven, a forge or a furnace against the wall held in common, is bound to leave half a foot interval and vacancy betwixt such wall and that of his own, forge or furnace, and this last wall must be one foot thick.

RCC—675, 685.

RCC 1870, Art. 694.

Same as above.

CC 1825, Art. 690.

(Same as above.

No reference in Projet)

Celui qui veut faire une cheminée ou âtre contre un mur mitoyen, doit faire un contre-mur de briques ou autre chose suffisante, de l'un demi pied d'épaisseur.

Celui qui veut faire une cheminée ou âtre contre un mur mitoyen, doit faire un contre-mur de tuiles (tuiles), ou autre chose suffisante de (d'un) demi-pied d'épaisseur.
Art. 695

He who wishes to build an oven, a forge, or a furnace against the wall held in common, is bound to leave half a foot interval and vacancy betwixt said wall and that of his oven, forge or furnace, and this last wall must be one foot thick.

He who wishes to build an oven, a forge, or a furnace against the wall held in common, is bound to leave half a foot interval and vacancy betwixt said wall and that of his oven, forge or furnace, and this last wall must be one foot thick.

CN 1804. No corresponding article.

ART. 695. He who wishes to dig a necessary or a well against a wall, whether held in common or not, is bound to build another wall one foot thick; and when there is a well on one side and a necessary on the other, there shall be four feet masonry betwixt the two, including the thickness on both sides; but between two wells three feet interval are sufficient.

RCC—505, 675, 685.
RCC 1870, Art. 695.
Same as above.

CC 1825, Art. 691.
Same as above.

CC 1808, p. 136, Art. 41.
He who wishes to dig a necessary or a well against a wall whether held in common or not, is bound to build another wall one foot thick; and when there is a well on one side and a necessary on the other, there shall be four feet masonry, betwixt the two, including the thickness on both sides; but betwixt two wells three feet interval are sufficient.

CN 1804. No corresponding article.

Section 3—OF THE RIGHT OF LIGHTS AND OF VIEW ON THE PROPERTY OF A NEIGHBOR

ART. 696. One neighbor can not, without the consent of the other, open any window or aperture through the wall held in common, in any matter [manner] whatever, not even with the obligation, on his part, to confine himself to lights, the frames of which shall be so fixed within the wall that they can not be opened.

RCC—684, 685, 728, 782, 856.
ART. 697. No one shall build galleries, balconies or other projections on the boundary line which separates an estate from the adjoining estate.

RCC—505.

RCC 1870, Art. 697. (Same as Art. 697 of Proposed Revision of 1869)

CC 1825, Art. 693. (No reference in Projet)

L'un des voisins ne peut, sans le consentement de l'autre, pratiquer dans le mur mitoyen aucune fenêtre ou ouverture en quelque manière que ce soit, même à verre dormant.

-p. 137, Art. 42.

Same as above.

ART. 698. Every proprietor is bound to fix his roof so that the rain water fall upon his own ground, or on the public road. He has no right to cause the same to fall on his neighbor's ground.

RCC—505, 660, 674, 711, 714, 727.
Art. 699

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RCC 1870, Art. 698.
Same as above.

CC 1825, Art. 694.
(No reference in Projet)

Tout propriétaire doit établir ses toits de manière que les eaux pluviales s’écoulent sur son terrain ou sur la voie publique; il ne peut les faire verser sur le fonds de son voisin.

Same as above.

CC 1808, p. 136, Art. 45.
Every proprietor is bound to fix his roof so that rain water fall upon his own ground, or on the public road. He has no right to cause the same to fall on his neighbour’s ground.

CN 1804, Art. 681.
Same as above.

Tout propriétaire doit établir ses toits de manière que les eaux pluviales s’écoulent sur son terrain ou sur la voie publique; il ne peut les faire verser sur le fonds de son voisin.

Projet du Gouvernement (1800), Book II, Title IV, Art. 34.
Every proprietor is bound to fix his roof so that rain water fall upon his own ground, or on the public road.

Section 5—OF THE RIGHT OF PASSAGE AND OF WAY

Art. 699.* The owner whose estate is enclosed, and who has no way to a public road, a railroad, a tramroad or a water course may claim the right of passage on the estate of his neighbor or neighbors to the nearest public road, railroad, tramroad or water course and shall have the right to construct a road, railroad or tramway according to circumstances and as the exigencies of the case may require, over the land of his neighbor or neighbors for the purpose of getting the products of his said enclosed land to such public road, railroad, tramroad or water course, or for the cultivation of his estate, but he shall be bound to indemnify his neighbor or neighbors in proportion to the damage he may occasion. (As amended by Acts 1916, No. 197)


RCC 1870, Art. 699.
(As amended by Art. 699 of Proposed Revision of 1869)

The owner whose estate is inclosed, and who has no way to the public road, may claim the right of passage on the estate of his neighbors for the cultivation of his estate, but he is bound to indemnify them in proportion to the damage he may occasion.

CC 1825, Art. 695.
(No reference in Projet)

Les propriétaires, dont les fonds sont enclavés, et qui n'ont aucune issue sur la vue (voie) publique, peuvent réclamer un droit de passage sur le fonds de leurs voisins, pour l'exploitation de leurs héritages, à la charge d'une indemnité proportionnée au dommage qu'ils peuvent occasionner.

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ART. 700. The owner of the estate, which is surrounded by other lands, has no right to exact the right of passage from which of his neighbors he chooses.

The passage shall be generally taken on the side where the distance is the shortest from the inclosed estate to the public road.

Nevertheless, it shall be fixed in the place the least injurious to the person on whose estate the passage is granted.

RCC 1870, Art. 700.
Same as above.

ART. 701. It is not always the owner of the land which affords the shortest passage who is obliged to suffer the right of passage; for if the estate, for which the right of passage is claimed, has become
Art. 702

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inclosed by means of sale, exchange or partition, the vendor, coparcener or other owner of the land reserved, and upon which the right of passage was before exercised, is bound to furnish the purchaser or owner of the land inclosed with a passage gratuitously, and even when it has not been sold or transferred with the rights of servitude.

RCC—699, 700, 777.

RCC 1870, Art. 701.

(Same as Art. 701 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 697.

(Same as above.

RCC 1870, Art. 702.

(Same as Art. 702 of Proposed Revision of 1869)

A passage must be furnished to the owner of the land surrounded by other lands, not only for himself and workmen, but for his animals, carts, instruments of agriculture, and every thing which may be necessary for the use and working of his land.

RCC—699, 703.

RCC 1870, Art. 703.

(Same as Art. 703 of Proposed Revision of 1869)

Same as above.

ART. 702. A passage must be furnished to the owner of the land surrounded by other lands, not only for himself and workmen, but for his animals, carts, instruments of agriculture, and every thing which may be necessary for the use and working of his land.

RCC—699, 703.

RCC 1870, Art. 704.

(Same as Art. 704 of Proposed Revision of 1869)

Same as above.

ART. 703. When the place for the passage is once fixed, he to whom this servitude has been granted can not change it, but he who owes this servitude may change it from one place to another, in order that it may be less inconvenient to him, provided that it afford the same facility to the owner of the servitude.

RCC—554, 699, 702, 777, 779.

RCC 1870, Art. 705.

(Same as Art. 705 of Proposed Revision of 1869)
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Art. 706

CC 1825, Art. 699. (Projet, p. 74. Addition adopted; comment by redactors)
When the place for the passage is once fixed, he to whom this servitude has been granted, cannot change it, but he who owes this servitude, may change it from one place to another, in order that it may be less inconvenient to him, provided that it afford the same facility to the proprietor of the servitude.

When the lieu où doit s’exercer le passage, est une fois fixé, celui auquel cette servitude a été accordée, ne peut plus en changer la situation; mais celui qui la doit, peut changer le passage d’un lieu à un autre, pour qu’il lui soit moins incommode, pourvu que l’autre propriétaire y trouve la même facilité.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 704. Roads are of two kinds, public and private.

RCC 1870, Art. 704.
Same as above.

CC 1825, Art. 700. (Projet, p. 74. Addition adopted; no comment)
Les chemins sont de deux espèces, savoir: les chemins publics et les chemins particuliers.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 705. Public roads are those which are made use of as highways, which are generally furnished and kept up by the owners of estates adjacent to them.


RCC 1870, Art. 705. (Same as Art. 705 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 701. (Projet, p. 74. Addition adopted; no comment)
Les chemins publics sont ceux qui servent de grandes routes et qui sont dus généralement et entretenus par les propriétaires dont ils sont limitrophes.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 706. Private roads are those which are only open for the benefit of certain individuals, to go from and to their homes, for the service of their lands, and* for the use of some estates exclusively.

RCC—459.

RCC 1870, Art. 706.
Same as above.

CC 1825, Art. 702. (Projet, p. 74. Addition amended in English text and adopted; no comment)
Les chemins particuliers sont ceux qui ne sont ouverts que pour l’utilité de quelques individus, pour aller et venir à leur maison, ou pour le service de leurs terres, ou* pour l’usage de quelques héritages exclusivement.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “and” should be “or.”
ART. 707. He who from his title as owner is bound to give a public road on the border of a river or stream, must furnish another without any compensation, if the first be destroyed or carried away.*

And if the road be so injured or inundated by the water, without being carried away, that it becomes impassable, the owner is obliged to give the public a passage on his lands, as near as possible to the public road, without recompense therefor.

RCC—455, 497, 518, 658, 665.

RCC 1870, Art. 707. (Same as Art. 707 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 703. (Projet, p. 74. Addition † adopted; comment by redactors)
Par. 1 same as par. 1, above.

And if the road be so injured or inundated by the water, without being carried away, that it becomes impassable, the owner is obliged to give the public a passage on his lands, as near as possible to the public road, without any recompense therefor.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include “by the stream.”

ART. 708. The action of indemnification, granted against the person who claims the passage, may be barred by prescription, and the passage shall be continued, although the action in indemnification may be no longer maintainable.

RCC—729, 765, 3544.

RCC 1870, Art. 708. (Same as Art. 708 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 704. (No reference in Projet)
The action of indemnification, granted against the person who claims the passage, may be barred by prescription, and the passage shall be continued, although the action in indemnification be no longer maintainable.

CC 1808, p. 136, Art. 48. Same as above; but no punctuation after “of indemnification.”

CN 1804, Art. 685.
The action of indemnification, in the case provided for by Article 682, may be barred by prescription; and the passage shall be continued, although the action in indemnification be no longer maintainable.

L’action en indemnité, dans le cas prévu par l’article 682, est prescriptible; et le passage doit être continué, quoique l’action en indemnité ne soit plus recevable.

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Chapter 4—Of Conventional or Voluntary Servitudes

Section 1—Of the Different Kinds of Conventional or Voluntary Servitudes

Art. 709. Owners have a right to establish on their estates, or in favor of their estates, such servitudes as they deem proper; provided, nevertheless, that the services be not imposed on the person or in favor of the person, but only on an estate or in favor of an estate; and provided, moreover, that such services imply nothing contrary to public order.

The use and extent of servitudes thus established are regulated by the title by which they are granted, and if there be no titles, by the following rules.


RCC 1870, Art. 709. (Same as Art. 709 of Proposed Revision of 1869)

CC 1825, Art. 705. (No reference in Projet)

Proprietors have a right to establish on their estates, or in favor of their estates, such servitudes as they deem proper: Provided nevertheless, that the services be not imposed on the person or in favor of the person, but only on an estate or in favor of an estate; and provided moreover, that such services imply nothing contrary to public order.

Par. 2 same as par. 2, above; but comma (,) after "established"; colon (:) after "rules."

CC 1808, p. 138, Art. 49.

Proprietors have a right to establish on their estates or in favor of their estates, such services as they deem proper: Provided nevertheless that the services be not imposed on the person or in favor of the person, but only on an estate or in favor of an estate, and Provided moreover, that said services imply nothing contrary to public order.

The use and extent of services thus established, are regulated by the title by which they are established, and if there be no title, by the following rules:

CN 1804, Art. 686.

Same as above; RCC 1870 preferred.

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Art. 710  **COMPILED EDITION**

Les servitudes sont établies ou pour l'usage des bâtiments, ou pour celui des fonds de terre.
Par. 2 same as par 2, above; but no punctuation after "dues"; semicolon (;) after "campagne."
Celles de la seconde espèce se nomment *rurales*.

ART. 711. The principal kinds of urban servitudes are the following:
The right of support; that of drip; that of drain or of preventing the drain; that of view or of lights, or of preventing the view or lights from being obstructed; that of raising buildings or walls, or of preventing them from being raised; that of passage, and that of drawing water.

RCC—450, 660, 675, 692, 696, 698, 699, 710, 712 et seq.

RCC 1870, Art. 711.
Same as above.
CIVIL CODES OF LOUISIANA

ART. 713

ART. 712. The right of support is one by which a proprietor stipulates that his neighbor shall be bound to permit that his house or his timbers should rest on the wall of his neighbor.

In these servitudes the owner of the structure subject to them is bound to keep his wall in a condition to bear them, unless the contrary has been agreed upon; but he may relieve himself from this charge by abandoning his wall.

The servitude by which one is permitted to project works over the estate of his neighbor is of the same kind.

RCC—673, 675, 2011.

ART. 713. Every owner is bound so to construct his roofs that the rain falling on them shall not fall on the land of his neighbor, but on his own or the public way.

This falling of water gives rise to the servitude of drip.

The servitude of drip is that by which any one engages to permit the waters from the roof of his neighbor to fall on his estate, or that by which any one obliges himself to suffer the waters from his own roof to fall on the estate of his neighbor.

RCC—491, 505, 660, 674, 727, 728, 729, 765, 766, 3504.
Art. 714

The right of drain consists in the servitude of passing water collected in pipes or canals through the estate of one’s neighbor.

This servitude is different from the right of drip, because the charge it imposes is more onerous.

It is much less inconvenient to receive the rain which falls* than a body of water which may carry away the land by its violence.

The contrary servitude is the right of preventing this passage of water.

RCC 1870, Art. 714.

Same as above.

CC 1825, Art. 710.

Same as above.

Le droit d’écoulement des eaux, consiste à pouvoir faire passer par l’héritage du voisin, des eaux rassemblées dans des tuyaux ou dans un canal.

Cette servitude diffère du droit d’égout parce qu’elle impose une charge plus considérable.

Il est moins incommode de recevoir des eux qui tombent goutte à goutte, et qui sont quelquefois emportées par le vent,* qu’un cours d’eau qui peut dégrader par son impétuosité.

La servitude contraire est le droit d’empêcher cet écoulement.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include “drop by drop, and which is sometimes borne away by the wind.”

Art. 715. We understand by view every opening which may, more or less, facilitate the means of looking out of a building.

Lights are those openings which are made* rather for the admission of light than to look out of.

RCC—568, 716, 717.
ART. 716. Servitudes of view are of two kinds; one which confers the right of full view with the power of preventing one's neighbor from raising any buildings which obstruct it, and the other which gives an owner the right of preventing his neighbor from having any view or lights on the side on which their estates unite, or that he exercise these servitudes according to his title.

RCC—668, 715, 782.

ART. 717. Servitudes of light are also of two kinds; one which gives the owner of a house the right of opening windows in a wall held in common, for the admission of light, with the right also of preventing his neighbor from raising any building which can obstruct the admission of light; and the other, which gives the right of preventing one's neighbor from opening his wall, or a wall held in common, for the admission of light from a yard or other place, or which limits him to certain lights which are conferred by his title.

RCC—668, 715, 782.
Art. 718. The right of obliging one's neighbor to raise his wall to a certain height; and, on the contrary, that of preventing one's neighbor from raising his house beyond a certain height, are also servitudes.

RCC—648, 668, 681.

RCC 1870, Art. 718.
Same as above.

Art. 719. The right of passage in cities is a servitude by which an owner permits his neighbor to pass through his house or lot* to arrive at his own.

This servitude to be perpetual, must be so expressed in the title; otherwise it ceases with the person who enjoys it,** and does not pass to his heirs.


RCC 1870, Art. 719.
Same as above.

Art. 718. Les servitudes concernant les jours, sont aussi de deux sortes: l'une qui donne au propriétaire d'une maison le droit d'ouvrir des fenêtres dans un mur mitoyen, pour recevoir du jour du côté du fonds de son voisin, avec le droit d'empêcher que celui-ci n'élève son bâtiment jusqu'à ôter ce jour; et l'autre qui donne le droit d'empêcher le voisin d'ouvrir son mur ou un mur mitoyen pour prendre un jour sur une cour ou un autre lieu, ou qui borne la liberté de prendre de certains jours, tels qu'ils se trouvent réglés par le titre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 719. Le droit de passage dans les villes, est une servitude par laquelle un propriétaire s'engage à souffrir que son voisin passe dans sa maison* pour arriver à la sienne.
**CIVIL CODES OF LOUISIANA**

**Art. 721**

Il faut que cette faculté soit bien expressee dans le titre, pour être présumée une servitude perpétuelle, autrement elle n'est censée avoir été accordée qu'à celui en faveur de qui elle a été constituée,** et ne passe point à ses héritiers.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

*"Or lot" has no counterpart in French text.

**Note error in English translation of French text; "who enjoys it" should be "in favor of whom it was established."

**ART. 720.** The right of drawing water is a servitude by which one suffers his neighbor to draw water from the well or spring he has on his land; the use of this servitude is confined to those who live in the house of the person enjoying the servitude, unless the contrary be expressed in the title.

**RCC—646.**

**RCC 1870, Art. 720.**

Same as above.

**CC 1825, Art. 716.**

(Projet, p. 77. Addition adopted; comment by redactors)

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

Le droit de puisage est une servitude par laquelle quelqu'un s'oblige à souffrir que le voisin vienne puiser de l'eau au puits ou dans la fontaine qu'il a dans son terrain, faculté qui doit être restreinte (restreinte) à l'usage des personnes qui habitent la maison du voisin à qui la servitude est concédée, à moins que le contraire ne soit exprimé par le titre.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**ART. 721.** The principal rural servitudes are those of passage, of way, of taking water, of the conducting of water or aqueduct, of watering, of pasturage, of burning brick or lime, and of taking earth or sand from the estate of another.*

**RCC—699, 710, 719, 722.**

**RCC 1870, Art. 721.**

Same as above.

**CC 1825, Art. 717.**

(Projet, p. 77. Addition † adopted; comment by redactors)

Les principales servitudes rurales sont le passage, le chemin, la prise d'eau, la conduite des eaux ou l'aqueduc, l'abreuvoir, le pâturage ou le pacage, le droit de faire cuire de la brique ou de la chaux, et celui de tirer de la terre ou du sable de l'héritage de son voisin.*

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

*Note error in English translation of French text; "another" should be "one's neighbor."

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Art. 722. The right of passage, or of way, is a servitude imposed by law or by convention, and by virtue of which one has a right to pass on foot, on horseback, or in a vehicle, to drive beasts of burden or carts through the estate of another.

When this servitude results from the law, the exercise of it is confined to the wants of the person who has it.

When it is the result of a contract, its extent and the mode of using it is regulated by the contract.

RCC—674, 699, 719, 771, 781, 2630.

RCC 1870, Art. 722. Same as above.

CC 1825, Art. 718. (Projet, p. 77. Addition adopted; comment by redactors) Le droit de passage ou de chemin est une servitude qui est imposée par la loi ou par la convention, et en vertu de laquelle quelqu'un a le droit de passer à pied, à cheval ou même en voiture, de conduire des bêtes de somme ou des charrettes par l'héritage d'autrui.

Lorsque cette servitude résulte de la loi, elle a pour règle les besoins du propriétaire qui exerce le droit de passage.

Lorsqu'au contraire cette servitude est le résultat de la convention, son étendue et le mode de l'exercer se régissent par le titre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 723. The right of drawing water from the spring of another is also a servitude.

RCC—771.

RCC 1870, Art. 723. Same as above.

CC 1825, Art. 719. (Projet, p. 78. Addition adopted; comment by redactors) La prise d'eau est le droit de puiser de l'eau dans la fontaine d'un autre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 724. The conducting of water or aqueduct is the right by which one conducts water from* his estate through the land of his neighbor by means of an aqueduct or ditch.

RCC 1870, Art. 724. Same as above.

CC 1825, Art. 720. (Projet, p. 78. Addition adopted; comment by redactors) La conduite d'eau ou l'aqueduc est le droit en vertu duquel quelqu'un conduit l'eau dans* son fonds, à travers celui de son voisin, par le moyen d'un aqueduc ou d'un fossé.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “from” should be “to.”
ART. 725. The right of watering one's animals at the pond or spring of another, is also a servitude.

RCC 1870, Art. 725.
Same as above.

CC 1825, Art. 721. (Projet, p. 78. Addition adopted; comment by redactors)
L'abreuvoir est le droit de faire abreuver ses bestiaux dans la marre (mare), l'étang ou la source d'autrui.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 726. Pasturage is the right of grazing one's cattle on the estate of another.

RCC—727.

RCC 1870, Art. 726. (Same as Art. 726 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 722. (Projet, p. 78. Addition adopted; comment by redactors)
Pasturage is the right of feeding one's cattle on the estate of another.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 727. Servitudes are either continuous or discontinuous. Continuous servitudes are those whose use is or may be continual without the act of man.
Such are aqueducts, drain, view and the like.
Discontinuous servitudes are such as need the act of man to be exercised.
Such are the rights of passage, of drawing water, pasture and the like.

RCC—713, 714, 726, 728, 765, 766, 767, 789 et seq., 3504.

RCC 1870, Art. 727. (Same as Art. 727 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 723. (No reference in Projet)
Par. 1-3 same as pars. 1-3, above.

Interrupted servitudes are such as need the act of man to be exercised.

Par. 5 same as par. 5, above.
Art. 728

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CC 1808, p. 138, Art. 51.
All services are either perpetual or interrupted.
Perpetual services are those whose use is or may be continual without the act of man.
Such are aqueducts, common sewers, prospects and the like.
Interrupted services, are such as need the act of man to be exercised.
Such are the rights of passage, well, pasture and the like.

CN 1804, Art. 688.
Same as RCC 1870, Art. 727, above.

Les servitudes sont ou continues, ou discontinues.
Pars. 2, 3 same as pars. 2-5, above; but “telles” correctly spelled “tels”; no punctuation after “continuel”, or after “discontinues”; colon (:) after “avoir besoin du fait actuel de l’homme”, and after “exercées”; comma (,) after “l’homme: tels sont.”

Art. 728. Again, servitudes are either visible and* apparent or non-apparent.
Apparent servitudes are such as are to be perceivable by exterior works; such as a door, a window, an aqueduct.
Non-apparent servitudes are such as have no exterior sign of their existence; such, for instance, as the prohibition of building on an estate, or of building above a particular height.

RCC 1870, Art. 728.
Same as above.

CC 1825, Art. 724.
(No reference in Projet)
Same as above; but comma (,) after “works”, and after “existence”; no punctuation after “existence, such.”

Les servitudes sont encore ou visibles ou* apparentes ou non apparentes.
Les servitudes apparentes, sont celles qui s’annoncent par des ouvrages extérieurs, tels qu’une porte, une fenêtre, un aqueduc.
Les servitudes non-apparentes, sont celles qui n’ont pas de signes extérieurs de leur existence; comme, par exemple, la prohibition de bâtir sur un fonds, ou de ne bâtir qu’à une hauteur déterminée.

CC 1808, p. 138, Art. 52.
Again, services are either visible and* apparent or non apparent.
Apparent services are such as are to be perceivable by exterior works, such as a door, a window, an aqueduct.
Non-apparent services are such as have no exterior sign of their existence, such for instance as the prohibition of building on an estate, or of building above a particular height.

-p. 139, Art. 52.
Same as above; but “peut-être” correctly spelled “peut être”; no punctuation after “vues”, or after “pavage”; comma (,) after “servitudes discontinues.”

-p. 139, Art. 51.
Same as above; but “peut-être” correctly spelled “peut être”; no punctuation after “vues”, or after “pavage”; comma (,) after “servitudes discontinues.”

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Section 2—HOW SERVITUDES ARE ESTABLISHED

ART. 729. The right of imposing a servitude permanently on an estate belongs to the owner alone.

RCC—647, 659, 709, 719, 758.

RCC 1870, Art. 729.
Same as above.

CC 1825, Art. 725. (Projet, p. 78. Addition adopted; comment by redactors)
Same as above; but comma (,) after "estate."

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 730. He who has the naked ownership of an estate can not subject it to a servitude without the consent of the usufructuary, unless it be to take effect at the termination of the usufruct.

The servitudes, which do no injury to the rights of the usufructuary, such as that of not raising his house higher than it is, are excepted.

RCC—600, 602.

RCC 1870, Art. 730. (Same as Art. 730 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 726. (Projet, p. 78. Addition † adopted; comment by redactors)
He who has the naked property of an estate cannot subject it to a servitude without the consent of the usufructuary, unless it be to take effect at the termination of the usufruct.

These servitudes, which do no injury to the rights of the usufructuary, such as that of not raising his house higher than it is, are excepted.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 731. It is not sufficient to be an owner in order to establish a servitude; one must be master of his rights and have the
Art. 732

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power to alienate; for the creation of a servitude is an alienation of a part of the property.

Thus minors, married women, persons interdicted, can not establish servitudes on their estates, except according to the forms prescribed for the alienation of their property.


CC 1825, Art. 727.

Same as above. (Projet, p. 78. Addition † adopted; comment by redactors)

Il ne suffit pas d’être propriétaire pour établir une servitude; il faut de plus être maître de ses droits; il faut avoir le pouvoir d’aliéner, car la création d’une servitude est une véritable aliénation d’une partie de la propriété.

Ainsi les mineurs, les femmes mariées, les interdits, ne peuvent établir des servitudes sur leurs héritages, si ce n’est en suivant les formes exigées pour l’aliénation de leurs biens.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 732. The husband can not establish a servitude on the dotal property of his wife, even with her consent, unless it be expressly stipulated in the marriage contract that he shall be permitted to alienate her dotal property with her consent.

RCC—2350, 2357.

RCC 1870, Art. 732.

Same as above.

CC 1825, Art. 728.

Same as above. (Projet, p. 79. Addition † adopted; comment by redactors)

Le mari ne peut établir de servitude sur les biens dotaux de sa femme, même de son consentement, à moins qu’il n’ait été expressément stipulé dans son contrat de mariage, qu’il aurait la liberté de les aliéner de son consentement.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 733. An attorney in fact can not impose a servitude on the estate intrusted to him, without a special power to that effect.

RCC—2297.

RCC 1870, Art. 733.

Same as above.

CC 1825, Art. 729.

Same as above. (Projet, p. 79. Addition † adopted; comment by redactors)

Un fondé de procuration ne peut, sans un pouvoir spécial, grever de servitude l’héritage qui lui est confié.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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ART. 734. Corporations can only establish servitudes on their property in the cases and with the forms in which they can alienate.

RCC—433.

RCC 1870, Art. 734.
Same as above.

CC 1825, Art. 730.
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 735. The purchaser with a reservation of redemption, may impose servitudes on the property acquired by him; but they cease if the redemption takes effect.

RCC—2567 et seq., 2588.

RCC 1870, Art. 735.
Same as above.

CC 1825, Art. 731.
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 736. Those who have not the full ownership, whose ownership in the estate ceases on a certain condition, or at a particular time,* may establish servitudes thereon, but they cease with their rights; and those in whose favor the servitudes are established cannot avail themselves of prescription, because before that time no action for the dissolution of the servitude could be instituted against them.

RCC—737 et seq.

RCC 1870, Art. 736.
(Same as Art. 736 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 732.
(Projet, p. 79. Addition adopted; comment by redactors)

Those who have not the full property, whose property in the estate ceases on a certain condition, or at a particular time,* may establish servitudes thereon, but they cease with their rights, and those in whose favor the servitudes are established cannot avail themselves of prescription, because before that time no action for the dissolution of the servitude could be instituted against them.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

* A literal English translation would be: “Those who have only an ownership subject to resolution, such as the person who is subject to restitution, or the heir of an estate bequeathed under an unfulfilled condition.”

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Art. 737

The usufructuary can not establish on the estate of which he has the usufruct, any charges in the nature of servitudes because they of necessity cease with the usufruct.

RCC—555, 736.

RCC 1870, Art. 737.
Same as above.

CC 1825, Art. 733.

The usufructuary cannot establish on the estate of which he has the usufruct any charges in the nature of services, because they of necessity cease with the usufruct.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 738.

The coproprietor of an undivided estate can not impose a servitude thereon, without the consent of his coproprietor. The contract of servitude, however, is not null; its execution is suspended until the consent of the coproprietor* is given.

RCC—736, 739 et seq., 763.

RCC 1870, Art. 738.
Same as above.

CC 1825, Art. 734.

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "coproprietor" should be "other coproprietors or their heirs."

Art. 739.

The coproprietor who has consented to the establishment of a servitude on property held in common, can not prevent the exercise of the servitude by objecting that the consent of his coproprietor has not been given.

If he becomes owner of the whole estate,* he is bound to permit the exercise of the servitude to which he has before consented.

RCC—736, 738, 763, 801, 818.

RCC 1870, Art. 739.
Same as above.

CC 1825, Art. 735.

Same as above; but comma (,) after "The co-proprietor."
ART. 740. If the coproprietor has established the servitude for his part of the estate only, the consent of the other owners is not necessary, but the exercise of the servitude must be suspended, until his part be ascertained by a partition. In this case, he to whom the servitude has been granted, may compel the coproprietor from whom he received it, to sue for a partition, or may sue for it himself.

RCC—736 et seq., 748, 763.

RCC 1870, Art. 740.
Same as above.

CC 1825, Art. 736. (Projet, p. 80. Addition † adopted; comment by redactors)
Same as above.

ART. 741. If in the suit for a partition it be determined that the estate be disposed of by licitation, and he who has granted the servitude becomes owner of the whole, the servitude then exists on the whole estate, as if he had always been the sole owner.

But if by the licitation the estate be adjudicated to any other of the coproprietors, † the servitude becomes extinct, and the person who granted it is bound to return the price he received for it.

RCC—742, 776, 803, 805.

RCC 1870, Art. 741. (Same as Art. 741 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 737. (Projet, p. 80. Addition † adopted; comment by redactors)
If in the suit for a partition it be determined that the estate be disposed of by licitation, and he who has granted the servitude becomes proprietor of the
Art. 742

whole, the servitude then exists on the whole estate, as if he had always been the sole owner.

Par. 2 same as par. 2, above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

*Note error in English translation of French text; “other of the coproprietors” should be “other person.”

ART. 742. If a coproprietor who has established a servitude, sell his undivided portion to a person, who afterwards, by licitation, becomes owner of the whole, he is, like his vendor, bound to permit the exercise of the servitude on the whole estate.

RCC—741.

RCC 1870, Art. 742.
Same as above.

CC 1825, Art. 738. (Projet, p. 81. Addition adopted; comment by redactors)
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 743. Servitudes are established by all acts by which property can be transferred, and as they are not susceptible of real delivery, the use which the owner of the estate to whom the servitude is granted, makes of this right, supplies the place of delivery.

RCC—766, 767, 2275, 2440, 2479.

RCC 1870, Art. 743.
Same as above.

CC 1825, Art. 739. (Projet, p. 81. Addition adopted; comment by redactors)
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 744. Servitudes may be established on all things susceptible of ownership, even on the public domain, on the common property of cities and other incorporated places.

RCC—766.

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Les servitudes peuvent être établies sur toutes les choses susceptibles de propriétés ; elles peuvent même l'être sur le domaine public, et sur les biens communaux des villes et autres lieux incorpors.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 745. It is not contrary to the nature of servitudes that the same servitude should be established on several estates for the benefit of one, or that the same estate should be subject to a servitude for the benefit of several estates.

RCC—648.

ART. 746. By the title by which a servitude is established in favor of an estate, a servitude may also be imposed on that estate, for the benefit of the estate from which the first servitude is due.

In cases where there are reciprocal servitudes, all the rules concerning simple servitudes are applicable.

RCC—648.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 747. A servitude may be established or acquired in favor of an estate which does not exist, or of which one is not yet the owner; but if the hope of becoming the owner be not realized, the servitude falls.

It may also be stipulated that an edifice not yet built, shall support a servitude; or, shall have the benefit of one when it is built.

RCC—740.

RCC 1870, Art. 747.
Same as above.

CC 1825, Art. 743. (Projet, p. 81. Addition adopted; comment by redactors)
Same as above.

On peut établir ou acquérir des servitudes au profit d'un fonds qui n'existe pas, ou dont on n'est pas encore propriétaire; mais dans ce cas, si l'espérance de devenir propriétaire ne se réalise pas, l'obligation de la servitude s'évanouit.

On peut même stipuler qu'un édifice qui n'est pas encore bâti, supportera une servitude, ou en jouira quand il sera construit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 748. A servitude may be established or released for a certain part of an estate, provided the part be designated.

RCC—740.

RCC 1870, Art. 748.
Same as above.

CC 1825, Art. 744. (Projet, p. 81. Addition adopted; comment by redactors)
Same as above.

On peut établir une servitude ou en faire la remise sur une certaine partie d'un fonds, pourvu que cette partie soit indiquée.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 749. He whose estate is incumbered with a servitude, may impose on it other servitudes of any kind, provided they do not affect the rights of him who has acquired the first.

RCC 1870, Art. 749.
Same as above.

CC 1825, Art. 745. (Projet, p. 82. Addition adopted; comment by redactors)
Same as above.

Celui dont l'héritage est grevé de quelque servitude, peut en imposer de nouvelles, soit de la même espèce, soit d'une autre, pourvu qu'elles ne préjudicent pas aux droits de celui qui en a déjà acquis une première.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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ART. 750. An estate being mortgaged does not prevent the owner from establishing servitudes on it, saving always to the creditor the right of demanding his debt, if the establishment of the servitude evidently depreciates the value of the estate, or of causing the estate to be sold as free from all servitudes; but the person who has acquired the servitude, shall have in such case his action for the restitution of the value of the servitude against the owner of the estate.

RCC—617, 3397.

RCC 1870, Art. 750.
Same as above.

CC 1825, Art. 746. (Projet, p. 82. Addition adopted; comment by redactors)
L'hypothèque dont un héritage est grevé, n'empêche point le propriétaire d'y établir des servitudes, sauf au créancier à provoquer son remboursement, si l'établissement de la servitude dépréciait, notablement la valeur du fonds hypothiqué, ou même à faire vendre l'héritage comme libre de toute servitude, sauf l'action en indemnité de l'acquéreur contre le propriétaire qui lui a accordé la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 751. The exercise of servitudes may be limited to certain times. Thus the right of drawing water may be confined to certain hours, the right of passage to a part of the day.

RCC—709, 781, 803.

RCC 1870, Art. 751.
Same as above.

CC 1825, Art. 747. (Projet, p. 82. Addition adopted; comment by redactors)
L'exercice des servitudes peut être limité à certains temps.
Ainsi, en accordant un droit de puisage, on peut dire qu'il ne sera exercé qu'à de certaines heures, ou que le droit de passage n'aura lieu que pendant une partie du jour.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 752. Legal servitudes and even those which result from the situation of places, may be altered by the agreement of parties, provided the public interest does not suffer thereby.

RCC—660 et seq., 664 et seq.

RCC 1870, Art. 752.
Same as above.

CC 1825, Art. 748. (Projet, p. 82. Addition adopted; comment by redactors)
On peut déroger par la convention aux servitudes légales, et même à celles
Art. 753

Servitudes which tend to affect the free use of property, in case of doubt as to their extent or the manner of using them, are always interpreted in favor of the owner of the property to be affected.

RCC—779, 780, 789, 1948.

RCC 1870, Art. 753.
Same as above.

CC 1825, Art. 749.  
Les servitudes tendant à affecter le libre usage des fonds, s'interprètent toujours, en cas de doute sur leur étendue ou la manière de les exercer, en faveur de l'obligé, c'est-à-dire du propriétaire du fonds asservi.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 754. Servitudes being established on estates in favor of other estates, and not in favor of persons, if the grant of the right declare it to be for the benefit of another estate, there can be no doubt as to the nature of this right, even though it should not be called a servitude.

RCC—646 et seq., 654, 709, 719, 2011.

RCC 1870, Art. 754.
Same as above.

CC 1825, Art. 750.  
Les servitudes devant être établies sur des fonds, en faveur d'autres fonds, et non en faveur des personnes, si la concession du droit énonce qu'elle est accordée pour l'utilité d'un autre fonds, il ne peut y avoir de doute sur la nature du droit, quand même ce droit ne serait pas qualifié de servitude.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 755. If, on the other hand, the act establishing the servitude does not declare that the right is given for the benefit of an estate, but to a person who is the owner of it, it must then be considered whether the right granted be of real advantage to the estate, or merely of personal convenience to the owner.

RCC—646 et seq., 709.

RCC 1870, Art. 755.
Same as above.
ART. 756. If the right granted be of a nature to assure a real advantage to an estate, it is to be presumed that such right is a real servitude, although it may not be so styled.

Thus, for example, if the owner of a house contiguous to lands bordering on the high road, should stipulate for the right of passing through lands,* without it being expressed that the passage is for the use of his house, it would not be the less a real servitude, for it is evident that the passage is of real utility to the house.

RCC—646 et seq.

ART. 757. If, on the other hand, the concession from its nature is a matter of mere personal convenience, it is considered personal, and can not be made real but by express declaration of the parties.

Thus for example, if the owner of a house near a garden or park, should stipulate for the right of walking and gathering fruits and flowers therein, this right would be considered personal to the individual, and not a servitude in favor of the house or its owner.
Art. 758

But the right becomes real and is a predial servitude, if the person stipulating for the servitude, acquires it as owner of the house, and for himself, his heirs and assigns.

RCC—646 et seq., 758, 2011.

RCC 1870, Art. 757. (Same as Art. 757 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 753. (Projet, p. 83. Addition adopted; comment by redactors)

If, on the other hand, the right from its nature, is a matter of mere personal convenience, it is considered personal, and cannot be made real but by express declaration of the parties.

Pars. 2, 3 same as pars. 2, 3, above; but comma (,) after "Thus."

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 759. Those who can establish servitudes on their lands can also acquire servitudes.

There are some persons who can not establish servitudes, who nevertheless can acquire them; such as those who can not exercise

*English translation of French text incomplete; should include “in the title.”

Section 3—How Servitudes Are Acquired

Art. 759. Those who can establish servitudes on their lands can also acquire servitudes.

There are some persons who can not establish servitudes, who nevertheless can acquire them; such as those who can not exercise
their rights, minors, women not authorized, administrators, tutors, husbands; for the acquisition of a servitude augments the value and convenience of an estate.

RCC—731.

RCC 1870, Art. 759.
Same as above.

CC 1825, Art. 755. (Projet, p. 83. Addition ‡ adopted; comment by redactors)

Ceux qui peuvent établir des servitudes sur leurs fonds, peuvent, à plus forte raison, en acquérir.

Il y a même des personnes qui ne peuvent établir des servitudes, et qui peuvent néanmoins en acquérir; tels sont ceux qui ne jouissent pas de leurs droits, les mineurs, les femmes non autorisées, les administrateurs des biens d'autrui, les tuteurs, les maris; car l'acquisition d'une servitude augmente la valeur et l'agrément du fonds auquel elle est due.

ART. 760. He who assumes the quality of owner, and enjoys an estate as such in good or in bad faith, he who acts in the name of the owner, though he have no mandate from the owner,* can acquire servitudes, and the person granting them can not afterwards revoke them, for it is not to the person but to the estate they are granted.

RCC—794, 1889 et seq., 2295 et seq., 2299, 2300.

RCC 1870, Art. 760.
Same as above.

CC 1825, Art. 756. (Projet, p. 84. Addition adopted; comment by redactors)

Celui qui prend la qualité de propriétaire, et qui jouit de l'héritage à ce titre, de bonne ou de mauvaise foi; celui qui agit au nom du propriétaire d'un fonds, quoique n'ayant pas de mandat, ou se portant fort pour lui,* peuvent acquérir des servitudes, et la personne qui les a concédées, ne peut révoquer son consentement, car ce n'est pas à la personne, mais au fonds, que la servitude est accordée.

*English translation of French text incomplete; should include "or when he answers for the owner."

ART. 761. Nevertheless, in all the cases mentioned in the preceding articles, if the minor, the woman not authorized, or the owner* find the contract onerous, they can annul it or refuse to execute it by renouncing the servitude.

RCC—763, 1780 et seq.
ART. 762. Even those who are neither owners nor representatives of the owner, and who have not expressly assumed the quality of acting in his name, may acquire a servitude for the benefit of the estate they possess, when such is the condition of the contract they make.

RCC—763, 794, 1890 et seq.

ART. 763. One of the owners of property held in common may stipulate for a servitude for the benefit of the property in common, because the partnership, which exists between him and his coproprietor, authorizes him and makes it his duty to ameliorate the property in common.

Nevertheless, the coproprietors may refuse to avail themselves of this servitude, and allege that the acquisition of the servitude is not an act of mere administration, but an innovation of [on] the estate, which ought not to have been made without their consent. But this exception exists only in their favor and can not be taken advantage of by him who has granted the servitude, in order to exonerate himself from his engagement.

RCC—656, 738 et seq., 761.

ART. 764. Same as Art. 763 of Proposed Revision of 1869
Nevertheless, the co-proprietors may refuse to avail themselves of this servitude, and allege that the acquisition of the servitude is not an act of mere administration, but an innovation on the estate, which ought not to have been made without their consent. But this exception exists only in their favour and cannot be taken advantage of by him who has granted the servitude, in order to exonerate himself from his engagement.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 764. The usufructuary may acquire a servitude in favor of an estate of which he has the usufruct, if he declare that he acts for the owner, or if he stipulates that the servitude is established in favor of all those who shall possess the estate after him; but if in the act by which the servitude is acquired, he takes merely the quality of usufructuary, without expressing at the same time that he contracts for all those who may succeed him in the possession of the estate, the right terminates with the usufruct, and the owner can not claim a servitude which has not attached to the estate subject to the usufruct, or which has only attached for the time of the usufruct.

RCC—590, 606, 646, 762.

RCC 1870, Art. 764.
Same as above.

CC 1825, Art. 760. (Projet, p. 85. Addition adopted; comment by redactors)
Same as above; but comma (,) after "claim a servitude."

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 765. Continuous and apparent servitudes may be acquired by title, or by a possession of ten years. The public, represented by the various parishes in this State, may also in like manner acquire a profit du fonds commun; car la communauté qui existe entre lui et ses co-propriétaires, lui donne le droit et lui fait même une loi de rendre la chose commune meilleure.

Néanmoins les autres co-propriétaires peuvent refuser de profiter de cette servitude, et prétendre qu'une telle acquisition n'est pas seulement un acte d'administration, mais une véritable innovation sur l'héritage, qui ne devait pas être faite sans leur consentement. Mais cette exception n'est qu'en leur faveur, et ne peut nullement servir à celui qui a concédé la servitude, pour se soustraire à son engagement.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
servitude by the open and public possession and use of a road for the space of ten years, after the said road or servitude has been declared a public highway by the Police Jury, provided that such servitude so acquired shall not extend beyond the width of forty feet. (As amended by Acts 1904, No. 25)

RCC—454, 727 et seq., 767, 789, 2630, 3504, 3546.

RCC 1870, Art. 765. (Same as Art. 765 of Proposed Revision of 1869)
Continuous and apparent servitudes may be acquired by title or by a possession of ten years.

CC 1825, Art. 761. (Projet, p. 85. Amendment † adopted; comment by redactors)

Continuous and apparent servitudes may be acquired by title or by a possession of ten years, if the parties be present, and twenty years if absent.

CC 1808, p. 138, Art. 53.
Perpetual and apparent services may be acquired by title or by a possession of thirty years.

CN 1804, Art. 690.
Same as above.

ART. 766. Continuous nonapparent servitudes, and discontinuous servitudes, whether apparent or not,* can be established only by a title.

Immemorial possession itself is not sufficient to acquire them. Immemorial possession is that of which no man living has seen the beginning, and the existence of which he has learned from his elders.

RCC—727 et seq., 743, 769, 770, 789, 800, 3504, 3546.

RCC 1870, Art. 766. (Same as Art. 766 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 762. (Projet, p. 85. Amendment amended in English text and adopted; comment by redactors)

Continuous non-apparent servitudes, and interrupted servitudes, whether apparent or not,* can be established only by a title.

Pars. 2, 3 same as pars. 2, 3, above.

CC 1808, p. 138, Art. 54.
Perpetual non apparent services and interrupted services, whether apparent or not, can be established only by a title.

Par. 2 same as par. 2, above.

CN 1804, Art. 691, par. 1 and par. 2, clause 1.
Same as above.

Les servitudes continues non apparentes, et les servitudes discontinues, ne peuvent s'établir que par titre. La possession, même immémoriale, ne suffit pas pour les acquérir. La possession immémoriale est celle dont aucun homme vivant n'a vu le commencement, et dont il a appris l'existence de ses anciens.

-p. 139, Art. 54.
Les servitudes continues non apparentes et les servitudes discontinues apparentes, ou non apparentes ne peuvent s'établir que par titre. La possession même immémoriale ne suffit pas pour les acquérir.

Les servitudes continues non apparentes, et les servitudes discontinues,
apparentes ou non apparentes, ne peuvent s'établir que par titres.
La possession même immémoriale ne suffit pas pour les établir;

**Art. 767.** The destination made by the owner is equivalent to title with respect to continuous apparent servitudes.

By destination is meant the relation established between two immovables by the owner of both, which would constitute a servitude if the two immovables belonged to two different owners.

RCC—643, 649, 727 et seq., 765, 768, 769, 805, 812.

**RCC 1870, Art. 767.** (Same as Art. 767 of Proposed Revision of 1869)
Same as above.

**CC 1825, Art. 763.** (Projet, p. 85. Amendment adopted; comment by redactors)

The use which the owner has intentionally established on a particular part of his property in favour of another part, is equal to a title, with respect to perpetual and apparent servitudes thereon.

By this is meant the disposition which the owner of two or more estates has made for their respective use.

**CC 1808, p. 138, Art. 55.**
The intention of the father of the family is equal to a title, with respect to perpetual and apparent services.

**CN 1804, Art. 692.**
Same as above.

**Art. 768.** Such intention is never presumed till it has been proved that both estates, now divided, have belonged to the same owner, and that it was by him that the things have been placed in the situation from which the servitudes result.

RCC—767, 769, 785, 805.

**RCC 1870, Art. 768.** (Same as Art. 768 of Proposed Revision of 1869)
Same as above.

**CC 1825, Art. 764.** (No reference in Projet)

Such intention is never presumed till it has been proved that both estates now divided, have belonged to the same proprietor, and that it is by him that the things have been placed in the situation from which the servitudes result.

**CC 1808, p. 138, Art. 56.**
The intention of the father of the family is never presumed till it has been proved, that both estates now divided have belonged to the same proprietor and that it is by him that the things have been placed in the situation from which the services result.

Il n'y a de destination du père de famille que lorsqu'il est prouvé que deux fonds actuellement divisés ont appartenu au même propriétaire, et que c'est par lui que les choses ont été mises dans l'état duquel résulte la servitude.

**-p. 139, Art. 56.**
Same as par. 1, above.

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Art. 769. If the owner of two estates, between which there exists an apparent sign of servitude, sell one of those estates, and if the deed of sale be silent respecting the servitude, the same shall continue to exist actively or passively in favor of or upon the estate which has been sold.

RCC—649, 728, 766 et seq., 776, 805.

RCC 1870, Art. 769.
(Same as Art. 769 of Proposed Revision of 1869)

CC 1825, Art. 765.
(No reference in Projet)

Si le propriétaire de deux héritages, entre lesquels existe un signe apparent de servitude, dispose de l’un des héritages, sans que le contrat contienne aucune convention relative à la servitude, elle continue d’exister activement ou passivement en faveur du fonds aliéné ou sur le fonds aliéné.

ART. 770. The title by which such servitudes are established as can not be acquired by prescription, can be replaced only by a title by which such servitude is acknowledged by the owner of the estate which owes the servitude, or by a final judgment condemning him to permit the exercise of the servitude.

RCC—766.

RCC 1870, Art. 770.
Same as above.

CC 1825, Art. 766.
(Projet, p. 85. Amendment adopted; comment by redactors)

Le titre constitutif de la servitude, à l’égard de celles qui ne peuvent s’acquérir par la prescription, ne peut être remplacé que par un titre réconnaissant de la servitude, et émanant du propriétaire du fonds asservi, ou par un jugement définitif, par lequel ce propriétaire aurait été condamné à souffrir l’exercice de cette servitude.
The title by which such services are established as cannot be acquired by prescription, can be replaced only by a title by which said service is acknowledged by the owner of the estate which owes the service.

Same as above.

ART. 771. When a servitude is established, every thing which is necessary to use such servitude is supposed to be granted at the same time with the servitude.

Thus the servitude of drawing water out of a spring carries necessarily with it the right of passage.

But the passage, in this case and in all others in which it is permitted as an accessory to some other servitude, must be made in the way the most direct, the shortest, and the least inconvenient to the estate subject to the servitude.

Same as above.

ART. 772. He to whom a servitude is due, has a right to make all the works necessary to use and preserve the same.

Same as above.
Art. 773

RCC 1870, Art. 772.
Same as above.

CC 1825, Art. 768.
Same as above.

CC 1808, p. 140, Art. 60.
Same as above.

CC 1804, Art. 697.
Same as above.

ART. 773. Such works are at his expense and not at the expense of the owner of the estate which owes the servitude, unless the title by which it is established shows the contrary.

RCC—772, 774 et seq.

RCC 1870, Art. 773.
Same as above.

CC 1825, Art. 769.
Same as above; but comma (,) after "his expense."

CC 1808, p. 140, Art. 61.
Same as above.

CN 1804, Art. 698.
Same as above.

ART. 773. Such works are at his expense and not at the expense of the owner of the estate which owes the servitude, unless the title by which it is established shows the contrary.

RCC—772, 774 et seq.

RCC 1870, Art. 774.
Same as above.

CC 1825, Art. 770.
Same as above.

ART. 774. The owner of the estate, to which the servitude is due, has the right to go on the estate which owes the servitude with his workmen, in the place where it is necessary to construct or repair the works necessary for the exercise of the servitude, to deposit there the materials necessary for those works and the rubbish made thereby, under the obligation of causing the least possible damage and of removing them as soon as possible.

Nevertheless, if in the act establishing the servitude, it is said that the owner to whom it has been granted can not construct works in order to exercise it, or can only construct them in a certain manner, this agreement must be observed.

RCC—772, 773, 775 et seq.

RCC 1870, Art. 774.
Same as above.

CC 1825, Art. 770.
(Projet, p. 86. Addition † adopted; comment by redactors)
ART. 775. Even in the cases where the owner of the estate, which owes the servitude, is bound by the title to make the necessary works for the use and preservation of the servitudes, at his own expense, he may always exonerate himself by giving up the estate which owes the servitude to the owner of the estate to which it is due.

RCC—575, 679, 772 et seq., 783.

RCC 1870, Art. 775.
Same as above.

CC 1825, Art. 771. (No reference in Projet)
Same as above; but no punctuation after "of the estate."

CC 1808, p. 140, Art. 62.
Even in cases where the owner of the estate, which owes the servitude, is bound by the title to make the necessary works for the use and preservation of the servitudes, at his own expense, he may always exonerate himself by giving up the estate which owes the servitude to the owner of the estate to which it is due.

CN 1804, Art. 699.
Even in the cases where the owner of the estate, which owes the servitude, is bound by the title to make the necessary works for the use or preservation of the servitudes, at his own expense, he may always exonerate himself by giving up the estate which owes the servitude to the owner of the estate to which it is due.

ART. 776. If the estate for which the servitude has been established, comes to be divided, the servitude remains due for each portion,
provided that no additional burden accrue thereby to the estate which is subject to the servitude.

Thus, for instance, in case of a right of passage, all the owners are bound to exercise that right through the same place.

RCC—741, 769, 774, 2108.

RCC 1870, Art. 776. (Same as Art. 776 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 772. (No reference in Projet)

Par. 1 same as par. 1, above.

Thus, for instance, in case of a right of passage, all the proprietors are bound to exercise that right through the same place.

CC 1808, p. 140, Art. 63.

If the estate for which the service has been established, comes to be divided, the service remains due for each portion, without however making worse the condition of the estate subject to the services.

Par. 2 same as par. 2, above; but no punctuation after “Thus.”

CN 1804, Art. 700.

Same as above.

ART. 777. The owner of the estate which owes the servitude can do nothing tending to diminish its use, or to make it more inconvenient.

Thus he can not change the condition of the premises, nor transfer the exercise of the servitude to a place different from that on which it was assigned in the first instance.

Yet if this primitive assignment has become more burdensome to the owner of the estate which owes the servitude, or if he is thereby prevented from making advantageous repairs on his estate, he may offer to the owner of the other estate a place equally convenient for the exercise of his rights, and the owner of the estate to which the servitude is due can not refuse it.

RCC—660, 700, 701, 703.

RCC 1870, Art. 777. (Same as Art. 777 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 773. (No reference in Projet)

The proprietor of the estate which owes the servitude can do nothing tending to diminish its use, or to make it more inconvenient.

Le propriétaire du fonds débiteur de la servitude, ne peut rien faire qui tende à en diminuer l'usage, ou à le rendre plus incommode.
Yet if this primitive assignment has become more burthensome to the proprietor of the estate which owes the servitude, or if he is thereby prevented from making advantageous repairs on his estate, he may offer to the proprietor of the other estate a place equally convenient for the exercise of his rights, and the owner of the estate to which the servitude is due cannot refuse it.

CC 1808, p. 140, Art. 64.
The proprietor of the estate which owes the service, can do nothing tending to diminish its use, or to make it more inconvenient.
Thus he cannot change the estate (state) of the premises, nor transfer the exercise of the services to a place different from that on which it was assigned in the first instance.
Yet if this primitive assignation has become more burthensome to the proprietor of the estate which owes the service, or if he is thereby prevented from making advantageous repairs, he may offer to the proprietor of the other estate, a place equally convenient, for the exercise of his rights, and the owner of the estate to which the service is due cannot refuse it.

CN 1804, Art. 701.
Same as CC 1825, Art. 773, above.

ART. 778. On the other hand, he who has a right of servitude can use it only according to his title, without being at liberty to make either in the estate which owes the servitude, or in that to which the servitude is due, any alteration by which the condition of the first may be made worse.

RCC—660, 700 et seq.

RCC 1870, Art. 778.
Same as above.

CC 1825, Art. 774. (No reference in Projet)
Same as above; but comma (,) after "of servitude."

CC 1808, p. 140, Art. 65.
On the other hand, he who has a right of service, can use it only according to his title, without being at lib-
Art. 779

If the manner in which the servitude is to be used is uncertain, as if the place necessary for the exercise of the right of passage is not designated in the title, the owner of the estate which owes the servitude is bound to fix the place where he wishes it to be exercised.

RCC—700 et seq., 753, 1945 et seq.

RCC 1870, Art. 779.

Same as above.

CC 1825, Art. 775.

(Proit, p. 86. Addition adopted; comment by redactors)

Same as above; but comma (,) after "owes the servitude."

Si la manière d'user de la servitude est incertaine, comme si la place nécessaire pour l'exercice d'un droit de passage, n'est pas réglée par le titre, c'est au débiteur de la servitude à désigner l'endroit par où il veut qu'on l'exerce.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 780.

If the title by which a passage is granted does not designate its breadth, nor the manner in which it is to be used, whether on foot, or horseback, or with carriages, the use which the person to whom the servitude is granted previously made of it will serve to interpret the title.

If there was no such use made of it before, the probable intention of the parties must be considered, and the purpose for which the passage is granted.

If these circumstances can afford no light, it must be decided in favor of the land which owes the servitude, and* a foot passage must be conceded eight feet wide, where it is straight, and ten feet wide where it turns.

RCC—700 et seq., 753, 1945 et seq.

RCC 1870, Art. 780.

Same as above.

CC 1825, Art. 776.

(Proit, p. 87. Addition adopted; comment by redactors)

Same as above; but comma (,) after "the use", after "servitude is granted", after "previously made of it", and after "ten feet wide."

Si le titre qui accorde un passage, n'en disigne l'désigné ni la largeur, ni la manière d'en user, à pied, à cheval ou avec des voitures, l'usage qu'en a
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Art. 782

fait jusqu'au titre qui la servitude est accordée, sert à interpréter le titre.
Si il n'existe pas de semblable usage, on doit examiner quelle a été l'intention vraisemblable des parties, et la fin pour laquelle le chemin est stipulé et promis.
Si ces circonstances ne donnent pas assez de lumières, on prononcera en faveur du fonds qui doit la servitude, et l'on n'accordera qu'un* passage pour aller à pied, de huit pieds de large en ligne directe, et de dix pieds dans les endroits où le chemin tourne.

*English translation of French text incomplete; should include “only.”

ART. 781. If the passage be agreed upon, without the time or the hour be fixed, it is necessary to make a distinction; if the passage be through a place not closed, it may be used at any hour, and even in the night, for at any hour a person may want to pass; but if it be through a place which is closed for the security of the owner, the right of passage can be exercised only at convenient hours, for it would be unreasonable that a yard or house should be left open at all hours of the night.

RCC—700, 722, 751.

RCC 1870, Art. 781.
Same as above.

CC 1825, Art. 777. (Projet, p. 87. Addition † adopted; comment by redactors)
Si le passage est stipulé et consenti, sans en fixer l'heure ni le temps, il faut distinguer: s'il s'agit d'un passage par un lieu non clos, il peut être exercé à toute heure, et même pendant la nuit, parce qu'on peut avoir besoin de passer à toute heure.
Mais s'il s'agit de passer par un lieu destiné à être clos pour la sûreté du propriétaire, le passage ne peut être exercé qu'à des heures convenables; n'étant pas juste qu'une cour ou une maison reste ouverte à toutes les heures de la nuit.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 782. The right of opening lights or of view, granted indefinitely to him who is about building, gives him the privilege of opening all the windows which may be necessary to light or embellish his house and the building, attached to it, to give to the windows the form and size he may think proper to adopt, because such is presumed to have been the intention of the parties.
But after the buildings are all finished, the possession and situation of the ground determine the extent of the servitude; and the owner can neither multiply nor enlarge his windows.

RCC—668, 696, 697, 716, 717.

RCC 1870, Art. 782.
Same as above.

CC 1825, Art. 778. (Project, p. 87. Addition adopted; comment by redactors)
Same as above; but comma (,) after "servitude."

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Section 5—How Servitudes are Extinguished

ART. 783. Servitudes are extinguished:
1. By the destruction of the estate which owes the servitude, or of that to which the servitude is due, or by such a change taking place that the thing subject to the servitude can not be used.
2. By prescription resulting from non-usage of the servitude during the time required to produce its extinction.
4. By the abandonment of that part of the estate which owes the servitude.
5. By the renunciation of the servitude on the part of him to whom it is due, or by the express or tacit remission of his right.
6. By the expiration of the time for which the servitude was granted, or by the happening of the dissolving condition attached to the servitude.
7. By the dissolution of the right of him who established the servitude.

RCC—606, 652, 775, 784 et seq., 789 et seq., 793, 805 et seq., 813 et seq., 816 et seq., 821, 822, 2045, 2130, 2217, 2219, 3504, 3546.

RCC 1870, Art. 783.
Same as above.
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CC 1825, Art. 779. 

Same as above; but semicolon (;) after "used", after "extinction", after "confusion", after "part of the estate which owes the servitude", after "right", and after "attached to the servitude."

88. Addition adopted; comment by redactors

Les servitudes s'éteignent:
1. Par la ruine du fonds qui doit la servitude, ou de celui auquel elle est due, ou par un changement tel qu'on ne puisse plus user de la chose sujette à la servitude;
2. Par la prescription résultant du non usage de la servitude, pendant le temps requis pour opérer son extinction;
3. Par la confusion;
4. Par l'abandon de la portion du fonds qui doit la servitude;
5. Par la renonciation à la servitude de la part de celui à qui elle est due, ou par la remise expresse ou tacite qu'il a faite de son droit;
6. Par l'expiration du temps pour lequel la servitude était accordée, ou par l'événement de la condition résolutoire qui y était apposée;
7. Par la résolution du droit de celui qui avait constitué la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 784. Servitudes are extinguished when the things are in such a situation that they can no longer be used, and when they remain perpetually in such a situation.

RCC—613, 628, 783, 785, 2219.

RCC 1870, Art. 784.

Same as above.

CC 1825, Art. 780.

Same as above.

(Projet, p. 88. Amendment adopted; comment by redactors)

Les servitudes s'éteignent, lorsque les choses se trouvent dans un état tel qu'on ne puisse plus en user, et qu'elles restent perpétuellement dans cette situation.

CC 1808, p. 142, Art. 66.

Services are at an end when the things are in such a situation that they can no longer be used.

-p. 143, Art. 66.

Les servitudes cessent lorsque les choses se trouvent en tel état qu'on ne peut plus en user.

CN 1804, Art. 703.

Same as above.

ART. 785. If the things are reestablished in such a manner that they may be used, the servitudes will only have been suspended, and they resume their effect, unless, from the time they ceased to be used, sufficient time has elapsed for prescription to operate against them.

RCC—789, 3546.

RCC 1870, Art. 785.

Same as above.

CC 1825, Art. 781.

Same as above.

(Projet, p. 88. Amendment adopted; comment by redactors)

Si les choses sont rétablies de manière à ce qu'on puisse en user, les servitudes
Art. 786

If a wall in common, or a house subject to a servitude, or to which a servitude is due, be rebuilt after having been destroyed, demolished or thrown down, all the servitudes, active and passive, which existed on this wall or house, continue to exist on the new wall or house, but they can not be augmented; provided always, that they be rebuilt within such a time that prescription has not operated against them, as is mentioned in the following articles.

RCC—788, 789, 3546.

RCC 1870, Art. 786.
Same as above.

CC 1825, Art. 782.
Same as above.

(Projet, p. 89. Addition amended in English text and adopted; comment by redactors)

Si un mur mitoyen ou une maison, qui est assujetti à quelque servitude, ou auquel une servitude est due, vient à être reconstruit, après avoir été détruit, démoli ou renversé, toutes les servitudes actives et passives qui existaient sur ce mur ou cette maison, continuent de subsister sur le nouveau mur ou sur la nouvelle maison, sans toutefois qu'elles puissent être aggravées, pourvu que la reconstruction se fasse de manière qu'on ne puisse opposer la prescription, ainsi qu'il est dit dans l'article suivant (les articles suivants).

CC 1808. No corresponding article.

CN 1804, Art. 665.
When a wall in common or a house is rebuilt, the servitudes, active and passive, continue with respect to the new wall or the new house, but they cannot be augmented, and provided that they be rebuilt before prescription has accrued.

Lorsqu'on reconstruit un mur mitoyen ou une maison, les servitudes actives et passives se continuent à l'égard du nouveau mur ou de la nouvelle maison, sans toutefois qu'elles puissent être aggravées, et pourvu que la reconstruction se fasse avant que la prescription soit acquise.
ART. 787. If the house or edifice which has been destroyed, demolished or thrown down by any accident, belonged to the owner to whom the servitude is due, the servitude will be extinguished if he does not rebuild the house or edifice within the time required for prescription, because it depended on him alone, by rebuilding his house to revive the servitude it enjoyed.

RCC—789, 3546.

RCC 1870, Art. 787. (Same as Art. 787 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 783. (Projet, p. 89. Addition amended in English text and adopted; comment by redactors)
If the house or edifice which has been destroyed, demolished or thrown down by any accident, belonged to the proprietor to whom the servitude is due, the servitude will be extinguished, if he does not rebuild the house or edifice within the time required for prescription, because it depended on him alone, by rebuilding his house to revive the servitude it enjoyed.

CC 1808. No corresponding article.

CC 1804. No corresponding article.

ART. 788. If, on the contrary, it is the house or edifice subject to the servitude, which has been destroyed, demolished or thrown down, the owner can not, by rebuilding it after the time required for prescription, impair the servitude to which the house or edifice was previously subject, because he to whom the servitude was due had not the power to compel the other to rebuild the house or edifice thus destroyed.

RCC—786, 789, 3546.

RCC 1870, Art. 788. Same as above.

CC 1825, Art. 784. (Projet, p. 89. Addition § adopted; comment by redactors)
Same as above; but comma (,) after "due."

Si au contraire c'est la maison ou l'édifice assujetti à la servitude qui a été détruit, démolli ou renversé, le propriétaire ne peut, en le reconstruisant après le temps requis pour la prescription, nuire aux servitudes auxquelles cette maison ou cet édifice était assujetti, parce qu'il n'était pas au pouvoir de celui à qui ces servitudes étaient dues, de l'obliger à cette reconstruction.

CC 1808. No corresponding article.

CC 1804. No corresponding article.

ART. 789. A right to servitude is extinguished* by the non-usage of the same during ten years.

RCC—590, 618, 628, 639, 727, 753, 765, 783, 790, 792, 793, 795, 796 et seq., 800 et seq., 3629, 3546.
Art. 790. The time of prescription for non-usage begins for discontinuous servitudes, from the day they ceased to be used; for continuous servitudes, from the day any act contrary to the servitude has been committed.

RCC—727, 728, 789, 791 et seq., 3546.

RCC 1870, Art. 790. (Same as Art. 790 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 786. (Projet, p. 89. Amendment adopted; comment by redactors)

The time of prescription for non-usage begins, for interrupted servitudes, from the day they ceased to be used; for continuous servitudes, from the day any act contrary to the servitude has been committed.

CC 1808, p. 142, Art. 69.

The thirty years begin according to the various kinds of services, either from the day when the enjoyment of said service has ceased, in the case of an interrupted service, or from the day when an act contrary to the service has been done, in the case of a perpetual service.

CN 1804, Art. 707.

Same as above.

Art. 791. Acts contrary to the servitude are the destruction of works necessary for its exercise; as the stopping of spouts which carry off rain, or of windows or apertures which are necessary to the exercise of the right of view.

RCC—790.

RCC 1870, Art. 791.

Same as above.
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CC 1825, Art. 787. (Projet, p. 90. Addition adopted; no comment)
Same as above; but comma (,) after "its exercise."

On appelle acte contraire à la servitude, la destruction des ouvrages qui sont nécessaires à son exercice, tels que la suppression des goutières (gouttières) qui servent à un droit d’égout, ou des fenêtres ou ouvertures qui servent à exercer un droit de vue.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 792. If the owner of the estate to whom the servitude is due, is prevented from using it by any obstacle which he can neither prevent nor remove, the prescription of non-usage does not run against him as long as this obstacle remains.

RCC—789, 819, 820, 3546.

RCC 1870, Art. 792. Same as above.

CC 1825, Art. 788. (Projet, p. 90. Addition adopted; comment by redactors)
Si le propriétaire du fonds auquel la servitude est due, est empêché d’en user par un obstacle qu’il n’a pu ni prévenir ni faire cesser, la prescription de non usage ne court point contre lui, tant que cet obstacle dure.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 793. To preserve the right of servitude and prevent prescription from running against it, it is not necessary that it should be exercised exclusively by the owner to whom it is due, or by those who use his rights, or who represent him directly, as the usufructuary, the lessee or tenant, the attorney in fact or agent. It suffices if the servitude has been exercised by workmen employed by the owner, or by his friends, or those who come to see him.

RCC—789 et seq., 794 et seq.

RCC 1870, Art. 793. (Same as Art. 793 of Proposed Revision of 1869) Same as above.

CC 1825, Art. 789. (Projet, p. 90. Addition adopted; comment by redactors)
Il n’est pas nécessaire, pour conserver la servitude et empêcher la prescription, que cette servitude soit exercée exclusivement par le propriétaire à qui elle est due, ou par ceux qui usent de ses droits, ou qui ont qualifié pour le représenter dans cette jouissance, tels que l’usufruitier, le fermier ou locataire, le fondé de pouvoir ou le gérant.
Il suffit que cette servitude ait été exercée par les ouvriers employés par le propriétaire, par ses esclaves, ses amis ou ceux qui viennent le voir.
Art. 794

The servitude is preserved to the owner of the estate to which it is due, by the use which any one, even a stranger, makes of it, provided it be used as appertaining to the estate.

Thus the servitude is preserved to the owner by the use which a possessor in bad faith, who is in possession of the estate to whom it is due, makes of the servitude.

But if any one passes over the land of another, considering the way as public, or as belonging to another estate, the owner of the estate to whom the servitude is due, can not avail himself of the use thus made of the servitude to protect himself against the prescription which may have been acquired against himself.

RCC—565, 760, 762, 793.

RCC 1870, Art. 794.
Same as above.

CC 1825, Art. 790. (Projet, p. 90. Addition † adopted; comment by redactors)
Same as above; but comma (,) after "due, by the use"; no punctuation after "of another."

La servitude est conservée au propriétaire du fonds auquel elle est due, par l'usage qu'une personne, même étrangère, fait de cette servitude, pourvu qu'elle le fasse à l'occasion de ce fonds.
Ainsi la servitude est conservée au propriétaire par l'usage qu'en fait le possesseur, même de mauvaise foi, qui jouit du fonds auquel elle est due.
Mais si quelqu'un passe sur le fonds d'autrui, parce qu'il regarde le chemin comme public, ou comme appartenant à un autre fonds, le propriétaire de l'héritage auquel ce passage est dû, ne peut se servir de l'usage qui en a été fait par cet individu, pour se garantir de la prescription qui aurait été acquise contre lui.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 795. Prescription for non-usage does not take place against natural or necessary servitudes, which originate from the situation of places.

RCC—505, 660, 699, 789, 3546.

RCC 1870, Art. 795.
Same as above.

CC 1825, Art. 791. (Projet, p. 91. Addition adopted; comment by redactors)
Same as above.

La prescription des servitudes par le non usage n'a pas lieu contre les servitudes naturelles ou nécessaires qui dérivent de la situation des lieux.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 796. The mode of servitude is subject to prescription as well as the servitude itself, and in the same manner.

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By mode of servitude, in this case, is understood the manner of using the servitude as is prescribed in the title.

RCC—771, 789, 3546.

RCC 1870, Art. 796.
Same as above.

CC 1825, Art. 792.
Same as above.

CC 1808, p. 142, Art. 70.
The mode of service is subject to prescription as well as the service itself.

CC 1804, Art. 708.
Same as CC 1825, Art. 792, par. 1, above.

Projet du Gouvernement (1800), Book II, Title IV, Art. 59.
Same as CC 1808, p. 142, Art. 70, above.

ART. 797. If he to whom a servitude is due enjoys a right more extensive than that which is given him by the act establishing the servitude, he will be considered as having preserved his right of servitude; because the less is included in the greater.

But he can not thus prescribe for the surplus, and can be compelled to confine himself to the exercise of the servitude granted by his title, unless it be a continuous or* apparent servitude, which he has acquired by prescription.

RCC—765, 798, 799, 3504.

RCC 1870, Art. 797.
(Same as Art. 797 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 792.
(Projet, p. 91. Addition † adopted; comment by redactors)
Par. 1 same as par. 1, above; but comma (,) after “due.”

But he cannot thus prescribe for the surplus, and can be compelled to confine himself to the exercise of the servitude granted by his title, unless it be a continuous or* apparent servitude, which he has acquired by prescription.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “or” should be “and.”

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Art. 798. If, on the contrary, the owner has enjoyed a right less extensive than is given him by this [his] title, the servitude, whatever be its nature, is reduced to that which is preserved by possession during the time necessary to establish prescription.

RCC—797.

RCC 1870, Art. 798.
Same as above.

CC 1825, Art. 794. (Projet, p. 91. Addition adopted; comment by redactors)
Same as above; but "this" correctly spelled "his"; comma (,) after "possession."

Si, au contraire, le propriétaire a joui d'un droit moins étendu que celui porté en son titre, la servitude, de quelque nature qu'elle soit, est réduite à ce qui en est conservé par la possession, pendant le temps suffisant pour prescrire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 799. If the owner has merely enjoyed an accessory right, which was necessary to his right of servitude, he will not be considered as having used his right of servitude.

For example, if he who has the right of drawing water from the well of his neighbor, has passed often through the land of the latter, and gone to the well without drawing any water during the time required for prescription, he will have lost his right of drawing water without acquiring that of passage, which was merely accessory to the right of drawing water.

RCC—771, 797.

RCC 1870, Art. 799. (Same as Art. 799 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 795. (Projet, p. 91. Addition 1 adopted; comment by redactors)
Par. 1 same as par. 1, above.

Si le propriétaire n'a joui que de l'accessoire qui était nécessaire à l'exercice de la servitude, il ne sera pas censé avoir usé de son droit.

Par exemple, si celui qui avait le droit de prendre de l'eau dans le puits de son voisin, a passé souvent sur l'héritage de celui-ci, et est venu jusqu'à son puits sans y prendre de l'eau, pendant le temps requis pour la prescription, il aura perdu son droit de puisage, sans acquérir celui de passage, qui n'en était que l'accessoire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 800. If the owner has used another servitude than that granted to him, without using the latter, he may lose this last for non-
usage during the time required for prescription, without acquiring that which he has used, if it be a discontinuous or non-apparent servitude.

RCC—727, 728, 765, 766, 789, 3504, 3546.

RCC 1870, Art. 800. (Same as Art. 800 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 796. (Projet, p. 91. Addition adopted; comment by redactors)

If the owner has used another servitude than that granted to him, without using the latter, he may lose this last for non-usage during the time required for prescription, without acquiring that which he has used, if it be an interrupted or non-apparent servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 801. If the estate in whose favor the servitude is established belongs to several and has never been divided, the enjoyment of one bars prescription with respect to all.

RCC—739 et seq., 802.

RCC 1870, Art. 801.

Same as above.

CC 1825, Art. 797. (No reference in Projet)

Same as above; but comma (,) after "established," and after "several."

Si le propriétaire a utilisé une autre servitude que celle qui lui était accordée, sans user de celle-ci, il pourra perdre cette dernière servitude par le non-usage, pendant le temps requis pour la prescription, sans acquérir celle dont il a utilisé, si c'est une servitude discontinuée ou non apparente.

CC 1808, p. 142, Art. 71.

Same as above.


Same as above; but no punctuation after "établie."

CN 1804, Art. 709.

Same as above.


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

Art. 802. If among the coproprietors there be one against whom prescription cannot run, as for instance a minor, he shall preserve the right of all the others.

RCC—801, 3522.

RCC 1870, Art. 802.

Same as above.

CC 1825, Art. 798. (No reference in Projet)

Same as above.

Si, parmi les co-propriétaires, il s'en trouve un contre lequel la prescription n'ait pu courir, comme un mineur, il aura conservé le droit de tous les autres.

CC 1808, p. 142, Art. 72.

Same as above.

-p. 143, Art. 72.

Same as above; but no punctuation after "si."

CN 1804, Art. 710.

Same as above.

Same as above; but no punctuation after "co-propropriétaires."
Art. 803

Art. 803. When the estate to which the servitude is due ceases to be undivided, by means of a partition, each of those who were the coproprietors, only preserves the servitude by the use he makes of it, and the others lose it by non-usage during the time required for prescription.

If a servitude be due to several persons, but on different days, as the right of drawing water, he who does not exercise his right, loses it, and the estate subject to the servitude becomes free from it, as respects him.

RCC—741, 751, 789, 3546.

RCC 1870, Art. 803.
Same as above.

CC 1825, Art. 799. (Projet, p. 92. Addition adopted; comment by redactors)

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 804. When the prescription of non-usage is opposed to the owner of the estate to whom the servitude is due, it is incumbent on him to prove that he, or some person in his name, has made use of this servitude as appertaining to his estate during the time necessary to prevent the establishment of the prescription.

RCC—793, 794, 2232.

RCC 1870, Art. 804.
Same as above.

CC 1825, Art. 800. (Projet, p. 92. Addition adopted; comment by redactors)

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 805. Every servitude is extinguished, when the estate to which it is due, and the estate owing it, are united in the same hands.

But if it necessary that the whole of the two estates should belong to the same owner; for if the owner of one estate only acquires
the other [in] part or in common with another person, confusion does not take effect.

RCC—649, 767, 806, 807, 811, 2217.

RCC 1870, Art. 805. (Same as Art. 805 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 801. (Projet, p. 92. Addition adopted; comment by redactors)
Par. 1 same as par. 1, above.

But it is necessary that the whole of the two estates should belong to the same proprietor; for if the owner of one estate only acquires the other in part or in common with another person, confusion does not take effect.

CC 1808. No corresponding article.

CN 1804, Art. 705.
Same as CC 1825, Art. 801, par. 1, above.

ART. 806. If the union of two estates be made only under a condition,* or if it cease by legal eviction; if the title be thus destroyed either by the happening of the condition or by legal eviction, the servitudes revive, which, in the mean time, will have been rather suspended than extinguished.

Thus the exercise of redemption, the happening of the condition* on which the estate terminates, the eviction from a succession by a nearer heir, the abandonment or relinquishment of an estate on account of mortgages, will revive all the servitudes, active and passive.

RCC—810, 2021, 2043, 2045.

RCC 1870, Art. 806.
Same as above.

CC 1825, Art. 802. (Projet, p. 92. Addition adopted; comment by redactors)
Same as above; but no punctuation after "revive", or after "servitudes."

Si la réunion des deux héritages ne s'était faite que sous une condition résolutoire,* ou si elle cessait par une éviction légale, la résolution du titre de réunion par l'une de ces deux causes, ferait revivre les servitudes qui étaient plutôt suspendues qu'exténtes.
Ainsi, l'exercice du réméré, ou l'événement d'une autre condition résolutoire,* l'éviction d'une succession par un héritier plus proche, l'abandon ou le délaissement pour cause d'hypothèque, ferait revivre les servitudes actives et passives.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "condition" should be "resolutoy condition."
ART. 807. Confusion takes place by the simple acceptance of an inheritance, if there be but one heir.

If the heir who has thus accepted an inheritance, disposes of any estate, belonging to the succession, which is subject to any servitude towards his estate, without any stipulation for the preservation of his right of servitude, the estate thus alienated, which owed the servitude, remains free from it, in consequence of the confusion which had taken effect while the estate remained in his hands.

RCC—805, 808, 809, 1013, 2217.

RCC 1870, Art. 807.
Same as above.

CC 1825, Art. 803.

L'acceptation pure et simple de l'héritérite opère la confusion, s'il n'y a qu'un seul héritier.

Si donc l'héritier, qui a ainsi accepté une succession, dispose particulièrement d'un fonds de cette succession, qui soit assujetti à quelque droit de servitude envers le sien, sans rien stipuler sur la conservation de son droit, le fonds qui devait la servitude, demeurera libre par l'effet de la confusion qui se sera opérée dans les mains de l'héritier.

ART. 808. But if the heir, under a simple acceptance, sell to a person the whole of his rights in the succession he has received, the sale prevents the confusion, and the estate belonging to the succession will continue to have the rights of servitude previously due to it, or be charged with the servitudes imposed upon it, in the same manner as if it had not passed through the hands of the heir, because in this case the purchaser is not presumed to have purchased more or less than all the ancestor possessed.

RCC—807.

RCC 1870, Art. 808.
Same as above.

CC 1825, Art. 804.

Mais si l'héritier pur et simple, vend à un tiers l'universalité de ses droits dans la succession qu'il a recueillie, cette vente empêchera la confusion, et l'héritage qui se trouvera dans la succession, continuera à jouir du droit de servitude qui lui était accordé, où à être assujetti à celui dont il était grevé, de la même manière que si ce fonds n'eût point passé entre les mains de l'héritier, parceque l'acquéreur, en ce cas, n'est pas présumé avoir entendu acheter plus ou moins que ce dont le défunt jouissait.
ART. 809. Confusion does not take effect if the heir has only a temporary possession of the estate subject to the servitude, or enjoys it for\(^*\) the purpose of delivering it to another person to whom it has been bequeathed, or when his right in it terminates at a certain fixed time.

RCC—807, 972, 976 et seq.

RCC 1870, Art. 809. (Same as Art. 809 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 805. (Projet, p. 93. Addition amended in English text and adopted; comment by redactors)

Il n'y aura pas non plus de confusion, lorsque l'héritier n'aura eu en ses mains l'héritage asservi, ou qui jouit de la servitude que momentanément, pour\(^*\) le délivrer à un tiers à qui il aurait été légué, ou lorsque la propriété qu'il en a eue, était limitée à un certain temps déterminé.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

\(^*\)Note error in English translation of French text; “subject to the servitude, or enjoys it for” should be “subject to or enjoying the servitude, for.”

ART. 810. If the heir has accepted the succession under benefit of inventory, the confusion does not take effect; and if the heir is obliged to abandon the succession at the instance of the creditors, the servitudes resume their former state.

RCC—806, 1032 et seq.

RCC 1870, Art. 810. Same as above.

CC 1825, Art. 806. (Projet, p. 93. Addition adopted; comment by redactors)

Si l'héritier n'a accepté la succession que sous bénéfice d'inventaire, la confusion ne s'opèrera pas; et si l'héritier est obligé d'abandonner la succession sur la demande des créanciers, les servitudes reprendront leur premier état.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 811. The acquets, which the husband and wife make during the marriage, do not become confused with the private property of each; and if these acquets are sold during the marriage, the servitudes, active and passive, which existed previous to their being acquired by the husband and wife, continue to exist without any stipulation to that effect.

RCC—805.

RCC 1870, Art. 811. Same as above.

CC 1825, Art. 807. (Projet, p. 93. Addition adopted; comment by redactors)

Les acquêts que les époux font pendant la durée de leur mariage, ne se

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Art. 812

Except in the cases herein mentioned, and similar cases, servitudes extinguished by confusion do not revive, except by a new contract; with the exception of continuous and apparent servitudes, with respect to which the disposition made by the owner of both estates is equivalent to a title.

RCC—767, 805.

RCC 1870, Art. 812.

Same as above.

CC 1825, Art. 808. (Projet, p. 94. Addition † adopted; comment by redactors) Hors les cas mentionnés ci-dessus, et autres semblables, les servitudes éteintes par la confusion ne peuvent plus revivre que par une nouvelle constitution, à l'exception des servitudes continues et apparentes, à l'égard desquelles la destination du père de famille vaut titre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 813. The renunciation or abandonment of the land extinguishes the servitudes charged on it, of whatever nature they may be, because the owner of the estate to which the servitude is due is bound to accept the abandonment, which produces in his hand a confusion which puts an end to the servitude.

RCC—797, 814, 815 et seq.

RCC 1870, Art. 813.

Same as above.

CC 1825, Art. 809. (Projet, p. 94. Addition adopted; comment by redactors) L'abdication ou l'abandon du fonds asservi, éteint de plein droit la servitude, de quelque nature qu'elle soit, parceque le propriétaire du fonds auquel la servitude est due, est obligé d'accepter cet abandon qui opère en ses mains une confusion qui met fin à la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 814. It is not necessary to produce a discharge of the servitude, that the proprietor of the estate which owes it, should abandon the whole estate; it suffices, if he abandon the part on which the servitude is exercised.

RCC—813.
ART. 815. If a proprietor is bound to support a building or beams of his neighbor on a part of his wall, and to make the repairs necessary to keep up this wall, he may discharge himself from this servitude by abandoning to the owner of the estate, to whom the servitude is due, that part of his wall upon which the servitude is exercised.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 816. Servitudes are also extinguished by the renunciation or voluntary release of them by the owner of the estate to which they are due.

This renunciation or release may be express or tacit.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 817. The express release must be made in writing, and is confined to what is clearly expressed in the act containing it, because one is not easily presumed to have renounced his right.
Besides, the owner who makes the release must be capable of disposing of immovables; this release of a servitude being a real alienation.

RCC—2275.

RCC 1870, Art. 817.
Same as above.

CC 1825, Art. 813. (Projet, p. 94. Addition adopted; comment by redactors)
Same as above; but comma (,) after "the release."

La remise expresse doit être faite par écrit, et se borne à ce qui se trouve clairement énoncé dans l'acte qui la contient, car on n'est pas facilement présumé renoncer à son droit.
Il faut en outre que le propriétaire qui fait cette remise, soit capable de disposer de ses immeubles, la remise d'une servitude étant une véritable aliénation.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 818. When the estate to which the servitude is due belongs to several owners, one of them can not make a release of the servitude so as to discharge the estate owing the servitude without the consent of his coproprietors.

But the release which he makes will deprive him from the right of personally using the servitude.

RCC—739 et seq., 816.

RCC 1870, Art. 818.
Same as above.

CC 1825, Art. 814. (Projet, p. 94. Addition adopted; comment by redactors)
Same as above; but comma (,) after "owing the servitude."

Lorsque le fonds auquel la servitude est due, appartient à plusieurs propriétaires, l'un de ces propriétaires ne peut point à lui seul, faire la remise de la servitude, de manière à en décharger l'héritage commun, sans le consentement de ses co-propriétaires.
Mais la remise qu'il en aurait faite, l'empêcheraient de réclamer personnellement l'usage de la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 819. The release of the servitude is tacit, when the owner of the estate to which it is due permits the owner of the estate charged with the servitude, to build on it such works as presuppose the annihilation of the right, because they prevent the exercise of it; for example, if he should permit the field, through which he has a right to pass, to be closed by a wall.

RCC—792, 820.

RCC 1870, Art. 819.
Same as above.
ART. 820. In order that the tacit release of the servitude be inferred from the permission which the owner of the estate to which it is due has given for the erection of works which prevent the exercise of it, it is necessary:

1. That the permission or consent for the erection of these works should be given expressly, verbally or in writing. From the mere sufferance of works contrary to the servitude, the release cannot be presumed, unless it has continued for a time necessary to establish prescription.

2. That the works thus constructed be of a permanent and solid kind, such as an edifice or walls, and that they present an absolute obstacle to every kind of exercise of the servitude.

RCC—789, 792, 819, 3546.

ART. 821. Servitudes are also extinguished when they have been established for a certain time only, or under a condition that
in a certain event they shall cease; for when the time expires, or the event takes place, the servitude becomes extinguished of right.

RCC—608, 628.

RCC 1870, Art. 821.
Same as above.

CC 1825, Art. 817. (Projet, p. 95. Addition adopted; comment by redactors)
Same as above; but comma (,) after "also extinguished."

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 822 Servitudes are, in fine, extinguished by the destruction of the right of him who established them; for no one can transmit to another more right than he has himself; from thence it follows, that if any one establish a servitude on an estate in which he has only a right suspended by a condition, or defeasible at a certain time or in certain cases, or subject to rescission, the servitude becomes extinguished with his right.

It is the same, if his title to the estate, charged with the servitude, is annulled by reason of some defect inherent to the act.

RCC—2015.

RCC 1870, Art. 822.
Same as above.

CC 1825, Art. 818. (Projet, p. 95. Addition amended in English text and adopted; comment by redactors)
Same as above; but no punctuation after "are", or after "fine"; colon (:) after "follows."

CC 1808. No corresponding article.
CN 1804. No corresponding article.

"At a certain time or" has no counterpart in French text.
**English translation of French text incomplete; should include "pre-existing."