Title IV. Of Conventional Obligations (Art. 1761 - 2291)

Louisiana

Recommended Citation
http://digitalcommons.law.lsu.edu/la_civilcode_book_iii/5

This Book is brought to you for free and open access by the Compiled Edition of the Civil Codes of Louisiana (1940) at LSU Law Digital Commons. It has been accepted for inclusion in Book III by an authorized administrator of LSU Law Digital Commons. For more information, please contact kayla.reed@law.lsu.edu.
CIVIL CODES OF LOUISIANA  Art. 1762

TITLE IV—OF CONVENTIONAL OBLIGATIONS

Chapter 1—General Provisions*

*See general comment by redactors, Projet, p. 227.

ART. 1761. A contract is an agreement, by which one person obligates himself to another, to give, to do or permit, or not to do something, expressed or implied by such agreement.

RCC 8, 86, 870, 1415, 1432, 1467 et seq., 1519, 1760, 1762 et seq., 1778, 1779, 1782, 1883 et seq., 1893, 1901, 1903, 1905, 1926, 1930, 1945, 1968, 1996, 2031, 2130, 2232, 2292, 2325, 2439, 2660, 2669, 2779, 2793, 2801, 2803, 2893, 2910, 2926, 2973, 2985, 3035, 3071, 3084, 3099, 3182, 3290. CP—1, 29, 30.

RCC 1870, Art. 1761.

Same as above.

CC 1825, Art. 1754.

Same as above; but no punctuation after “something”%; comma (,) after “expressed.”

CC 1808, p. 260, Art. 1.

A contract is an agreement by which one or more persons oblige themselves to one or more other persons, to give, to do, or not to do a certain thing.

CN 1804, Art. 1101.

Same as above.

ART. 1762. The contract must not be confounded with the instrument in writing by which it is witnessed. The contract may subsist, although the written act may, for some defect, be declared void; and the written act may be good and authentic, although the contract it witnesses be illegal. The contract itself is only void for some cause or defect determined by law.

RCC—1491, 1536 et seq., 1761, 1788, 1790, 1819, 1861, 1891, 1892, 1893 et seq., 1901, 2031 et seq., 2236, 2240, 2440, 3071, 3100, 3156, 3176.

RCC 1870, Art. 1762.

Same as above.

CC 1825, Art. 1755.

Same as above.

Projet, p. 227. Addition adopted; no comment.

Il ne faut pas confondre le contrat avec l’acte écrit, qui sert à le prouver. Un contrat peut subsister, quoique l’acte écrit puisse être déclaré nul pour quelque défaut; et l’acte écrit peut être bon et authentique, quoique le contrat qui sert à le prouver (qu’il sert à prou-
ART. 1763. In any contract, for the breach of which damages could be recovered, or which could be specifically enforced between the original parties the obligation is incurred, and the right is vested in their representatives, although they are not specially named, unless the contrary intent is expressed, or unless it results from the nature of the agreement.


RCC 1870, Art. 1763.
Same as above.

Art. 1764. All things that are not forbidden by law, may legally become the subject of, or the motive for contracts; but different agreements are governed by different rules, adapted to the nature of each contract, to distinguish which it is necessary in every contract to consider:

1. That which is the essence of the contract, for the want whereof there is either no contract at all, or a contract of another description. Thus a price is essential to the contract of sale; if there be none, it is either no contract, or if the consideration be other property, it is an exchange.

2. Things which, although not essential to the contract, yet are implied from the nature of such agreement,* if no stipulation be made respecting them, but which the parties may expressly modify or renounce, without destroying the contract or changing its description; of this nature is warranty, which is implied in every sale, but which may be modified or renounced, without changing the character of the contract or destroying its effect.

3. Accidental stipulations, which belong neither to the essence nor the nature of the contract, but depend solely on the will of the parties. The term given for the payment of a loan, the place at which it is to be paid, and the nature of the rent payable on a lease, are examples of accidental stipulations.
What belongs to the essence and to the nature of each particular description of contract, is determined by the law defining such contracts; accidental stipulations depend on the will of the parties, regulated by the general rules applying to all contracts.


RCC 1870, Art. 1764.
Same as above.

CC 1825, Art. 1757. (Projet, p. 227. Addition † adopted; no comment)
Tout ce qui n’est pas défendu par la loi, peut être la matière ou la cause d’un contrat. Mais les contrats sont sujets à des règles différentes suivant leur nature, et pour en faire la distinction, il faut dans chaque contrat considérer:

1. Ce qui forme l’essence du contrat, et à défaut de quoi il n’y a point de contrat, ou il y a un contrat d’espèce différente. Ainsi le prix étant de l’essence du contrat de vente, s’il n’y a point de prix, il n’y a point de contrat; ou si l’objet donné en équivalent, est un autre bien en nature, c’est un contrat d’échange;

2. Les choses qui, sans être de l’essence du contrat, sont présumées en faire partie,* s’il n’y a rien de stipulé à leur égard, mais que les parties peuvent modifier, ou retrancher, sans détruire le contrat, ni en changer l’espèce. De cette nature est la garantie qui est toujours sous entendue dans la vente, mais qui peut être modifiée, ou peut en être retranchée, sans changer le genre du contrat, ni en détruire l’effet;

3. Les stipulations accidentelles, qui n’appartiennent ni à l’essence, ni à la nature du contrat, et ne dépendent que de la volonté des parties. Le terme accordé pour le payement d’une somme prêtée, le lieu où ce payement doit se faire, l’espèce de rente à payer pour le louage d’une chose, sont des exemples de ces stipulations accidentelles. Ce qui appartient à l’essence et à la nature de chaque espèce de contrat, est déterminé par la loi qui le définit. Les stipulations accidentelles, ne dépendant que de la volonté des parties, sont réglées par les principes généraux applicables à tous les contrats.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “implied from the nature of such agreement” should be “presumed to form part of it.”
ART. 1765. To all contracts there must be at least two parties; one who does, or engages to do or not to do, another to whom the engagement is made. If this latter party make no express agreement on his part, the contract is called unilateral, even in cases where the law attaches certain obligations to his acceptance.

It is called a bilateral or reciprocal contract, when the parties expressly enter into mutual engagements.

RCC—1382, 1766, 1768, 1770, 1772 et seq., 1777, 1780 et seq., 1790, 1792, 1798, 1811, 1816 et seq., 1819, 1883, 1894, 2132, 2207, 2285, 2292, 2293, 2439, 2660, 2669, 2746, 2779, 2793, 2801, 2893, 2910, 2926, 2982, 2985, 3035, 3038, 3071, 3084, 3099, 3133, 3290. CP—39.

RCC 1870, Art. 1765. (Same as Art. 1765 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1758. (Projet, p. 228. Substitution adopted; no comment)

Par. 1 same as par. 1, above; but comma (,) after "parties."

It is called a reciprocal contract, when the parties expressly enter into mutual engagements.

CC 1808, p. 260, Art. 2.

A contract is synallagmatic or bilateral, when the contracting parties reciprocally obligate themselves to each other.

-p. 260, Art. 3.

It is unilateral, when one or more persons have entered into an obligation towards one or more other persons, without the latter's being under any engagement.

CN 1804, Art. 1102.

Same as CC 1808, p. 260, Art. 2, above.

-Art. 1103.

Same as CC 1808, p. 260, Art. 3, above.

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

ART. 1766. No contract is complete without the consent of both parties. In reciprocal contracts it must be expressed. In some unilateral contracts the law provides that under certain circumstances it shall be presumed.

RCC—110, 738, 1550, 1765, 1779, 1780, 1781, 1788, 1797, 1798, 1800, 1802, 1804 et seq., 1816 et seq., 1819, 1824, 1847, 1850, 1901, 1902, 1909, 1925, 1945, 2199, 2201, 2275, 2300, 2330, 2439, 2656, 2661, 2669, 2670, 2684, 2685, 2932, 2933, 2988, 2989, 3071, 3145 et seq., 3342, 3371.

976
CIVIL CODES OF LOUISIANA

RCC 1870, Art. 1766. (Same as Art. 1766 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1759. (Projet, p. 228. Addition adopted; no comment)
No contract is complete without the assent of both parties. In reciprocal contracts, it must be expressed. In some unilateral contracts, the law provides that under certain circumstances it shall be presumed.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1767. Contracts, considered in relation to their substance, are either commutative or independent, principal or accessory.

RCC—1768, 1769, 1771, 3035.

RCC 1870, Art. 1767.
Same as above.

CC 1825, Art. 1760. (Projet, p. 228. Addition adopted; no comment)
Same as above; but comma (,) after "commutative."

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1768. Commutative contracts are those in which what is done, given or promised by one party, is considered as equivalent to, or a consideration for what is done, given, or promised by the other.

RCC—1398, 1761, 1765, 1767, 1770, 1824, 1860, 1890, 1896 et seq., 1913, 1914, 2046, 2239, 2266, 2439, 2444, 2462, 2464, 2520, 2541, 2589, 2660, 2665, 2666, 2669, 2793, 2801.

RCC 1870, Art. 1768.
Same as above.

CC 1825, Art. 1761. (Projet, p. 228. Amendment adopted; no comment)
Same as above; but comma (,) after first "given."

CC 1808, p. 260, Art. 4, par. 1.
It is commutative, when each of the parties engages to give or do a thing that is deemed an equivalent for what is given to him or done for him.

CN 1804, Art. 1104, par. 1.
Same as above.
Art. 1769

Independent contracts are those in which the mutual acts or promises have no relation to each other, either as equivalents or as considerations.

RCC—1767, 2017, 2018, 2779, 2793, 2982.

RCC 1870, Art. 1769.
Same as above.

CC 1825, Art. 1762. (Projet, p. 228. Addition adopted; no comment)
Les contrats indépendants sont ceux dans lesquels les actes ou promesses mutuels, n'ont point de rapport l'un à l'autre comme équivalent ou comme prix.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1770. A contract containing mutual covenants [covenants] shall be presumed to be commutative, unless the contrary be expressed.

RCC—1765, 1768.

RCC 1870, Art. 1770.
Same as above.

CC 1825, Art. 1763. (Projet, p. 229. Addition adopted; comment by redactors)
Le contrat qui contient des engagements réciproques, est présumé commutatif, si le contraire n'est exprimé.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1771. A principal contract is one entered into by both parties, on their own accounts, or in the several qualities they assume. An accessory contract is made for assuring the performance of a prior contract, either by the same parties or by others; such as suretyship, mortgage and pledge.

RCC—351, 1155, 1767, 1799, 2055, 2056, 2117 et seq., 2439, 2463, 2660, 2669, 2779, 2793, 2801, 2910, 2926, 2982, 2985, 3035, 3065, 3071, 3075, 3076, 3084, 3106, 3133, 3136, 3284, 3285, 3289, 3299.

RCC 1870, Art. 1771. (Same as Art. 1771 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1764. (Projet, p. 229. Addition adopted; no comment)
A principal contract is one entered into by both parties, on their accounts, or in the several qualities they assume. An accessory contract is made for assuring the performance of a prior contract, either by the same parties or by others, such as suretyship, mortgage and pledge.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 1772. Contracts, considered in relation to the motive for making them, are either gratuitous or onerous.


RCC 1870, Art. 1772.
Same as above.

CC 1825, Art. 1765.
(Projet, p. 229. Amendment 1 adopted; no comment)
Les contrats, considérés d'après le motif qui porte à les faire, sont gratuits ou onéreux.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1773. To be gratuitous, the object of a contract must be to benefit the person with whom it is made, without any profit or advantage, received or promised as a consideration for it. It is not however the less gratuitous, if it proceed either from gratitude for a benefit before received, or from the hope of receiving one hereafter, although such benefit be of a pecuniary nature.

RCC—354, 540, 626, 627, 1467, 1523, 1536 et seq., 1570, 1764, 1765, 1772, 1824, 1835, 1893, 1980, 2404, 2891, 2894, 2910, 2929, 2974, 2975, 2985, 2991, 3141, 3295, 3388, 3494.

RCC 1870, Art. 1773.
Same as above.

CC 1825, Art. 1766.
(Projet, p. 229. Amendment adopted; no comment)
Le contrat est gratuit, lorsqu'il a pour objet d'avantager la personne avec laquelle il est fait, sans aucun profit ni avantage stipulé en faveur de l'autre partie.* Le contrat n'en est pas moins gratuit, lorsque le motif qui porte à le faire, est la reconnaissance pour un service rendu, ou l'espérance d'un service futur, même pécuniaire.

CC 1808, p. 260, Art. 5.
The contract of beneficence, is that in which one of the parties procures to the other, an advantage purely gratuitous.

-CN 1804, Art. 1105.
Same as above.

*p. 261, Art. 5.
Le contrat de bienfaisance, est celui dans lequel une des parties procure à l'autre un avantage purement gratuit.

CN 1105.
Same as above.

Le contrat de bienfaisance est celui dans lequel l'une des parties procure à l'autre un avantage purement gratuit.

*Note error in English translation of French text; “received or promised as a consideration for it” should be “stipulated in favor of the other party.”

ART. 1774. Any thing given or promised as a consideration for the engagement or gift, any service, interest or condition, imposed on what is given or promised, although unequal* to it in value, makes a contract onerous in its nature.

Art. 1775

RCC 1870, Art. 1774.
Same as above.

CC 1825, Art. 1767.
Same as above.

CC 1808, p. 260, Art. 6.
The onerous contract is that which subjects each of the parties, to give or to do a certain thing.

CN 1804, Art. 1106.
Same as above.

*Note error in English translation of French text; "unequal" should be "inferior."

Art. 1775. Considered in relation to their effects, contracts are either certain or aleatory.

RCC—1776, 2982.

RCC 1870, Art. 1775. (Same as Art. 1775 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1768. (Projet, p. 229. Amendment adopted; no comment)
Considered in relation to their effects, contracts are either certain or hazardous.

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

Art. 1776. A contract is aleatory or hazardous, when the performance of that which is one of its objects, depends on an uncertain event.

It is certain, when the thing to be done is supposed to depend on the will of the party, or when in the usual course of events it must happen in the manner stipulated.

RCC—1529, 1775, 1887, 1888, 2020, 2021, 2024, 2034 et seq., 2048 et seq., 2450, 2451, 2460, 2906, 2917, 2982 et seq.

RCC 1870, Art. 1776. (Same as Art. 1776 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1769. (Projet, p. 229. Amendment adopted; general comment by redactors, p. 227)
A contract is hazardous, when the performance of that which is one of its objects, depends on an uncertain event.

Le contrat est aléatoire ou* hazardeux (hasardeux), lorsque l'exécution d'une des choses qui en fait l'objet, dépend d'un événement incertain.
ART. 1777. Contracts in general, under whatever denomination they may come, and whether they may or may not be included in any of the above divisions, are regulated by certain rules, which are the subject of this title.

RCC—1765 et seq., 1996, 2439.

RCC 1870, Art. 1777. (Same as Art. 1777 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1770. (Projet, p. 229. Amendment adopted; no comment)

Contracts in general, under whatever denomination they may come, and whether they may or may not be included in any of the above divisions, are subject to certain rules which are the subject of this title.


Contracts whether they have or have not, an appropriate denomination, are subject to general rules which are the subject of the present title.

CN 1804, Art. 1107, par. 1. Same as above.

ART. 1778. Certain contracts are regulated by particular rules which are established in the parts of the Code which treat of those contracts.

RCC—122 et seq., 1523 et seq., 1570 et seq., 2325 et seq., 2439 et seq., 2660 et seq., 2669 et seq., 2778 et seq., 2801 et seq., 2891 et seq., 2926 et seq., 2982 et seq., 2985 et seq., 3035 et seq., 3071 et seq., 3084 et seq., 3099 et seq., 3133 et seq., 3290 et seq.

RCC 1870, Art. 1778. (Same as Art. 1778 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1771. (Projet, p. 229. Amendment adopted; no comment)

Certain contracts are regulated by* rules, which are established in the parts of the code which treat of those contracts.

Il y a des contrats qui sont soumis à des règles particulières,* qui sont établies dans les parties de ce code où il est traité de ces contrats.
Chapter 2—Of the Requisites to the Formation of a Valid Agreement

Art. 1779. Four requisites are necessary to the validity of a contract:
1. Parties legally capable of contracting.
2. Their consent legally given.
3. A certain object, which forms the matter of agreement.
4. A lawful purpose.*

RCC—11, 31, 34, 90, 1470 et seq., 1519, 1761, 1766, 1780 et seq., 1784, 1797, 1819, 1824, 1847, 1850, 1875, 1883, 1893 et seq., 1901, 1909 et seq., 1915, 2031 et seq., 2239, 2300, 2456, 2458, 2804, 2932, 2935, 2987, 2988, 3036.

RCC 1870, Art. 1779. (Same as Art. 1779 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1772. (Projet, p. 229. Substitution adopted; no comment)
Four requisites are necessary to the validity of an agreement:
1. Parties legally capable of contracting;
2. Their consent legally given;
3. A certain object, which forms the matter of agreement;
4. A lawful purpose.*

CC 1808, p. 260, Art. 8.
To the validity of an agreement four conditions are essential:
The consent of the party who obligates himself;
The capacity to contract;
A determinate object forming the matter of an engagement;
A lawful purpose* in the obligation.

CN 1804, Art. 1108.
Pars. 1, 2 same as pars. 1, 2, above.
His capacity to contract.
Pars. 4, 5 same as pars. 4, 5, above.

*p. 261, Art. 7, par. 2.
Les règles particulières à certains contrats, sont établies sous les titres relatifs à chacun d'eux, et les règles particulières aux transactions commerciales, sont établies par les lois relatives au commerce.

Same as above; but no punctuation after "contrats," or after "commerciales."

*English translation of French text incomplete; should include "particular."

*This fourth requisite becomes the title of Section 4, RCC 1870, Arts. 1893-1900, as "Of the Cause or Consideration of Contracts."
Section 1—OF THE PARTIES TO A CONTRACT, AND OF THEIR CAPACITY TO CONTRACT*

*See general comment by redactors, Projet, p. 230.

ART. 1780. Those only are parties to a contract, who have given their consent to it, either expressly or by implication.

RCC—732, 733, 738, 816 et seq., 988, 1294, 1542, 1765, 1766, 1779, 1781, 1797 et seq., 1810 et seq., 1816 et seq., 1819, 1820, 1890, 1902, 2192, 2199, 2201, 2805, 2932, 2933, 2989, 3010, 3039, 3077, 3085, 3094, 3096, 3145, 3461.

RCC 1870, Art. 1780. (Same as Art. 1780 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1773. (Projet, p. 230. Addition adopted; no comment)
Those only are parties to a contract, who have given their assent to it, either expressly or by implication.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1781. The cases, in which consent is implied, are particularly determined by law.

RCC—131, 352, 977, 1735, 1766, 1779, 1780, 1786, 1797, 1801, 1807, 1809, 1811, 1816 et seq., 1819, 2295, 2626, 2688, 2689, 2933, 3146, 3149, 3151.

RCC 1870, Art. 1781. (Same as Art. 1781 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1774. (Projet, p. 230. Addition adopted; no comment)
The cases, in which assent is implied, are particularly determined by law.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1782. All persons have the capacity to contract, except those whose incapacity is specially declared by law. (As amended by Acts 1924, No. 45)


RCC 1870, Art. 1782. (Same as Art. 1782 of Proposed Revision of 1869)
All persons have the capacity to contract, except those whose incapacity is specially declared by law. These are persons of insane mind, those who are interdicted, minors and married women.
Art. 1783

CC 1825, Art. 1775. (Projet, p. 230. Substitution adopted; no comment)

All persons have the capability to contract, except those whose incapacity is specially declared by law. These are persons of insane mind, slaves, those who are interdicted, minors, married women.

CC 1808, p. 264, Art. 23.

Every person may contract unless declared incapable by law.


Persons incapable of contracting are:

- Slaves;
- Minors;
- Persons under interdiction;
- Married women, in cases expressed by law; and generally all those to whom the law has interdicted certain contracts.

CN 1804, Art. 1123.

Same as CC 1808, p. 264, Art. 23, above.

-Art. 1124.

Par. 1 same as CC 1808, p. 264, Art. 24, par. 1, above.

Pars. 2-4 same as CC 1808, p. 264, Art. 24, pars. 3-5, above.

ART. 1783. All cases of incapacity are subject to the following modifications and exceptions.

RCC—1782, 1784 et seq.

RCC 1870, Art. 1783.

Same as above.

CC 1825, Art. 1776. (Projet, p. 230. Addition adopted; no comment)

Tous les cas d'incapacité sont sujets aux modifications et exceptions ci-après établies.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1784. Persons interdicted can, in no case whatever, make a valid contract after the petition has been presented for their interdiction, until it be legally removed.

RCC—31 et seq., 390, 400 et seq., 420 et seq., 951, 1004, 1018, 1312, 1323, 1399, 1547, 1556, 1779, 1783, 1788, 1789, 1791 et seq., 1868, 2142, 2221, 2229, 2231, 2445, 3027, 3522, 3541.

RCC 1870, Art. 1784. (Same as Art. 1784 of Proposed Revision of 1869)
ART. 1785. Minors emancipated may contract in the cases already provided by law, and when not emancipated, their contracts are valid, if made with the intervention of their tutors, and with the assent of a family meeting, in the cases where by law it is required.

When the minor has no tutor or one who neglects to supply him with necessaries for his support or education, a contract or quasi contract for providing him with what is necessary for those purposes, is valid.

A minor is also capable of accepting the contract of mandate, under the restrictions and modifications contained in the title on that subject.

His stipulations in a marriage contract, if made with the consent of those whose authority is in such case required by law, are also valid.

The obligation arising from an offense or quasi offense, is also binding on the minor.

In all other cases, the minor is incapacitated from contracting, but his contracts may be rendered valid by ratification, either expressed or implied, in the manner and on the terms stated in this title under the head: Of Nullity or Rescission of Agreements.


RCC 1870, Art. 1785. (Same as Art. 1785 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1778. (Projet, p. 230. Substitution † adopted; no comment)

Minors emancipated may contract in the cases already provided by law, and when not emancipated, their contracts are valid, if made with the intervention of their tutors or curators, and with the assent of a family meeting, in the cases where by law it is required.

When the minor has no tutor or curator, or they neglect to supply him with necessaries for his support or education, a contract or quasi contract for providing him with what is necessary for those purposes, is valid.

Par. 3 same as par. 3, above.
His stipulations in a marriage contract, if made with the assent of those whose authority is in such case required by law, are also valid.

Para. 5, 6 same as pars. 5, 6, above; but no punctuation after "head."

Les stipulations qu'il fait dans un contrat de mariage, avec le consentement de ceux dont l'autorisation est en ce cas requise par la loi, sont également valides. Les obligations, qui résultent d'un emploi ou d'une charge,* ont aussi leur effet contre le mineur.

Dans tous les autres cas, le mineur est inhabile à contracter; mais les contrats peuvent être rendus valides par la ratification expresse ou tacite, de la manière exprimée dans la partie de ce titre qui traite de la nullité et de la rescision des conventions.

CC 1808, p. 264, Art. 25, par. 1.
Neither a minor, a person under interdiction, nor a married woman can attack their respective engagements on the plea of incapacity, unless in cases provided by law.

CN 1804, Art. 1125, par. 1.
Same as above.

*Note error in English translation of French text; "offense or quasi offense" should be "occupation or employment."

Art. 1786.* The incapacity of the wife is removed by the authorization of the husband, or, in cases provided by law, by that of the judge.

The authorization of the husband to the commercial contracts of the wife is presumed by law, if he permits her to trade in her own name; to her contracts for necessaries for herself and family, where he does not himself provide them; and to all her other contracts, when he is himself a party to them.

The unauthorized contracts made by married women, like the acts of minors, may be made valid after the marriage is dissolved, either by express or implied ratification.

RCC—121 et seq., 131, 1005, 1019, 1316, 1317, 1373, 1480, 1545, 1555, 1664, 1746, 1749, 1758, 1781, 1787, 1790 et seq., 2221, 2228, 2229, 2272, 2361, 2379, 2380, 2397, 2398, 2436, 2446, 3001, 3101, 3523 et seq. Acts 1926, No. 132; 1928, No. 283.

RCC 1870, Art. 1786.
(Same as Art. 1786 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1779.
(Projet, p. 230. Addition amended and adopted; no comment)

Para. 1, 2 same as pars. 1, 2, above.

L'incapacité de la femme cesse, quand elle est autorisée par son mari ou par le juge dans les cas prévus par la loi.

Il y a présomption légale de l'autorisation donnée par le mari pour les contrats commerciaux de sa femme, lorsqu'il la laisse trafiquer en son propre nom, et pour les contrats qu'elle fait pour se procurer ses besoins et ceux de sa famille, lorsqu'il n'y pour-
CIVIL CODES OF LOUISIANA

Art. 1788

The unauthorized contracts made by married women, like the acts of minors, may be made valid, after the marriage is dissolved, either by express or implied assent.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

Art. 1787.* A married woman may act as mandatary, and her acts will bind the mandator and the person with whom she contracts, although she be not authorized by her husband; but the mandator has no action against her on the contract.


RCC 1870, Art. 1787. (Same as Art. 1787 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1780. (Projet, p. 231. Addition amended in English text and adopted; no comment)

A married woman may act as mandatary and her acts will bind the mandator and the person with whom she contracts in her name**; although she be not authorized by her husband, but the mandator has no action against her on the contract.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

**“In her name” has no counterpart in French text.

Art. 1788. The contract, entered into by a person of insane mind, is void as to him for the want of that consent, which none but persons in possession of their mental faculties can give. It is not the judgment of interdiction, therefore, that creates the incapacity; it is evidence only of its existence, but it is conclusive evidence, and from these principles result the following rules:

1. That, after the interdiction, no other evidence than the interdiction itself is necessary to prove the incapacity of the person, and to invalidate any contract he may have made after the day the petition for interdiction was presented, and that no evidence to show that the act was made during a lucid interval, or to contradict the judgment of interdiction, can be admitted.

2. As to contracts, made prior to the application for the interdiction, they can only be invalidated by proving the incapacity to have existed at the time the contracts were made.

3. But in order to prevent imposition, it is not enough to make the proof mentioned in the last rule; it must also, in that case, be
shown that the person interdicted was known by those who generally saw and conversed with him, to be in a state of mental derangement, or that the person who contracted with him, from that or other circumstances,* was acquainted with his incapacity.

4. That, except in the case of death hereafter provided for, no suit can be brought, nor any exception made, to invalidate a contract on account of insanity, unless judgment of interdiction be pronounced before bringing the suit, or at least applied for before making the exception.

5. That if the party die within thirty days after making the act or contract, the insanity may be shown by evidence, without having applied for the interdiction; but if more than that time elapse, the insanity can not be shown to invalidate the act or contract, unless the interdiction shall have been applied for, except in the case provided for in the following rule.

6. That if an instrument or other** act of a person deceased shall contain in itself evidence of insanity in the party, then it shall be declared void, although more than thirty days have elapsed between the time of making the act and the death of the party, and although no petition shall have been presented for his interdiction.

7. In the case mentioned in the preceding rule, other proofs of insanity may be offered by the party who alleges the incapacity, or may be required by the judge.

8. That where insanity is alleged to avoid a donation or other gratuitous contract, it is not necessary to show that the incapacity was generally known; it will be sufficient to show that it existed, and if the party be dead, without having been interdicted, it is not necessary in this case to show that the interdiction was applied for.

9. That evidence of general and habitual insanity, in order to avoid a contract, may be rebutted by showing that the contract or act was made during a lucid interval; but where general insanity, even with some*** intervals, is shown, the burden of showing that the particular act in dispute was made during such an interval, is thrown on the party who supports the validity of the act or contract.

10. That insanity may be alleged and proved to invalidate a testament, although no interdiction have been applied for, nor in that case is it necessary to prove that the insanity was notorious.

11. The allegation in a testament that the testator was of sound mind, can not prevent proof of the contrary being given in evidence, even by the witnesses to the will.

12. That, when these rules refer to the time of presenting the petition for interdiction, as a period which is to determine the validity of a contract or other act, such petition is meant as has not been withdrawn or dismissed.

13. That, while the judgment of interdiction is in force, it is conclusive evidence of incapacity; but that it may be annulled, whenever the insanity ceases, but it can only be annulled by a judgment.

RCC—31, 389, 395, 398, 400 et seq., 420 et seq., 426, 951, 1004, 1018, 1475, 1762, 1782, 1784, 1789, 1791 et seq., 2445.

988
The contract, entered into by a person of insane mind, is void as to him for the want of that assent, which none but persons, in possession of their mental faculties, can give. It is not the judgment of interdiction therefore, that creates the incapacity, it is evidence only of its existence, but it is conclusive evidence, and from these principles result the following rules:

Subds. 1-13 same as subds. 1-13, above; but semicolon (;) at end of subds. 1-12; comma (,) after “that the person”, after “by the party”, and after “on the party”; no punctuation after “circumstances” or after “habitual insanity.”

Le contrat fait par une personne en démence est nul quant à elle, en raison du défaut de consentement que ceux qui jouissent de leurs facultés mentales, peuvent seuls donner. Ainsi, ce n’est point le décret d’interdiction qui crée l’incapacité. Ce décret n’en est que la preuve; mais cette preuve est incontestable. De ces principes résultent les règles suivantes:

1. Qu’aucune autre preuve que l’interdiction elle-même, n’est nécessaire pour établir l’incapacité de l’individu, et pour rendre nul tout contrat qu’il peut avoir fait postérieurement à la présentation de la demande en interdiction; et qu’aucun témoignage, ayant pour objet de faire voir que l’acte a été fait dans un intervalle [intervalle] lucide, ou de contredire le décret d’interdiction, ne peut être admis;

2. Que quant aux contrats qui ont été passés antérieurement à la présentation de la demande en interdiction, ils ne peuvent être rendus nuls, qu’en prouvant que l’incapacité existait au moment où le contrat a été fait;

3. Qu’à l’effet d’empêcher la fraude, il ne suffit pas que l’on fasse la preuve mentionnée en la règle précédente; qu’il faut en outre prouver, en ce cas, que l’individu interdit était connu de ceux qui l’oyaient et qui conversaient avec lui habituellement, pour être dans un état d’aliénation mentale, ou que la personne [personne], qui a contracté avec lui,* connaissait son infirmité;

4. Qu’excepté dans le cas de mort, auquel il est pourvu ci-après, aucun procès ne peut être intenté, ni aucune exception alléguée, à l’effet de rendre un contrat nul pour raison de démence, à moins qu’il n’ait été prononcé un décret d’interdiction antérieurement au procès, ou qu’une demande en interdiction n’ait été au moins présentée avant l’allégation de l’exception;

5. Que si la partie meurt dans les trente jours après avoir fait un acte ou un contrat, la démence peut être prouvée par témoignages, quoiqu’aucune demande en interdiction n’ait été présentée; mais que s’il s’est passé plus de trente jours, la preuve de la démence ne pourra être admise que dans le cas où une demande en interdiction aurait été formée, sauf le cas auquel il est pourvu dans la règle suivante;

6. Que si** l’acte, fait par le défunt, porte en lui-même la preuve de la démence, il sera déclaré nul, quand même il se serait écoulé plus de trente
jours entre le temps où il a été fait et la mort de la partie, et quand même il n'aurait été présenté aucune demande en interdiction;

7. Dans le cas de l'article précédent, d'autres preuves de la déménee que celles qui résultent de l'acte, peuvent être offertes par la partie ou requises par le juge;

8. Que quand la déménee est alléguée contre une donation ou autre contrat gratuit, il n'est pas nécessaire de justifier que l'incapacité était connue généralement; mais qu'il suffit de prouver qu'elle existait; et si la partie était décédée, sans avoir été interdite, il n'est point nécessaire en ce cas de faire voir que l'interdiction avait été demandée;

9. Que la preuve d'une déménee générale et habituelle, offerte pour faire déclarer nul un contrat, peut être repoussée par la preuve que le contrat a été fait dans un intervalle [intervalle] lucide; mais quand l'état général de déménee avec des intervalles [intervalles] lucides*** est prouvé, c'est à la partie qui maintient la validité de l'acte ou du contrat, à faire voir qu'il a été fait dans un intervalle [intervalle] lucide;

10. Que la déménee peut être alléguée contre un testament, quoi qu'aucune demande en interdiction n'ait été présentée; et que, dans ce cas, il n'est pas nécessaire de prouver que l'état d'aliénation mentale du testateur, fût généralement connu;

11. Que la mention faite dans un testament, que le testateur était sain d'esprit, n'empêche pas la preuve contraire, même de la part de ceux qui ont été témoins du testament;

12. Que dans les cas où les règles ci-dessus se réfèrent au temps de la présentation de la demande en interdiction, comme étant l'époque d'après laquelle on doit décider si l'acte ou le contrat est valide, il est entendu qu'il s'agit d'une demande, qui n'a pas été depuis retirée ou rejetée;

13. Que tant que le décret d'interdiction est en force, il fait preuve incontestable de l'incapacité; mais que ce décret peut être annulé [annulé] par un autre, lorsque l'incapacité cesse.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

***Note error in English translation of French text; “where general insanity, even with some” should be “when a general state of insanity with some lucid.”
pending its duration, provided the situation of the party and his incapacity were apparent.

RCC—31, 389, 402, 403, 422, 951, 1004, 1018, 1475, 1782, 1784, 1788, 1791 et seq.

RCC 1870, Art. 1789.

(Same as Art. 1789 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1782.

(Same as above. Addition amended and adopted; no comment)

A temporary derangement of intellect, whether arising from disease, accident or other cause, also creates an incapacity pending its duration, provided the situation of the party and his incapacity was apparent.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1790.* Besides the general incapacity which persons of certain descriptions are under, there are others applicable only** to certain contracts, either in relation to the parties, such as a husband and wife, tutor and ward, whose contracts with each other are forbidden; or in relation to the subject of the contract, such as purchases, by the administrator, of any part of the estate which is committed to his charge, and the incapacity of the wife, even with the assent of the husband, to alienate her dotal property, or to become security for his debts. These take place only in the cases specially provided by law, under different titles of this Code.


RCC 1870, Art. 1790.

Same as above.

CC 1825, Art. 1784.

(Same as above; but comma (,) after "general incapacity"; no punctuation after "administrator."
Art. 1791. The persons who have treated with a minor, person interdicted, or of insane mind, or with a married woman, cannot plead the nullity of the agreement, if it is sought to be enforced by the party, when the disability shall cease, or by those who legally administer the rights of such person during the disability.

RCC—134, 385, 389, 401 et seq., 1758, 1782, 1784 et seq., 1792, 1794, 1795, 1840, 1875, 1881, 1890, 1902, 2221, 2228, 2272, 2935, 3001, 3542.

RCC 1870, Art. 1791. (Same as Art. 1791 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1785. (Projet, p. 233. Amendment adopted; no comment)
The persons who have treated with a minor, the person interdicted, or of insane mind, or with a married woman, cannot plead the nullity of the agreement, if it is sought to be enforced by the party, when the disability shall cease, or by those who legally administer the rights of such person during the disability. Even a contract made with a slave may be enforced by the master, if he chooses to affirm it for his benefit. *

CC 1808, p. 264, Art. 25, par. 2.
Persons capable of engaging, cannot plead the incapacity of a minor, a person under interdict [interdiction], or a married woman, with whom they have contracted.

CN 1804, Art. 1125, par. 2.
Same as above.

*For his benefit” has no counterpart in French text.

Art. 1792. If the contract be reciprocal, it must not be enforced on one side only; and if the minor, or other incapacitated person, opposes his incapacity against any part of the agreement, the whole of the contract is void.

RCC—802, 1373, 1412, 1765, 1784 et seq., 1791, 1793, 1799, 2046, 2229, 3036, 3299. CP—39.

RCC 1870, Art. 1792.
Same as above.

CC 1825, Art. 1786. (Projet, p. 233. Addition adopted; comment by redactors)
Si le contrat est réciproque, il ne doit pas être exécuté d’un côté seulement; de sorte que si le mineur ou autre incapable oppose son incapacité contre aucune partie du contrat, le contrat entier sera nul.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

992
Art. 1793. If, in a contract with an incapacitated person, or in a contract void for want of form, entered into with any one for the benefit of such incapacitated person, any consideration be paid or given, and the contract be afterwards invalidated on account of such incapacity or want of form, the consideration so paid or given must be restored, if it was applied to the necessary use or benefit of the incapacitated person.

RCC—134, 337, 361, 401 et seq., 1758, 1760, 1782, 1784 et seq., 1792, 1837, 1878, 1965, 2045, 2147, 2229, 2299, 2314, 2531, 2587, 2936, 3217(6), 3224.

RCC 1870, Art. 1793.
Same as above.

CC 1825, Art. 1787.
(Projet, p. 233. Addition adopted; no comment)
Si dans un contrat fait avec un incapable, ou dans un contrat nul par défaut de forme, fait avec une personne pour l'avantage de l'incapable, il a été payé ou donné quelque prix ou quelqu'équivalent, et que le contrat soit ensuite déclaré nul, à cause de cette incapacité ou de ce défaut de forme, le prix ainsi payé, ou l'équivalent ainsi donné, doit être rendu, s'il a été employé pour les besoins ou pour l'avantage de l'incapable.

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

Art. 1794. A person who, being ignorant of the incapacity of one unable to contract, shall make an agreement with such person, may, immediately after he has discovered the incapacity, call on the party, if the incapacity has ceased, or on the person having the legal administration of his affairs, if it have not, to confirm or annul the contract; and, if it be a contract of such kind as the administrator might have made, then his assent shall confirm it, or his dissent shall free the contracting party from the obligation on his part. If the assent of a family meeting would have been necessary to authorize the contract, it may be called, on the application of the party, and their decision shall have the same effect in confirming or invalidating the contract, that it would have had on its formation. (As amended by Acts 1871, No. 87)


RCC 1870, Art. 1794. (Same as Art. 1794 of Proposed Revision of 1869)
A person who, being ignorant of the incapacity of one unable to contract, shall make an agreement with such person, may, immediately after he has discovered the incapacity, call on the party, if the capacity [incapacity] has ceased, or on the person having the legal administration of his affairs, if it have not, to confirm or annul the contract; and, if it be a contract of such kind as the administrator might have made, then his assent shall confirm it, or his dissent shall free the contracting party from the obligation on his part. If the assent of a family meeting would have been necessary to authorize the contract, it may be called, on the application of the party, and their decision shall have the same effect in confirming or invalidating the contract, that it would have had on its formation.
ART. 1795. If a contract, made by a person incapacitated from contracting, shall be confirmed by him after his incapacity shall cease, the rights of third persons acquired before such confirmation are not impaired thereby, even if such rights were acquired with notice of the invalid act.

RCC—503, 1782 et seq., 1791, 1794, 1875, 2228, 2272, 3451, 3452, 3556 (19).

RCC 1870, Art. 1795.
Same as above.

ART. 1796. Those who may be interdicted from the enjoyment of their civil rights, in consequence of a conviction for crime, can not oppose their incapacity against the performance of any contract they may have made, unless it be against some person having power over them during their confinement, nor can any person with whom they contract plead such incapacity.


RCC 1870, Art. 1796.
Same as above.
§1—Of the Nature of the Consent, and How It Is To Be Shown

ART. 1797. When the parties have the legal capacity to form a contract, the next requisite to its validity is their consent. This being a mere operation of the mind, can have no effect, unless it be evinced in some manner that shall cause it to be understood by the other parties to the contract. To prevent error in this essential point, the law establishes, by certain rules adapted to the nature of the contract, what circumstances shall be evidence of such consent, and how those circumstances shall be proved; these come within the purview of the law of evidence.

RCC 91, 110, 433, 994, 1540, 1541, 1550, 1739, 1740, 1766, 1779, 1780, 1781, 1784, 1801, 1802, 1805 et seq., 1811 et seq., 1816, 1817, 1821, 1841, 1945, 2026, 2201, 2275, 2287, 2292, 2440, 2656, 2670, 2683, 2688, 2689, 2834, 2836, 2845, 2933, 2988, 2989, 3063, 3071, 3100, 3145 et seq., 3156, 3173, 3176, 3303.

RCC 1870, Art. 1797. (Same as Art. 1797 of Proposed Revision of 1869)

When the parties have the legal capacity to form a contract, the next requisite to its validity is their consent. This being a mere operation of the mind, can have no effect, unless it be evinced in some manner that shall cause it to be understood by the other parties to the contract. To prevent error in this essential point, the law establishes, by certain rules adapted to the nature of the contract, what circumstances shall be evidence of such consent; and how those circumstances shall be proved: these come within the purview of the law of evidence.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
Art. 1798

As there must be two parties at least to every contract, so there must be something proposed by one and accepted and agreed to by another to form the matter of such contract; the will of both parties must unite on the same point.


RCC 1870, Art. 1798.

Same as above.

CC 1825, Art. 1792.  
Same as above; but comma (,) after "one", after "another", and after "such contract."

CC 1808.  No corresponding article.

CN 1804.  No corresponding article.

Art. 1799.  It is a presumption of law that in every contract each party has agreed to confer on the other the right of judicially enforcing the performance of the agreement, unless the contrary be expressed, or may be implied.


RCC 1870, Art. 1799.

Same as above.

CC 1825, Art. 1793.  
Same as above; but comma (,) after "that", and after "contract."

CC 1808.  No corresponding article.

CN 1804.  No corresponding article.

Art. 1800.  The contract, consisting of a proposition and the consent to it, the agreement is incomplete until the acceptance of the person to whom it is proposed. If he, who proposes, should before that consent is given, change his intention on the subject, the concurrence of the two wills is wanting, and there is no contract.

RCC—988, 1468, 1469, 1540, 1541, 1690 et seq., 1739, 1766, 1780, 1797, 1798, 1801 et seq., 1809 et seq., 1819, 1890, 1902, 1945, 2201, 2988, 2989.

RCC 1870, Art. 1800.  
(Same as Art. 1800 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1794.  
The contract, consisting of a proposition and the consent to it, the agreement is incomplete, until the acceptance

Le contrat consistant en une proposition et un consentement, la convention est imparfaite jusqu'à l'acceptation

996
of the person to whom it is proposed. If he, who proposes, should before that
assent is given, change his intention on
the subject, the concurrence of the two
wills in wanting, and there is no contract.

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

ART. 1801. The party proposing shall be presumed to con-
tinue in the intention, which his proposal expressed, if, on receiving
the unqualified assent of him to whom the proposition is made, he
do not signify the change of his intention.

RCC—1540, 1781, 1798, 1800, 1802, 1804 et seq., 1809 et seq., 1819, 1840,
1890, 1902.

RCC 1870, Art. 1801.
Same as above.

CC 1825, Art. 1795. (Projet, p. 234. Addition † adopted; no comment)
Same as above.

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

ART. 1802. He is bound by his proposition, and the signifi-
cation of his dissent will be of no avail, if the proposition he made in
terms, which evince a design to give the other party the right of con-
cluding the contract by his assent; and if that assent be given within
such time as the situation of the parties and the nature of the contract
shall prove that it was the intention of the proposer to allow.

RCC—1030, 1540, 1764, 1766, 1797, 1798, 1800, 1801, 1803 et seq., 1807,
1809 et seq., 1816 et seq., 1819, 1890, 1902, 1963, 2024, 2028, 2201, 2462.

RCC 1870, Art. 1802.
Same as above.

CC 1825, Art. 1796. (Projet, p. 234. Addition amended in French text
and adopted; no comment)
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
Art. 1803

But when one party proposes, and the other assents, then the obligation* is complete, and by virtue of the right each has impliedly given to the other, either of them may call for the aid of the law to enforce it.**

RCC—8, 1550, 1763, 1799, 1800, 1802, 1804, 1809 et seq., 1901, 1903, 1909, 1945, 1963, 2028, 2046, 2047, 2232, 2456, 2462, 2661, 2669, 2805, 2988.

RCC 1870, Art. 1803.

Same as above.

CC 1825, Art. 1797.

Same as above.

(Projet, p. 235. Addition adopted; no comment)

Mais lorsqu'une partie propose et que l'autre consent, le contrat* est complet; et en vertu du droit qu'elles sont censées s'être réciproquement donné, chacune d'elles peut solliciter l'aide de la loi, pour forcer l'autre à l'exécution de son obligation.**

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "obligation" should be "contract."

**Note error in English translation of French text; "enforce it" should be "compel the other to perform his obligation."

Art. 1804. The acceptance needs [need] not be made by the same act, or in point of time, immediately after the proposition; if made at any time before the person who offers or promises has changed his mind, or may reasonably be presumed to have done so, it is sufficient.

RCC—1540, 1690, 1739, 1766, 1798, 1800 et seq., 1809, 1810, 1817.

RCC 1870, Art. 1804.

Same as above.

CC 1825, Art. 1798.

(Projet, p. 235. Addition adopted; no comment)

Il n'est pas nécessaire que l'acceptation soit faite dans le même acte, ni aussitôt après la proposition. Il suffit qu'elle soit faite avant que la partie qui à proposé, ait changé, ou puisse être raisonnablement supposée avoir changé d'intention.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1805. The acceptance to form a contract must be in all things conformable to the offer; any condition or limitation contained in the acceptance of that which formed the matter of the offer, gives him, who makes the offer, the right to withdraw it.

RCC—986, 1016, 1540, 1766, 1797, 1798, 1801, 1802, 1806 et seq., 1819, 1945.

RCC 1870, Art. 1805.

Same as above.
ART. 1806. This takes place, even when more is promised than was demanded, or when less is offered than was required; for example, if a request is made to borrow fifty dollars, and the party answers that he will lend one hundred dollars; or, if the request be to borrow one hundred dollars, and the answer that fifty will be lent, there is no obligation in either case, without a further assent of the borrower to take the one hundred, in the first case, and the fifty in the other; for the proposal to borrow fifty does not necessarily imply an assent to borrow one hundred, nor does the proposal to lend one hundred necessarily imply a desire to lend only fifty. The modification or change of the proposition is, in all respects, considered as a new offer, and the party making it, is bound by the acceptance in the same manner as if the original proposition had been made by him.

RCC—1766, 1797, 1798, 1801, 1805, 1807 et seq., 1819, 1945.
ART. 1807. When, however, from the circumstances of the case, the offer necessarily implies an assent to the modification of the acceptance, then the obligation is complete, although there be a difference in terms between the one and the other. If, for example, one offers to sell a certain article for one hundred dollars, and the other, not having yet received the offer, should on his part propose to give two hundred dollars, the proposal to give the greater sum necessarily implies an assent to take it for a less, and the contract is complete at the lowest sum.


RCC 1870, Art. 1807. Same as above.

CC 1825, Art. 1801. (Projet, p. 235. Addition 1 adopted; no comment) Cependant, lorsque d'après les circonstances, l'offre est nécessairement présumée contenir un consentement à la modification de l'acceptation, l'obligation est complète, quoiqu'il y ait de la différence dans l'expression entre l'une et l'autre. Par exemple, si l'un offre de vendre un certain article pour cent piastres, et que l'autre, avant d'avoir reçu l'offre, propose de son côté d'en donner deux cents, la proposition de donner la plus forte somme, renferme le consentement de prendre l'objet pour un moindre prix, et le contrat est complet pour la somme qui est moindre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1808. But a consent to give anything else, although of a greater value than that contained in the offer, or to give the same or a larger sum at a different term of payment, does not imply an assent to the offer, and there is in that case no obligation.

RCC—1766, 1797, 1798, 1805 et seq., 1819, 1945, 2048, 2049.

RCC 1870, Art. 1808. Same as above.

CC 1825, Art. 1802. (Projet, p. 235. Addition adopted; no comment) Mais un consentement de donner quelque'autre chose, même de plus grande valeur que celle qui est exprimée dans l'offre, ou de donner la somme demandée ou une somme plus forte à des termes de paiement différents, ne peut être considéré comme une acceptation de l'offre, et il n'y a, dans ce cas, aucune obligation contractée.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
Art. 1809. The obligation of a contract not being complete, until the acceptance, or in cases where it is implied by law, until the circumstances, which raise such implication, are known to the party proposing; he may therefore revoke his offer or proposition* before such acceptance, but not without allowing such reasonable time as from the terms of his offer he has given, or from the circumstances of the case he may be supposed to have intended to give** to the party, to communicate his determination.

RCC—1540, 1766, 1781, 1797, 1798, 1800 et seq., 1810 et seq., 1819, 2988, 2989.

RCC 1870, Art. 1809.
Same as above.

CC 1825, Art. 1803. (Projet, p. 235. Addition amended in English text and adopted; no comment)
Same as above.

L’obligation d’un contrat, n’étant point complète jusqu’à l’acceptation, ou dans les cas où cette acceptation est présumée par la loi, jusqu’à ce que la circonstance, qui donne lieu à cette présomption, soit connue de la partie qui a proposé; elle peut, avant cette acceptation, révoquer son offre,* après avoir toutefois laissé passer le temps raisonnable qu’elle peut avoir donné à l’autre partie, par les termes de sa proposition, ou qu’elle est censée lui avoir donné,** d’après les circonstances, pour faire connaître sa détermination.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*"Or proposition" has no counterpart in French text.
**Note error in English translation of French text; “may be supposed to have intended to give” should be “is presumed to have given.”

Art. 1810. If the party making the offer, die before it is accepted, or he to whom it is made, die before he has given his assent, the representatives of neither party are bound, nor can they bind the survivor. But if the contract be accepted before the death of the party offering it, although he had no notice of it, the obligation is complete; but if the representatives assent to an acceptance of the surviving party in the first instance, or the survivor assent to an acceptance made by the representatives in the second instance, then it becomes a new contract between the representatives and the surviving party.


RCC 1870, Art. 1810.
Same as above.

CC 1825, Art. 1804. (Projet, p. 236. Addition † adopted; no comment)
Same as above; but comma (,) after “If the party.”
Art. 1811

The proposition as well as the assent to a contract may be express or implied:

Express when evinced by words, either written or spoken;

Implied, when it is manifested by actions, even by silence or by inaction, in cases in which they can from circumstances be supposed to mean, or by legal presumption are directed to be considered as evidence of an assent.

RCC—131, 988, 1540, 1541, 1765, 1766, 1780, 1781, 1797, 1798, 1800 et seq., 1807, 1809, 1810, 1812 et seq., 1819, 2199, 2201, 2688, 2689, 2933, 2989, 3039, 3145, 3146, 3461.

RCC 1870, Art. 1811.
Same as above.

CC 1825, Art. 1805.
Same as above; but semicolon (;) after "or implied"; comma (,) after "Express."

Elle est expresse, quand elle est faite par des paroles prononcées ou écrites;

Elle est tacite, quand elle est manifestée par des actions ou même par le silence ou l'inaction, dans le cas où les circonstances autorisent à les interpréter ainsi, ou dans ceux où elles donnent lieu à la présomption légale du consentement.

RCC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 1812. Express consent must be given in a language understood by the party who accepts, and the words by which it is conveyed must be in themselves unequivocal; if they may mean different things, they give rise to error, which, as is hereinafter provided, destroys the effect of a contract.

RCC—1780, 1797, 1798, 1811, 1813 et seq., 1819, 1820 et seq., 1824, 1837, 1838, 1841, 1945.

RCC 1870, Art. 1812.
Same as above.
CIVIL CODES OF LOUISIANA

**Art. 1815**

**CC 1825, Art. 1806.**
Same as above; but colon "unequivocal."

(Projet, p. 236. Addition adopted; no comment)

Le consentement exprès doit être donné dans une langue qui soit comprise par la partie qui accepte, et les mots qui servent à l'exprimer ne doivent pas être équivoques. S'ils expriment des choses différentes, ils donnent lieu à l'erreur, qui, ainsi qu'il est ci-après exprimé, détruit l'effet des contrats.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**ART. 1813.** Even when words are unequivocal and expressive of assent, they are not always obligatory, when from the context, if in writing, or from what in speech is equivalent to it, the words which immediately* precede, or follow, it appears that the party did not intend to obligate himself.

RCC—1797, 1798, 1811, 1812, 1814, 1815, 1819, 1824, 1893, 1945, 2239, 2276.

**RCC 1870, Art. 1813.**
Same as above.

**CC 1825, Art. 1807.**
Same as above.

(Projet, p. 236. Addition adopted; no comment)

Les mots, même lorsqu'ils expriment clairement le consentement, ne sont pas toujours obligatoires, lorsque, d'après le contenu de l'acte écrit, ou d'après l'énoncé verbal, on voit par les mots qui ont* précédé ou suivi, que la partie n'avait pas l'intention de s'oblier.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

"Immediately" has no counterpart in the French text.

**ART. 1814.** Unequivocal words, expressive of mere intent, do not make an obligation.

RCC—990, 1811 et seq., 1815, 1819, 1824, 1893, 1945.

**RCC 1870, Art. 1814.**
Same as above.

**CC 1825, Art. 1808.**
Same as above.

(Projet, p. 236. Addition adopted; no comment)

Des mots, non équivoques, mais qui n'expriment qu'une intention, ne forment point une obligation.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**ART. 1815.** A positive promise, that, from the manner in which it is made, shows that there was no serious intent to contract, creates no obligation.

RCC—1811 et seq., 1819, 1824, 1893, 1945, 2464.

1003
Art. 1816

Actions without words, either written or spoken, are presumptive evidence of a contract, when they are done under circumstances that naturally imply a consent to such contract. To receive goods from a merchant without any express promise, and to use them, implies a contract to pay the value. If an offer is made of an article in deposit, and the article is received, the contract of deposit is complete. If a mandate is acted on, the mandatary is bound in the same manner as if he had accepted in writing. In all those cases and others of the like nature, all the conditions, which he, who gives or proposes, annexed to the delivery or the acceptance of the proposition, are also presumed to have been accepted by the act of receiving. If the merchant, in delivering the goods, declare that they must be paid for by a certain time; if the depositor designate how the deposit is to be kept, or the mandator in what manner his commission is to be executed, he who receives and acts is obligated to the performance of all these conditions.

RCC 1870, Art. 1815. Same as above.

CC 1825, Art. 1809. (Projet, p. 236. Addition amended in French text and adopted; no comment) Une promesse positive, qui, d'après la manière dont elle est faite, montre qu'il n'y a pas d'intention sérieuse de contracter, ne crée point d'obligation.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
is to be kept, or the mandatory* in what manner his commission is to be executed, he who receives and acts is obligated to the performance of all these conditions.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “mandatory” should be “mandator.”

ART. 1817. Silence and inaction are also, under some circumstances, the means of showing an assent that creates an obligation; if, after the termination of a lease, the lessee continue in possession, and the lessor be inactive and silent, a complete mutual obligation for continuing the lease, is created by the act of occupancy of the tenant on the one side, and the inaction and silence of the lessor on the other.

RCC—1765, 1766, 1780, 1781, 1797, 1798, 1802, 1804, 1809, 1811, 1816, 1818, 2688, 2689, 2727, 2739, 2989, 3146.

RCC 1870, Art. 1817.
Same as above.

CC 1825, Art. 1811.
Same as above.

(Projet, p. 237. Addition † adopted; no comment)


CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1818. Where the law does not create a legal presumption of consent from certain facts, then, as in the case of other simple presumptions, it must be left to the discretion of the judge, whether assent is to be implied from them or not.

RCC—21, 1765, 1766, 1780, 1781, 1797, 1802, 1811, 1816, 1817, 1964 et seq., 2284, 2288, 2299.

RCC 1870, Art. 1818.
Same as above.

CC 1825, Art. 1812.
(Projet, p. 237. Addition † adopted; no comment)

Dans les cas où la loi n’établit pas de présomption légale du* consentement d’après certains faits, alors comme dans les autres cas de présomption simple, il
Art. 1819

Consent being the concurrence of intention in two or more persons, with regard to a matter understood by all, reciprocally communicated, and resulting in each party from a free and deliberate exercise of the will, it follows that there is no consent, not only where the intent has not been mutually communicated or implied, as is provided in the preceding paragraph, but also where it has been produced by—

Error;
Fraud;
Violence;
Threats.


RCC 1870, Art. 1819.
Same as above.

CC 1825, Art. 1813. (Projet, p. 237. Amendment + adopted; no comment)
Same as above; but no punctuation after “produced by.”

Le consentement, étant le concours de l’intention en deux personnes ou plus, à l’égard d’une chose comprise par toutes les parties et réciproquement communiquée, et qui, en chacune d’elles, est le résultat de l’exercice libre et délibéré de sa volonté, il s’en suit qu’il n’y a pas de consentement, non seulement lorsque l’intention n’a pas été mutuellement communiquée ou tacitement comprise, comme il a été exprimé dans le paragraphe précédent, mais encore dans les cas où elle a eu pour cause,
L’erreur;
Le dol;
La violence;
Les menaces.

CC 1808, p. 262, Art. 9.
That is no valid consent that is given through error, or is extorted by violence or surprised by fraud.

CN 1804, Art. 1109.
Same as above.

Il n’y a point de consentement valable, si le consentement n’a été donné que par erreur, ou s’il a été extorqué par violence, ou surpris par dol.

Same as above; but no punctuation after “valable”, or after “violence.”

1006
§3—Of Error, Its Division and Effects

**Art. 1820.** Error, as applied to contracts, is of two kinds:
1. **Error of fact;**
2. **Error of law;**

RCC—1397, 1812, 1819, 1821 *et seq.*

**RCC 1870, Art. 1820.**
Same as above.

**CC 1825, Art. 1814.** *(Projet, p. 237. Addition adopted; no comment)*
Same as above; but period (.) after "law."

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

**Art. 1821.** That is called error of fact, which proceeds either from ignorance of that which really exists, or from a mistaken belief in the existence of that which has none.

RCC—981, 1639, 1812, 1820, 1823, 1824 *et seq.*, 1834, 1837 *et seq.*, 1841 *et seq.*, 1860, 1896, 2133, 2216, 2291, 2301, 2302, 2310, 2443, 2452, 2455, 2493, 2494, 2520, 2701, 2764, 3078, 3451. CP—18.

**RCC 1870, Art. 1821.**
Same as above.

**CC 1825, Art. 1815.** *(Projet, p. 238. Addition adopted; no comment)*
On appelle erreur de fait, celle qui a lieu, soit parce qu'on ignore ce qui existe réellement, soit parce qu'on croit à l'existence de ce qui n'est pas.

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

**Art. 1822.** He is under an error of law, who is truly informed of the existence of facts, but who draws from them erroneous conclusions of law.

RCC—7, 1759, 1812, 1820, 1823, 1824 *et seq.*, 1846 *et seq.*, 1896, 2133, 2212, 2216, 2272, 2274, 2291, 2303, 2306, 2307, 3078, 3514.

**RCC 1870, Art. 1822.**
Same as above.

**CC 1825, Art. 1816.** *(Projet, p. 238. Addition adopted; no comment)*
On appelle erreur de droit, celle qui consiste à tirer de fausses conséquences légales de l'existence de faits dont on est bien informé.

**CC 1808.** No corresponding article.
**CN 1804.** No corresponding article.
Art. 1823

ERRORS MAY EXIST AS TO ALL THE CIRCUMSTANCES AND FACTS WHICH RELATE TO A CONTRACT, BUT IT IS NOT EVERY ERROR THAT WILL INVALIDATE IT. TO HAVE THAT EFFECT, THE ERROR MUST BE IN SOME POINT, WHICH WAS A PRINCIPAL CAUSE FOR MAKING THE CONTRACT, AND IT MAY BE EITHER AS TO THE MOTIVE FOR MAKING THE CONTRACT,* TO THE PERSON WITH WHOM IT IS MADE, OR TO THE SUBJECT MATTER OF THE CONTRACT ITSELF.

RCC—1764, 1812, 1820 et seq., 1824 et seq., 1833, 1834 et seq., 1841 et seq., 1845, 1846 et seq., 1859, 1860 et seq., 1896, 1901, 2511, 2515, 2529.

RCC 1870, Art. 1823.
Same as above.

CC 1825, Art. 1817.
Same as above.

CC 1806, p. 262, Art. 10, par. 1. Error is a cause of nullity in an agreement, only when it falls on the very substance of the thing that is the object of it.

CN 1804, Art. 1110, par. 1.
Same as above.

§4—Of Error in the Motive

ART. 1824. THE REALITY OF THE CAUSE IS A KIND OF PRECEDENT CONDITION TO THE CONTRACT, WITHOUT WHICH THE CONSENT WOULD NOT HAVE BEEN GIVEN, BECAUSE THE MOTIVE BEING THAT WHICH DETERMINES THE WILL, IF THERE BE NO SUCH CAUSE WHERE ONE WAS SUPPOSED TO EXIST, OR IF IT BE FALSELY REPRESENTED, THERE CAN BE NO VALID CONSENT.


RCC 1870, Art. 1824.
Same as above.

CC 1825, Art. 1818.
Same as above.

*"To the motive for making the contract" has no counterpart in French text.
CIVIL CODES OF LOUISIANA

Art. 1827

parce que, le motif étant ce qui détermine la volonté, il ne peut y avoir de consentement valable, si la cause, qu'on supposait exister, n'existait pas, ou si elle a été faussement représentée.

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

Art. 1825. The error in the cause of a contract to have the effect of invalidating it, must be on the principal cause, when there are several; this principal cause is called the motive, and means that consideration* without which the contract would not have been made.

RCC—1764, 1772, 1819, 1821 et seq., 1824, 1826 et seq., 1833, 1834 et seq., 1845, 1846, 1847, 1859, 1893 et seq., 2511, 2520, 2529.

RCC 1870, Art. 1825.
Same as above.

CC 1825, Art. 1819. (Projet, p. 238. Addition adopted; no comment)
Pour que l'erreur sur la cause empeche le contrat d'être valide, il faut que cette cause soit la principale, lorsqu'il y en a plusieurs. Cette principale cause est celle* sans laquelle le contrat n'aurait pas été fait.

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

*"That" ("celle") is the only French counterpart for "called the motive, and means that consideration."

Art. 1826. No error in the motive can invalidate a contract, unless the other party was apprised that it was the principal cause of the agreement, or unless from the nature of the transaction it must be presumed that he knew it.*

RCC—1764, 1772, 1821 et seq., 1824, 1825, 1827 et seq., 1833, 1834 et seq., 1845, 1846, 1847, 1859, 1896, 2511, 2520, 2529.

RCC 1870, Art. 1826.
Same as above.

CC 1825, Art. 1820. (Projet, p. 238. Addition adopted; no comment)
L'erreur sur la cause n'empêche le contrat d'être valide, que dans le cas où l'autre partie a été informée que cette erreur était la principale cause du contrat, ou lorsque, d'après la nature de l'affaire, on doit présumer qu'elle l'était.*

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

*Note error in English translation of French text; "he knew it" should be "it was."

Art. 1827. But wherever the motive is apparent, although not made an express condition, if the error bears on that motive, the
Art. 1828

contract is void. A promise to give a certain sum to bear the expenses of a marriage, which the party supposes to have taken place, is not obligatory, if there be no marriage.

RCC—1740, 1764, 1772, 1824 et seq., 1825 et seq., 1833, 1859, 1894, 1896, 1897, 2511, 2520.

RCC 1870, Art. 1827.
Same as above.

Art. 1828. Thus, too, if a suit be brought on an obligation purporting to have been made by the ancestor of the defendant, and, supposing it to be true, the defendant enters into a compromise or promise to pay, the compromise or promise is void, if it should be afterwards discovered that the obligation was forged.

RCC—1402, 1821, 1823, 1824 et seq., 1829 et seq., 1893, 1895, 1896, 3079 et seq.

RCC 1870, Art. 1828. (Same as Art. 1828 of Proposed Revision of 1869)
Same as above.

Art. 1829. In the same manner a compromise of a suit, and any obligation made in consequence of it, is void, if, at the time, but unknown to the parties, the suit be finally decided. But if the decision be not final, but subject to appeal or revision, the compromise is valid.

RCC—1821, 1823, 1824 et seq., 1896, 3079, 3082, 3102.
CIVIL CODES OF LOUISIANA

ART. 1831

CC 1825, Art. 1823.
Same as above.

(Projet, p. 238. Addition adopted; no comment)

De la même manière, une transaction sur procès, et l'obligation qui en est* la conséquence, sont nulles, si, au moment où la transaction a eu lieu, le procès était définitivement jugé, sans que les parties le sussent; mais si le jugement n'était pas définitif, mais sujet à appel ou à révision, la transaction est valide.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “made in” should be “which is the.”

ART. 1830. A compromise also is void, where one of the parties is ignorant of the existence of a paper, which, being afterwards discovered, shows that the other had no right, and this, whether the other party knew the existence of the paper* or not.

RCC—1402, 1821, 1823, 1824 et seq., 1893, 1896, 3079, 3083.

RCC 1870, Art. 1830.
Same as above.

CC 1825, Art. 1824.
Same as above.

(Projet, p. 239. Addition amended and adopted; no comment)

La transaction est également nulle, lorsque l'une des parties ignorait l'existence d'un papier, qui, venant à être découvert, fait voir que l'autre n'avait pas de droit, et cela, soit que l'autre partie le* sut ou non.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “the existence of the paper” should be “it.”

ART. 1831. But if the compromise be of all differences generally, and there were other subjects of dispute, besides that in which the error existed, of sufficient importance to raise a presumption that, even if the error had been discovered, the compromise would still have been made, then such error shall not invalidate the contract.

RCC—1403, 1821, 1823, 1824 et seq., 2288, 3079, 3083, 3102, 3132(4).

RCC 1870, Art. 1831.
Same as above.

CC 1825, Art. 1825.
Same as above.

(Projet, p. 239. Addition adopted; no comment)

Mais si la transaction était faite sur tout différent (différend) généralement, et qu'autre le sujet de dispute, sur lequel l'erreur existait, il y en eût d'autres d'une importance suffisante pour donner lieu à la présomption, que, même si l'erreur eût été découverte, la transaction n'en eût pas moins été faite, l'erreur alors n'empêcherait pas le contrat d'être valide.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 1832. In all cases, however, when the information, which would have destroyed the error, has been withheld by the other party to the contract, it comes under the head of fraud, and invalidates the contract.

RCC—1407, 1413, 1847 et seq., 1934(4), 2534, 2545, 2909, 3083.

RCC 1870, Art. 1832.
Same as above.

CC 1825, Art. 1826.
Same as above. (Projet, p. 239. Addition adopted; no comment)

Cependant, dans tous les cas où ce qui pouvait détruire l'erreur a été tenu secret par l'autre partie, c'est une fraude qui annule le contrat.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1833. Error in the motive also is shown in the case either of an insurance on property or an annuity on lives. If the property be lost, or the life be at an end, at the time of making the contract, there is no obligation, unless, in the case of the insurance, it be expressly stipulated that the insurer takes the risk of those events, from a period prior to the contract. If the same express stipulation take place in the case of the annuity,* it then becomes an insurance, and is valid for the same reason.

RCC—1764, 1823, 1824 et seq., 1893, 1895, 1896, 1933(3), 2455, 2793.

RCC 1870, Art. 1833.
Same as above.

CC 1825, Art. 1827.
Same as above. (Projet, p. 239. Addition adopted; no comment)

L'erreur sur le motif peut encore avoir lieu dans les cas d'assurance de la propriété, ou dans ceux de rente viagère; si, au moment du contrat, la propriété avait péri ou l'individu était mort, il n'y aurait pas d'obligation, à moins que, dans le cas d'assurance, il n'ait été expressément stipulé que l'assureur courrait le risque de ces événemens à dater d'un temps antérieur au contrat. Si la même stipulation était faite dans le cas de rente viagère,* ce serait alors une assurance, et le contrat serait valide par la même raison.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "for life."

1012
§5—Error as to the Person

Art. 1834. Error as to the person, with whom the contract is made, will invalidate it, if the consideration of the person is the principal or only cause of the contract, as it always is in the contract of marriage.

RCC—91, 110, 111, 1819, 1821, 1823, 1824 et seq., 1838, 1893, 1896.

RCC 1870, Art. 1834. (Same as Art. 1834 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1828. (Projet, p. 239. Amendment adopted; no comment)
Error as to the person, with whom the contract is made, will invalidate it, if the consideration of the person is the principal or only cause of the contract, as it always is in the contract of marriage.

CC 1808, p. 262, Art. 10, par. 2. -p. 263, Art. 10, par. 2.
It is not a cause of nullity, when it falls only on the person with whom one intended to contract, unless the consideration of that person be the principal cause of the agreement.

CN 1804, Art. 1110, par. 2.
Same as above.

Art. 1835. In contracts of beneficence, the consideration of the person is presumed by law to be the principal cause.

RCC—1764, 1772, 1773, 1823, 1824 et seq., 1893, 2287.

RCC 1870, Art. 1835.
Same as above.

CC 1825, Art. 1829. (Projet, p. 239. Addition adopted; no comment)
Dans les contrats de bienfaisance, la considération de la personne est précisée par la loi être la principale cause.

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

Art. 1836. In onerous contracts, such as sale, exchange, loan for interest, letting and hiring, the consideration of the person is by law generally presumed to be an incidental cause, not a motive for a contract.*

RCC—1764, 1772, 1774, 1823, 1824 et seq., 1837 et seq., 1859, 1893, 2287.

RCC 1870, Art. 1836.
Same as above.
Art. 1837

There are exceptions to the rule contained in the last preceding article:

If, from the nature of the onerous contract, it results that any particular skill or quality be required in its execution, which the party with whom the contract is made, is supposed to possess, then the consideration of the person is presumed to be the principal cause, and error as to the person invalidates the contract. Thus, if intending to employ an architect of great eminence, the party addresses himself by mistake to one of the same name,* who has little or no skill,** the promise made to him for compensation is void; but if anything be done by the person thus employed, who was ignorant of the mistake, a compensation, proportioned to his service, is due.

*Note error in English translation of French text; “a motive for a contract” should be “the principal cause.”

---

CC 1825, Art. 1830.
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

**English translation of French text incomplete; should include “and of the same profession.”

*Note error in English translation of French text; “little or no skill” should be “neither skill nor reputation.”
ART. 1838. Error as to the quality or character in which the party acts, as well as a mistake as to the person himself, invalidates a contract,* when such a quality or character is the principal cause of the agreement: Thus, a compromise with one, who is supposed to be the heir of a deceased creditor of the party contracting, is void, if he be not really the heir.

RCC—1812, 1821, 1823, 1824 et seq., 1834, 1836, 1837, 1839, 1840, 1893, 1896, 3079.

RCC 1870, Art. 1838.
Same as above.

CC 1825, Art. 1832. (Projet, p. 240. Addition adopted; no comment)
L'erreur sur la qualité, en laquelle agit la partie avec qui l'on contracte, produit le même effet que l'erreur sur la personne elle-même,* lorsque cette qualité est la principale cause du contrat. Ainsi une transaction fait avec celui que l'on croit l'héritier du créancier défunt de la partie contractante, et qui ne l'est pas, est nulle.

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

*Note error in English translation of French text; "as well as a mistake as to the person himself, invalidates a contract" should be "produces the same effect as a mistake as to the person himself."

ART. 1839. But if the person, who is really entitled to the quality assumed by the one with whom the contract is made, has contributed to the error by his neglect or by design,* it will not vitiate the agreement. And in the case above stated, a payment to, or** a compromise with one, whom the true heir suffered to remain in possession of the inheritance, and to act as heir, without notice, would be valid.

RCC—1821, 1823, 1824, 1836 et seq., 1840, 2140, 2145, 2950, 3072, 3079, 3556 (19).

RCC 1870, Art. 1839.
Same as above.

CC 1825, Art. 1833. (Projet, p. 240. Addition adopted; no comment)
Mais si celui qui avait réellement la qualité, que se donnait mal à propos l'autre partie contractante, avait contribué à l'erreur, en omettant, à dessein ou par négligence, de faire connaître ses droits,* le contrat serait valide. Ainsi, dans le cas cité plus haut,** une transaction faite avec celui qui est en possession de l'héritage, et qui agit comme héritier au vu et au su [su] de l'héritier véritable, qui le souffre sans rien dire, serait valide.

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

*Note error in English translation of French text; "by his neglect or by design" should be "in omitting, by design or by neglect, to make known his rights."
**"A payment to, or" has no counterpart in French text.
Art. 1840. Contracts, which could only be made by persons possessing certain powers, either delegated by contract, given by virtue of any private or public office, or vested by the operation of law, are also void, when there is error as to the character, quality or office under color of which such contract was made. Contracts entered into under forged or void powers or assignments, or with persons without authority assuming to act as public or private officers, are governed by this rule. Contracts, however, made in the name of another, under void powers, will be valid, if ratified by the principal before the other contracting party has signified his dissent to the agreement.

RCC—1794, 1801, 1821, 1823, 1824 et seq., 1836 et seq., 1889, 1893, 1895, 1900, 2236, 2272, 3016.

RCC 1870, Art. 1840.
Same as above.

CC 1825, Art. 1834. (Projet, p. 240. Addition adopted; no comment)
Les contrats, qui ne peuvent être faits qu'avec des personnes revêtues de certains pouvoirs, soit délégués par contrat, soit attachés à quelqu'office public ou privé, soit conférés par la loi, sont également nuls, lorsqu'il y a erreur sur la qualité en vertu de laquelle le contrat a été fait. Les contrats, faits en vertu de pouvoirs faux ou nuls, ou avec des personnes non autorisées à remplir le ministère dont elles se disent investies, sont sujets à cette règle. Cependant, les contrats, passés en vertu de pouvoirs nuls, peuvent être rendus valides par la ratification du constituant, si elle a lieu, avant que l'autre partie ait signifié son intention de n'être point tenue par le contrat.

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

§6—Of Error as to the Nature and Object of the Contract

Art. 1841. Error as to the nature of the contract will render it void.

The nature of the contract is that which characterizes the obligation which it creates. Thus, if the party receives property, and from error or ambiguity in the words accompanying the delivery, believes that he has purchased, while he who delivers intends only to pledge, there is not [no] contract.


RCC 1870, Art. 1841.
Same as above.

CC 1825, Art. 1835. (Projet, p. 240. Addition adopted; no comment)
L'erreur sur la nature du contrat l'empêche d'être valide.

1016
ART. 1843. There is error as to the substance, when the object is of a totally different nature from that which is intended. Thus, if the object of the stipulation be supposed by one or both the parties to be an ingot of silver, and it really is a mass of some other metal that resembles silver, there is an error bearing on the substance of the object.

RCC—1821, 1823, 1824, 1842, 1844, 1845, 1885, 1893, 1896, 1945, 2520, 3174.

RCC 1870, Art. 1843.
Same as above.

CC 1825, Art. 1837.
Same as above.

(Projet, p. 240. Addition adopted; no comment)
Il y a erreur sur la substance, lorsque l'objet est d'une nature tout à fait différente de celle qu'on lui supposait. Ainsi, lorsqu'une des parties ou toutes les deux croient que l'objet, qui forme la matière du contrat, est un lingot d'argent, tandis que c'est une masse d'un autre métal qui ressemble à l'argent, il y a erreur sur la substance de la chose.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 1844. The error bears on the substantial quality of the object, when such quality is that which gives it its greatest value. A contract relative to a vase, supposed to be gold, is void, if it be only plated with that metal. (As amended by Acts 1871, No. 87)

RCC—1821, 1823, 1824, 1842, 1843, 1845, 1885, 1893, 1896, 1945, 2520, 3174.

RCC 1870, Art. 1844. (Same as Art. 1844 of Proposed Revision of 1869)

The error bears on the substantial quality of the object, when such quality is that which gives it its greatest value. A contract relative to a tax, supposed to be of gold, is void, if it be only plated with that metal.

CC 1825, Art. 1838. (Projet, p. 241. Addition adopted; no comment)

The error bears on the substantial quality of the object, when such quality is that which gives it its greatest value. A contract relative to a vase, supposed to be of gold, is void, if it be only plated with that metal.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1845. Error as to the other qualities of the object of the contract, only invalidates it, when those qualities are such as were the principal cause of making the contract.

RCC—1823, 1824 et seq., 1842 et seq., 1893, 1896, 2511, 2520, 2529.

RCC 1870, Art. 1845. Same as above.

CC 1825, Art. 1839. (Projet, p. 241. Addition adopted; no comment)

La erreur sur les autres qualites de la chose qui forme la matiere du contrat, ne l'empêche d'être valide, que lorsque ces qualités sont telles qu'elles ont été la principale cause du contrat.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

§7—Errors of Law*

*See general comment by redactors, Projet, p. 241.

ART. 1846. Error in law, as well as error in fact, invalidates a contract, where such error is its only or principal cause, subject to the following modifications and restrictions:

1. Although the party may have been ignorant of his right, yet if the contract, made under such error, fulfilled any such natural obligation as might from its nature induce a presumption that it was made in consequence of the obligation, and not from error of right, then such error shall not be alleged to avoid the contract. Thus, the
natural obligation to perform the will of the donor, prevents the donee from reclaiming legacies or gifts he has paid under a testament void only for want of form.

2. A contract, made for the purpose of avoiding litigation, cannot be rescinded for error of law.

3. Error of law can never be alleged as the means of acquiring, though it may be invoked as the means of preventing loss or of recovering what has been given or paid under such error. The error, under which a possessor may be as to the legality [illegality] of his title, shall not give him a right to prescribe under it.

4. A judicial confession of a debt shall not be avoided by an allegation of error of law, though it may be by showing an error of fact.

5. A promise or contract, that destroys a prescriptive right, shall not be avoided by an allegation that the party was ignorant or in an error with regard to the law of prescription.

6. If a party has an exception, that destroys the natural as well as the perfect obligation, and, through error of law, makes a promise or contract that destroys such exception, he may avail himself of such error; but if the exception destroys only the perfect, but not the natural obligation, error of law shall not avail to restore the exception.

RCC—7, 1757 et seq., 1819, 1822, 1823, 1824 et seq., 1875, 1881, 1893, 1896, 2133, 2182, 2228, 2272, 2274, 2291, 2303 et seq., 2984, 3071 et seq., 3078, 3139, 3175, 3459, 3460, 3499, 3509, 3514. CP—17 et seq.

RCC 1870, Art. 1846.
Same as above.

CC 1825, Art. 1840. (Projet, p. 241. Addition adopted; general comment by redactors)
Par. 1 and subds. 1, 2 same as par. 1 and subds. 1, 2, above; but semicolon (;) after "form", and after "error of law."

3. Error of law can never be alleged as the means of acquiring, though it may be invoked as the means of preventing a loss or of recovering what has been given or paid under such error. The error, under which a possessor may be as to the illegality of his title, shall not give him a right to prescribe under it;
Art. 1847

**COMPILED EDITION**

Subds. 4-6 same as subds. 4-6, above; but semicolon (;) after "fact", and after "prescription."

4. On ne peut alléguer l'erreur de droit contre l'aveu judiciaire d'une dette, quoiqu'on puisse y opposer l'erreur de fait;

5. On ne peut réclamer contre une promesse ou un contrat qui détruit un droit acquis par prescription, sous le prétexte qu'on ne connaissait pas la loi relative à la prescription;

6. Si une partie pouvant se prévaloir d'une exception qui aurait détruit une obligation naturelle en même temps qu'une obligation parfaite, fait, par erreur de droit, une promesse ou un contrat qui détruit cette exception, elle peut réclamer contre cette erreur. Mais si l'exception ne pouvait détruire que l'obligation parfaite, sans affecter l'obligation naturelle, l'erreur de droit ne pourrait être invoquée pour faire rétablir l'exception.

§8—Of the Nullity Resulting from Fraud

**ART. 1847.** Fraud, as applied to contracts, is the cause of an error bearing on a material part of the contract, created or continued by artifice, with design to obtain some unjust advantages to the one party, or to cause an inconvenience* or loss to the other. From which definition are drawn the following rules:

1. Error is an essential part of the definition; an article [artifice] that can not deceive can have no effect in influencing the consent, and can not injure the validity of the contract.

2. The error must be on a material part of the contract, that is to say, such part as may reasonably be presumed to have influenced the party in making it; but it needs not be the principal cause of the contract, as it must be in the case of simple error without artifice.

3. A false assertion as to the value of that which is the object of the contract, is not such an artifice as will invalidate the agreement, provided the object is of such a nature and is in such a situation that he, who is induced to contract by means of the assertion, might with ordinary attention have detected the falsehood; he shall then be supposed to have been influenced more by his own judgment than the assertion of the other.

4. But a false assertion of the value or cost, or quality of the object, will constitute such artifice, if the object be one that requires particular skill or habit, or any difficult or inconvenient operation to discover the truth or falsity of the assertion. Sales of articles falsely asserted to be composed of precious metals, sales of merchandise by a false invoice, of any article by a false sample, of goods in packages or bales, which can not without inconvenience be unpacked or inspected,
or where the party making the sale avoids the inspection with intent to deceive, of goods at sea or at a distance, are, with others of a like nature, referable to this rule.

5. It must be caused or continued by artifice, by which is meant either an assertion of what is false, or a suppression of what is true, in relation to such part of the contract as is stated in the second rule.

6. The assertion and suppression, mentioned in the last preceding rule, mean not only an affirmation or negation* by words either written or spoken, but any other means calculated to produce a belief of what is false, or an ignorance or disbelief of what is true.

7. The artifice must be designed to obtain either an unjust advantage to the party for whose benefit the artifice is carried on, or a loss or inconvenience* to him against whom it is practiced, although attended with advantage to no one.

8. It is not necessary that either of the effects mentioned in the last preceding rule should have actually been produced; it is sufficient to constitute the fraud, that such would be the effect of the contract, if it were actually performed.

9. If the artifice be practiced by a party to the contract, or by another with his knowledge or by his procurement, it vitiates the contract; but if the artifice be practiced by a third person, without the knowledge of the party who benefits by it, the contract is not vitiated by the fraud, although it may be void on account of error, if that error be of such a nature as to invalidate it; in this case the party injured may recover his damages against the person practicing the fraud.

10. In the words "loss or inconvenience*" which may be suffered by the party, is included the preventing him from obtaining any gain or advantage, which, without the artifice,*** he might have obtained.

11. If the advantage to be gained by the party, in favor of whom the artifice is practiced, gives him no unjust advantage, that is to say, no advantage at the expense of the other party, and this latter would neither suffer inconvenience* nor loss in consequence of the deception, if the contract were performed, the artifice does not vitiate it.

12. Combinations with respect to sales to enhance the price by false bids or offers, or to depress it by false assertions, are artifices, which invalidate the contract, when practiced by those who are parties to it, or give rise to an action for damages where they are not.
4. But a false assertion of the value or cost, or quality of the object, will constitute such artifice, if the object be one that requires particular skill or habit, or any difficult or inconvenient operation to discover the truth or falsity of the assertion. Sales of articles, falsely asserted to be composed of precious metals, sales of merchandize by a false invoice, of any article by a false sample, of goods in packages or bales, which cannot without inconvenience be unpacked or inspected, or where the party making the sale avoids the inspection with intent to deceive, of goods at sea or at a distance, of slaves with a false assertion of their qualities, or a concealment of their vices or defects, are, with others of a like nature, referable to this rule;

Subds. 5-12 same as subds. 5-12, above; but semicolon (;) after “second rule”, after “true” in subd. 6, after “one”, after “performed”, after “practicing the fraud”, and after “obtained”; comma (,) after “rule” in subd. 8; no punctuation after “third person” in subd. 9.
Fraud is a cause of nullity in a contract, when the artifices practised by one of the parties, are such that it is evident that but for these artifices, the other party would not have contracted.
Art. 1848

**COMPILED EDITION**

CN 1804, Art. 1116, par. 1.

Same as above; but no punctuation after "convention", after "pratiquées"; after "parties", after "que", or after "ces manœuvres"; period (.) after "contracté."

Projet du Gouvernement (1800), Book III, Title II, Art. 14, par. 3.

The fraud must have been practiced by the very party with whom the contract was made, or he must have participated in it; saving the right of action for damages against third persons who may have practiced it.

*Note error in English translation of French text; "inconvenience" should be "detriment."

***English translation of French text incomplete; should include "that has been used against him."

ART. 1848. Fraud, like every other allegation,* must be proved by him who alleges it, but it may be proved by simple presumptions or by legal presumptions, as well as by other evidence. The maxim that fraud is not to be presumed, means no more than that it is not to be imputed without legal evidence.


RCC 1870, Art. 1848. (Same as Art. 1848 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1842.

(Fprojet, p. 244. Substitution adopted; no comment)

Le dol, comme tout autre fait,* doit être prouvé par celui qui l'allège; mais il peut être prouvé par des présomptions, soit simples, soit légales, comme par tout autre espèce de preuves. La maxime que le dol ne se présume pas, ne signifie rien autre chose, sinon qu'on ne peut pas l'imputer sans une preuve légale.

CC 1808, p. 262, Art. 16, par. 2. p. 263, Art. 16, par. 2.

It is not presumed and must be proved.

CC 1804, Art. 1116, par. 2.

Same as above.

*Note error in English translation of French text; "allegation" should be "fact."

ART. 1849. Some circumstances and acts attending particular contracts, are by law declared to be conclusive; and others, presumptive evidence of fraud. These laws will be found in the proper divisions of this Code, treating of these contracts.


RCC 1870, Art. 1849.

Same as above.

1024
§9—Of the Want of Consent Arising from Violence or Threats

**ART. 1850.** Consent to a contract is void, if it be produced by violence or threats, and the contract is invalid.

RCC—91, 110, 1009, 1397, 1408, 1766, 1779, 1780, 1797, 1819, 1824, 1851 et seq., 1855, 1856, 2221, 3079.

**RCC 1870, Art. 1850.**
Same as above.

**CC 1825, Art. 1844.**
(Projet, p. 244. Addition † adopted; comment by redactors)

Le consentement à un contrat est nul, s'il est l'effet de la violence ou des menaces, et le contrat n'est pas valable.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**ART. 1851.** It is not every degree of violence or any kind of threats that will invalidate a contract; they must be such as would naturally operate on a person of ordinary firmness, and inspire a just fear of great injury to person, reputation or fortune. The age, sex, state of health, temper and disposition* of the party, and other circumstances calculated to give greater or less effect to the violence or threats, must be taken into consideration.

RCC—91, 110, 1850, 1852 et seq., 2228.

**RCC 1870, Art. 1851.**
(Same as Art. 1851 of Proposed Revision of 1869)

**CC 1825, Art. 1845.**
(Projet, p. 244. Amendment † adopted; comment by redactors)

Ce n'est pas toute espèce de violences ou de menaces, qui peuvent faire annuler [annuler] un contrat; elles doivent être de nature à faire impression sur une personne d'une fermeté ordinaire, et à lui inspirer une juste crainte de quelque mal considérable dans sa personne, sa réputation ou sa fortune. On doit avoir égard sur cette matière, à l'âge, au sexe, à l'état de la santé, au caractère et à la situation* de la partie et autres circonstances, qui peuvent donner plus ou moins d'effet à la violence ou aux menaces.
Violence is that which naturally tends to make an impression on a person possessing sound judgment, and to inspire him with the fear of exposing his person, or fortune to a considerable and immediate evil.

In a question of violence, regard must be had to the age, sex and condition of the person.

ART. 1852. A contract, produced by violence or threats, is void, although the party, in whose favor the contract is made, did not exercise the violence or make the threats, and although he were ignorant of them.

RCC—91, 110, 1397, 1850, 1851, 1853, 1855 et seq., 3079.

RCC 1870, Art. 1852.
Same as above.

CC 1825, Art. 1846. (Projet, p. 244. Amendment adopted; comment by redactors)
Same as above.

CC 1808, p. 262, Art. 11.
Violence exercised against the person who has contracted an obligation, is a cause of nullity, though it has been exercised by a different person from him for whose advantage the agreement has been made.

CN 1804, Art. 1111.
Same as above.

ART. 1853. Violence or threats are causes of nullity, not only where they are exercised on the contracting party, but also when the wife, the husband, the descendants or ascendants of the party are the object of them.

RCC—1850 et seq., 1854 et seq.

RCC 1870, Art. 1853.
Same as above.

CC 1825, Art. 1847. (Projet, p. 244. Amendment adopted; comment by redactors)
Same as above.
Violence is a cause of nullity of a contract, not only when it has been exercised on the contracting party, but also when it has been exercised on the wife, the husband, the descendants or ascendants of the party.

La violence est une cause de nullité du contrat, non-seulement lorsqu'elle a été exercée sur la partie contractante, mais encore lorsqu'elle l'a été sur son époux ou sur son épouse, sur ses descendants ou ses ascendants.

The mere reverential fear of a relation in the ascending line, where no violence has been offered, nor threats made, will not invalidate a contract.

La seule crainte révérencielle envers un parent dans la ligne ascendante, sans qu'il y ait eu de violence exercée ou de menaces faites, n'annule pas le contrat.

No contract can be invalidated on an allegation of violence or threats, if it has been approved, either expressly after the violence or danger has ceased, or tacitly by suffering the time limited* to elapse without causing it to be rescinded.

Un contrat ne peut être annulé sur une allégation de violence ou de menace, s'il a été approuvé, soit expressément depuis que la violence ou le danger a cessé, soit tacitement, en laissant passer le temps de la prescription* sans le faire rescinder.
lence has ceased, the contract has been approved, either expressly or tacitly or by suffering to elapse the time of restititution fixed by law.

**Art. 1856**

If the violence used be only a legal constraint, or the threats only of doing that* which the party using them had a right to do, they shall not invalidate the contract. A just and legal imprisonment, or threats of any measure authorized by law and by the circumstances of the case, are of this description.

RCC—1850 et seq., 1857, 1859.

**RCC 1870, Art. 1856.**

Same as above.

**CC 1825, Art. 1850.**

Same as above.

*Note error in English translation of French text; “limited” should be “for prescription.”

**Art. 1857.** But the mere forms of law to cover coercive proceedings for an unjust and illegal cause, if used or threatened in order to procure the assent to a contract, will invalidate it. An arrest without cause of action, or a demand of bail in an unreasonable sum, or threats of such proceeding, by this rule, invalidate a contract made under their pressure.

RCC—1850 et seq., 1855, 1856, 1859.

**RCC 1870, Art. 1857.**

Same as above.

**CC 1825, Art. 1851.**

Same as above; but no punctuation after “rule.”

*Or the threats only of doing that* has no counterpart in French text; the remainder of the sentence should then be “which the party using it had a right to exercise, it shall not invalidate the contract.”

*Note error in English translation of French text; “limited” should be “for prescription.”
ART. 1858. A contract made with one having no agency in the violence used, or the threats made for the purpose of delivering the party from the constraint under which he is, or from the danger with which he is menaced, shall not be invalidated by reason of such violence or threats, provided the contract be made in good faith and without collusion with the offending party. A contract to procure a rescue of person or goods from pirates or robbers, is an example of this rule.

RCC—1847, 1852, 1855, 1859.

RCC 1870, Art. 1858. Same as above.

CC 1825, Art. 1852. Same as above.

(Projet, p. 245. Addition † adopted; no comment)

Le contrat, qui est fait avec quelqu'un qui ne participe en rien dans la violence exercée ou dans les menaces faites, et qui a pour objet de faire délivrer une partie de l'état de contrainte où elle se trouve ou du danger qui la menace, ne sera pas invalide en raison de cette violence ou de ces menaces, si ce contrat a été fait de bonne foi et sans collusion avec la personne qui exerce la violence ou fait les menaces. Le contrat, qui est fait pour procurer à quelqu'un la délivrance de sa personne ou la remise de ses effets détenus par des pirates ou des voleurs, est un exemple de cette règle.

*Note error in English translation of French text; "made" should be "made, and."

ART. 1859. All the above articles relate to cases where there may be some other motive, besides the violence or threats, for making the contract. Where, however, there is no other cause for the contract, any threats, even of slight injury, will invalidate it.

RCC—1408, 1764, 1823, 1824 et seq., 1836, 1850 et seq., 1854, 1856 et seq., 1893 et seq.

RCC 1870, Art. 1859. Same as above.

CC 1825, Art. 1853. (Projet, p. 245. Addition † adopted; no comment)

Toutes les dispositions ci-dessus prescrites se rapportent aux cas où le contrat peut avoir été déterminé par quelqu'autr

1029
Lesion is the injury suffered by one who does not receive a full equivalent for what he gives in a commutative contract. The remedy given for this injury, is founded on its being the effect of implied error or imposition; for, in every commutative contract, equivalents are supposed to be given and received.

RCC—1398, 1768, 1819, 1821, 1823, 1824, 1861 et seq., 1870, 1871, 1877, 2046, 2230, 2444, 2464, 2666, 2589 et seq., 2664 et seq., 3078.

RCC 1870, Art. 1860.
Same as above.

CC 1825, Art. 1854. (Projet, p. 246. Addition adopted; no comment)
Same as above; but comma (,) after “one.”

ART. 1861. The law, however, will not release a person of full age, and who is under no incapacity, against the effect of his voluntary contracts, on account of such implied error or imposition, except in the two following cases:

1. In partition where there is a difference in the value of the portions to more than the amount of one-fourth to the prejudice of one or [of] the parties;

2. In sales of immovable property, the vendor may be relieved, if the price given is less than one-half of the value of the thing sold; but the sale can not be invalidated for lesion to the injury of the purchaser.

RCC—1009, 1398, 1406, 1414, 1762, 1860, 1862 et seq., 1870, 1871, 1876 et seq., 2221, 2230, 2272, 2589 et seq., 2593, 2665, 3078.

RCC 1870, Art. 1861. (Same as Art. 1861 of Proposed Revision of 1869)
Same as above.
CIVIL CODES OF LOUISIANA

CC 1825, Art. 1855. Same as above; but "or the" correctly spelled "of the"; comma (,) after "partition."

La loi ne relève pas cependant la personne, qui est majeure et qui n'est frappée d'aucune incapacité, contre l'effet des contrats qu'elle a volontairement passés, sur l'allégation de cette erreur ou de ce dol implicite, excepté dans les deux cas suivants:
1. Dans les partages, lorsqu'il y a dans la valeur des parts une différence de plus d'un quart au préjudice de l'une des parties;
2. Dans les ventes d'immuuebles, que le vendeur peut faire rescinder, si le prix donné est d'une moitié au dessous de la valeur de la chose vendue; mais cette rescision ne peut avoir lieu pour aucune lésion au préjudice de l'acquéreur.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1862. Lesion can be alleged by persons of full age in no other sale than one for immovables, in which is included whatever is immovable by destination.

RCC—462, 467 et seq., 1406, 1860, 1861, 1863, 2230, 2591, 2594.

RCC 1870, Art. 1862. (Same as Art. 1862 of Proposed Revision of 1869)

Same as above.

CC 1825, Art 1856. La lésion peut être alléguée par les personnes majeures dans aucune autre vente que celles des immeubles, au nombre desquels on doit comprendre* tout ce qui est immuable par destination, et même les esclaves qui sont vendus avec les habitations, à la culture desquelles ils sont attachés.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "by which is meant" should be "in which is included."

ART. 1863. Persons of full age are relieved for lesion in no other contracts than those above expressed, except as hereinafter provided regarding the contract of exchange. (As amended by Acts 1940, No. 280)

RCC—1009, 1860 et seq., 1869, 1960, 2230, 2494, 2594, 2664 et seq., 3078.

RCC 1870, Art. 1863. Persons of full age are relieved for lesion in no other contracts than those above expressed, not even in exchange, which bears some resemblance to the contract of sale.

CC 1825, Art. 1857. Same as above.

Les personnes majeures ne peuvent être restituées pour cause de lésion con-
Art. 1864

Minors, not emancipated, are relivable against simple lesion in every species of contract. That is called simple lesion, in which the amount to be suffered by it, is not designated by law, as it is in the cases above mentioned of partition and sale between persons of full age.

ART. 1865.

As to such contracts as they are, by virtue of their emancipation, authorized to make, they are entitled to no other relief against lesion than if they were of full age. As to all other contracts, which they can make only under certain formalities, they are in the same situation with other minors, and may have relief for simple lesion, or prosecute the action of nullity against the contract.

RCC—370 et seq., 1412 et seq., 1785, 1864, 1870 et seq., 1875, 2221, 2222, 2224.

RCC 1870, Art. 1865.
Same as above.
ART. 1866. Lesion needs not be alleged to invalidate such contracts as are made by minors, either without the intervention of their tutors, or with such intervention, but unattended by the forms prescribed by law. Such contracts, being void by law, may be declared so, either in a suit for nullity or on exception, without any other proof than that of the minority of the party and the want of formality in the act.


RCC 1870, Art. 1866. (Same as Art. 1866 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1860. (Projet, p. 246. Addition adopted; no comment)

Lesion needs not be alleged to invalidate such contracts as are made by minors, either without the intervention of their tutors or curators, or with such intervention, but unattended by the forms prescribed by law. Such contracts, being void by law, may be declared so, either in a suit for nullity or on exception, without any other proof than that of the minority of the party and the want of formality in the act.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1867. But in contracts made with minors, when duly authorized, and when all the forms of law have been pursued, on alleging and proving even simple lesion, they will be relieved with the exception of the cases provided for in the two next articles.

RCC—337, 353, 372, 1004, 1312, 1344, 1399, 1400, 1413, 1414, 1785, 1864, 1866, 1868, 1869, 1875, 1876, 2221, 2222, 2330, 2595, 3078, 3148.

RCC 1870, Art. 1867.

Same as above.

CC 1825, Art. 1861. (Projet, p. 247. Addition † adopted; no comment)

Mais à l'égard des contrats qui ont été faits avec des mineurs, quoique dûment autorisés, ou dans lesquels toutes les formalités de la loi ont été observées, les mineurs peuvent s'en faire relever pour cause de simple lésion, exceptés (excepté) dans le (les) cas dont il est fait mention dans les deux articles suivants.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1868. When all the formalities required by law for the alienation or the partition of the property of minors, or persons interdicted, have been fulfilled, the acts made for those purposes shall have the same force, as if they had been executed by persons of full age and sound mind.

RCC—339 et seq., 353, 415, 731, 1018, 1323, 1369, 1399, 1413, 1414, 1784, 1785, 1864, 1867, 1869, 1873, 2221, 2231, 2639, 3302, 3522, 3554.

1033
Art. 1869

RCC 1870, Art. 1868.
Same as above.

CC 1825, Art. 1862.
Same as above.

Lorsque toutes les formalités, prescrites par la loi pour l’alienation ou le partage des biens des mineurs ou des interdits, ont été observées, les actes, qui ont été passés à cet effet, auront la même force que s’ils avaient été faits par des personnes majeures et jouissant de leur raison.

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

ART. 1869. No lesion whatever, even in the case of minors, can invalidate judicial sales, or sales of an insolvent’s property made by syndics or other trustees.* Sales of property belonging to successions or minors, directed or authorized by courts, are judicial sales under this provision.

RCC—341 et seq., 1062, 1162 et seq., 1402, 1406, 1413, 1414, 1668 et seq., 1863, 1864, 1867, 1868, 2184, 2221, 2361, 2594, 2601 et seq., 2616, 2617, 2618 et seq., 2622 et seq., 3165.

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

CC 1825, Art. 1863.
No lesion whatever, even in the case of minors, can invalidate judicial sales, or sales of insolvent’s property made by syndics or other trustees.* Sales, directed or authorized by courts of probates, are judicial sales under this provision.

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

**“Or other trustees” has no counterpart in French text.

ART. 1870. When lesion is alleged to invalidate a partition or sale, the party alleging it must first prove the value of the property sold, in the state in which it was at the time of the contract, according to the usual terms of credit given on sales of property of that description. He must then show how much the price given was less than such value; but if the price given was paid at longer periods than those usually given on such sales, the interest for the time exceeding such usual credit must be deducted from such price; or, if the price was paid in shorter periods than those of such usual credit, then the interest for the time such payment has fallen short of the usual credit, shall be added to the price actually paid; and from a comparison of the price after these additions or deductions with the estimated value, the court shall determine whether according to law applied to the circumstances of the case, there is a lesion sufficient to invalidate the contract.

RCC—1398, 1402, 1406, 1860, 1861, 1864, 1865, 1877, 2232, 2589 et seq., 2665, 2666.

1034
RCC 1870, Art. 1870.
Same as above.

CC 1825, Art. 1864. (Projet, p. 247. Addition adopted; no comment)
Same as above; but comma (,) after “actually paid”, and after “whether.”

ART. 1871. In all questions of lesion the value of that which was the subject of the contract at the time of making it, is the rule by which the lesion is to be ascertained. Even in the case of minors, changes in value by subsequent events are not to affect the contract.

RCC—1398, 1860, 1861, 1864, 1865, 1877, 2589, 2590.

RCC 1870, Art. 1871.
Same as above.

CC 1825, Art. 1865. (Projet, p. 247. Addition † adopted; no comment)
Dans toutes les questions de lésion, la valeur que la chose, qui est le sujet du contrat, avait au moment où il a été fait, est la règle sur laquelle on doit estimer la lésion, même à l’égard des mineurs; les changements que la chose peut avoir éprouvés par événements subséquents, ne pouvant affecter le contrat.

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

ART. 1872. If a minor should, at the time of the contract, declare himself of full age, it will be no bar to his obtaining relief against lesion.

RCC—37, 372, 1412, 1782, 1864, 1865, 1873, 2098, 2222, 2224, 3036.
Art. 1873

A minor, who is a banker, factor, trader or artisan, is not relievahle against lesion in contracts made for the purpose of his trade, or business, nor is he relievahle against lesion in any of the stipulations of his marriage contract, if such contract be made with the consent and pursuant to the formalities in such case provided by law.

RCC—372, 374, 376, 1747, 1748, 1782, 1785, 1864, 1868, 1872, 2222, 2225, 2226, 2330.

RCC 1870, Art. 1873.

Same as above.

CC 1825, Art. 1867.

(Projet, p. 248. Amendment amended and adopted; no comment)

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

Il n'est pas relievahle contre obligations resulting from offenses or quasi offenses.

RCC—237, 1782, 1785, 1864, 2222, 2227, 2315 et seq.

RCC 1870, Art. 1874.

Same as above.

CC 1825, Art. 1868.

(Projet, p. 248. Amendment amended in French text and adopted; comment by redactors)

Il n'est pas restituable contre les obligations qui résultent de ses délits ou quasi-délits.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1875.

A ratification made by a person of full age of any contract made during his minority, cures all defects arising as well
from the want of the necessary formalities as from the want of a proper* consideration. No action for nullity or lesion can be brought after such ratification.

RCC—1779, 1782, 1785, 1786, 1791, 1794, 1795, 1846, 1855, 1864 et seq., 1893, 2222, 2228, 2231, 2272, 2330.

RCC 1870, Art. 1875.
Same as above.

CC 1825, Art. 1870.
Same as above.

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

*Note error in English translation of French text; “proper” should be “sufficient.”

ART. 1876. Actions for lesion are limited to four years, to date from the time of the contract between the persons of full age, and from the age of majority in contracts of minors.

RCC—362, 1413, 1414, 1861, 1864, 1867, 2221, 2222, 2595.

RCC 1870, Art. 1876.
Same as above.

CC 1825, Art. 1870.
Same as above.

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

ART. 1877. In actions, brought for relief against a sale or partition made between persons of full age, or in a like action, brought for lesion only, in a sale made by a minor or on his account, the purchaser may elect either to rescind the sale, or to have it confirmed on paying the full value. But this election must be made within a period to be designated in an interlocutory decree, determining the true value and the terms on which the payment is to be made.

RCC—1408, 1409, 1860, 1861, 1864, 1870, 1871, 1878 et seq., 1881, 1882, 2222, 2229, 2272, 2591, 2592, 2594, 2598. CP—538.

RCC 1870, Art. 1877.
Same as above.
Art. 1878

If the purchaser elect to rescind the sale, he must restore the property with all the profits received, or which he might have received from the property from the time of bringing suit; and the seller shall repay the purchase money which he has received, with interest from the same time, give up and cancel the securities given for such part, if any, as remains unpaid; and moreover pay for such improvements made by the purchaser as add a permanent value to the property, according to their value at the time of the rescission of the sale.

RCC—1793, 1861, 1864, 1877, 1879, 1880, 2229, 2553, 2592, 2597 et seq., 3133, 3167.

RCC 1870, Art. 1878.

(Same as Art. 1878 of Proposed Revision of 1869)

Art. 1878.

If the purchaser elect to rescind the sale, he must restore the property with all the profits received, or which he might have received from the property from the time of bringing suit; and the seller shall repay the purchase money which he has received, with interest from the same time, give up and cancel the securities given for such part, if any, as remains unpaid; and moreover pay for such improvements made by the purchaser as add a permanent value to the property, according to their value at the time of the rescission of the sale.

RCC 1825, Art. 1871.

Same as above.

(Rojet, p. 248. Addition † adopted; no comment)

Sur toutes les actions intentées en rescision d'une vente ou de partage entre personnes majeures, ou sur toutes actions semblables intentées pour cause de lésion seulement contre une vente faite par un mineur ou pour son compte, les acquéreurs ont le choix de rescinder la vente, ou d'en obtenir la confirmation en payant la pleine valeur de la chose. Mais ils doivent faire ce choix dans le terme qui leur sera désigné par un jugement interlocutoire, qui déterminera la véritable valeur de la chose, et les termes dans lesquels le paiement doit être fait.

Art. 1878.

Sur toutes les actions intentées en rescision d'une vente ou de partage entre personnes majeures, ou sur toutes actions semblables intentées pour cause de lésion seulement contre une vente faite par un mineur ou pour son compte, les acquéreurs ont le choix de rescinder la vente, ou d'en obtenir la confirmation en payant la pleine valeur de la chose. Mais ils doivent faire ce choix dans le terme qui leur sera désigné par un jugement interlocutoire, qui déterminera la véritable valeur de la chose, et les termes dans lesquels le paiement doit être fait.

Art. 1878.

If the purchaser elect to rescind the sale, he must restore the property with all the profits received, or which he might have received from the property from the time of bringing suit; and the seller shall repay the purchase money which he has received, with interest from the same time, give up and cancel the securities given for such part, if any, as remains unpaid; and moreover pay for such improvements made by the purchaser as add a permanent value to the property, according to their value at the time of the rescission of the sale.

RCC—1793, 1861, 1864, 1877, 1879, 1880, 2229, 2553, 2592, 2597 et seq., 3133, 3167.

RCC 1870, Art. 1878.

(Same as Art. 1878 of Proposed Revision of 1869)

Art. 1878.

If the purchaser elect to rescind the sale, he must restore the property with all the profits received, or which he might have received from the property from the time of bringing suit; and the seller shall repay the purchase money which he has received, with interest from the same time, give up and cancel the securities given for such part, if any, as remains unpaid; and moreover pay for such improvements made by the purchaser as add a permanent value to the property, according to their value at the time of the rescission of the sale.

RCC—1793, 1861, 1864, 1877, 1879, 1880, 2229, 2553, 2592, 2597 et seq., 3133, 3167.

RCC 1870, Art. 1878.

(Same as Art. 1878 of Proposed Revision of 1869)
ART. 1879. The purchaser, on his part, in case of rescission, is accountable for all injuries and dilapidations arising from his neglect or fault.

RCC—1877, 1878, 1880, 2597.

RCC 1870, Art. 1879.
Same as above.

CC 1825, Art. 1873.
Same as above.

L'acquéreur doit tenir compte de son côté, en cas de rescision, de toutes les pertes et dégradations arrivées dans la chose par sa faute ou sa négligence.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1880. The judge in pronouncing the final decree, shall make compensation between the parties of their respective demands, and determine what balance shall be paid, and by which of the parties, according to the principles stated in the preceding articles.

RCC—1409, 1877 et seq., 2207, 2229, 2591, 2592, 2597 et seq., 3556(7).

CP—366.

RCC 1870, Art. 1880.
Same as above.

CC 1825, Art. 1874.
Same as above; but comma (,) after "judge."

Le juge en rendant son jugement définitif, fera compensation entre les parties de leurs demandes respectives, et fixera la balance à payer par la partie qui en est redevable, d'après les règles qui sont établies dans les articles précédens.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

§11—General Provisions Applicable to Error, Violence and Fraud in Contracts

ART. 1881. Engagements made through error, violence, fraud or menace, are not absolutely null, but are voidable by the parties, who have contracted under the influence of such error, fraud, violence or menace, or by the representatives of such parties.


RCC 1870, Art. 1881.
Same as above.

CC 1825, Art. 1875.
Same as above.

Les engagements que l'on contracte par l'effet de l'erreur, de la violence, des menaces ou du dol, ne sont pas absolu-
Art. 1882

An engagement contracted by error, violence or fraud, is not of itself void, but voidable by an action of nullity or of rescission, in the case and after the manner explained in the 7th section of the fifth chapter of the present title.

Art. 1882. They may be avoided either by exception to suits brought on such contracts, or by an action brought for that purpose.


ART. 1883. Every contract has for its object something which one or both of the parties oblige themselves to give, or to do, or not to do.

RCC—1761, 1764, 1765, 1779, 1884 et seq., 1890 et seq., 1905 et seq., 1926 et seq.

Section 3—OF THE OBJECT AND MATTER OF CONTRACTS

Art. 1883. Every contract has for its object something which one or both of the parties oblige themselves to give, or to do, or not to do.

RCC—1761, 1764, 1765, 1779, 1884 et seq., 1890 et seq., 1905 et seq., 1926 et seq.


Every contract has for its object a thing which one of the parties obliges* to give or which one of the parties obliges* to do or not to do.


Tout contrat a pour objet quelque chose que l’une des parties ou toutes les deux s’obligeent de donner, ou de faire, ou de ne pas faire.

1040
CIVIL CODES OF LOUISIANA

Art. 1886

Every contract has for its object a thing which one of the parties obliges himself to give, or which one of the parties obliges himself to do or not to do.

*English translation of French text incomplete; should include "himself."

ART. 1884. The mere use, or the mere possession of a thing, may be, as well as the thing itself, the object of a contract.

RCC—533, 540, 626, 628, 638, 1533, 1764, 1883, 1885, 2170, 2178, 2674, 2678, 2679, 2891, 2893 et seq., 2926, 2930, 2973, 3133, 3426 et seq., 3514.

ART. 1885. All things, in the most extensive sense of the expression, corporeal or incorporeal, movable or immovable, to which rights can legally be acquired, may become the object of contracts.

RCC—460, 461, 462 et seq., 472 et seq., 483, 537, 541, 744, 1764, 1842 et seq., 1883, 1884, 1886 et seq., 1895, 2446 et seq., 2678, 2679, 2809, 2896, 2912, 2922, 2976, 2977, 3135, 3154, 3291, 3497. Acts 1894, No. 176.

ART. 1886. An obligation must have for its object something determinate, at least as to its species.

The quantity of a thing may be uncertain, provided it be capable of being ascertained.

ART. 1887. Future things may be the object of an obligation.
One can not, however, renounce the succession of an estate not yet devolved, nor can any stipulation be made with regard to such a succession, even with the consent of him whose succession is in question.

ART. 1888. Yet a future succession may become the object of a marriage contract; it may be stipulated that such succession shall be dotal or paraphernal, that it should be vested* in real estate, or other covenants of the like nature, for the benefit of one of the parties or their** children.
nul ne peut dans un contrat, fait en
son nom, obliger que lui-même ou ses
représentants; mais il peut promettre, en
son propre nom, qu'un autre ratifiera ou
exécutera la chose qui est l'objet du
contrat,* et dans ce cas, il sera tenu à
des dommages-intérêts, si le contrat n'est
pas ratifié ou exécuté par la personne
pour l'acte de laquelle il a stipulé.

*Note error in English translation of French text; "vested" should be "in-
vested."

**Note error in English translation of French text; "their" should be "his."

**ART. 1889. No one can, by a contract in his own name, bind
any one but himself or his representatives; but he may contract, in his
own name, that another shall ratify or perform the stipulation which
he makes,* and in this case he shall be liable in damages, if the contract
be not ratified or performed by the person for whose act he stipulates.

RCC—1780, 1840, 1890, 1902, 1934, 2043, 2272, 2299, 2681, 2682, 3010,
3012, 3013, 3021, 3038, 3094, 3145, 3149, 3303. CP—34.

RCC 1870, Art. 1889.
Same as above.

CC 1825, Art. 1883.
Same as above.

(Projet, p. 250. Amendment adopted; no comment)

Nul ne peut dans un contrat, fait en
son nom, obliger que lui-même ou ses
représentants; mais il peut promettre, en
son propre nom, qu'un autre ratifiera ou
exécutera la chose qui est l'objet du
contrat,* et dans ce cas, il sera tenu à
des dommages-intérêts, si le contrat n'est
pas ratifié ou exécuté par la personne
pour l'acte de laquelle il a stipulé.

-p. 263, Art. 19.

On ne peut, en général, s'engager, ni
stipuler, en son propre nom, que pour
soi-même.

-p. 263, Art. 20.

Néanmoins, on peut se porter fort,
pour un tiers, en promettant le fait de
celui-ci, sauf l'indemnité, contre celui
qui s'est porté fort, ou qui a promis de
faire ratifier, si le tiers refuse de tenir
l'engagement.

Same as CC 1808, p. 263, Art. 19,
above; but no punctuation after "stipu-
liser", or after "nom."

-Art. 1120.

Same as CC 1808, p. 262, Art. 20,
above.

Same as CC 1808, p. 262, Art. 19,
above; but no punctuation after "stipu-
liser", or after "nom."

SAME as CC 1808, p. 263, Art. 20,
above; but no punctuation after "Néa-
moins", after "porter fort", after "l'in-
demnité", or after "porté fort"; semi-
colon (;) after "celui-ci."

*Note error in English translation of French text; "he makes" should be "is
the object of the contract."
Art. 1890

A person may also, in his own name, make some advantage for a third person the condition or consideration of a commutative contract, or onerous donation; and if such third person consents to avail himself of the advantage stipulated in his favor, the contract can not be revoked.

RCC-542, 762, 1467, 1524, 1768, 1774, 1780, 1800 et seq., 1810, 1824, 1883, 1889, 1896, 1901, 1902, 2043, 2300, 3035, 3038, 3295, 3296. CP-35.

RCC 1870, Art. 1890.
Same as above.

CC 1825, Art. 1884.
Same as above.

CC 1808, p. 262, Art. 21.
A person may, in like manner, stipulate for the advantage of a third person, when such is the condition of a stipulation that he makes for himself, or of a donation that he makes to another.

He who has made such a stipulation, can no longer revoke it, if the third person has declared himself willing to avail himself of it.

CN 1804, Art. 1121.
Same as above.

Art. 1891.
The object of a contract must be possible, by which is meant physically or morally possible. The possibility must be determined, not by the means or ability of the party to fulfill his agreement, but by the nature of the thing which forms the object of it.

RCC-1519, 1565, 1643, 1700, 1701, 1762 et seq., 1847, 1883, 1885 et seq., 1892, 1893, 1916, 1933, 2065, 2031, 2033, 2070 et seq., 2122, 2219, 2680, 2743, 2758 et seq., 2785, 2879, 2987, 3036, 3138.

RCC 1870, Art. 1891. (Same as Art. 1891 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1885.
The object of a contract must be possible, by which is meant physically or morally possible. The possibility must be determined, not by the means or ability of the party,* but by the nature of things.**

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

*English translation of French text incomplete; should include "to fulfill his agreement."

**Note error in English translation of French text; "things" should be "the thing which forms the object of it."
ART. 1892. That is considered as morally impossible, which is forbidden by law, or contrary to morals. All contracts having such an object are void.

RCC—11, 12, 93 et seq., 984, 1519, 1527, 1565, 1690, 1762, 1764, 1847, 1883, 1887, 1891, 1893, 1895, 1965, 2031, 2033, 2070, 2325, 2448, 2804, 2984, 2987, 3036, 3136. CP—19.

RCC 1870, Art. 1892. (Same as Art. 1892 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1886. (Projet, p. 250. Addition adopted; comment by redactors)
That is considered morally impossible, which is forbidden by law, or morals. All contracts having such an object are void.

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

Section 4—OF THE CAUSE OR CONSIDERATION OF CONTRACTS

ART. 1893. An obligation without a cause, or with a false or unlawful cause, can have no effect.

RCC—11, 12, 19, 984, 1491, 1519, 1639, 1754, 1759, 1761, 1762, 1764, 1773, 1779, 1788, 1813 et seq., 1824 et seq., 1828, 1830, 1833, 1834 et seq., 1840, 1841 et seq., 1844, 1847, 1859, 1875, 1886, 1887, 1890 et seq., 1894 et seq., 1897, 1921, 1970, 1981, 2133, 2293, 2301, 2302, 2310, 2443, 2466, 2464, 2480, 2520, 2983, 2984, 2987, 3036, 3079 et seq., 3309, 3359, 3360. CP—19.
Acts 1904, No. 64, §§24–29; 1910, No. 180, 16.

RCC 1870, Art. 1893. Same as above.

CC 1825, Art. 1887. (No reference in Projet)
Same as above.

Same as above.

CN 1804, Art. 1131. Same as above.

ART. 1894. An agreement is not the less valid, though the cause be not expressed.

RCC—1765, 1827, 1893, 1900, 2232, 2464.

RCC 1870, Art. 1894. Same as above.

CC 1825, Art. 1888. (No reference in Projet)
La convention n'est pas moins valable, quoique la cause n'en soit pas exprimée.

1045
**Art. 1895**

**The cause is unlawful, when it is forbidden by law, when it is contra bonos mores (contrary to moral conduct) or* to public order.**

RCC—11, 12, 19, 150, 709, 1519, 1527, 1828, 1833, 1840, 1885, 1887, 1891, 1892, 1893, 2031, 2210, 2325, 2804, 2983, 2987, 3136, 3460. CP—19.

RCC 1870, Art. 1895. (Same as Art. 1895 of Proposed Revision of 1869)

Same as above.

**Art. 1896.** By the cause of the contract, in this section, is meant the consideration or motive for making it; and a contract is said to be without a cause, whenever the party was in error, supposing that which was his inducement for contracting to exist, when in fact it had never existed, or had ceased to exist before the contract was made.

RCC—984, 1639, 1764, 1768, 1772, 1821 et seq., 1824 et seq., 1830, 1833, 1834, 1837, 1838, 1841 et seq., 1846, 1847, 1890, 1893, 1897 et seq., 1928, 2002, 2012, 2133, 2216, 2301 et seq., 2310, 2443, 2452, 2455, 2462, 2511, 2520, 2529, 2675, 2815, 3079 et seq. CP—18.

RCC 1870, Art. 1896. (Same as Art. 1896 of Proposed Revision of 1869)

Same as above.

*Note err in English translation of French text; "or" should be "and."

---

**Art. 1895**

CC 1808, p. 264, Art. 32. -p. 265, Art. 32.

Same as above.

CN 1804, Art. 1132.

Same as above.

ART. 1895. The cause is unlawful, when it is forbidden by law, when it is contra bonos mores (contrary to moral conduct) or* to public order.

Same as above.

ART. 1896. By the cause of the contract, in this section, is meant the consideration or motive for making it; and a contract is said to be without a cause, whenever the party was in error, supposing that which was his inducement for contracting to exist, when in fact it had never existed, or had ceased to exist before the contract was made.

No corresponding article.

No corresponding article.
ART. 1897. The contract is also considered as being without cause when the consideration for making it was something which, in the contemplation of the parties, was thereafter expected to exist or take place, and which did not take place or exist. A gift in consideration of a future marriage is void by this rule, if the marriage do not take place.


RCC 1870, Art. 1897.
Same as above.

CC 1825, Art. 1891. (Projet, p. 251. Addition adopted; no comment)
Same as above; but comma (,) after “cause.”

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1898. Where the consideration or cause of the contract really exists at the time of making it, but afterwards fails, it will not affect the contract, if all that was intended by the parties be carried* into effect at the time. The destruction of property sold, after the sale is perfected, without the fault of the seller, is a case governed by this rule.

RCC—1393, 1896, 1897, 1899, 1919, 2151, 2219, 2220, 2236, 2455, 2456, 2467 et seq., 2552.

RCC 1870, Art. 1898.
Same as above.

CC 1825, Art. 1892. (Projet, p. 251. Addition amended in English text and adopted; no comment)
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “be carried” should be “has been carried.”
Art. 1899

Art. 1899. But, if the contract consists of several successive obligations to be performed at different times, and the equivalent is not given in advance for the whole, but is either expressly or impliedly promised to be given at future periods; then, if the cause of the contract, corresponding to either of the successive obligations, should fail, the obligation depending on it will cease also. Thus, in leases for years, the obligation to pay the yearly rent ceases, if the property which is leased should be destroyed.

RCC—613, 784, 1896 et seq., 2697 et seq., 2728, 2743, 2785.

RCC 1870, Art. 1899.
Same as above.

CC 1825, Art. 1893.
Same as above.

CC 1808.
No corresponding article.

CN 1804.
No corresponding article.

Art. 1900. If the cause expressed in the consideration* should be one that does not exist, yet the contract cannot be invalidated, if the party can show the existence of a true and sufficient consideration.**

RCC—1764, 1840, 1894, 1921, 2070 et seq., 2236, 2239, 2276, 2278, 2444, 2464, 2480.

RCC 1870, Art. 1900.
Same as above.

CC 1825, Art. 1894.
Same as above.

CC 1808.
No corresponding article.

CN 1804.
No corresponding article.

*Note error in English translation of French text; "consideration" should be "contract."

**Note error in English translation of French text; "a true and sufficient consideration" should be "another true and sufficient cause for the contract."

1048
Chapter 3—Of the Effect of Obligations

Section 1—General Dispositions

Art. 1901. Agreements legally entered into have the effect of laws on those who have formed them.
They cannot be revoked, unless by mutual consent of the parties, or for causes acknowledged by law.
They must be performed with good faith.


RCC 1870, Art. 1901.
Same as above.

CC 1825, Art. 1895. (No reference in Projet)
Same as above; but comma (,) after "Agreements", and after "into."

CC 1808, p. 266, Art. 34.
Same as above; but no punctuation after "Agreements."

CC 1804, Art. 1134.
Same as above.

Art. 1902. But a contract, in which anything is stipulated for the benefit of a third person, who has signified his assent to accept it, can not be revoked as to the advantage stipulated in his favor without his consent.

RCC—1572, 1780, 1800 et seq., 1810, 1889, 1890, 1901, 2300, 3295, 3296. CP—35.

RCC 1870, Art. 1902.
Same as above.

CC 1825, Art. 1896. (Projet, p. 251. Addition adopted; no comment)
Same as above; but comma (,) after "favor."

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 1903. The obligation of contracts extends not only to what is expressly stipulated, but also to everything that, by law, equity or custom, is considered as incidental to the particular contract, or necessary to carry it into effect.


RCC 1870, Art. 1903.
Same as above.

CC 1825, Art. 1897.
Same as above.

CC 1808, p. 266, Art. 35.
Contracts oblige to the performance not only of what is expressly stipulated, but also to the performance of all things which, from equity, usage or law, are incidental to the obligation, according to its nature.

CC 1808, p. 267, Art. 35.
Les conventions oblient non-seulement à ce qui y est exprimé, mais encore à toutes les suites que l'équité, l'usage, ou la loi, donnent à l'obligation, d'après sa nature.

CN 1804, Art. 1135.
Same as above.

Art. 1904. Contracts, as to their effects upon property or real rights, are of two kinds:
1. Such as purport a transfer* of that which is the object of the contract.
2. Such as only give a temporary right to the enjoyment of it.


RCC 1870, Art. 1904.
Same as above.

CC 1825, Art. 1898.
Les contrats, relativement à la manière dont ils aectent les biens ou les droits réels, sont de deux espèces:
1. Ceux dont l'effet est de transférer la propriété* de la chose qui est l'objet du contrat:
2. Ceux qui ne donnent qu'un droit temporaire à la jouissance de cette chose.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "of the ownership."
ART. 1905. The term to give, in this division of obligations, is applied only to corporeal objects, that may be actually delivered from one to another; and it includes the payment of money as well as the delivery of any other article. A covenant, respecting an incorporeal right comes under the definition of contracts to do or not to do, because some act, besides that of delivery, is necessary for the transfer of such rights.


RCC 1870, Art. 1905.
Same as above.

ART. 1906. A contract for the delivery of a promissory note, payable to bearer, or payable to order, and already indorsed, or any other negotiable paper of the same nature, also indorsed, or transferable by delivery only, comes under the description of a contract to give; but a contract to transfer a note to order not indorsed, or any other debt that requires an act of transfer, is an obligation to do.

RCC—1904, 1905, 1907, 1909, 1912, 1914, 1926, 2160, 2642 et seq., 3156, 3158, 3160. Acts 1904, No. 30; 1904, No. 34; 1904, No. 64; 1904, No. 191; 1912, No. 28; 1912, No. 94.

RCC 1870, Art. 1906.
Same as above.

CC 1825, Art. 1900. (Projet, p. 252. Addition adopted; no comment)
Same as above; but no punctuation after "promissory note."
Art. 1907. The obligation of giving includes that of delivering the thing, and of keeping it safe, until the delivery of it; the person who contracts to give being liable, on failure, to pay damages to the person with whom he has contracted.


RCC 1870, Art. 1907.
Same as above.

CC 1825, Art. 1902. (No reference in Projet)
Same as above; but comma (,) after “person”, and after “his keeping.”

L’obligation de donner emporte celle de livrer la chose et de la conserver jusqu’à la livraison, à peine de dommages-intérêts envers le créancier.

CC 1802, Art. 1908. (No reference in Projet)
Same as above; but comma (,) after “donner”, after “chose”, and after “conserver.”

The obligation of giving includes that of delivering the thing, and of keeping it safe, until the delivery of it, the person who contracts to give, being liable, on failure, to pay damages to the person to whom he has contracted.

L’obligation de donner emporte celle de livrer la chose et de la conserver jusqu’à la livraison, à peine de dommages-intérêts envers le créancier.

Art. 1908. The obligation of carefully keeping the thing, whether the object of the contract be solely the utility of one of the parties, or whether its object be their common utility, subjects the person who has the thing in his keeping to take all the care of it that could be expected from a prudent administrator.

This obligation is more or less extended with regard to certain contracts, the effects of which, in this respect, are explained under their respective titles.

RCC—337, 415, 535, 558, 567, 644, 1907, 2044, 2298, 2350, 2468, 2578, 2710, 2751, 2758 et seq., 2784, 2862, 2898, 2900, 2926, 2937, 2960, 2965, 2980, 3167, 3177, 3224 et seq. CP—283. Acts 1908, No. 21; 1908, No. 221.

RCC 1870, Art. 1908.
Same as above.

CC 1825, Art. 1902. (No reference in Projet)
Same as above; but comma (,) after “person”, and after “his keeping.”

L’obligation de veiller à la conservation de la chose, soit que la convention n’ait pour objet que l’utilité de l’une des parties, soit qu’elle ait pour objet leur utilité commune, soumet celui qui en est chargé à y apporter tous les soins d’un bon père de famille.
The obligation of carefully keeping the thing, whether the object of the contract be solely the utility of one of the parties, or whether its object be their common utility, subjects the person who has the thing in his keeping to take all the care of it that could be expected from a prudent father of a family.

Par. 2 same as par. 2, above.

Same as above.

ART. 1909. If the obligation be to deliver an object which is particularly specified, it is perfect by the mere consent of the parties. It renders the creditor the owner, and although it be not delivered to him, puts the thing at his risk from the date of the obligation, if the contract is one of those that purport a transfer.

RCC—488, 870, 1550, 1766, 1779, 1803, 1904, 1905 et seq., 1911 et seq., 1920 et seq., 1926, 2028, 2219, 2220, 2439, 2466, 2468, 2469, 2472, 2476 et seq., 2477 et seq., 2489, 2552, 2556, 2566, 2661, 2744, 2911, 3227.

RCC 1870, Art. 1909. (Same as Art. 1909 of Proposed Revision of 1889) Same as above.

If the obligation be to deliver an object which is particularly specified, it is perfect by the mere consent of the contracting parties. It renders the creditor the owner, and makes the thing be at his risk from the time when it was to be delivered, although the delivery may not have taken place, unless the debtor delay* to deliver it, in which case the thing remains at the risk of the latter.

CC 1808, p. 266, Art. 38.

The obligation to deliver the thing, is perfect, through the mere consent of the contracting parties.

It renders the creditor the owner, and makes the thing be at his risk from the time when it was to be delivered, although the delivery may not have taken place, unless the debtor delay* to deliver it, in which case the thing remains at the risk of the latter.

Same as above.

Same as above.

*The phrase "en demeure", meaning "in default", is alternatively translated in CC 1808 as "delay."
Art. 1910

ART. 1910. But if a debtor of a thing is in default for not having made the delivery, it is at his risk from the time of the default.

RCC—1550, 1701, 1907, 1909, 1911, 1912, 1930, 2073, 2096, 2151, 2155, 2219, 2456, 2468 et seq., 2475, 2477 et seq., 2485, 2552, 2657, 2744.

RCC 1870, Art. 1910. (Same as Art. 1910 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1904. (Projet, p. 252. Amendment adopted; no comment)
But if the debtor of a thing is in default for not having made the delivery, it is at his risk from the time of his default.

CC 1808, pp. 266, 267, Art. 38, par. 2.
Quoted under RCC 1870, Art. 1909, above.

CN 1804, Art. 1138, par. 2.
Quoted under RCC 1870, Art. 1909, above.

Art. 1911. The debtor may be put in default in three different ways: by the term [terms] of the contract, by the act of the creditor, or by the operation of law:

1. By the terms of the contract, when it specially provides that the party, failing to comply, shall be deemed to be in default by the mere act of his failure.

2. By the act of the party, when at or after the time stipulated for the performance, he demands that it shall be carried into effect, which demand may be made, either by the commencement of a suit, by a demand in writing, by a protest made by a notary public, or by a verbal requisition made in the presence of two witnesses.

3. By the operation of law. This takes place in cases where the breach of the contract alone is by law declared to be equivalent to a default. The law having declared that the neglect to return a thing loaned for use, at a stipulated time, or the application of it to another use than the one for which it was lent, puts it at the risk of the borrower; this, without any act of the lender, puts the borrower in default, and forms an example of this part of the rule.


RCC 1870, Art. 1911.
Same as above.

CC 1825, Art. 1905. (Projet, p. 253. Substitution adopted; no comment)
Le débiteur peut être mis en demeure de trois manières: par les termes du contrat, par l'acte du créancier, ou par l'effet seul de la loi:

1. Par les termes du contrat, lorsqu'il est expressément stipulé que la partie qui manquera à l'accomplir, sera, par ce seul fait, réputée en demeure;

2. Par l'acte de la partie, lorsqu'au temps où le contrat doit être exécuté ou depuis, elle en requiert l'accomplissement, soit en instituant un procès à cet
CIVIL CODES OF LOUISIANA

Art. 1912

The debtor is considered as having delayed the delivery, after he has been required to deliver, either by summons, or by any equivalent act, or by the effect of the agreement, when it is stipulated that without the necessity of any act, but by the mere expiration of the term fixed, the debtor shall be in default. (Suppressed on recommendation of redactors; see comment, Projet, p. 253)

CN 1804, Art. 1139.

The debtor is placed in default either by summons or by any equivalent act, or by the effect of the agreement when it is stipulated that without the necessity of any act, but by the mere expiration of the term fixed, the debtor shall be in default. (Suppressed on recommendation of redactors; see comment, Projet, p. 253)

- p. 267, Art. 39.

Le débiteur est constitué en demeure, soit par une sommation, ou par autre acte équivalent, soit par l'effet de la convention, lorsqu'elle porte que, sans qu'il soit besoin d'acte, et par la seule échéance du terme, le débiteur sera en demeure. (Suppressed on recommendation of redactors; see comment, Projet, p. 253)

ART. 1912. The effects of being put in default are not only that, in contracts to give, the thing, which is the object of the stipulation, is at the risk of the person in default; but in the cases hereinafter provided for it is a prerequisite to the recovery of damages and of profits and fruits, or to the rescission of the contract.


RCC 1870, Art. 1912.

Same as above.

CC 1825, Art. 1906. (Projet, p. 253. Addition adopted; no comment)

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 1913. In commutative contracts, where the reciprocal obligations are to be performed at the same time, or the one immediately after the other, the party who wishes to put the other in default, must, at the time and place expressed in, or implied by the agreement, offer or perform, as the contract requires, that which on his part was to be performed, otherwise the opposite party will not be legally put in default.

RCC—1768, 1799, 1901, 1903, 1911, 1912, 1914, 1915, 1933, 2005, 2046, 2048, 2050, 2131, 2135, 2137, 2157, 2167, 2168, 2484 et seq., 2550, 2551. CP—404 et seq.

RCC 1870, Art. 1913. (Same as Art. 1913 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1907. (Projet, p. 253. Addition adopted; no comment)

In commutative contracts, where the reciprocal obligations are to be performed at the same time, or the one immediately after the other, the party, who wishes to put the other in default, must at the time and place expressed in, or implied by the agreement, offer or perform, as the contract requires, that which on his part was to be performed, or the opposite party will not be legally put in default.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1914. Although the contract be either not commutative, or, if commutative, the reciprocal obligations are not to be performed at the same time, yet the party wishing to put the other in default, must be himself ready, and must offer to receive the performance at the time and place stipulated in the contract or implied from the nature of the act to be done, and he can not avail himself of any demand at any other time or place; but if the obligation be to do or give any thing that may as well be given, or done at one time and place as at another, then the party failing may be put in default as well after as at the time the obligation becomes due. Promissory notes and bills of exchange are not governed by this rule, but by those of commercial law.


RCC 1870, Art. 1914. Same as above.

CC 1825, Art. 1908. (Projet, p. 253. Addition adopted; no comment)

Same as above; but comma (,) after "contract be", and after "after."
Art. 1915. But if the object, contracted to be given, be not a thing particularly specified, but is uncertain, indeterminate, or described only by quantity or number, it is at the risk of the creditor only from the time he is in legal default for not receiving the thing after it has been tendered. A contract to deliver a certain number of bushels of wheat to pay a certain sum of money, or to ship a certain number of hogsheads of sugar, without further identification, comes under this rule.


RCC 1870, Art. 1915.
Same as above.

Art. 1909.
Same as above; but no punctuation after “indeterminate”; comma (,) after “wheat.”

RCC 1825, Art. 1909.
(Projet, p. 254. Addition amended in French text and adopted; no comment)

Art. 1916. There is an exception to the rule established in the last preceding article; when the object of the contract, although indeterminate in itself, makes part of a whole that is determinate and certain, and the whole, of which it forms a part, is lost or destroyed...
by inevitable accident before delivery, the loss will fall on the creditor of the thing sold. A sale of ten bales, of the hundred bales of cotton in a particular store, is an example of this rule; and if all the cotton be destroyed by fire, the accident will discharge the seller from the obligation of delivering it.


RCC 1870, Art. 1916.
Same as above.

CC 1825, Art. 1910. (Projet, p. 254. Addition † adopted; no comment) Il existe une exception à faire à la règle contenue dans l'article précédent; lorsque l'objet du contrat, quoiqu'indéterminé par lui-même, fait partie d'un tout qui est déterminé et certain, et lorsque le tout, dont il forme partie, vient à être perdu ou détruit par un accident inévitable, avant sa délivrance, alors la perte tombe sur le créancier de la chose vendue. La vente de dix balles sur un parti de cent balles de coton qui est dans un magasin particulier, offre un exemple auquel s'applique cette règle, et si tout le coton vient à être détruit par le feu, cet accident déchargera le vendeur de l'obligation de livrer.

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

Art. 1917. In the case provided for by the last article, it must appear that the designation of the mass, from which the particular object of the contract is to be taken, was intended by the parties as restrictive; that is to say, that their intention was confined to that particular property, and no other of the same kind. Where such intent is not clearly expressed, it shall be presumed that no such restriction was intended; and the thing is at the risk of the debtor until delivery or default.*


RCC 1870, Art. 1917.
Same as above.

CC 1825, Art. 1911. (Projet, p. 254. Addition adopted; no comment) Dans le cas dont il est fait mention dans l'article précédent, il faut qu'il paraisse que la désignation qui a été faite de la masse, d'où la chose particulière qui fait l'objet du contrat, devait être tirée, ait été entendue entre les parties dans un sens restrictif, c'est-à-dire, que leur intention ait été restreinte à la chose particulière ainsi décrite, et n'ait pas eu pour objet d'autres choses de la même espèce. Car lorsque cette intention n'est pas clairement exprimée,
ART. 1918. Although the contract contain an obligation to deliver, yet if it be one that does not purport a transfer of property,* the thing is always at the risk of the obligor, provided there be no specific agreement to the contrary.

RCC—1904, 1905, 1907, 1909, 1915 et seq., 1919, 2044, 2096, 2151, 2155, 2219, 2456, 2458, 2459, 2475, 2642, 2657, 2692, 2693, 2758, 2760, 2930, 2939, 3152.

RCC 1870, Art. 1918.
Same as above.

CC 1825, Art. 1912. (Projet, p. 254. Addition adopted; no comment)
Quoique le contrat contienne une obligation de livrer une chose, si ce contrat n'est pas du nombre de ceux qui sont translatifs de propriété,* la chose sera toujours aux risques du débiteur, à moins qu'il n'y ait convention contraire.

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

*Note error in English translation of French text; “property” should be “ownership.”

ART. 1919. If the contract be complete, and be one that purports a transfer of the ownership of the property, its destruction before delivery or default does not exonerate the party who has [was] to have received it, from the performance or delivery of that which on his part was intended as the price or equivalent for such property.


RCC 1870, Art. 1919. (Same as Art. 1919 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1913. (Projet, p. 254. Addition adopted; no comment)
Si le contrat est parfait, et qu'il soit translatif de propriété, la destruction de la chose, avant sa délivrance ou la mise en demeure, ne déchargera pas la partie, qui devait la recevoir, de l'exécution ou de la délivrance de ce qu'elle était convenue, de son côté, de donner comme prix ou comme équivalent de cette chose.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 1920. The rule that the obligation to deliver a determinate object is perfect by the mere consent of the parties, and that the obligee is the owner from the time of such contract, is without any exception as respects immovables, not only between the parties, but as to all the world, provided the contract be clothed with the formalities required by law, that it is bona fide, and purports to transfer the ownership of the property.

RCC—485, 1536, 1550, 1554, 1557, 1904, 1909, 1921, 1924, 1925, 2234, 2242, 2246, 2253, 2256, 2275, 2440, 2442, 2446, 2456, 2477, 2479, 2490, 2552, 2661.

RCC 1870, Art. 1920. (Same as Art. 1920 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1914. (Projet, p. 255. Substitution adopted; comment by redactors; general comment, p. 256)

La règle que l'obligation de livrer une chose déterminée, est parfaite par le seul consentement des parties, et que celui envers qui cette obligation est contractée, de vient (devient) le propriétaire de cette chose, du moment du contrat, ne reçoit aucune exception en ce qui concerne les biens-fonds, non seulement entre les parties contractantes, mais même à l'égard des tiers; pourvu que le contrat soit revêtu de toutes les formalités requises par la loi, qu'il soit de bonne foi, et translatif de propriété.

CC 1808, p. 256, Art. 40.

Les effets de l'obligation, de donner ou de livrer un immeuble, sont réglés au titre de la vente. (Suppressed on recommendation of redactors; see comment, Projet, p. 256)

CN 1804, Art. 1140.

Les effets de l'obligation de donner ou de livrer un immeuble sont réglés au titre de la Vente et au titre des Privileges et Hypothèques.

ART. 1921. In cases, however, of contracts, which purport to transfer the ownership of immovable property, if he who transfers it is suffered by the obligee to remain in corporal possession for a longer time than is reasonably required to deliver the actual possession and to act as owner, to the injury of a third person, who may afterwards contract with him, or acquire rights upon his property as creditor, it will be considered as a mark of fraud, and will throw the burden of proving that the contract was made bona fide upon him to whom the ownership of the property was transferred by the first contract, in any controversy with creditors of the obligor or persons acquiring bona fide intermediate rights by contract with him.


RCC 1870, Art. 1921. (Same as Art. 1921 of Proposed Revision of 1869)
Same as above.
CC 1825, Art. 1915.

In cases, however, of contracts, which purport to transfer immoveable property, if he who transfers it is suffered by the obligee to remain in corporal possession for a longer time than is reasonably required to deliver the actual possession and to act as owner, to the injury of a third person, who may afterwards contract with him, or acquire rights upon his property as creditors (creditors), it will be considered as a mark of fraud, and will throw the burthen of proving that the contract was made bona fide upon him to whom the property was transferred by the first contract, in any controversy with creditors of the obligor or persons acquiring bona fide intermediate rights by contract with him.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1922. With respect to movable effects, although, by the rule referred to in the two last preceding articles, the consent to transfer vests the ownership of the property in the obligee, yet this effect is strictly confined to the parties until actual delivery of the object. If the vendor, being in possession, should, by a second contract, transfer the ownership of the property to another person, who gets the possession before the first obligee, the last transferee is considered as the owner, provided the contract be made on his part bona fide, and without notice of the former contract.

RCC—1538, 1539, 1550, 1904, 1909, 1923 et seq., 2239, 2247, 2277, 2441, 2452, 2456, 2478, 2552, 2556, 2642, 2643, 2661.

RCC 1870, Art. 1922. (Same as Art. 1922 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1916. (Projet, p. 255. Amendment adopted; general comment by redactors, p. 256)

With respect to personal effects, although, by the rule referred to in the two last preceding articles, the consent to transfer vests the property in the obligee, yet this effect is strictly confined to the parties until actual delivery of the object. If the vendor, being in possession, should, by a second contract, transfer the property to another person, who gets the possession before the first obligee, the last transferee is considered as the proprietor, provided the contract be made on his part bona fide, and without notice of the former contract.
Art. 1923

In like manner, if movable property has been alienated by contract, but not delivered, it is liable in the hands of the obligor to seizure and attachment, in behalf of his creditors.


RCC 1870, Art. 1923. (Same as Art. 1923 of Proposed Revision of 1869)

Same as above.

Art. 1924. What shall be considered a delivery of possession is determined by the rules of law, applicable to the situation and nature of the property.

RCC—1536 et seq., 1907, 1909, 1919 et seq., 2246, 2247, 2275, 2440 et seq., 2477 et seq., 2642, 2643, 3426 et seq. Acts 1904, No. 64; 1910, No. 180; 1912, No. 94.
ART. 1925. If the contract be one of those that do not purport to transfer the ownership of the property, but only to give a right to the temporary enjoyment of it, the right to that enjoyment vests by the mere consent of the parties, in the same manner and subject to the same rules as are above laid down for contracts which purport to transfer the ownership of the property.

RCC—533, 626, 627, 1766, 1904, 1909, 1919 et seq., 2347, 2669, 2674, 2893.

RCC 1870, Art. 1925. (Same as Art. 1925 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1919. (Projet, p. 256. Addition adopted; comment by redactors)
If the contract be one of those that do not purport to transfer property, but only to give a right to the temporary enjoyment of it, the right to that enjoyment vests by the mere consent of the parties, in the same manner and subject to the same rules as are above laid down for contracts which purport to transfer the property itself.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Section 3—OF THE OBLIGATIONS TO DO, OR NOT TO DO

ART. 1926. On the breach of any obligation to do, or not to do, the obligee is entitled either to damages, or, in cases which permit it, to a specific performance of the contract, at his option, or he may require the dissolution of the contract, and in all these cases damages may be given where they have accrued, according to the rules established in the following section.


RCC 1870, Art. 1926.
Same as above.

CC 1825, Art. 1920. (Projet, p. 256. Substitution amended in French text and adopted; no comment)
Same as above.

Dans le cas d'inexécution d'un contrat, qui contient une obligation de faire ou de ne pas faire, celui en faveur duquel l'obligation est contractée, a droit à des dommages-intérêts, ou à requérir l'exécution spécifique du contrat, à son choix, si cette exécution est possible, ou bien il peut en demander la dissolution; et dans tous les cas, des dommages pourront lui être accordés, lorsqu'il en aura éprouvé conformément aux règles établies dans la section suivante.
Art. 1927

Every obligation to do or not to do, resolves itself into damages, in case of non-execution on the part of the obligee.* (Suppressed on recommendation of redactors; see comment, Projet, p. 256)

CN 1804, Art. 1142.
Every obligation to do or not to do, resolves itself into damages, in case of non-execution on the part of the obligor.

Same as above; but no punctuation after “obligation”, or after “faire.”

*Note error in English translation of French text; “obligee” should be “obligor.”

Art. 1927. In ordinary cases, the breach of such a contract entitles the party aggrieved only to damages, but where this would be an inadequate compensation, and the party has the power of performing the contract, he may be constrained to a specific performance by means prescribed in the laws which regulate the practice of the courts.

RCC—170, 1763, 1799, 1903, 1926, 1930, 2046, 2124, 2125, 2462, 2485, 2551. CP—636.

RCC 1870, Art. 1927.
Same as above.

CC 1825, Art. 1921. (Projet, p. 256. Substitution adopted; no comment)

Dans les cas ordinaires, l’inexécution d’un semblable contrat ne donne droit à la partie lésée qu’à des dommages; mais lorsque ces dommages ne seraient qu’une indemnité insuffisante, et qu’il est au pouvoir de l’autre partie d’exécuter le contrat, elle peut être contrainte à son exécution spécifique, par les moyens qui sont prescrits par les lois qui règlent la procédure.

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

Art. 1928. The obligee may require that any thing which has been done in violation of a contract, may be undone, if the nature of the cause will permit, and that things be restored to the situation in which they were before the act complained of was done, and the court may order this to be effected by its officers, or authorize the injured party to do it himself at the expense of the other, and may also add damages, if the justice of the case require it.

RCC—855, 1824, 1896, 1926, 1930.

RCC 1870, Art. 1928. (Same as Art. 1928 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1922. (Projet, p. 256. Amendment adopted; no comment)

Celui en faveur duquel l’obligation est contractée, peut exiger que ce qui a été fait en violation du contrat, soit détruit, si la nature du cas le permet, et
ART. 1929. If the obligation be not to do, the obligee may also demand that the obligor be restrained from doing any thing in contravention of it, in cases where he proves an attempt to do the act covenanted against.

RCC—1905, 1926, 2032. CP—296.

CC 1808, p. 268, Art. 45.
If the obligation be not to do, he who contravenes it, becomes liable to damages by the mere act of contravention.

CN 1804, Art. 1145.
Same as above.

Related provision contained in CC 1808, pp. 268, 269, Art. 44, and CN 1804, Art. 1144, quoted in appendix.

Note error in English translation of French text; "obligor" should be "obligee.

Note error in English translation of French text; "obligee" should be "obligor."
Section 4—OF THE DAMAGES RESULTING FROM THE INEXECUTION OF OBLIGATIONS

Art. 1930. The obligations of contract [contracts] extending to whatsoever is incident to such contracts, the party who violates them, is liable, as one of the incidents of his obligations, to the payment of the damages, which the other party has sustained by his default.

RCC—171, 573, 1761, 1763, 1799, 1903, 1907, 1910, 1912, 1926 et seq., 1931 et seq., 1934, 2046, 2086, 2125, 2126, 2458, 2468 et seq., 2486, 2516, 2555, 2578, 2610, 2663, 2769, 2862, 2871, 2898, 3002, 3075, 3106, 3130, 3177.

RCC 1870, Art. 1930.
Same as above.

CC 1825, Art. 1924. (Projet, p. 257. Addition is adopted; no comment)
Same as above; but “contract” correctly spelled “contracts.”

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

Art. 1931. A contract may be violated, either actively by doing something inconsistent with the obligation it has proposed or passively by not doing what was covenanted to be done, or not doing it at the time, or in the manner stipulated or implied from the nature of the contract.

RCC—1926, 1930, 1932 et seq.

RCC 1870, Art. 1931.
Same as above.

CC 1825, Art. 1925. (Projet, p. 257. Addition is adopted; no comment)
Same as above; but comma (,) after “proposed.”

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

Art. 1932. When there is an active violation of the contract, damages are due from the moment the act of contravention has been done, and the creditor is under no obligation to put the debtor in default, in order to entitle him to his action.

RCC—1911, 1912, 1930, 1931, 1933, 1934.

RCC 1870, Art. 1932.
Same as above.
ART. 1933. When the breach has been passive only, damages are due from the time that the debtor has been put in default, in the manner directed in this chapter.

The rules contained in this and the preceding articles, however, are subject to the following exceptions and modifications:

1. When the thing to be given or done by the contract was of such a nature, that it could only be given or done within a certain time, which has elapsed, or under certain circumstances, which no longer exist, the debtor need not be put in legal delay to entitle the creditor to damages.

2. Where, by a fortuitous event or irresistible force, the debtor is hindered from giving or doing what he has contracted to give or do or is from the same causes compelled to do what the contract bound him not to do, no damages can be recovered for the inexecution of the contract.

3. There are two exceptions to the last rule: first, when the party in default has by his contract expressly or impliedly undertaken the risk of the fortuitous event, or of the irresistible force; secondly, if the fortuitous event, or case of force,* was preceded by some fault of the debtor, without which the loss would not have happened.

4. Although the responsibility of the debtor for the object he was bound to deliver, is incurred from the moment he is put in default, yet if it is lost by some fortuitous event or irresistible force, by which it would also have been lost had it been in the hands of the creditor, the debtor is not answerable for the value, but only for the delay.

RCC—577, 1250, 1833, 1891, 1905 et seq., 1911 et seq., 1926 et seq., 1930 et seq., 1934, 2044, 2046, 2047, 2096, 2120 et seq., 2125, 2126, 2219, 2312, 2470, 2473, 2486, 2507, 2516, 2533, 2897, 2743, 2754, 2862, 2899 et seq., 2939, 2970.

RCC 1870, Art. 1933. (Same as Art. 1933 of Proposed Revision of 1869)

Same as above.

ART. 1933. When the breach has been passive only, damages are due from the time that the debtor has been put in default, in the manner directed in this title.**

Par. 2 and subs. 1, 2 same as par. 2 and subs. 1, 2, above; but semicolon (;) after "to damages"; and after "of the contract"; comma (,) after "give or do."

RCC 1825, Art. 1926. (Projet, p. 257. Addition ✓ adopted; no comment)

Lorsque le contrat a été violé d’une manière active, il est dû des dommages, du moment que l’acte de contravention a été commis, et le créancier n’est pas obligé de mettre le débiteur en demeure, pour avoir droit d’action.

CC 1804. No corresponding article.

CC 1808. No corresponding article.
Art. 1933  COMPILED EDITION

3. There are two exceptions to the last rule; first, when the party in default has by his contract expressly or implicitly undertaken the risk of the fortuitous event, or of the irresistible force; secondly, if the fortuitous event, or case of force,* was preceded by some fault of the debtor, without which the loss would not have happened.

Subd. 4 same as subd. 4, above; but comma (,) after "been lost."

CC 1808, p. 268, Art. 46.

Damages are due only when the debtor has delayed to fulfill his obligation, except however in the thing which the debtor had obliged himself to give or do, could have been given or done only at a certain time, which he has suffered to elapse. (Suppressed on recommendation of redactors; see comment, Projet, p. 268)

-p. 268, Art. 47.

The debtor is condemned if there be occasion, to the payment of damages, either on account of the non execution of the obligation, or on account of the delay of execution, whenever he fails to prove that the non execution is owing to some extraneous cause, not to be imputed to him, and that there is no want of good faith on his part. (Suppressed on recommendation of redactors; see comment, Projet, p. 258)

-p. 268, Art. 48.

There is no room for any damages, when by irresistible force, or a fortuitous event, the debtor has been hindered from giving or doing what he was obliged
donnée ou faite que dans un certain temps qui s'est écoulé, ou sous de certaines circonstances qui n'existent plus, il n'est pas nécessaire de mettre le débiteur en demeure pour donner droit au créancier à des dommages;

2. Quand, par un cas fortuit ou de force majeure, le débiteur est empêché de donner ou de faire ce qu'il a promis, ou est contraint par les mêmes causes à faire ce qu'il s'était obligé par le contrat à ne pas faire, aucun dommages ne peuvent être recouvrés contre lui, en raison de l'inexécution du contrat;

3. Il y a deux exceptions à cette dernière règle. La première, quand la partie qui est en demeure, a expressément ou implicitement pris sur elle, par le contrat, le risque des cas fortuits ou de force majeure. La seconde, est quand le cas fortuit ou de force majeure* a été précédé de quelque faute de la part du débiteur, sans laquelle la perte ne serait pas arrivée;

4. Quoique la responsabilité du débiteur, relativement à l'objet qu'il était obligé de délivrer, soit encourue du moment où il est en demeure, néanmoins, si cet objet a été perdu par quelque cas fortuit ou de force majeure, qui aurait également causé sa perte, s'il avait été dans les mains du créancier, le débiteur ne sera pas responsable de la valeur de cet objet, mais seulement du retard de la livraison.

-p. 269, Art. 46.

Les dommages et intérêts ne sont dus, que lorsque le débiteur est en demeure de remplir son obligation, excepté néanmoins, lorsque la chose, que le débiteur s'était obligé de donner ou de faire, ne pouvait être donnée ou faite, que dans un certain temps, qu'il a laissé passer. (Suppressed on recommendation of redactors; see comment, Projet, p. 258)

-p. 269, Art. 47.

Le débiteur est condamné, s'il y a lieu, au payement de dommages intérêts, soit en raison de l'inexécution de l'obligation, soit à raison du retard dans l'exécution, toutes les fois qu'il ne justifie pas, que l'inexécution provient d'une cause étrangère qui ne peut lui être imputée, encore qu'il n'y ait aucune mauvaise foi de sa part. (Suppressed on recommendation of redactors; see comment, Projet, p. 258)

-p. 269, Art. 48.

Il n'y a lieu à aucuns dommages intérêts, lorsque, par suite d'une force majeure, ou d'un cas fortuit, le débiteur a été empêché de donner, ou de faire
to give or do, or has been compelled to do what he was bound not to do. (Suppressed on recommendation of redactors; see comment, Projet, p. 258)

CN 1804, Art. 1146.
Same as CC 1808, p. 268, Art. 46, above.

-Art. 1147.
Same as CC 1808, p. 268, Art. 47, above.

-Art. 1148.
Same as CC 1808, p. 268, Art. 48, above.

Le débiteur est condamné, s'il y a lieu, au paiement de dommages et intérêts, soit à raison de l'inexécution de l'obligation, soit à raison du retard dans l'exécution, toutes les fois qu'il ne justifie pas que l'inexécution provient d'une cause étrangère qui ne peut lui être imputée, encore qu'il n'y ait aucune mauvaise foi de sa part.

*Note error in English translation of French text; “case of force” should be “irresistible force.”

**Note error in English translation of French text; “this title” should be “the second section of this chapter.”

ART. 1934. Where the object of the contract is any thing but the payment of money, the damages due to the creditor for its breach are the amount of the loss he has sustained, and the profit of which he has been deprived, under the following exceptions and modifications:

1. When the debtor has been guilty of no fraud or bad faith, he is liable only for such damages as were contemplated, or may reasonably be supposed to have entered into the contemplation of the parties at the time of the contract. By bad faith in this and the next rule, is not meant the mere breach of faith in not complying with the contract, but a designed breach of it from some motive of interest or ill will.

2. When the inexecution of the contract has proceeded from fraud or bad faith, the debtor shall not only be liable to such damages as were, or might have been foreseen at the time of making the contract, but also to such as are the immediate and direct consequence of the breach of that contract; but even when there is fraud, the damages can not exceed this.*

3. Although the general rule is, that damages are the amount of the loss the creditor has sustained, or of the gain of which he has been deprived, yet there are cases in which damages may be assessed without calculating altogether** on the pecuniary loss, or the privation of pecuniary gain to the party. Where the contract has for its object the gratification of some intellectual enjoyment, whether in religion, morality or taste, or some convenience or other legal gratification, although these are not appreciated in money by the parties, yet dam-

1069
ages are due for their breach; a contract for a religious or charitable foundation, a promise of marriage, or an engagement for a work of some of the fine arts, are objects and examples of this rule.

In the assessment of damages under this rule, as well as in cases of offenses, quasi offenses, and quasi contracts, much discretion must be left to the judge or jury, while in other cases they have none, but are bound to give such damages under the above rules as will fully indemnify the creditor, whenever the contract has been broken by the fault, negligence, fraud or bad faith of the debtor.

4. If the creditor be guilty of any bad faith, which retards or prevents the execution of the contract, or if, at the time of making it, he knew of any facts that must prevent or delay its performance, and concealed them from the debtor, he is not entitled to damages.

5. Where the parties, by their contract, have determined the sum that shall be paid as damages for its breach, the creditor must recover that sum, but is not entitled to more. But when the contract is executed in part, the damages agreed on by the parties may be reduced to the loss really suffered, and the gain of which the party has been deprived, unless there has been an express agreement that the sum fixed by the contract shall be paid, even on a partial breach of the agreement.


RCC 1870, Art. 1934. (Same as Art. 1934 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1928. (Projet, p. 258. Substitution amended and adopted; no comment)

Lorsque l'objet du contrat consiste dans toute autre chose que le payement d'une somme d'argent, les dommages dus au créancier pour la violation du contrat, sont de la perte qu'il a faite, ou du gain dont il a été privé, sauf les exceptions et les modifications ci-après:

1. Lorsque le débiteur n'a été coupable d'aucune fraude ou mauvaise foi, il n'est sujet qu'aux dommages que les parties ont eu ou peuvent raisonnablement être supposées avoir eu en vue, au temps du contrat. La mauvaise foi, dont il est question dans cet article et le suivant, ne s'entend pas d'une simple violation de promesse qui résulterait de l'inexécution du contrat, mais d'une violation faite à dessein, et d'après quelque motif d'intérêt ou de mauvaise volonté;

2. Quand l'inexécution du contrat est le résultat de la fraude ou de la mauvaise foi, le débiteur est sujet, non seulement à tous les dommages qui ont été ou pu être prévus à l'époque où le contrat a été fait, mais encore à ceux qui sont la conséquence immédiate et directe de la violation du contrat; né-
5. Where the parties, by their contract, have determined the sum that shall be paid as damages for its breach, the creditor must recover that sum, but is not entitled to more. But when the contract is not executed in part, the damages agreed on by the parties may be reduced to the loss really suffered, and the gain of which the party has been deprived, unless there has been an express agreement that the sum fixed by the contract shall be paid, even on a partial breach of the agreement.

CC 1808, p. 266, Art. 49.

The damages due to the creditor are generally for the loss he has sustained anmoins, même dans le cas de fraude, ces dommages ne peuvent excéder ceux dont il est fait mention dans cet article*:

3. Quoique la règle générale soit que les dommages doivent être de la perte que le créancier a éprouvée, et du gain dont il a été privé, il est des cas où des dommages peuvent être accordés, sans les calculer en aucune manière** sur la perte pécuniaire, ou la privation du gain que la partie peut avoir éprouvée. Lorsque le contrat a pour but de procurer à quelqu'un une jouissance purement intellectuelle, telle que celles qui tiennent à la religion, à la morale, au goût, à la commodité ou à toute autre espèce de satisfaction de ce genre, quoique ces choses n'aient pas été appréciées en argent par les parties, des dommages n'en seront pas moins dus pour la violation de la convention. Un contrat, qui a pour but une fondation religieuse ou charitable, une promesse de mariage, ou l'entreprise de quelqu'ouvrage appartenant aux beaux arts, offre l'exemple d'un cas auquel cette règle peut s'appliquer.

Les dommages, qui doivent être accordés d'après cette règle, et dans les cas de délits, quasi-délits et quasi-contrats, sont laissés en grande partie à la prudence du juge ou du jury pour leur fixation; mais dans les autres cas, le juge ni le jury n'ont aucune discrétion à exercer, et ils doivent accorder les dommages-intérêts, qui, d'après les dispositions précédentes, peuvent dédommager le créancier de la violation du contrat, lorsqu'elle a été la suite de la faute, de la négligence, de la fraude, ou de la mauvaise foi du débiteur;

4. Si le créancier est coupable de quelque mauvaise foi, qui retarde ou empêche l'exécution du contrat, ou si, à l'époque où il a été passé, le créancier avait connaissance de quelques faits, qui devaient empêcher ou retarder l'exécution, et les a cachés au débiteur, il n'aura droit à aucuns dommages;

5. Lorsque les parties, au temps du contrat, ont fixé la somme qui serait payée comme dommage, pour sa violation, le créancier peut exiger cette somme, mais n'a pas droit à davantage. Néanmoins, si le contrat est exécuté en partie, les dommages dont les contractants sont convenus, peuvent être réduits à la perte qui a été réellement soufferte, et au gain dont la partie a été privée, à moins qu'il n'ait été expressément stipulé que la somme fixée par le contrat serait payée même dans le cas d'une violation partielle.

- p. 269, Art. 49.

Les dommages intérêts dus au créancier sont, en général, de la perte qu'il
Art. 1935

The damages due for delay in the performance of an obligation to pay money are called interest. The creditor is entitled to these damages without proving any loss, and whatever loss he may have suffered he can recover no more.

RCC—360, 545, 547, 587, 611, 1208, 1409, 1629, 1631, 1912, 1934, 1936 et seq., 1943, 1944, 2311, 2346, 2553, 2559, 2592, 2610, 2800, 2858, 2922, 2923 et seq., 2948, 3015, 3025, 3128, 3405. CP—157, 553. Acts 1908, No. 168(3); 1920, No. 17(1); 1921, E.S., No. 59(3). RS—320 et seq.

RCC 1870, Art. 1935.

Same as above.
CC 1825, Art. 1929.

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

CC 1808, p. 270, Art. 53.

In obligations confined to the payment of a certain sum, the damages arising from delay in the execution, are never adjudged to exceed the interest fixed by law, except where particular rules of commerce and suretyship govern the case.

Those damages are due without the creditor's being required to prove any loss.

They are due only from the day they are demanded, except in cases where the law makes them accrue of right. (Suppressed on recommendation of redactors; see comment, Projet, p. 260)

CN 1804, Art. 1153.

Same as above.

ART. 1936. Interest is of two kinds, conventional and legal; the rate of both is fixed by law in the chapter on loans on interest.


RCC 1870, Art. 1936.

Same as above.

CC 1825, Art. 1930.  (Projet, p. 259. Addition † adopted; no comment)

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1937. In contracts stipulating a conventional interest, it is due without demand, from the time stipulated for its commencement until the principal is paid.


RCC 1870, Art. 1937. (Same as Art. 1937 of Proposed Revision of 1869)
Art. 1938  

**COMPILED EDITION**

**CC 1825, Art. 1931.** (Projet, p. 259. Addition adopted; no comment)

In contracts stipulating a conventional interest, it is due without any demand, from the time stipulated for its commencement until the principal is paid.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.


**ART. 1938.** All debts shall bear interest at the rate of five per centum per annum from the time they become due, unless otherwise stipulated.


**RCC 1870, Art. 1938.** (Same as Art. 1938 of Proposed Revision of 1869; same as Acts 1852, No. 121; similar to Acts 1855, No. 291, §1 (RS §1 1883))

**CC 1825, Art. 1932.** (Projet, p. 259. Substitution adopted; no comment)

In contracts, which do not stipulate for the payment of interest, it is due from the time the debtor is put in default for the payment of the principal, and is to be calculated on whatsoever sum shall be found by the judgment to have been due at the time of the default.*

**-Art. 1933.** (Projet, p. 259. Substitution adopted; no comment)

When the sum is due for property yielding a revenue, interest is due from the time the principal is payable, without any demand.

**CC 1808, pp. 270, 271, Art. 53.**

Quoted under RCC 1870, Art. 1935, above.

**CN 1804, Art. 1153.**

Quoted under RCC 1870, Art. 1935, above.

*Note error in English translation of French text; “the default” should be “this demand.”

**ART. 1939.** Interest upon interest cannot be recovered unless it be added to the principal, and by another contract made a new debt. No stipulation to that effect [effect] in the original contract is valid.

The provisions of this Article shall be held to apply to all persons, partnerships and corporations irrespective of custom or of the character of business in which they are engaged. (As amended by Acts 1924, No. 161)

RCC—1935, 1941, 1944, 2185, 2189 (1), 2924. RS—1889.

**RCC 1870, Art. 1939.**

Interest upon interest can not be recovered, unless it be added to the principal, and by another contract made a new debt. No stipulation to that effect in the original contract is valid.
The surety, who is obliged to pay money for his principal, is not bound by the preceding rule respecting interest on interest; he shall receive interest on the whole sum he has paid, whether for principal or interest from the time of the payment, without any demand.

RCC—1939, 1944, 2134, 2924, 3052.
ART. 1942. The interest on loans, on bottomry and respondentia,* may also exceed the rate of legal or conventional interest.

RCC—1936, 2924. Acts 1928, No. 92; 1928, E.S., No. 7; 1940, No. 108.

RCC 1870, Art. 1942.
Same as above.


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

*Note error in English translation of French text; "loans, on bottomry and respondentia" should be "bottomry and respondentia loans."

ART. 1943. The debtor is liable only to such damages as were foreseen, or might have been foreseen at the time of contracting, when it is not owing to his fraud that the obligation has not been executed.

RCC—1819, 1847, 1934, 1935.

RCC 1870, Art. 1943.
Same as above.

CC 1825, Art. 1938. (No reference in Projet) Le débiteur n'est tenu que des dommages-intérêts, qui ont été prévus, ou qu'on a pu prévoir lors du contrat, lorsque ce n'est point par son dol que l'obligation n'est point exécutée.

CC 1808, p. 268, Art. 50. -p. 269, Art. 50.
Le débiteur n'est tenu, que des dommages et intérêts qui ont été prévus, ou qu'on a pu prévoir lors du contrat, lorsque ce n'est point par son dol que l'obligation n'est point exécutée.

CN 1804, Art. 1150.
Same as above; but no punctuation after "tenu", or after "prévu."

ART. 1944. Sums, which are due for yearly rents, for annuities, either forever or for life, bear interest from the day they become due, either by the terms of his agreement or otherwise. The same rule applies to sums due for the restitution of fruits, or for interest paid by a third person in discharge of the debtor.

RCC—545, 547, 1631, 1935, 1938, 1939, 1941, 2134, 2787, 2793 et seq., 2800, 3052.
CIVIL CODES OF LOUISIANA

RCC 1870, Art. 1944. (Same as Art. 1944 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 1939. (Projet, p. 260. Amendment adopted; no comment)
Sums, which are due for yearly rents, for annuities, either forever or for life, bear interest from the day the debtor was in default, either by the terms of his agreement or otherwise. The same rule applies to sums due for the restitution of profits, or for interest paid by a third person in discharge of the debtor.

CC 1808, p. 270, Art. 55.
Nevertheless income fallen due, such as rent, hire, arrearages of perpetual rents or annuities, bear interest from the day they are demanded, or from the day of the agreement. The same rule applies to restitutions of fruits and to interest paid by a third person to the creditor in discharge of the debtor.

CN 1804, Art. 1155.
Same as above.

Section 5—of the Interpretation of Agreements

Art. 1945. Legal agreements having the effects of law upon the parties, none but the parties can abrogate or modify them. Upon this principle are established the following rules:

First—That no general or special legislative act can be so construed as to avoid or modify a legal contract previously made:

Second—That courts are bound to give legal effect to all such contracts according to the true intent of all the parties;

Third—That the intent is to be determined by the words of the contract, when these are clear and explicit and lead to no absurd consequences;

Fourth—That it is the common intent of the parties—that is, the intention of all—that is to be sought for; if there was a difference in this intent, there was no common consent and, consequently, no contract. (As amended by Acts 1871, No. 87)
ART. 1946

COMPiled EDITION

RCC 1870, Art. 1945.

Par. 1 and subs. 1, 2 same as par. 1 and subs. 1, 2, above; but period (.) after "made", and after "all the parties."

3. That the intent is to be determined by the words of the contract, when these are clear and explicit, and lead to no absurd consequence.

4. That it is the common intent of the parties, that is, the interest* of all, that is to be sought for; if there was a difference in this intent, there was no common consent, and consequently no contract.

All the articles of this section contain rules established by law for discovering the intent, when either the words of the agreement are ambiguous or circumstances render it doubtful. They apply as well to verbal as to written agreements.

CC 1825, Art. 1940. (Projet, p. 260. Addition † adopted; comment by redactors)

Same as above; but semicolon (;) after "made", after "all the parties", and after "consequence"; comma (,) after "ambiguous."

Les conventions, qui sont licites, ayant force de loi entre les parties contractantes, nul autre qu'elles ne peut les abroger ou les modifier. C'est sur ce principe que sont établies les règles suivantes:

1. Qu'aucune disposition générale ou spéciale d'un acte de la législature, ne peut être interprétée de manière à annuler (annuller) ou modifier un contrat licite, passé antérieurement à cet acte;

2. Que les juges sont tenus de donner à ces contrats tout leur effet légal, suivant la véritable intention des parties;

3. Que c'est d'après les termes du contrat, quand ils sont clairs et sans ambiguïté, et qu'il n'en résulte aucune conséquence absurde, qu'on doit déterminer quelle a été l'intention des parties;

4. Que c'est l'intention commune des parties, c'est-à-dire, l'intention* de toutes, qu'il faut rechercher. S'il y a quelque différence dans cette intention, il n'y a point de consentement réciproque, et par conséquent, point de contrat. Tous les articles de cette section contiennent les règles qui sont établies par la loi, pour découvrir quelle a été l'intention des parties, lorsque les termes de la convention sont ambigus, ou que d'autres circonstances rendent leur sens douteux, et ils s'appliquent également aux contrats verbaux et aux contrats par écrit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "interest" should be "intention."

Art. 1946. The words of a contract are to be understood, like those of a law, in the common and usual signification, without attending so much to grammatical rules, as to general and popular use.

RCC—14, 18, 1712, 1841, 1945, 1950, 2060, 2061.

RCC 1870, Art. 1946. Same as above.

CC 1825, Art. 1941. (Projet, p. 261. Addition † adopted; comment by redactors)

Same as above.

Les termes d'un contrat, comme ceux de la loi, doivent être entendus dans leur
CIVIL CODES OF LOUISIANA

Art. 1949

signification la plus connue et la plus usitée, sans s'attacher autant aux règles de la grammaire qu'à leur acception générale et vulgaire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1947. Terms of art or technical phrases are to be interpreted according to their received meaning with those who profess the art or profession to which they belong.

RCC—15, 2738.

Same as above.

CC 1825, Art. 1942. (Projet, p. 261. Addition adopted; comment by redactors)
Les termes de l'art et les phrases techniques doivent être interprétés suivant leur acception reçue parmi les personnes versées dans l'art ou la profession où ils sont employés.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1948. When there is a doubt as to the true sense of the words of a contract, they may be explained by referring to other words or phrases used in making the same contract.

RCC—16 et seq., 1945, 1950 et seq., 1955, 2027.

RCC 1870, Art. 1948.
Same as above.

CC 1825, Art. 1943. (Projet, p. 261. Addition adopted; comment by redactors)
Lorsqu'il y a doute sur le véritable sens des termes d'un contrat, ils peuvent être expliqués suivant le rapport qu'ils peuvent avoir avec d'autres mots ou phrases, dont on a fait usage dans le même contrat.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1949. When there is anything doubtful in one contract, it may be explained by referring to other contracts or agreements made on the same subject between the same parties, before or after the agreement in question.

RCC—17, 1950, 1956, 2027.

RCC 1870, Art. 1949. (Same as Art. 1949 of Proposed Revision of 1869)
Same as above.

1079
Art. 1950

When there is any thing doubtful in one contract, it may be explained by referring to other contracts or agreements made on the same subject between the same parties, before or after the agreement in question.

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

Art. 1950. When there is anything doubtful in agreements, we must endeavor to ascertain what was the common intention of the parties, rather than to adhere to the literal sense of the terms.


RCC 1870, Art. 1950.
Same as above.

CC 1825, Art. 1945.
Same as above.

CC 1808, p. 270, Art. 56.
In agreements we must endeavor to ascertain what was the common intention of the parties, rather than to adhere to the literal sense of the terms.

CN 1804, Art. 1156.
Same as above.

Art. 1951. When a clause is susceptible of two interpretations, it must be understood in that in which it may have some effect, rather than in a sense which would render it nugatory.


RCC 1870, Art. 1951.
Same as above.

CC 1825, Art. 1946.
Same, as above.

CC 1808, p. 270, Art. 57.
Same as above.
ART. 1952. Terms, that present two meanings, must be taken in the sense most congruous to the matter of the contract.


RCC 1870, Art. 1952.
Same as above.

CC 1825, Art. 1947 (No reference in Projet)
Same as above.

Same as above; but no punctuation after “Terms.”

CN 1804, Art. 1158.
Same as above.

ART. 1953. Whatever is ambiguous is determined according to the usage of the country where the contract is made.


RCC 1870, Art. 1953.
Same as above.

CC 1825, Art. 1948. (No reference in Projet)
Same as above; but comma (,) after “ambiguous.”

Whatever is ambiguous is determined according to the usage of the country where the contract was made.

CN 1804, Art. 1159.
Same as above.

ART. 1954. In contracts, the clauses in common use must be supplied, though they be not expressed.


RCC 1870, Art. 1954.
Same as above.

CC 1825, Art. 1949. (No reference in Projet)
Same as above.

On doit suppléer dans le contrat les clauses qui y sont d’usage quoiqu’elles n’y soient pas exprimées.
Art. 1955

All clauses of agreements are interpreted the one by the other, giving to each the sense that results from the entire act.


ART. 1956. When the intent of the parties is doubtful, the construction put upon it, by the manner in which it has been executed by both, or by one with the express or implied assent of the other, furnishes a rule for its interpretation.


ART. 1957. In a doubtful case the agreement is interpreted against him who has contracted the obligation. (As amended by Acts 1871, No. 87)

RCC—753, 1956, 1958, 2474.
CIVIL CODES OF LOUISIANA

**Art. 1959**

CC 1825, Art. 1952.

*(No reference in Projet)*

In a doubtful case, the agreement is interpreted against him who* has contracted the obligation.

CC 1808, p. 270, Art. 62.

*In a doubtful case, the agreement is interpreted against him who has stipulated and in favor of him who has contracted the obligation.*

CN 1804, Art. 1162.

Same as above.

*English translation of French text incomplete; should include “has stipulated and in favor of him who.”*

**Art. 1958.** But if the doubt or obscurity arise for the want of necessary explanation which one of the parties ought to have given, or from any other negligence or fault of his, the construction most favorable to the other party shall be adopted, whether he be obligor or obligee.

RCC—753, 1837, 1956, 1957, 2132, 2474.

RCC 1870, Art. 1958.

Same as above.

CC 1825, Art. 1953.

*(Projet, p. 262. Addition † adopted; no comment)*

*Mais si le doute ou l'obscurité provient du défaut de l'explication nécessaire que l'une des parties aurait dû donner, ou de quelque autre négligence ou faute de sa part, l'interprétation se fera en faveur de l'autre partie, soit qu'elle soit créancière ou débitrice.*

CC 1808. No corresponding article.

CN 1804. No corresponding article.

**Art. 1959.** However general be the terms in which a contract is couched, it extends only to the things concerning which it appears that the parties intended to contract.


RCC 1870, Art. 1959.

Same as above.

CC 1825, Art. 1954.

*(No reference in Projet)*

*Quelques généraux que soient les termes, dans lesquels une convention est conçue, elle ne comprend que les choses sur lesquelles il paraît que les parties se sont proposé de contracter.*

CC 1808, p. 270, Art. 63.

*Same as above; but comma (,) after “things.”*

CN 1804, Art. 1163.

Same as above.

*Same as above; but no punctuation after “termes.”*
Art. 1960. But when the object of the contract is an aggregate composed of many or of different articles, there the general description or aggregate name will include all the particular articles which enter into the composition of the whole, although they were not specified, or were even unknown to both or either of the parties. A release* of a share in a succession, under this rule, shall not be set aside on an allegation that the succession contained more or less than was supposed; where there is concealment, however, or fraud, it would be void under other rules before laid down.


Same as above.

CC 1825, Art. 1955. (Projet, p. 262. Addition † adopted; comment by redactors)
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “release” should be “renunciation.”

Art. 1961. The rule, laid down in the last article, must also be taken with the further modification that, although the aggregate appellation or description be used, yet, if by some other part of the contract, it appears that the intent of the parties was not to include the whole, but only that part of which they had notice, such evident intent shall correct the universality of the description. Thus, in a release* of a whole share in a succession, if there be a reference to an inventory as descriptive of what that share is, the contract, notwithstanding the general terms, shall be confined to what is contained in the inventory.


Same as above.

CC 1825, Art. 1956. (Projet, p. 262. Addition adopted; no comment)
Same as above; but comma (,) after “modification.”
soit servi d’une dénomination ou description générale qui désigne un tout composé de différentes parties, néanmoins, si, par quelqu’autre clause du contrat, il paraît que l’intention des contractants n’a pas été de comprendre le tout, mais seulement la partie dont l’existence leur était connue, alors cette intention évidente corrigerait l’universalité de la description. Ainsi, dans la renonciation* qui serait faite de la totalité de la part que quelqu’un avait dans une succession, s’il s’est référé à un inventaire pour décrire en quoi consistait cette part, le contrat, malgré ses termes généraux, sera restreint à ce qui est contenu dans l’inventaire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “release” should be “renunciation.”

ART. 1962. When a contract contains general obligations, and the parties, in order to avoid a doubt whether a particular case comes within the scope of the agreement, have made special provision for such case, the general terms of the contract shall not on this account be restricted to the single case that is provided for.

RCC—1959, 3073.

RCC 1870, Art. 1962.
Same as above.

CC 1825, Art. 1957. (Projet, p. 262. Substitution adopted; no comment)

Lorsqu’un contrat contient des obligations générales, et que les parties, afin d’éviter toute espèce de doute sur la question de savoir si un cas particulier est compris sous les termes du contrat, ont stipulé sur cet objet par une clause spéciale, les termes généraux du contrat ne seront pas restreints au seul cas auquel il a été pourvu.

CC 1808, p. 270, Art. 64.

When in a contract, a case has been expressed for the explanation of the obligation, it is not understood that by that the parties intended to restrict the extent which the engagement receives of right, to the cases not expressed. (Suppressed on recommendation of redactors; see comment, Projet, p. 262)

CN 1804, Art. 1164.
Same as above.
Section 6—OF THE OBLIGATIONS TO PERFORM, AS INCIDENTS TO A CONTRACT ALL THAT IS REQUIRED BY EQUITY, USAGE, OR LAW* 

*See general comment by redactors, Projet, p. 263.

ART. 1963. When the intent of the parties is evident and lawful, neither equity nor usage can be resorted to, in order to enlarge or restrain that intent, nor can any law operate to that effect, unless it be some prohibition or other provision, which the parties had no right to modify or renounce.

RCC—8, 11, 12, 21, 1763, 1764, 1798, 1802, 1803, 1901, 1903, 1917, 1945.

RCC 1870, Art. 1963. Same as above.

CC 1825, Art. 1958. (Projet, p. 263. Addition † adopted; no comment) Quand l'intention des parties est évidente et licite, on ne doit avoir recours ni à l'équité, ni à l'usage, pour étendre ou restreindre l'effet de cette intention, et aucune loi ne peut opérer cet effet, à moins qu'elle ne contienne quelque prohibition ou autre disposition, à laquelle les parties n'avaient pas le droit de porter atteinte ou de renoncer.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1964. Equity, usage and law supply such incidents only as the parties may reasonably be supposed to have been silent upon from a knowledge that they would be supplied from one of these sources.


RCC 1870, Art. 1964. Same as above.

CC 1825, Art. 1959. (Projet, p. 263. Addition † adopted; no comment) L'équité, l'usage ou la loi, ne peuvent suppléer qu'aux cas sur lesquels on peut raisonnablement supposer que les parties n'ont gardé le silence, qu'en raison de ce qu'elles savaient qu'il y serait supplié en ayant recours à l'une de ces sources.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1965. The equity intended by this rule is founded in the christian* principle not to do unto others that which we would not wish others should do unto us; and on the moral maxim of the law that no one ought to enrich himself at the expense of another. When the law
of the land, and that which the parties have made for themselves by their contract, are silent, courts must apply these principles to determine what ought to be incidents to a contract, which are required by equity.


RCC 1870, Art. 1965.
Same as above.

CC 1825, Art. 1960. (Projet, p. 263. Addition † adopted; no comment)
Same as above; but comma (,) after "us."

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "christian" should be "religious."
**Note error in English translation of French text; "must" should be "may."

ART. 1966. By the word usage mentioned in the preceding articles, is meant that which is generally practiced in affairs of the same nature with that which forms the subject of the contract.

House rent in some cities is generally paid by the month; in others by the quarter. In a contract for the hire of a house, without expressing when the rent was to be paid, the deficiency would be supplied by proof of the usage, but if a contrary intent appear in the contract, the usage would not contravene it.


RCC 1870, Art. 1966.
Same as above.

CC 1825, Art. 1961. (Projet, p. 263. Addition † adopted; no comment)
Same as above; but comma (,) after "month."
Art. 1967

The law, intended by the rule before referred to, means such legislative provisions as provide for those cases in which the parties have not declared their intention. When the contracting parties have not derogated from such law, its provisions are to be followed. The laws directing a community of matrimonial gains and a warranty on sales, are examples of this kind of legislative provision [provisions], which take effect and regulate the contract when the parties make no agreement that contravene them.

RCC—1, 1764, 1901, 1903, 1964, 2332, 2399, 2424, 2501, 2503 et seq.


(Same as Art. 1967 of Proposed Revision of 1869)

Same as above.

Section 7—what contracts shall be avoided by persons not parties to them

Art. 1968. Contracts, considered with respect to their operation on property, either purport to transfer ownership or to give some determinate right upon it. A sale or exchange is an example of the first, a pledge or mortgage of the second of these species of contracts. There is a third right implied in all obligations, to wit: That the property of the debtor shall be liable for all consequences attending their non-performance; but this right can not be exercised, unless the contract be broken, nor until judgment be obtained for the recovery of what is due in consequence of its breach.

RCC—1761, 1799, 1901, 1903, 1904, 1907, 1912, 1926, 1972, 2046, 2047, 2439, 2660, 3133, 3165, 3182, 3183, 3278.
ART. 1969. From the principle established by the last preceding article, it results that every act done by a debtor with the intent of depriving his creditor of the eventual right he has upon the property of such debtor, is illegal, and ought, as respects such creditor, to be avoided. This can be done in the mode and under the circumstances set forth in the following rules.


RCC 1870, Art. 1969. Same as above.

CC 1825, Art. 1964. (Projet, p. 264. Substitution adopted; general comment by redactors, p. 263)

D'après les principes établis dans l'article précédent, il résulte que tout acte, fait par un débiteur avec l'intention de priver son créancier du droit éventuel qu'il a sur ses biens, est illégal, et doit être révoqué en ce qui concerne ce créancier, ce qui peut se faire suivant le mode et dans les circonstances dont il est fait mention dans les règles suivantes.

-p. 273, Art. 66.

Néanmoins, les créanciers peuvent exercer tous les droits et actions de leur débiteur, à l'exception de ceux qui sont exclusivement attachés à la personne. (Suppressed on recommendation of redactors; see comment, Projet, p. 263)

-p. 273, Art. 67.

Ils peuvent aussi, en leur nom personnel, attaquer les actes faits par leur débiteur, en fraude de leurs droits. (Suppressed on recommendation of redactors; see comment, Projet, p. 263)
§1—Of the Action of the Creditors in Avoidance of Contract, and Its Incidents

ART. 1970. The law gives to every creditor, when there is no cession of goods, as well as to the representatives of all the creditors where there is any such cession, or other proceedings by which they are collectively represented, an action to annul any contract made in fraud of their rights.


Same as above.

CC 1825, Art. 1965. (Projet, p. 264. Addition adopted; no comment)
La loi donne à tout créancier, lorsqu'il n'y a point de cession de bien [biens], et aux représentants de tous les créanciers, lorsqu'une cession de biens ou tout autre acte a eu lieu, d'après lequel ils sont collectivement représentés, une action pour faire révoquer tout contrat fait en fraude de leurs droits.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1971. This* action can only be exercised when the debtor has not property sufficient to pay the debt of the complaining creditor, or of all his creditors where there has been a cession, or any proceeding analogous thereto.


Same as above.

CC 1825, Art. 1966. (Projet, p. 265. Addition adopted; no comment)
Cette action révocatoire* ne peut être exercée que quand le débiteur n'a pas de biens suffisants pour payer ce qui est dû au créancier qui se plaint, ou à tous ses créanciers, quand il y a une cession de biens ou quelqu'autre acte de la même nature.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "revocatory."
Art. 1972. It can not be exercised by individual creditors, until their debts are liquidated by a judgment, unless the defendant in such action be made party to the suit for liquidating the debt brought against the original debtor in the manner hereinafter directed.


Same as above.

Same as above.

Art. 1973. The defendant in such action may demand a discussion of the property belonging to the original debtor, before any judgment shall be pronounced in the suit to avoid the contract; and on his pointing out and proving the existence of such property situate within this State, and the title to which is not in dispute, the suit against him shall be staid until such property shall be discussed,* and if the result of this discussion be that the property pointed out is not applicable to the payment of the plaintiff, the defendant shall bear all the expenses of the same.

RCC—1970 et seq., 1975, 2574. CP—71 et seq.

Same as above.

CC 1825, Art. 1968.
Same as above; but comma (,) after "contract"; no punctuation after "State."

*Note error in English translation of French text; "dismissed" should be "discussed."
Art. 1974

ART. 1974. If, during the pendency of the action given by this section, the original debtor discharges the debt due to the plaintiff, or acquires the property applicable to its payment and sufficient in amount, such action can no longer be sustained, it being the true intent of the law that a contract avoidable by creditors under this section can not, on that account, be avoided by either of the parties.


Same as above.

Art. 1975. The plaintiff in the action given in this section may join the suit for annulling the contract to that which he brings against the original debtor for liquidating his debt by a judgment, and in such suit either of the defendants may controvert the demand of the plaintiff.

RCC—1786, 1795, 1972 et seq.

RCC 1870, Art. 1975.
Same as above.

Art. 1976. When the defendant in the action given by this section has not been made party to the suit against the original debtor, he may controvert the demand of the plaintiff, although it be liquidated by a judgment, in the same manner that the debtor might have done before the judgment.

RCC—1972.

Same as above.
§2—What Contracts Shall Be Avoided by This Action

Art. 1978. No contract shall be avoided by this action but such as are made in fraud of creditors, and such as, if carried into execution, would have the effect of defrauding them. If made in good faith, it can not be annulled, although it prove injurious to the creditors; and although made in bad faith, it can not be rescinded, unless it operate to their injury.

Art. 1979. If the contract be onerous, and the original debtor made it with intent to defraud his creditors, but the person, with whom he contracted, was in good faith, the contract can not be annulled, except under the circumstances and in the manner hereinafter provided.


Same as above.

Same as above.

Art. 1980. If the contract be purely gratuitous, it shall be presumed to have been made in fraud of creditors, if, at the time of making it, the debtor had not over and above the amount of his debts, more than* twice the amount of the property passed by such gratuitous contract.


Same as above.

Same as above.

*"More than" has no counterpart in French text.
CIVIL CODES OF LOUISIANA  Art. 1982

**ART. 1981.** If the contract be onerous, but made in fraud on the part of the debtor, but in good faith on the part of the person with whom he contracted, if the value of the property transferred by such contract exceed by one-fifth the price or consideration given for it, the creditors may annul the contract, and take back the property on paying the price or the value of the consideration with interest, but in this case they shall not receive the fruits.


**RCC 1870, Art. 1981.**
Same as above.

**CC 1825, Art. 1976.**
(Projet, p. 266. Addition adopted; no comment)
Si le contrat est onéreux, mais fait en fraude de la part du débiteur, et de bonne foi de la part de celui avec qui il a contracté, et que la valeur de la chose, dont la propriété a été transférée par ce contrat, excède d’un cinquième le prix qui a été donné, les créanciers peuvent faire révoquer le contrat, et reprendre la chose, à la charge par eux de rembourser ce prix avec les intérêts ; mais dans ce cas ils n’auront point droit à réclamer les fruits.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**ART. 1982.** If the party, with whom the debtor contracted be in fraud as well as the debtor, he shall not, on the annulling the contract be entitled to a restitution of the price or consideration he may have paid, except for so much as he shall prove has inured to the benefit of the creditors by adding to the amount of property applicable to the payment of their debts; but if the only consideration be a sum due from such debtor to the party with whom he contracted, then the only restitution to be made is the placing the parties in the situation in which they were before the contract complained of was made.


**RCC 1870, Art. 1982.**
Same as above.

**CC 1825, Art. 1977.**
(Projet, p. 266. Addition adopted; no comment)
Si la partie, avec laquelle le débiteur a contracté, est en fraude aussi bien que lui, elle n’aura point droit, sur la révocation du contrat, à demander aucun remboursement du prix qu’elle peut avoir payé, si ce n’est de ce qu’elle prouvera avoir tourné au profit des créanciers, en augmentant le montant des biens qui sont applicables au paiement de leurs créances. Mais si l’unique prix payé pour la chose, a été en l’acquit d’une somme due par le débiteur à la partie avec laquelle il a contracté, alors la seule restitution à faire sera de re-
ART. 1983. But if such fraud consisted merely in the endeavor to obtain a preference over other creditors, for the securing of payment of a just debt, under circumstances in which by law the endeavor to obtain such preference is declared to be a constructive fraud* in such case the party shall only lose the advantage endeavored to be secured by such contract, and shall be reimbursed what he may have given or paid, but without interest; and he shall restore all advantages he has received from the transaction.


ART. 1984. Every contract shall be deemed to have been made in fraud of creditors, when the obligee knew that the obligor was in insolvent circumstances, and when such contract gives to the obligee, if he be a creditor, any advantage over other creditors of the obligor.


*Note error in English translation of French text; “be a constructive fraud” should be “create a presumption of fraud.”

ART. 1984. Tout contrat sera censé avoir été fait en fraude des créanciers, lorsque le créancier savait que le débiteur était en état d’insolvabilité, et lorsque le contrat donne à ce créancier un avantage sur les autres créanciers de son débiteur.
ART. 1985. By being in insolvent circumstances is meant, that the whole property and credits are not equal in amount, at a fair appraisement, to the debts due by the party. And if he, who alleges the insolvency shows the amount of debts, it is incumbent on the other party to show property to an equal or greater amount. To prove the state of his affairs at the period of the contract, the debtor may, at the option of the plaintiff, be examined as a witness in the action for annuling the contract.


Same as above.

Same as above.

(Projet, p. 267. Addition adopted; no comment)
On entend qu'un débiteur est en état d'insolvabilité, lorsque la totalité de ses biens et de ses créances, estimées à une juste valeur, n'est pas égale au montant de ses dettes; et si la partie, qui allège l'insolvabilité de l'autre, prouve quel est le montant de ses dettes, c'est à cette dernière à prouver qu'elle a des biens d'une valeur égale ou plus grande. Le débiteur peut être entendu comme témoin, si le créancier le requiert, pour prouver l'état de ses affaires à l'époque du contrat, sur toute action qui aurait pour but de faire révoquer ce contrat.

ART. 1986. No sale of property, or other contract made in the usual course of the party’s business, nor any payment of a just debt in money, shall be affected by virtue of any provision in this section, although the party was in insolvent circumstances, and the person with whom he contracted, or to whom he made the payment, knew of such insolvency.


Same as above.

Same as above.

(Projet, p. 267. Addition † adopted; no comment)
Aucune vente de biens, ou autre contrat fait dans le cours des affaires ordinaires de la partie contractante, ni aucun payement d'une dette légitime fait en argent, ne sera affecté par aucune des dispositions contenues dans la présente section, quoique cette partie fût en état d'insolvabilité, et quoique la personne avec laquelle elle a contracté, ou à laquelle elle a fait ce payement, eût connaissance de son état d'insolvabilité.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 1987. No contract made between the debtor and one of his creditors for the purpose of securing a just debt, shall be set aside under this section, although the debtor were insolvent to the knowledge of the creditor with whom he contracted, and although the other creditors are injured thereby, if such contract were made more than one year before bringing the suit to avoid it, and if it contain no other cause of nullity than the preference given to one creditor over another.


Same as above.

Same as above.

(Projet, p. 267. Addition adopted; no comment)
Aucun contrat, fait entre le débiteur et l'un de ses créanciers, à l'effet de lui assurer le paiement d'une dette légitime, ne sera annulé (annulé) en vertu des dispositions de la présente section, quoique le débiteur fût insolvant, à la connaissance du créancier avec qui il a contracté, et quoique les autres créanciers en reçoivent préjudice, si ce contrat est passé depuis plus d'un an avant l'institution du procès à l'effet de le révoquer, et si ce contrat ne contient point d'autre cause de nullité que celle de la préférence donnée à un créancier sur un autre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 1988. If a debtor, in insolvent circumstances, shall anticipate the payment of a debt not yet payable, and shall make this payment to the injury of the creditors whose debts were either then due, or would fall due before that of which he anticipated the payment, this shall be deemed to have been done in fraud of the creditors, and the creditor so preferred shall be obliged to share the loss ratably with the complaining creditors, each creditor, however, preserving the right of mortgage or privilege, if any, which his original debt gave him by law.


Same as above.

(Projet, p. 267. Addition † adopted; no comment)
Si un débiteur, qui est en état d'insolvenabilité, paye par anticipation une dette non encore échue, et fait ce paiement au préjudice d'autres créanciers, dont les créances soient déjà dues, ou qui doivent échoir avant le terme de celle qu'il a payée par anticipation, ce paiement sera censé fait en fraude des créanciers, et le créancier, ainsi préféré, sera obligé de participer au déficit qui...
CIVIL CODES OF LOUISIANA

Art. 1990

itors, each creditor, however, preserving the right of mortgage or privilege, if any, which his original debt gave him by law.

en résultera, par contribution avec les autres créanciers qui se sont plaints, chacun de ces créanciers conservant les droits d'hypothèque ou de privilège que la nature de sa créance originale l'autorise à réclamer.

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

*English translation of French text incomplete; should include “make this payment.”

ART. 1989. Not only contracts which dispose of property, but all others which are made in fraud of creditors, and deprive them of their recourse to the property of their debtor, come within the provisions of this section. The renunciation of a succession or other right to property, the release of a debt without payment, or any other act of this kind, may be avoided by creditors, when done to their prejudice, under the rules above established.


Same as above.

Same as above.

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

ART. 1990. In case the debtor refuse or neglect to accept an inheritance to the prejudice of his creditors, they may accept the same, and exercise all his rights in the manner provided for in the title of successions, and they are authorized, by virtue of the action given by this section, to exercise all the rights existing in favor of the debtor for recovering possession of the property to which he is entitled, in order to make the same available to the payment of their debts.


RCC 1870, Art. 1990. (Same as Art. 1990 of Proposed Revision of 19
Same as above.
**Art. 1991**

**COMPILED EDITION**

**CC 1825, Art. 1985.**  
(Projet, p. 268. Addition † adopted; no comment)  
In case the debtor refuse or neglect to accept an inheritance to the prejudice of his creditors, they may accept the same, and exercise all his rights in the manner provided for in the title of successions, and they are authorized, by virtue of the action given by this section, to exercise all the rights which the debtor could do for recovering possession of the property to which he is entitled, in order to make the same available to the payment of their debts.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**ART. 1991.** There are rights of the debtor, however, which the creditor [creditors] can not exercise, even should he refuse to avail himself of them.

They can not require the separation of property between husband and wife; nor can they oblige their debtor to accept a donation inter vivos made to him, nor can they accept it in his stead. Neither can they call on a coheir of the debtor to collate, when such debtor has not exercised that right.

**RCC—1235, 1504, 1543, 1989, 1992, 2433, 2434, 2585. CP—904.**

**RCC 1870, Art. 1991.**  
Same as above.

**CC 1825, Art. 1986.**  
(Projet, p. 268. Addition adopted; no comment)  
Il existe cependant des droits du débiteur que les créanciers ne peuvent exercer, même lorsqu'il refuse de s'en prévaloir. Ils ne peuvent requérir une séparation de biens entre mari et femme, ni obliger leur débiteur à accepter une donation entre-vifs qui lui a été faite, ni l'accepter en sa place; ils ne peuvent non plus obliger un co-héritier de leur débiteur à faire un rapport, lorsque leur débiteur n'a pas exercé ce droit.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**ART. 1992.** There are also rights which are merely personal, that can not be made liable to the payment of debts, and therefore no contract respecting them comes within the provision of this section; these are the rights of personal servitude, of use and habitation, of usufruct of the estate of a minor child, to the income of dotal property, to money due for the salary of an office,* or wages, or recompense for personal services.


1100
Il y a aussi des droits qui, étant purement personnels, ne peuvent être affectés au payement d'aucunes dettes; en conséquence, aucun contrat touchant ces droits, ne peut être compris sous les règles de cette section; tels sont les droits d'une servitude personnelle, d'usage et d'habitation, et ceux d'usufruit du bien d'un mineur; tels sont aussi les droits aux revenus des biens dotaux, aux sommes dues pour salaires d'emploi public,* pour des gages, ou pour récompense de services personnels.

*Note error in English translation of French text; "an office" should be "a public office."

**ART. 1994.** The action given by this section, is limited to one year; if brought by a creditor individually, to be counted from the time he has obtained judgment against the debtor; if brought by syndics or other representatives of the creditors collectively, to be counted from the day of their appointment.

Chapter 4—Of the Different Kinds of Obligations

Section 1—General Division of the Subject

Art. 1995. The preceding chapters of this title have established rules applicable to contracts in general; this contains an enumeration of such obligations as are usually inserted in different contracts, and the following chapters show how they may be formed, proved and extinguished. Subsequent titles enumerate the different kinds of contracts into which the general obligations may enter, and provide rules for their government.

RCC—1996, 2130, 2232, 2233.

Same as above.

CC 1825, Art. 1990.
(Projet, p. 268. Addition † adopted; no comment)
Les précédens chapitres de ce titre renferment des règles qui sont applicables à tous les contrats en général; celui-ci contient l'enumération de toutes les espèces d'obligations, qui peuvent être stipulées dans les divers contrats, et les chapitres suivans montreront de quelle manière elles peuvent être contractées, prouvées et éteintes. Des titres subséquens seront consacrés à faire le détail des différentes espèces de contrats, dans lesquels ces obligations générales peuvent être contenues, et prescriront les règles qui doivent les gouverner.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 1996. Independent of the division of obligations contained in the first chapter of this title, those that usually enter into particular contracts, may be further distinguished by the following classification:

Those which are strictly personal, or heritable, or real;
Simple or conditional;
Limited or unlimited as to the time of performance;
Disjunctive* or alternative;
In relation to the parties, joint, several, or in solido;
In their nature, divisible or indivisible;
As to their form, penal or not penal.

Each of these divisions forms the subject of a different section of this chapter.


RCC 1870, Art. 1996.
Same as above.
CIVIL CODES OF LOUISIANA  

Art. 1997


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

Indépendamment de la division des obligations, dont il est fait mention dans le premier chapitre de ce titre, les obligations, qui sont ordinairement stipulées dans les contrats particuliers, peuvent être divisées de la manière suivante, savoir:

- En personnelles, transmissibles ou réelles;
- En simples ou conditionnelles;
- En obligations à terme ou sans terme, relativement au temps de leur exécution;
- En obligations conjointes* ou alternatives;
- En conjointes, séparées ou solidaires relativement aux parties;
- En divisibles ou indivisibles, relativement à leur nature;
- En obligations pénales ou non pénales, relativement à leur forme.

Chacune de ces divisions forme le sujet d’une section séparée dans ce chapitre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “Disjunctive” should be “Conjunctive.”

Section 2—OF STRICTLY PERSONAL, HERITABLE AND REAL OBLIGATIONS*

*See general comment by redactors, Projet, p. 272.

ART. 1997. An obligation is strictly personal, when none but the obligee can enforce the performance, or when it can be enforced only against the obligor.

It is heritable when the heirs and assigns of the one party may enforce the performance against the heirs of the other.

It is real when it is attached to immovable property, and passes with it into whatever hands it may come, without making the third possessor personally responsible.


RCC 1870, Art. 1997.  (Same as Art. 1997 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 1992.  (Projet, p. 269. Addition † adopted; no comment)

Pars. 1, 2 same as pars. 1, 2, above; but comma (,) after “heritable.”

Une obligation est pure personnelle, lorsque nul, excepté le créancier, ne peut contraindre à son exécution, ou lorsque l’exécution n’en peut être exigée que contre le débiteur.
Art. 1998

An obligation may be personal as to the obligee, and heritable as to the obligor, and it may in like manner be heritable as to the obligee, and personal as to the obligor.


Same as above.

Same as above.

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

Art. 1999. Every obligation shall be deemed to be heritable as to both parties, unless the contrary be specially expressed, or necessarily implied from the nature of the contract.


Same as above.

CC 1825, Art. 1994. (Projet, p. 269. Addition adopted; no comment)
Toute obligation sera censée transmissible, relativement aux deux parties, à moins que le contraire ne soit expressément stipulé, ou ne résulte implicitement de la nature du contrat.

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

Art. 2000. The obligation shall be presumed to be personal on the part of the obligor, whenever, in a contract to do, he undertakes to perform any thing that requires his personal skill or attention; in this case, if that, which was to be done, was not solely and exclusively for the use or gratification of the obligee, the obligation, although personal as to the obligor, will be heritable against the heirs of the obligee for the equivalent to be paid or given for that which was to be done.

CIVIL CODES OF LOUISIANA

Same as above.

CC 1825, Art. 1995.  (Projet, p. 269. Addition adopted; no comment)
Same as above.

L'obligation sera présumée personnelle de la part du débiteur, toutes les fois que, dans un contrat qui consiste à faire, il entreprend de faire une chose qui requiert son habileté ou son application personnelle; dans ce cas, si la chose, qui devait être faite, n'est pas destinée seulement et exclusivement à l'usage ou à l'agrément du créancier, l'obligation, quoique personnelle, relativement au débiteur, sera transmissible contre les héritiers du créancier, à l'égard de l'équivalent qui doit être payé ou donné pour la chose qui devait être faite.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2001. The obligation shall be presumed to be personal as to the obligee, in a contract to do or to give, when that which was to be done or given, was exclusively for the personal gratification of the obligee, and could produce no benefit to his heirs.


Same as above.

CC 1825, Art. 1996.  (Projet, p. 270. Addition adopted; no comment)
Same as above.

L'obligation sera présumée être personnelle, relativement au créancier, dans un contrat qui consiste à faire ou à donner, lorsque la chose, qui devait être faite ou donnée, était exclusivement pour l'agrément du créancier, et ne pouvait produire aucun avantage à ses héritiers.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2002. In case of obligations purely personal as to the obligor,* if he have received an equivalent that can be appreciated in money as a consideration, but dies before performance of his obligation,** his heirs may be obliged to restore it or its value.


Same as above.

Same as above.

Dans le cas d'une obligation purement personnelle, relativement au créancier,* s'il a reçu un équivalent qui puisse être estimé en argent, comme étant le prix de la chose, et qu'il meure avant l'exé-
ART. 2003. In like manner, if the obligation be purely personal as to the obligee who dies before performance, his heirs may recover from the obligor the value of any equivalent he may have received.


Same as above.

CC 1825, Art. 1998. (Projet, p. 270. Addition adopted; no comment)
De la même manière, si l'obligation est purement personnelle, relativement au créancier qui vient à mourir, avant son exécution, ses héritiers peuvent recouvrer du débiteur la valeur de l'équivalent qu'il peut avoir reçu.

ART. 2004. An obligation to pay an annuity to a certain person during the life of the obligor,* is personal as to both, and is extinguished by the death of either.


Same as above.

CC 1825, Art. 1999. (Projet, p. 270. Addition adopted; no comment)
Une obligation de payer une rente annuelle à une certaine personne, pendant la vie du créancier,* est personnelle quant aux deux parties, et est éteinte par la mort de l'une ou de l'autre.

ART. 2005. A merely personal obligation to do, imposed by testament as the condition on which a legacy is to take effect, is void, if the legatee die before performance, or before he has been put in default; but the legacy will take effect.


RCC 1870, Art. 2005. (Same as Art. 2005 of Proposed Revision of 1869) 

1106
CIVIL CODES OF LOUISIANA

Art. 2007

(Projet, p. 270. Addition adopted; no comment)
A merely personal obligation to do, imposed by testament as the condition on which a legacy is to take effect, is void, if the legatee die before performance, or before he has been put in default, and the legacy will take effect.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2006. But if what is to be done, be a thing that can as well be done by the heirs of the legatee as by him, the obligation shall be heritable, and they must perform it before the legacy can take effect. The provisions of this and the preceding article relate only to testamentary dispositions.


Same as above.

(Projet, p. 270. Addition adopted; no comment)
Néanmoins, lorsque ce qui devait être fait, est une chose qui peut être aussi bien faite par les héritiers du légataire que par lui-même, l'obligation sera transmissible, et les héritiers devront exécuter la chose, avant que le legs puisse avoir effet.
Les dispositions de cet article et du précédent ne sont relatives qu’aux donations testamentaires.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2007. All contracts for the hire of labor, skill or industry, without any distinction, whether they can be as well performed by any other as by the obligor, unless there be some special agreement to the contrary, are considered as personal on the part of the obligor, but heritable on the part of the obligee.

Contracts of mandate and partnership are mutually personal.


RCC 1870, Art. 2007.
Same as above.

(Projet, p. 270. Addition adopted; no comment)
Tous les contrats de louage d’ouvrages, ou pour l’exercice de quelque art ou talent, sans aucune distinction quelconque, quoiqu’ils puissent être aussi bien exécutés par toute autre personne que par l’obligé, à moins d’une convention expresse qui soit contraire, sont considérés comme personnels de la part...
ART. 2008. Heritable obligations and stipulations give to and impose upon heirs, assigns, and other representatives, the same duties and rights that the original parties had and were liable to, except that beneficiary heirs can only be liable to the amount of the succession.

Same as above.

CC 1825, Art. 2003. (Projet, p. 270. Addition adopted; no comment)
Les obligations et conventions transmissibles donnent aux héritiers, ayants cause, et autres représentants, les mêmes droits que les parties originaires pouvaient avoir, et leur imposent les mêmes devoirs auxquels ceux-ci étaient assujettis, excepté que les héritiers bénéficiaires ne peuvent être obligés que jusqu'à concurrence du montant de la succession.

RCC 1870, Art. 2009. (Same as Art. 2009 of Proposed Revision of 1869)
All rights, acquired by an heritable obligation, may be assigned*; this assignment may be made, expressly by contract granting such right, or impliedly by the conveyance of the property to which they are attached.


RCC 1870, Art. 2009.
Same as above.

CC 1825, Art. 2004. (Projet, p. 270. Addition adopted; no comment)
Tous les droits, qui sont acquis en vertu d'une obligation transmissible, peuvent être cédés et transportés*; et ce transport peut se faire ou expressément par contrat, en cédant ses droits, ou implicitement par la vente des biens auxquels ces droits sont attachés.

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

*English translation of French text incomplete; should include “and transferred.”
ART. 2010. When obligations are attached to immovable property, they form the third branch of the first division of obligations of this chapter, and are called real obligations.


RCC 1870, Art. 2010. (Same as Art. 2010 of Proposed Revision of 1869)
Same as above.

When obligations are attached to real property, they form the third branch of the first division of obligations of this chapter, and are called real obligations.

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

ART. 2011. Not only the obligation, but the right resulting from a contract relative to immovable property, passes with the property. Thus the right of servitude in favor of immovable property, passes with it, and thus also the heir or other acquirer will have the right to enforce a contract made for the improvement of the property by the person from whom he acquired it.


RCC 1870, Art. 2011. (Same as Art. 2011 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2006. (Projet, p. 271. Addition amended in French text and adopted; no comment)
Not only the obligation, but the right resulting from a contract relative to real property, passes with the property. Thus, the right of servitude in favor of real property, passes with it, and thus also the heir or other acquirer will have the right to enforce a contract made for the improvement of the property by the person from whom he acquired it.

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

ART. 2012. Real obligations may be created in three ways:
1. By the alienation of immovable property, subject to a real condition, either expressed or implied by law.
2. By alienating to one person the immovable property, and to another, some real right to be exercised upon it.
3. By the creation of a right of mortgage upon the immovable property.

All these contracts give rise to obligations purely real on the part of those who acquire the land, under whatever species of title they
possess it; they are not personally liable, but the real property is, and, by abandoning it to the obligee, they relieve themselves from all responsibility.

A sale subject to a rent charge, or to a right of redemption as consideration* of the sale, are examples of the first kind of obligations; servitudes, the right of use and habitation and usufruct, are examples of the second; and the several kinds of mortgages, and the creation of a rent charge, of the third.


RCC 1870, Art. 2012. (Same as Art. 2012 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2007. (Projet, p. 271. Addition † adopted; no comment)

Par. 1 same as par. 1, above.

1. By the alienation of real property, subject to a real condition, either expressed or implied by law;
2. By alienating to one person the real property, and to another, some real right to be exercised upon it;
3. By the creation of a right of mortgage upon it.

All those contracts give rise to obligations purely real on the part of those who acquire the land, under whatever species of title they possess it; they are not personally liable, but the real property is, and by abandoning it to the obligee, they relieve themselves from all responsibility.

Last par. same as last par., above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “consideration” should be “a condition.”

ART. 2013. The real obligation, created by condition annexed to the alienation of real property, is susceptible of all the modifications that the will of the parties can suggest, except such as are forbidden by law. These conditions are either conditions precedent, which suspend the operation of the contract until they are performed, or subsequent and resolutory, which, unless they are performed, annul the contract. These will be more fully defined in the section which treats of conditional obligations.

ART. 2015. Not only servitudes, but leases and all other* rights, which the owner had imposed on his land before the alienation of the soil, form real obligations which accompany it in the hands of the person who acquires it, although he have made no stipulation on the subject, or they be not mentioned in the act of transfer. The purchaser may, if the circumstances permit it, have relief against the seller for concealment of such charges; but the law establishes the rule that no one can transfer a greater right than he himself has, except where the neglect of some formality required by law has subjected the owner of the real incumbrance to a loss of his right, in favor of a creditor or** bona fide purchaser.

Art. 2016

The several kinds of mortgages, which create a real obligation, and the rules to which they are subject, will be found in the corresponding title of this book.

RCC-2012, 2019, 3278 et seq.

RCC 1870, Art. 2016.

Same as above.


Les différentes espèces d'hypothèques, qui créent une obligation réelle, et les règles auxquelles elles sont assujetties, sont contenues dans le titre de ce code, qui correspond à cette matière.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2017. A rent charge, created by way of condition to the alienation of the property, has been hereinbefore explained. But a rent charge may be created and imposed on particular property, independent of any alienation of it, for the security or extinguishment of a debt; and it may be perpetual or temporary, and, in either case, forms a real obligation, which passes with the land.

RCC-1769, 2011 et seq., 2018, 2779 et seq., 2788.


Same as above.
ART. 2019. By the constitution of rent charge, the possession of the property does not pass to the obligee; it is merely a designation of the property, which is subject to the obligation. Should the possession be delivered, it becomes another species of contract, called antichresis, the rules relative to which are found under the proper head.

RCC—1769, 2017, 3135, 3176 et seq.

ART. 2018. Considered with respect to those who have contracted them, some real obligations are also personal; such are those created by mortgage for the payment of a debt. Others are strictly real, both as to the contracting party and his heirs or other successors. A mortgage given to secure the debt of another, without any obligation of personal responsibility, is an example of this latter kind. But no real obligation is personal, as to a subsequent possessor of the property on which it is created, unless he has made it such by his own act.

Art. 2020

Simple obligations are such as are not dependent for their execution on any event provided for by the parties, and which are not agreed to become void, on the happening of any such event.

RCC—542, 1776, 1996, 2092.

Same as above.

CC 1825, Art. 2015.
Same as above. (Projet, p. 273. Addition adopted; no comment)

Une obligation simple est celle qui ne dépend, pour son exécution, d'aucun événement prévu par les parties, ou dont la nullité n'a pas été convenue, dans le cas où cet événement arriverait.

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

Art. 2021. Conditional obligations are such as are made to depend on an uncertain event. If the obligation is not to take effect until the event happen, it is a suspensive condition; if the obligation takes effect immediately, but is liable to be defeated when the event happens, it is then a resolutory condition.


Same as above.

CC 1825, Art. 2016. (Projet, p. 273. Amendment adopted; comment by redactors)

Les obligations conditionnelles sont celles qu'on fait dépendre d'un événement incertain. Si l'obligation ne doit pas avoir d'effet jusqu'à ce que l'événement arrive, c'est une condition sus-
ART. 2022. Conditions, whether suspensive or resolutory, are either casual, potestative or mixed.


RCC 1870, Art. 2022.  
Same as above.

(Projet, p. 273. Addition adopted; no comment)  
Les conditions suspensives ou résolutoires, sont casuelles, potestatives ou mixtes.

CC 1808.  No corresponding article.

CN 1804.  No corresponding article.

ART. 2023. The casual condition is that which depends on chance, and is no way in the power either of the creditor or of the debtor.

RCC—2022, 2047, 2223, 2982.

Same as above.

(No reference in Projet)  
La condition casuelle est celle qui dépend du hasard, et qui n'est nullement au pouvoir du créancier ni du débiteur.

CC 1808, p. 272, Art. 69.  
Same as above.

CN 1804, Art. 1169.  
Same as above.
ART. 2024. The potestative condition is that which makes the execution of the agreement depend on an event which it is in the power of the one or the other of the contracting parties to bring about or to hinder.

RCC—1529, 1566, 1802, 2022, 2034 et seq., 2982.

RCC 1870, Art. 2024.
Same as above.

Same as above.

CC 1808, p. 272, Art. 70.
Same as above.

CC 1804, Art. 1170.
Same as above.

ART. 2025. A mixed condition is one that depends at the same time on the will of one of the parties and on the will of a third person, or on the will of one of the parties and also on a casual event.

RCC—2022, 2451.

RCC 1870, Art. 2025.
Same as above.

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

CC 1808, p. 272, Art. 71.
The mixt condition is that which depends at once on the will of one of the contracting parties, and on the will of a third person.

CN 1804, Art. 1171.
Same as above.

ART. 2026. Conditions are either express or implied. They are express, when they appear in the contract; they are implied, whenever they result from the operation of law, from the nature of the contract, or from the presumed intent of the parties.

ART. 2026. Same as above.

CC 1825, Art. 2021. (Projet, p. 273. Addition adopted; no comment) Les conditions sont expressées ou tacites; elles sont expressées, lorsqu'elles sont stipulées formellement dans le contrat; elles sont tacites, quand elles résultent des dispositions de la loi, de la nature du contrat, ou de l'intention présumée des parties.

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

ART. 2027. Whether the parties intended to create a condition or only to modify the obligation without making its existence depend on the event, must be determined, in doubtful cases, by applying the rules hereinbefore established for the interpretation of obligations.

RCC—1764, 1948 et seq.

RCC 1870, Art. 2027. Same as above.

CC 1825, Art. 2022. (Projet, p. 273. Addition adopted; no comment) Lorsqu'il est question de déterminer si les parties ont eu l'intention d'établir une condition, ou seulement de modifier l'obligation, sans faire dépendre son existence de l'événement, on doit, dans les cas douteux, se gouverner d'après les règles qui ont été ci-dessus établies pour l'interprétation des obligations.

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

ART. 2028. The contract of which the condition forms a part is, like all others, complete by the assent of the parties; the obligee has a right of which the obligor can not deprive him; its exercise is only suspended, or may be defeated, according to the nature of the condition.


RCC 1870, Art. 2028. Same as above.

CC 1825, Art. 2023. (Projet, p. 274. Addition adopted; no comment) Le contrat, dont une condition forme partie, devient, comme toutes les autres conventions, parfait par le consentement des contractants. Le créancier a un droit dont le débiteur ne peut le priver, mais dont l'exercice est seulement suspendu, ou peut être détruit, suivant la nature de la condition.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
Art. 2029. The right, described in the last preceding article, is heritable, if it be not one of those that result from an obligation designated in the preceding section as a personal one.


RCC 1870, Art. 2029. Same as above.

CC 1825, Art. 2024. (Projet, p. 274. Addition adopted; no comment) Le droit, dont il est fait mention dans l'article précédent, est transmissible, s'il n'est pas de la nature de ceux qui dérivent d'une des obligations qui sont désignées dans la section précédente, comme étant purement personnelles.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

Art. 2030. The right acquired by a legatee under a conditional bequest, is the same as that given to an obligee by contract, and creates a corresponding obligation on the heirs to deliver the legacy on the happening of the condition. But there is this difference, that (except the case provided for in the last preceding section, of the condition to do a merely personal act), the right is not transmitted to the heirs of the legatee, in case he die before the condition happens, unless the testator has expressed a different intention.


RCC 1870, Art. 2030. (Same as Art. 2030 of Proposed Revision of 1869) Same as above.

CC 1825, Art. 2025. (Projet, p. 274. Addition amended in French text and adopted; no comment) Le droit acquis à un légataire pour un legs conditionnel, est le même que celui qui est donné par un contrat, et soumet également les héritiers à l'obligation de délivrer le legs, lors de l'événement de la condition. Mais il y a cette différence qu'à l'exception du cas prévu dans la précédente section, lorsque la condition consiste à faire un acte purement personnel, le droit n'est pas transmis aux héritiers du légataire, s'il vient à mourir avant que la condition arrive, à moins que le testateur n'ait exprimé une intention différente.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Projet du Gouvernement (1800), Book III, Title II, Art. 71.

Conditions attached to acts inter vivos may be fulfilled after the death of him for whose benefit the obligation is contracted.

Les conditions apposées aux actes entre-vifs peuvent s'accomplir après la mort de celui au profit duquel l'obligation est contractée.

"To an obligee” has no counterpart in French text.
ART. 2031. Every condition of a thing impossible, or contra bonos mores (repugnant to moral conduct) or prohibited by law, is null, and renders void the agreement which depends on it.

RCC—11, 1519, 1520, 1527, 1530, 1565, 1690, 1710, 1761, 1762, 1764, 1779, 1824, 1891, 1892, 1895, 1901, 2013, 2032, 2033, 2325, 2804.

RCC 1870, Art. 2031.
Same as above.

CC 1825, Art. 2026. (No reference in Projet)
Same as above.

Same as above; but no punctuation after "impossible", or after "null."

CN 1804, Art. 1172. Same as above.

"(repugnant to moral conduct)" has no counterpart in French text.

ART. 2032. The condition not to do a thing impossible, does not render void the obligation contracted under that condition.

RCC—1929, 2031, 2033.

RCC 1870, Art. 2032.
Same as above.

CC 1825, Art. 2027. (No reference in Projet)
Same as above.

CC 1808, p. 272, Art. 73. -p. 273, Art. 73.
Same as above.

CN 1804, Art. 1173. Same as above.

ART. 2033. Physical and moral impossibilities only are intended by the preceding articles. If the condition be only relatively impossible, that is to say, impracticable by the obligor, only from the want of skill, strength or means, but practicable by another, it is not an impossible condition.

RCC—1891, 1892, 2031, 2032.

RCC 1870, Art. 2033.
Same as above.

CC 1825, Art. 2028. (Projet, p. 274. Addition adopted; no comment)
Same as above; but colon (:) after "articles."
Art. 2034. Every obligation is null, that has been contracted, on a potestative condition, on the part of him who binds himself.

RCC—1519, 1529, 1566, 1764, 1776, 2022, 2024, 2035.

RCC 1870, Art. 2035.
Same as above.

Art. 2035. The last preceding article is limited to potestative conditions, which make the obligation depend solely on the exercise of the obligor's will; but if the condition be, that the obligor shall do or not do a certain act, although the doing or not doing of the act depends on the will of the obligor, yet the obligation depending on such condition, is not void.

RCC—1529, 1566, 1776, 2022, 2024, 2034, 2461.

Art. 2036. An obligation may also be made, by consent of the parties, to depend on the will of the obligee for its duration.
Thus a lease may be made during the will of the lessor, and a sale may be made conditioned to be void, if the vendor chooses to redeem the property sold.

RCC—2022, 2024, 2567, 2684.

RCC 1870, Art. 2036.
Same as above.

CC 1825, Art. 2031. (Projet, p. 274. Addition amended and adopted; no comment)
Les parties peuvent également convenir que la durée d'une obligation dépend de la volonté du créancier; ainsi, un bail à loyer peut être fait pour durer à la volonté du locateur, et une vente être passée, à condition qu'elle sera résolue, si le vendeur juge à propos de racheter la chose vendue.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2037. Every condition must be performed in the manner that it is probable that the parties wished and intended that it should be.

RCC—1699, 1945, 1950, 2030, 2112, 3073.

RCC 1870, Art. 2037.
Same as above.

CC 1825, Art. 2032. (No reference in Projet)
Toute condition doit être accomplie, de la manière que les parties ont vraisemblablement voulu et entendu qu'elle le fût.

CC 1808, p. 272, Art. 75.
Same as above.

CN 1804, Art. 1175.
Same as above.

ART. 2038. When an obligation has been contracted on condition that an event shall happen within a limited time, the condition is considered as broken, when the time has expired without the event having taken place. If there be no time fixed, the condition may always be performed, and it is not considered as broken, until it is become certain that the event will not happen.

RCC—2039, 2043, 2047, 2049 et seq.

RCC 1870, Art. 2038.
Same as above.

CC 1825, Art. 2033. (No reference in Projet)
Lorsqu'une obligation est contractée sous la condition qu'un événement arrivera dans un temps fixé, cette condition est censée défaiille, lorsque le temps
Art. 2039

When an obligation has been contracted on condition that an event shall happen within a limited (limited) time, the condition is considered as broken when the time has expired without the event's having taken place. If there be no time fixed, the condition may always be performed, and it is not considered as broken, until it is become certain that the event will not happen.

CC 1808, p. 272, Art. 76.

When an obligation has been contracteed on condition that an event shall happen within a limited (limited) time, the condition is considered as broken when the time has expired without the event's having taken place. If there be no time fixed, the condition may always be performed, and it is not considered as broken, until it is become certain that the event will not happen.

CN 1804, Art. 1176.

Same as CC 1825, Art. 2033, above.

ART. 2039. When an obligation has been contracted on condition that a particular event shall not happen within a certain space of time, that condition is fulfilled, when that time is elapsed without the event's having taken place; it is equally fulfilled, if, before the expiration of the time, it be certain that the event will not take place; and if the time be not fixed, the condition is not complied with, until it be certain that the event will not happen.

RCC—2038, 2049, 2051.

RCC 1870, Art. 2039.

Same as above.

CC 1825, Art. 2034.

(No reference in Projet)

Lorsqu'une obligation est contractée sous la condition qu'un événement n'arrivera pas dans un temps fixé, cette condition est accomplie, lorsque ce temps est expiré, sans que l'événement soit arrivé; elle l'est également, si, avant le terme, il est certain que cette condition [l'événement] n'arrivera pas; et s'il n'y a pas de temps déterminé, elle n'est accomplie, que lorsqu'il est certain que l'événement n'arrivera pas.

CC 1808, p. 272, Art. 77.

Same as above; but no punctuation after "contracted", after "is fulfilled", after "equally fulfilled", or after "fulfilled if."

-p. 273, Art. 77.

Lorsqu'une obligation est contractée, sous la condition qu'un événement n'arrivera pas dans un temps fixé, cette condition est accomplie, lorsque ce temps est expiré, sans que l'événement soit arrivé; elle l'est également, si, avant le terme, il est certain que cette condition [l'événement] n'arrivera pas; et s'il n'y a pas de temps déterminé, elle n'est accomplie que, lorsqu'il est certain que l'événement n'arrivera pas.
ART. 2041. The condition being complied with, has a retroactive effect to the day that the engagement was contracted; if the creditor dies before the accomplishment of the condition, his rights devolve on his heirs.

Art. 2042. The creditor may, before the fulfillment of the condition, perform all acts conservatory of his rights.

RCC—2028. CP—221, 224.

RCC 1870, Art. 2042.
Same as above.

CC 1825, Art. 2037.
(No reference in Projet)
Le créancier peut, avant que la condition soit accomplie, exercer tous les actes conservatoires de son droit.

CC 1808, p. 274, Art. 80.
Same as above; but no punctuation after “may.”

CC 1808, p. 274, Art. 81.
Par. 1 same as par. 1, above; but no punctuation after “depends.”
In the former case, the obligation cannot be executed till after the event; in the latter, the obligation has its effect from the day on which it was contracted.

CN 1804, Art. 1180.
Same as above.

§2—Of the Suspensive Condition

Art. 2043. The obligation contracted on a suspensive condition, is that which depends, either on a future and uncertain event, or on an event which has actually taken place, without its being yet known to the parties.

In the former case, the obligation can not be executed till after the event; in the latter, the obligation has its effect from the day on which it was contracted, but it can not be enforced until the event be known.


RCC 1870, Art. 2043.
Same as above.

CC 1825, Art. 2038.
(Projet, p. 274. Amendment adopted; no comment)
L'obligation contractée sous une condition suspensive, est celle qui dépend, ou d’un événement futur et incertain, ou d’un événement actuellement arrivé, mais encore inconnu des parties.
Dans le premier cas, l’obligation ne peut être exécutée qu’après l’événement. Dans le second cas, l’obligation a son effet du jour où elle a été contractée; mais son exécution ne peut être exigée jusqu’à ce que l’événement soit connu.

CC 1808, p. 274, Art. 81.
Par. 1, 2 same as paras. 1, 2, above.

CN 1804, Art 1181.
Same as above; but no punctuation after “suspensive”, or after “dépend.”
ART. 2044. When the obligation has been contracted on a suspensive condition, the thing, which forms the subject of the contract, is at the risk of the obligor, until the event which forms the condition has happened, subject however to the following restrictions and modifications of his responsibility:

If the thing be entirely destroyed, without the fault of the debtor, the obligation is extinguished.

If the thing be impaired, without the fault of the debtor, it is at the option of the creditor, either to dissolve the obligation, or to require the thing in the state in which it is, without diminution of the price.

If the thing be impaired, through the fault of the debtor, the creditor has a right to dissolve the obligation, or to require the thing in the state in which it is, with damages.

RCC—1907, 1908, 1915, 1918, 1933, 1934, 2043, 2096, 2121, 2130, 2219, 2316, 2460, 2471, 2758, 2879.

RCC 1870, Art. 2044.
Same as above.

CC 1825, Art. 2039. (Projet, p. 275. Amendment amended in French text and adopted; no comment)
Same as above; but semicolon (;) after “extinguished”, and after “price.”

CC 1808, p. 274, Art. 82.
When the obligation has been contracted on a suspensive condition, the thing which forms the subject of the agreement, remains at the risk of the debtor, who has bound himself to deliver it, only in case of the event of the condition.

Pars. 2-4 same as pars. 2-4, above; but period (.) after “extinguished”; and after “price”; no punctuation after “either to dissolve the obligation.”

-p. 275, Art. 82.
Lorsque l’obligation a été contractée sous une condition suspensive, la chose, qui fait la matière de la convention, demeure aux risques du débiteur, jusqu’à ce que l’événement, qui est le sujet de la condition, soit arrivé, ce qui est néanmoins soumis aux restrictions et modifications suivantes, relativement à sa responsabilité:

Si la chose est entièrement perie sans la faute du débiteur, l’obligation est éteinte;

Si la chose s’est détériorée sans la faute du débiteur, le créancier a le choix, ou de résoudre l’obligation, ou d’exiger la chose dans l’état où elle se trouve, sans diminuer le prix;

Si la chose s’est détériorée, par la faute du débiteur, le créancier a le droit de résoudre l’obligation, ou d’exiger la chose dans l’état où elle se trouve, avec des dommages-intérêts.
§3—Of the Resolutory Condition

Art. 2045. The dissolving* condition is that which, when accomplished, operates the revocation of the obligation, placing matters in the same state as though the obligation had not existed.

It does not suspend the execution of the obligation; it only obliges the creditor to restore what he has received, in case the event provided for in the condition takes place.

RCC—608, 735, 736, 783, 806, 821, 822, 1448, 1535, 1568, 1569, 1793, 2013, 2021, 2022, 2028, 2041, 2046, 2047, 2051, 2119, 2130, 2308, 2457, 2566, 2567, 2572, 2577, 2587, 2588.

RCC 1870, Art. 2045.
Same as above.

CC 1825, Art. 2040. (No reference in Projet)
Same as above.

CC 1808, p. 274, Art. 83.
Same as above.

CN 1804, Art. 1183.
Same as above.

*The word "résolutoire", meaning "resolutory", is alternatively translated as "dissolving."

Art. 2046. A resolutory condition is implied in all commutative contracts, to take effect, in case either of the parties do not comply with his engagements; in this case the contract is not dis-
solved of right; the party complaining of a breach of the contract may either sue for its dissolution with damages, or, if the circumstances of the case permit, demand a specific performance.


RCC 1870, Art. 2046.
Same as above.

CC 1825, Art. 2041. (Projet, p. 275. Amendment † adopted; no comment)
Same as above; but colon (:) after “engagements”; comma (,) after “dissolution.”

CC 1808, p. 274, Art. 84.
The dissolving condition is always understood in synallagmatic contracts, in case of either of the parties not complying with his engagements.

In this case, the contract is not dissolved of right, the party towards whom the engagement has not been executed, has the option either to compel the other party to the execution of the agreement, if it be possible, or to require its dissolution, with damages.
The dissolution must be sued for at law, and the defendant may be allowed delay, according to circumstances.

CN 1804, Art. 1184.
Same as above.

ART. 2047. In all cases the dissolution of a contract may be demanded by suit or by exception; and when the resolutory condition is an event, not depending on the will of either party, the contract is dissolved of right; but, in other cases, it must be sued for, and the party in default may, according to circumstances, have a further time allowed for the performance of the condition.


RCC 1870, Art. 2047.
Same as above.

CC 1825, Art. 2042. (Projet, p. 275. Amendment adopted; no comment)
Same as above; but comma (,) after “cases”, after “exception”, and after “right”; semicolon (;) after “sued for.”

Dans tous les cas, la résolution d'un contrat peut être demandée par action ou par voie d'exception; et lorsque la
Section 4—OF LIMITED AND UNLIMITED OBLIGATIONS, AS TO THE 
TIME OF THEIR PERFORMANCE

ART. 2048. The time given or limited for the performance of 
an obligation, is called its term.

ART. 2049. A term may not only consist of a determinate lapse 
of time, but also of an event, provided that event be in the course of 
nature, certain; if it be uncertain, it forms a condition.

ART. 2050. When no term is fixed by the parties for the per-
formance of the obligation, it may* be executed immediately, unless,
from the nature of the act, a term, either certain or uncertain, must
be implied. Thus, an obligation to pay money, without any stipula
tion for time, may be enforced at the will of the obligee. But a promise
to make a crop of sugar is necessarily deferred, until the uncertain
period when the cane shall be fit to cut.

RCC—1764, 1903, 1913, 1914, 1996, 2038, 2048, 2906, 2917 et seq.

RCC 1870, Art. 2050. (Same as Art. 2050 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2045. (Projet, p. 275. Addition † adopted; no comment)
When no term is fixed by the parties for the performance of the obligation,
it may* be executed immediately, unless from the nature of the act, a term,
either certain or uncertain, must be applied (implied). Thus, an obligation
to pay money, without any stipulation for time, may be enforced at the will of the
obligee. But a promise to make a crop of sugar is necessarily deferred, until the
uncertain period when the cane shall be fit to cut.

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

*Note error in English translation of French text; “may” should be “must.”

Art. 2051. The term differs from the condition, inasmuch as
it does not suspend the engagement, but only retards its execution.

RCC—542, 2038, 2039, 2043, 2045, 2048, 2049, 2092, 2122.

RCC 1870, Art. 2051.
Same as above.

CC 1825, Art. 2046. (No reference in Projet)
Same as above.

Same as above; but comma (,) after “condition”; period (.) after “l'exécu-
tion.”

CN 1804, Art. 1185. Same as above.

Art. 2052. What is due only at a certain time, can not be
demanded before the expiration of the intermediate time; but what
has been paid in advance can not be redemanded.

RCC—2065, 2154, 2168, 2346, 2706, 2899, 2906, 2907, 2917, 2955, 3057(4).
CP—14.

RCC 1870, Art. 2052.
Same as above.

CC 1825, Art. 2047. (No reference in Projet)
Same as above; but comma (,) after “advance.”

Ce qui n'est dû qu'à terme, ne peut être exigé avant l'échéance du terme;
mais ce qui a été payé d'avance, ne peut être répété.
Art. 2053

The term is always presumed to be stipulated in favor of the debtor, unless it result from the stipulation, or from circumstances, that it was also agreed upon in favor of the creditor.

RCC—1903, 2168, 2796.

RCC 1870, Art. 2053.
Same as above.

CC 1825, Art. 2048. (No reference in Projet)
Same as above.

Le terme est toujours présumé stipulé en faveur du débiteur, à moins qu’il ne résulte de la stipulation, ou des circonstances, qu’il a été aussi convenu en faveur du créancier.

Art. 2054. Wherever there is a cession of property, either voluntary or forced, all debts due by the insolvent shall be deemed to be due, although contracted to be paid at a term not yet arrived; but in such case, a discount must be made of the interest at the highest conventional rate, if none has been agreed by the contract.

RCC—1936, 2170 et seq., 2924, 3174.

RCC 1870, Art. 2054.
Same as above.

CC 1825, Art. 2049. (Projet, p. 276. Substitution adopted; no comment)
Same as above.

Lorsqu’il y a cession de biens volontaire ou forcée, toutes dettes dues par le failli seront censées être échues, quoi qu’elles aient été stipulées payables à un terme non encore arrivé; mais dans ce cas, on doit faire une déduction, sur ce qui n’est pas encore échu, d’un intérêt légal au taux le plus élevé de l’intérêt conventionnel, s’il n’en a été fixé aucun par le contrat.

CC 1808, p. 276, Art. 88.
The debtor can no longer claim the benefit of the term, after he has failed, or after he has, by his own act diminished the securities that he had given by the contract, to his creditor. (Suppressed on recommendation of redactors; Projet, p. 276)

-p. 277, Art. 88.
Le débiteur ne peut plus réclamer le bénéfice du terme, lorsqu’il a fait faillite, ou lorsque, par son fait, il a diminué les sûretés qu’il avait données, par le contrat, à son créancier. (Suppressed on recommendation of redactors; Projet, p. 276)
ART. 2055. If a debt be contracted to be paid at a term, and a security be given for the payment, if, from whatever cause, the security should fail, or be rendered insufficient, the creditor may, before the obligation is due, exact either that good security* be given or that the debt be immediately paid.

RCC—1771, 2056, 3043.

RCC 1870, Art. 2055. (Same as Art. 2055 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2051. (Projet, p. 276. Addition amended and adopted; no comment)

If the contract be to give good security, and a person be afterwards given as such security, who fails, the provision of the last preceding article takes effect; but when security is given of a determinate person, then there is no action given on the failure of the security.*

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "good security" should be "security as good as the first."

ART. 2056. If the contract be to give good security, and a person be afterwards given as such security who fails, the provision of the last preceding article takes effect; but when security is given of a determinate person, then there is no action given on the failure of the security.*

RCC—1771, 2055, 3043.

RCC 1870, Art. 2056. (Same as Art. 2056 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2051. (Projet, p. 276. Addition amended and adopted; no comment)

Si le contrat porte qu'on fournira bonne caution, et qu'une personne soit ensuite donnée comme caution et vienne à manquer, ce sera le cas d'appliquer la règle contenue en l'article précédent; mais lorsqu'une personne déterminée est donnée pour caution, alors, si la caution vient à faire faillite, il n'y aura pas d'action pour en faire donner une autre.*

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "given on the failure of the surety" in RCC 1870 and "given on the failure of the security" in CC 1825 should be "on the failure of the security (surety) to have another one given."
Art. 2057. Where a term is given or limited for the performance of an obligation, the obligor has until sunset of the last day limited for its performance, to comply with his obligation, unless the object of the contract can not be done after certain hours of that day.


RCC 1870, Art. 2057. (Same as Art. 2057 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2052. (Projet, p. 276. Addition adopted; no comment)

Where a term is given or limited for the performance of an obligation, the obligor has until sunset of the last day limited for its performance, to comply with his obligation, unless the subject of the contract cannot be done after certain hours of that day.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2058. When the contract is to do the act in a certain number of days, or in a certain number of days after the date of the contract, the day of contract is not included in the number of days to be counted, and the obligor has until sunset of the last day of the number enumerated for the performance of his contract, with the exception contained in the last preceding article.

RCC—1926, 2048, 2057, 2059, 3467. CP—180, 318. Acts 1904, No. 64, 186.

RCC 1870, Art. 2058. Same as above.

CC 1825, Art. 2053. (Projet, p. 276. Addition adopted; no comment)

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

Lorsque le contrat consiste à faire un acte dans un certain nombre de jours fixé, ou dans un certain nombre de jours après la date du contrat, le jour du contrat ne doit pas être inclus dans le nombre des jours qui doivent être ainsi accordés, et le débiteur a jusqu’au coucher du soleil du dernier jour ainsi calculé, pour accomplir le contrat, sauf l’exception dont il est fait mention dans l’article précédent.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2059. Where the obligation is not to do a thing without a notice of a certain number of days, or until after so many days, neither the day of the contract nor the day of its performance are calculated.

RCC—1926, 2048, 2057, 2058. CP—318.

RCC 1870, Art. 2059. Same as above.
ART. 2061. Where the term referred to in the contract consists of one or more years, the calendar year shall be presumed to have been intended. (As amended by Acts 1871, No. 87)


RCC 1870, Art. 2061. (Same as Art. 2061 of Proposed Revision of 1869)

Where the term, referred to in the contract, consists of one or more years, the calendar shall be presumed to have been intended.

CC 1825, Art. 2056. (Projet, p. 277. Addition adopted; no comment)

Same as RCC 1870, Art. 2061, as amended by Acts 1871, No. 87, above.

Lorsque le terme exprimé dans le contrat, consiste en une ou plusieurs années, les parties seront présumées avoir entendu parler de l'année du calendrier.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
Section 5—OF CONJUNCTIVE AND ALTERNATIVE OBLIGATIONS

ART. 2062. When several different things form the object of a contract, it is either conjunctive or alternative.

RCC—1996, 2063, 2066, 2154, 2457.

RCC 1870, Art. 2062. (Same as Art. 2062 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2057. (Projet, p. 277. Addition adopted; no comment)
When several different things form the subject of a contract, it is either conjunctive or alternative.

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

ART. 2063. A conjunctive obligation is one in which the several objects in it are connected by a copulative, or in any other manner which shows that all of them are severally comprised in the contract. This contract creates as many different obligations as there are different objects; and the debtor, when he wishes to discharge himself, may force the creditor to receive them separately.

RCC—2062, 2064, 2065, 2076, 2154.

RCC 1870, Art. 2063. Same as above.

CC 1825, Art. 2058. (Projet, p. 277. Addition † adopted; no comment)
Une obligation conjonctive est celle par laquelle différentes choses, qui en sont l'objet, sont jointes par une conjonction ou de toute autre manière qui prouve que toutes sont séparément comprises dans le contrat. Ce contrat crée autant d'obligations, qu'il comprend de choses différentes, et lorsque le débiteur désire s'en décharger, il peut contraindre le créancier à les recevoir séparément.

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

ART. 2064. But if several things be comprehended in one general name in the contract, it is not conjunctive. The sale of a flock of sheep, or the stock on a farm, are examples of this exception.

RCC—2063, 2065.

RCC 1870, Art. 2064. Same as above.
ART. 2065. Where a sum is promised to be paid at different
installments, a conjunctive obligation is created, and the payment may
be severally paid or enforced. Rents, payable at fixed periods, come
also under this rule.

RCC—2052, 2063, 2064, 2154, 2457, 2710, 3377, 3378. CP—148, 149,

RCC 1870, Art. 2066.
Same as above.

ART. 2066. But where the things, which form the object of the
contract, are separated by a disjunctive, then the obligation is alternative. A promise to deliver a certain thing, or to pay a specified sum of
money, is an example of this kind of obligation.

RCC—2062, 2067 et seq., 2074, 2076, 2457, 2472.

RCC 1870, Art. 2067.
Same as above.

ART. 2067. The debtor in an alternative obligation is discharged by the delivery of one of the two things that were comprised in the obligation.

RCC—1768, 2066, 2068 et seq., 2074, 2112, 2472.

RCC 1870, Art. 2067.
Same as above.
Art. 2068

The option belongs to the debtor, unless it has been expressly granted to the creditor.

RCC—2066, 2067, 2072, 2472, 2473, 2474.

RCC 1870, Art. 2068.
Same as above.

RCC 1825, Art. 2063.
Same as above.

RCC 1808, p. 276, Art. 90.
Same as above.

CN 1804, Art. 1190.
Same as above.

Art. 2069.
The debtor may exonerate himself by delivering one of the two things promised, but he can not force the creditor to receive a part of the one, and a part of the other.

RCC—2066, 2067.

RCC 1870, Art. 2069.
Same as above.

RCC 1825, Art. 2064.
Same as above.

RCC 1808, p. 276, Art. 91.
Same as above; but comma (,) after “himself”; no punctuation after “the one”; “exonerate” misspelled “exon-erated.”

CN 1804, Art. 1191.
Same as above.

Art. 2070.
The obligation is pure and simple, although contracted in an alternative manner, if one of the two things promised could not be the object of the obligation.

RCC—1891, 1892, 1893, 1900, 2067.
ART. 2072. When, in the cases provided for in the preceding article, the option was given by agreement to the creditor; either only one of the things is destroyed; and then, if it be without the fault of the debtor, the creditor must have that one which remains; if the debtor be in fault, the creditor may demand the thing that remains, or the price of that which is destroyed;

Or both the things are destroyed; and then, if the debtor be in fault with regard to both, or even with regard to one of them alone, the creditor has his option to demand the price of either of them.
Art. 2073

If both the things be destroyed without the fault of the debtor and before he has delayed the delivery, the obligation becomes extinct.

RCC—1891, 1907, 1910, 2067, 2071, 2072, 2074, 2455, 2472.

RCC 1870, Art. 2073.

Same as above.

CC 1825, Art. 2068.

Same as above; but comma (,) after “destroyed”, and after “debtor.”

CC 1808, p. 278, Art. 95.

If both the things be destroyed, without the fault of the debtor, and before he has delayed the delivery, the obligation becomes extinct conformably to article the 202d of this title.

CN 1804, Art. 1195.

If both the things be destroyed without the fault of the debtor, and before he has delayed the delivery, the obligation becomes extinct, conformably to article 1302.

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

Art. 2073

If both the things be destroyed without the fault of the debtor and before he has delayed the delivery, the obligation becomes extinct.

RCC—1891, 1907, 1910, 2067, 2071, 2072, 2074, 2455, 2472.

RCC 1870, Art. 2073.

Same as above.

CC 1825, Art. 2068.

Same as above; but comma (,) after “destroyed”, and after “debtor.”

CC 1808, p. 278, Art. 95.

If both the things be destroyed, without the fault of the debtor, and before he has delayed the delivery, the obligation becomes extinct conformably to article the 202d of this title.

CN 1804, Art. 1195.

If both the things be destroyed without the fault of the debtor, and before he has delayed the delivery, the obligation becomes extinct, conformably to article 1302.

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

Art. 2073

If both the things be destroyed without the fault of the debtor and before he has delayed the delivery, the obligation becomes extinct.

RCC—1891, 1907, 1910, 2067, 2071, 2072, 2074, 2455, 2472.

RCC 1870, Art. 2073.

Same as above.

CC 1825, Art. 2068.

Same as above; but comma (,) after “destroyed”, and after “debtor.”

CC 1808, p. 278, Art. 95.

If both the things be destroyed, without the fault of the debtor, and before he has delayed the delivery, the obligation becomes extinct conformably to article the 202d of this title.

CN 1804, Art. 1195.

If both the things be destroyed without the fault of the debtor, and before he has delayed the delivery, the obligation becomes extinct, conformably to article 1302.

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

Art. 2073

If both the things be destroyed without the fault of the debtor and before he has delayed the delivery, the obligation becomes extinct.

RCC—1891, 1907, 1910, 2067, 2071, 2072, 2074, 2455, 2472.

RCC 1870, Art. 2073.

Same as above.
ART. 2074. The same principles apply to cases where there are more than two things comprised in the alternative obligation.

RCC—2066, 2067, 2071 et seq.

RCC 1870, Art. 2074.
Same as above.

CC 1825, Art. 2069.
Same as above.

(No reference in Projet)

Les mêmes principes s'appliquent au cas où il y a plus de deux choses comprises dans l'obligation alternative.

RCC 1870, Art. 2075.
Same as above.

CC 1825, Art. 2070.
Same as above; but comma (,) after "the terms."

(Proit, p. 277. Addition adopted; no comment)

Lorsque plusieurs obligations alternatives sont divisées pour leur exécution, en différents termes, alors le choix d'une des alternatives, pour l'un des termes, n'oblige pas les parties à faire le même choix pour les autres.

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

ART. 2076. If an obligation or testamentary disposition be made to different obligees, or legatees, or heirs, in the alternative, such obligation shall be deemed to proceed from error in wording of the obligation or will, and shall be construed conjunctively.

RCC—1707, 1708, 1712, 1723, 2063, 2066.

RCC 1870, Art. 2076.
Same as above.

CC 1825, Art. 2071.
Same as above; but comma (,) after "disposition."

(Proit, p. 277. Addition ‡ adopted; no comment)

Si une obligation est contractée envers divers créanciers, ou si une disposition testamentaire est faite en faveur de différents héritiers ou légataires, d'une manière alternative, cette obligation sera censée provenir d'une erreur dans la rédaction de l'obligation ou du testament et sera interprétée d'une manière conjonctive.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
Section 6—OF SEVERAL OBLIGATIONS, JOINT OBLIGATIONS, AND OBLIGATIONS [OBLIGATIONS] IN SOLIDO

§1—General Provisions

ART. 2077. Where there are more than one obligor or obligee named in the same contract, the obligation it may produce may be either several or joint or in solido, both as regards the obligor and the obligee.

RCC—1996, 2078 et seq., 2083.

RCC 1870, Art. 2077.
Same as above.

CC 1825, Art. 2072. (Projet, p. 278. Addition adopted; no comment)
Lorsqu'il y a plus d'un débiteur ou d'un créancier nommé dans le même contrat, l'obligation qu'il produit peut être séparée, ou conjointe, ou solidaire, relativement au débiteur ou au créancier.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2078. Several obligations are produced, when what is promised by one of the obligors, is not promised by the other, but each promises separately for himself to do a distinct act; such obligations, although they may be contained in the same contract, are considered as much individual and distinct as if they had been in different contracts, and made at different times.

RCC—2077, 2079, 2084.

RCC 1870, Art. 2078.
Same as above.

CC 1825, Art. 2073. (Projet, p. 278. Addition ‡ adopted; no comment)
Les obligations sont séparées, lorsque ce qui est promis par l'une des parties n'est pas promis par l'autre, mais lorsque chacune d'elles promet séparément par elle-même de faire une chose distincte. Ces obligations, quoiqu'elles puissent être contenues dans le même contrat, sont considérées comme formant autant d'obligations distinctes et séparées, que si elles étaient contenues dans divers contrats faits à différents temps.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2079. In like manner, a contract may contain distinct obligations to perform different things in favor of several persons; the obligations in this case are several and unconnected, and each obligee has his separate and distinct remedy on the obligation created towards him individually.

RCC—2077, 2078, 2084.

1140
ART. 2079. When several persons join in the same contract to do the same thing, it produces a joint obligation on the part of the obligors.

RCC—2077, 2081, 2085 et seq., 2111, 2342, 2580 et seq., 2600. CP—165(6).

ART. 2080. When one or more persons make an obligation to several persons for the performance of something for the common benefit of all the obligees, it creates an obligation which is joint in favor of the obligees.

RCC—1707, 1708, 2077, 2080.

ART. 2081. When several persons obligate themselves to the obligee by the terms in solido, or use any other expressions, which clearly show that they intend that each one shall be separately bound to perform the whole of the obligation, it is called an obligation in solido on the part of the obligors.

RCC—1945, 2077, 2083, 2087, 2091, 2093, 2107, 2110. CP—165(6).
Art. 2083. In like manner, when the obligor contracts expressly, or by using the technical words *in solido*, that he will give to either one, or to all of several obligees the right of enforcing the obligation against him, it creates an obligation *in solido* in favor of the obligees.

*RCC*—2077, 2082, 2088, 2093, 2107, 2110.

Art. 2084. Several obligations, although created by one act, have no other effects than the same obligations would have had, if made by separate contracts; therefore they are governed by the rules which apply to all contracts in general.

*RCC*—2078, 2079.
ART. 2085.* In every suit on a joint contract,** all the obligors must be made defendants, and no judgment can be obtained against any, unless it be proved that all joined in the obligation,** or are by law presumed to have done so.

RCC—2080, 2086, 2087, 2621. Acts 1870, E.S., No. 103, §2; 1914, No. 20, §32.

RCC 1870, Art. 2085.
Same as above.

CC 1825, Art. 2080.
(Projet, p. 279. Addition adopted; no comment)
Dans tout procès intenté sur une obligation conjointe, on doit appeler en cause tous les débiteurs qui se sont ainsi obligés, et aucun jugement ne sera obtenu contre l'un d'eux, à moins qu'il ne soit prouvé qu'ils se sont tous obligés conjointement dans le contrat, ou qu'ils doivent être présumés, d'après la loi, s'être ainsi obligés.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*In connection with this article see Acts 1870, E.S., No. 103, §2.

**The English translation has interchanged the terms "contract" and "obligation."

ART. 2086. In a suit on a joint obligation, judgment must be rendered against each defendant separately, for his proportion of the debt or damages, if the suit resolves itself into damages. If the suit be for a specific performance, each defendant may be compelled to execute his proportion of the obligation, if the nature of the case permit and justice require it. The proportion, meant by this and the succeeding articles, is calculated by the number of the obligors, each one answering for an equal part, unless the parties have expressed a different intention.


RCC 1870, Art. 2086.
Same as above.

CC 1825, Art. 2081.
(Projet, p. 279. Addition adopted; no comment)
Dans tout procès sur une obligation conjointe, jugement doit être rendu contre chaque débiteur en particulier, pour la part qu'il doit payer dans la dette, ou supporter dans les dommages, si le procès s'est résolu en dommages. Si le procès est intenté pour l'exécution d'une chose déterminée, chaque défendeur peut être contraint à exécuter sa part de l'obligation, si la nature du cas le permet, ou la justice de la cause le requiert. La part, dont il est fait mention dans cet article et les suivants, doit se calculer d'après le nombre des débiteurs, chacun d'eux étant responsable pour une part égale à celle des autres, à moins que les parties n'aient exprimé une intention différente.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 2087. If one of the obligors in a joint obligation has performed or discharged his part of the obligation, although he must be joined in the suit, on account of the eventual interest he has for the repetition of his payment, if the contract be disproved or annulled; yet, if the contract be affirmed, the defendant, who has paid his proportion or performed his part, shall have judgment. The judgment for the costs is in solido against all the defendants who have not paid or performed their parts.

RCC—2080, 2082, 2085, 2086, 2091, 2093, 2161(3). Acts 1870, E.S., No. 103.

RCC 1870, Art. 2087.
Same as above.

CC 1825, Art. 2082.
Same as above.

§3—Of the Rules Which Govern Obligations between Creditors in Solido

ART. 2088. The obligation is in solido, or joint and several* between several creditors, when the title expressly gives to each of them the right of demanding payment of the total of what is due, and when the payment made to any one of them discharges the debtor, although the benefit of the obligation be to be shared and divided among the different creditors.

RCC—2082, 2089, 2091, 2093, 2110, 2115, 3026.

RCC 1870, Art. 2089.
Same as above.

CC 1825, Art. 2083.
Same as above.

L'obligation est solidaire* entre plusieurs créanciers, lorsque le titre donne expressément à chacun d'eux le droit de demander le paiement du total de la créance, et que le paiement, fait à l'un d'eux, libère le débiteur, encore que le bénéfice de l'obligation soit partageable et divisible entre les divers créanciers.
Art. 2090. Every act, which interrupts prescription with regard to one of the creditors in solido, avails the other creditor [creditors].

RCC—802, 2097, 2278, 3516 et seq., 3551, 3552.

RCC 1870, Art. 2090.
Same as above.

CC 1825, Art. 2085. (No reference in Projet)
Same as above; but “creditor” correctly spelled “creditors.”

Tout acte qui interrompt la prescription, à l’égard de l’un des créanciers solidaire, profite aux autres créanciers.
§4—Of the Rules Which Govern Obligations with Respect to Debtors in Solido

ART. 2091. There is an obligation in solido on the part of the debtors, when they are all obliged to the same thing, so that each may be compelled for the whole, and when the payment which is made by one of them, exonerates the others toward the creditor.

ART. 2092. The obligation may be in solido, although one of the debtors be obliged differently from the other to the payment of one and the same thing; for instance, if the one be but conditionally bound, whilst the engagement of the other is pure and simple, or if the one is allowed a term which is not granted to the other.
The obligation may be in solido though one of the debtors be obliged differently from the other, to the payment of one and the same thing: for instance, if the one be but conditionally bound, whilst the engagement of the other, is pure and simple, or if the one is allowed a term which is not granted to the other.

ART. 2094. The creditor of an obligation contracted in solido may apply to any one of the debtors he pleases, without the debtors' having a right to plead the benefit of division.

RCC—2091, 2095, 2100, 2103, 2116, 3045, 3049 et seq., 3054.

RCC 1870, Art. 2094. (Same as Art. 2094 of Proposed Revision of 1869)

CC 1825, Art. 2089. (No reference in Projet)

The creditor of an obligation contracted in solido, may apply to any one of the debtors he pleases, without the debtor's having a right to plead the benefit of division.

CC 1808, p. 278, Art. 102. Same as above; but comma (,) after "right."
Art. 2095

ART. 2095. A suit brought against one of the debtors does not bar the creditor from bringing suits on the same account against the others.

RCC—2091, 2094, 2097, 2098, 2286.

RCC 1870, Art. 2095.
Same as above.

CC 1825, Art. 2090. 
Same as above.

Les poursuites faites contre l'un des débiteurs n'empêchent [n'empêchent] pas le créancier d'en exercer de pareilles contre les autres.

CC 1808, p. 280, Art. 104.
Same as above; but comma (,) after "debtors", and after "account."

-p. 281, Art. 104.
Same as above; but "n'empêche" correctly spelled "n'empêchent"; comma (,) after "poursuites", and after "débiteurs."

CN 1804, Art. 1204.
Same as above.

Si la chose due a perdu [perdit] par la faute ou pendant la demeure de l'un ou de plusieurs des débiteurs solidaires, les autres co-débiteurs* ne sont point déchargés de l'obligation de payer le prix de la chose, mais ceux-ci ne sont point tenus des dommages-intérêts.

Le créancier peut seulement répéter les dommages et intérêts, tant contre les débiteurs, par la faute desquels la chose a pérí, que contre ceux qui étaient en demeure.

Art. 2096. If the thing due has perished, through the fault of one or more debtors in solido, or while he or they delayed to deliver it, the other cedebtors are not discharged from the obligation of paying the value of the thing, but the latter are not liable for damages.

The creditor can claim damages only from the debtors by whose fault the thing was lost, and from those who delayed to deliver it.

RCC—1907, 1909, 1910, 1912, 1918, 1933, 1934, 2044, 2128, 2219.

RCC 1870, Art. 2096.
(Same as Art. 2096 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2091.
If the thing due has perished, through the fault of one or more debtors in solido, or while he or they delayed to deliver it, the other creditors* are not discharged from the obligation of paying the value of the thing, but the latter are not liable for damages.

Par. 2 same as par. 2, above.

CC 1808, p. 280, Art. 105.
Par. 1 same as RCC 1870, Art. 2096, par. 1, above; but no punctuation after "perished"; semicolon (;) after "of the thing."

Par. 2 same as par. 2, above.

CN 1804, Art. 1205.
Same as above.
CIVIL CODES OF LOUISIANA

Art. 2098

de la chose; mais ceux-ci ne sont point tenus des dommages et intérêts.
Par. 2 same as par. 2, above; but no punctuation after “intérêts”, or after “débiteurs.”

*Note error in English translation of French text; “creditors” should be “co-debtors.”

ART. 2097. A suit brought against one of the debtors in solido
interrupts prescription with regard to all.


RCC 1870, Art. 2097.
Same as above.

CC 1825, Art. 2092. (No reference in Projet)
Same as above; but comma (,) after “solido.”

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

CN 1804, Art. 1206. Same as above.

ART. 2098. A co-debtor in solido, being sued by the creditor,
may plead all the exceptions resulting from the nature of the obligation,
and all such as are personal to himself, as well as such as are common to all the co-debtors.

He can not plead such exceptions as are merely personal to some of the other co-debtors.

RCC—1872, 2095, 2116, 2211, 2218, 3036, 3060, 3076, 3077.

RCC 1870, Art. 2098. (Same as Art. 2098 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2094. (No reference in Projet)
A co-debtor in solido, being sued by the creditor, may plead all the exceptions resulting from the nature of the obligation, and all such as are personal to himself, as well as such as are common to all the creditors. Par. 2 same as par. 2, above.

Same as above; but no punctuation after “solido.”

CN 1804, Art. 1208. Same as RCC 1870, Art. 2098, above.

*Note error in English translation of French text; “creditors” should be “co-debtors.”
ART. 2099. When one debtor becomes sole heir of the creditor, or when the creditor becomes sole heir of one of the debtors, the confusion extinguishes the debt *in solido* only for the part and portion of the debtor or of the creditor.

RCC—1429, 2217, 2218, 3059.

RCC 1870, Art. 2099.
Same as above.

CC 1825, Art. 2095. (No reference in Projet)
When one of the debtors becomes sole heir of the creditor, or when the creditor becomes sole heir of one of the debtors, the confusion extinguishes the debt *in solido* only for the part and portion of the debtor or of the creditor.

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

CC 1804, Art. 1209.
Same as above.

ART. 2100. The creditor, who consents to the division of the debt with regard to one of the codebtors, still has an action *in solido* against the others, but under the deduction of the part of the debtor whom he has discharged from the debt *in solido*.

RCC—2091, 2094, 2101, 2102, 2105, 2115, 2198, 2203, 3049, 3050.

RCC 1870, Art. 2100.
Same as above.

CC 1825, Art. 2096. (No reference in Projet)
Le créancier, qui consent à la division de la dette, à l'égard de l'un des co-débiteurs, conserve son action solidaire contre les autres, mais sous la déduction de la part du débiteur qu'il a déchargé de la solidarité.

CC 1808, p. 280, Art. 110.
Same as above; but no punctuation after "creditor"; comma (,) after "debtor."

CC 1804, Art. 1210.
Same as above.

ART. 2101. The creditor, who receives separately the part of one of the debtors, without reserving in the receipt the debt *in solido* or his right in general, renounces the debt *in solido*, only with regard to that debtor.

The creditor is not deemed to remit the debt *in solido* to the debtor when he receives from him a sum equal to the portion due by him, unless the receipt specifies that it is for his part.
The same is to be observed of the mere demand made of one of the codebtors, for his part, if the latter has not acquiesced in the demand or if a judgment has not been given against him.

RCC—2089, 2091, 2100, 2102, 2105, 2198, 2203.

RCC 1870, Art. 2101.
Same as above.

CC 1825, Art. 2097.
(No reference in Projet)
Same as above; but comma (,) after "the debtor", and after "the demand."

CC 1808, p. 280, Art. 111.
The creditor who receives separately the part of one of the debtors, without reserving in the receipt the debt in solido, or his rights in general, renounces the debt in solido only with regard to that debtor.
Par. 2, 3 same as pars. 2, 3, above.

CN 1804, Art. 1211.
Same as above.

ART. 2102. The creditor, who receives separately and without reservation the portion of one of the codebtors in the arrearages or interest of the debt, loses his claim in solido only as to the arrearages and interest due, and not as to those that may in future become due, nor as to the capital, unless the separate payment has been continued during ten successive years.

RCC—1938, 2091, 2100, 2101, 2203.

RCC 1870, Art. 2102.
Same as above.

CC 1825, Art. 2098.
(No reference in Projet)
Same as above.

The same is to be observed of the mere demand made of one of the codebtors, for his part, if the latter has not acquiesced in the demand or if a judgment has not been given against him.

1151
Art. 2103

CC 1808, p. 280, Art. 112.

The creditor who receives separately and without reservation, the portion of one of the co-debtor's in the arrearages and interest of the debt, loses his claim in solido only as to the arrearages and interest due, and not as to those that may in future become due, nor as to the capital, unless the separate payment has been continued during ten successive years.

CN 1804, Art. 1212.

Same as CC 1825, Art. 2098, above.

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

ART. 2103. The obligation contracted in solido towards the creditor, is of right divided amongst the debtors, who, amongst themselves, are liable each only for his part and portion.

RCC—1433, 2094, 2104 et seq., 2108, 2110, 2111, 2161, 3053.

RCC 1870, Art. 2103.

Same as above.

CC 1825, Art. 2099.

Same as above.

(No reference in Projet)

CC 1808, p. 280, Art. 113.

Same as above; but no punctuation after “who.”

CN 1804, Art. 1213.

Same as above.

ART. 2104. If one of the codebtor's in solido pays the whole debt, he can claim from the others no more than the part and portion of each.

If one of them be insolvent, the loss occasioned by his insolvency must be equally shared amongst all the other solvent codebtors and him who has made the payment.

RCC—1387 et seq., 1433, 1435 et seq., 2103, 2105, 2106, 2112, 2116, 2134, 2161, 3053, 3054, 3058. CP—66, 121.

RCC 1870, Art. 2104.

Same as above.
CC 1825, Art. 2100. (No reference in Projet)
Same as above.

Le co-débiteur d'une dette solidaire, qui l'a payée en entier, ne peut répéter contre les autres que pour la part et portion de chacun d'eux.
Si l'un d'eux se trouve insolvables, la perte qu'occasionne son insolvabilité, se repartit par contribution entre tous les autres co-débiteurs solvables, et celui qui a fait le payement.

CC 1808, p. 280, Art. 114.
Same as above; but comma (,) after "insolvency", and after "co-debtors."

Le co-débiteur d'une dette solidaire, qui l'a payée en entier, ne peut répéter, contre les autres, que la part et portion de chacun d'eux.
Par. 2 same as par. 2, above.

CN 1804, Art. 1214.
Same as above.

Le codébiteur d'une dette solidaire, qui l'a payée en entier, ne peut répéter, contre les autres que la part et portion de chacun d'eux.
Par. 2 same as par. 2, above; but no punctuation after "solvables."

ART. 2105. In case the creditor has renounced his action in solido against one of the debtors, and one or more of the other codebtors become insolvent, the portion of the insolvent shall be made up, by equal contribution, by all the debtors, and even those previously discharged from the debt by the creditor in solido, shall contribute their part.

RCC—1389, 1436, 2091, 2100, 2101, 2103, 2104.

RCC 1870, Art. 2105.
Same as above.

CC 1825, Art. 2101. (No reference in Projet)
Same as above.

Dans le cas où le créancier a renoncé à l'action solidaire envers l'un des débiteurs, si l'un ou plusieurs des autres débiteurs deviennent insolvables, la portion des insolvables sera contributoirement répartie entre tous les débiteurs, même entre ceux précédemment déchargés de la solidarité par le créancier.

CC 1808, p. 280, Art. 115.
Same as above; but comma (,) after "the insolvent"; no punctuation after "up."

-p. 281, Art. 115.
Same as above.

CN 1804, Art. 1215.
Same as above.

Dans le cas où le créancier a renoncé à l'action solidaire envers l'un des débiteurs, si l'un ou plusieurs des autres codébiteurs deviennent insolvables, la portion des insolvables sera contributoirement répartie entre tous les débiteurs, même entre ceux précédemment déchargés de la solidarité par le créancier.
ART. 2106. If the affair for which the debt has been contracted in solido, concern only one of the co-obligors in solido, that one is liable for the whole debt towards the other codebtors, who, with regard to him, are considered only as his securities.

RCC—2103, 2104, 2161, 2162, 3045, 3052 et seq.

RCC 1870, Art. 2106. (Same as Art. 2106 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2102. (No reference in Projet)

If the affair, for which the debt has been contracted in solido, concern only one of the co-obligees* in solido, that one is liable for the whole debt towards the other co-debtors, who, with regard to him, are considered only as his securities.


If the affair for which the debt has been contracted in solido, concerns only one of the co-obligees* in solido, that one is liable for the whole debt towards the other co-debtors, who with regard to him, are considered only as his securities.

CC 1804, Art. 1216.

Same as RCC 1870, Art. 2106, above.

Same as above; but comma (,) after "toute la dette."

*Note error in English translation of French text; "co-obligees" should be "co-obligors."

ART. 2107. There are many contracts in which the obligation is declared by law to be in solido, without any express stipulation to that effect; these will be found in the different chapters which treat of such contracts.

RCC—1681, 2082, 2083, 2093, 2113, 2324, 2804, 2872, 2905, 2957, 3026.

RCC 1870, Art. 2107.

Same as above.

CC 1825, Art. 2103. (Projet, p. 279. Addition † adopted; no comment)

Il y a plusieurs contrats, dans lesquels la loi déclare que l’obligation est solidaire, sans aucune stipulation expresse à cet égard. C’est ce qui est établi dans les différents chapitres qui traitent de ces contrats.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 2108. An obligation is divisible or indivisible, according as it has for its object, either a thing which, in its delivery or a fact which, in its execution, is or is not susceptible of division, either material or intellectual.

RCC—437, 538, 539, 656, 657, 776, 801, 803, 986, 1024, 1289, 1299, 1300, 1303, 1339, 1340, 1707, 1708, 1764, 1996, 2103, 2109, 2110, 2111, 2113, 2114, 2116, 2128, 2129, 2153, 2538, 2539, 2579 et seq., 2600, 2951, 3171, 3282, 3294, 3377, 3552.

RCC 1870, Art. 2108. (Same as Art. 2108 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2104. (No reference in Projet)

An obligation is divisible or indivisible, according as it has for its object, either a thing which, in its delivery, or a fact which, in its execution, is or is not susceptible of division, whether material or intellectual.

CC 1808, p. 282, Art. 117.

Same as above; but no punctuation after “thing which”, after “fact which”, or after “division.”

CN 1804, Art. 1217.

Same as above.

ART. 2109. The obligation is indivisible, though the thing or the fact which is the object of it, be by its nature divisible, if the light, in which it is considered in the obligation, does not admit of its being partially executed.

RCC—656, 986, 1339, 1340, 1996, 2108, 2110, 2112, 2113, 2114, 2128, 2129, 3171, 3282, 3552.

RCC 1870, Art. 2109.

Same as above.

CC 1825, Art. 2105. (No reference in Projet)

L’obligation est indivisible, quoique la chose ou le fait qui en est l’objet soit divisible par sa nature, si le rapport, sous lequel elle est considérée dans l’obligation, ne la rend pas susceptible d’exécution partielle.

CC 1808, p. 282, Art. 118.

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

CN 1804, Art. 1218.

Same as above.
Art. 2110

ART. 2110. The stipulation in solido does not give to the obligation the character of indivisibility.

RCC—2082, 2083, 2088, 2091, 2103, 2108, 2109, 2113, 2114.

RCC 1870, Art. 2110.
Same as above.

CC 1825, Art. 2106.
Same as above. (No reference in Projet)

CC 1808, p. 282, Art. 119.
Same as above.

CC 1804, Art. 1219.
Same as above.

§1—Of the Effects of the Divisible Obligation

ART. 2111. An obligation susceptible of division must be executed between the creditor and the debtor, as though it were indivisible. The divisibility is applicable only with regard to their heirs, who can demand of the debt, or who are liable to pay of it, only the part which they hold,* or for which they are liable, as representing the creditor or the debtor.


RCC 1870, Art. 2111.
Same as above.

CC 1825, Art. 2107.
Same as above; but no punctuation after "they are liable." (No reference in Projet)

CC 1808, p. 282, Art. 120.
Same as above; but "divisibility" misspelled "indivisibility"; comma (,) after "division." -p. 283, Art. 120.
Same as above; but no punctuation after "héritiers"; comma (,) after "dette"; and after "payer."

CN 1804, Art. 1220.
Same as above; but no punctuation after "L'obligation"; after "et le débiteur", after "d'application", after "dette", after "payer", after "saisies", or after "ils sont tenus"; comma (,) after "héritiers."

*Note error in English translation of French text; "which they hold" should be "of which they are seized."

1156
ART. 2112. To the principle laid down in the preceding article, there is an exception with regard to the heirs of the debtor.

1. In case the debt be on a mortgage.

2. When it is of a determinate object.

3. When the debt is alternative of things at the option of the creditor, one of which is indivisible.

4. When one of the heirs is alone charged, by the title, with the execution of the obligation.

5. When it results, either from the nature of the engagement, or from the thing which is its object, or from the end proposed by the contract, that it was the intention of the parties that the debt should not be partially discharged.

In the three former cases, the heir who is in possession of the thing due, or of the property mortgaged for the debt, may be sued for the whole on the thing due, or on the property mortgaged, but he has recourse against the coheirs.

In the fourth case, the heir is alone charged with the debt; and in the fifth case, every one of the heirs may also be sued for the whole; but the one sued has his recourse against the coheirs.


RCC 1870, Art. 2112.

Same as above.

CC 1825, Art. 2108. (No reference in Projet)

Same as above; but colon (:) after "debtor"; semicolon (;) after "mortgage"; after "determinate object", after "indivisible", and after "obligation"; comma (,) after "parties", and after "cases, the heir."
Art. 2113

Every one of those who have conjointly contracted an indivisible debt, is liable to* the whole, even though the obligation was not contracted in solido.

RCC—2091, 2093, 2107, 2108 et seq., 2111, 2112, 2114, 2538, 2539, 2905, 3026, 3282, 3552.

RCC 1870, Art. 2113.
Same as above.

CC 1825, Art. 2109.
Same as above.

CC 1808, p. 284, Art. 122.**
Same as above.

CN 1804, Art. 1222.
Every one of those who have conjointly contracted an indivisible debt, is liable for the whole, even though the obligation was not contracted in solido.

§2—Of the Effects of the Indivisible Obligations

Art. 2113. Every one of those who have conjointly contracted an indivisible debt, is liable to* the whole, even though the obligation was not contracted in solido.

1158
ART. 2114. The case is the same, with regard to the heirs of him who has contracted such an obligation.


RCC 1870, Art. 2114.
Same as above.

CC 1825, Art. 2110.
(No reference in Projet)
Il en est de même à l'égard des héritiers de celui qui a contracté une pareille obligation.

CC 1808, p. 284, Art. 123.
Same as above; but no punctuation after "same."

CC 1804, Art. 1223.
Same as above.

ART. 2115. Every heir of the creditor may require the execution of the indivisible obligation.

He can not alone remit the whole of the debt; he can not alone receive the price instead of the thing. If one of the heirs has alone remitted the debt, or received the price of the thing, his coheir can not demand the indivisible thing without making allowance for the portion of the coheir who has remitted the debt or has received the price.


RCC 1870, Art. 2115.
Same as above.

CC 1825, Art. 2111.
(No reference in Projet)
Chaque héritier du créancier peut exiger en totalité l'exécution de l'obligation indivisible.

Il ne peut seul, faire la remise de la totalité de la dette; il ne peut seul, recevoir le prix au lieu de la chose. Si l'un des héritiers a, seul, remis la dette ou reçu le prix de la chose, son co-héritier ne peut demander la chose indivisible, qu'en tenant compte de la portion du co-héritier qui a fait la remise, ou qui a reçu le prix.

CC 1808, p. 284, Art. 124.
Same as above; but comma (,) after "indivisible thing", and after "has remitted the debt."

CN 1804, Art. 1224.
Same as above.
Art. 2116. The heir of the debtor, being sued for the whole of the obligation, may ask for a delay to make his coheirs parties to the suit, unless the debt be of such a nature that it can be discharged only by the heir sued, against whom, in that case, judgment may be given, he having recourse for indemnification against his coheirs.


RCC 1870, Art. 2116.
Same as above.

CC 1825, Art. 2112.
Same as above.

CC 1808, p. 284, Art. 125.
The heir of the debtor being sued for the whole of the obligation, may demur on the plea that the suit ought to be brought also against his co-heirs, unless the debt be of such a nature, that it can be discharged only by the heir sued, against whom, in that case, judgment may be given, he having recourse for indemnification against his co-heirs.

CN 1804, Art. 1225.
Same as above; CC 1825 preferred.

Section 8—OF OBLIGATIONS WITH PENAL CLAUSES

Art. 2117. A penal clause is a secondary obligation, entered into for the purpose of enforcing the performance of a primary obligation.

RCC—1771, 1996, 2118 et seq., 2463, 3075, 3106, 3130.

RCC 1870, Art. 2117.
Same as above.

CC 1825, Art. 2113.
Same as above.
CIVIL CODES OF LOUISIANA

**Art. 2119**

**CC 1808, p. 284, Art. 126.**

A penal clause is that by which a person, to secure the execution of an agreement, binds himself in something, in case of non execution. (Suppressed on recommendation of redactors; Projet, p. 280)

**CN 1804, Art. 1226.**

Same as above.

**ART. 2118.** A penal obligation necessarily supposes two distinct contracts, one to do or to give that which is the principal object of the contract, the other to give or do something, if the principal object of the agreement be not carried into effect.

RCC—2117, 2119 et seq., 2123 et seq., 2734, 3075, 3106, 3130.

**RCC 1870, Art. 2118.**

Same as above.

**CC 1825, Art. 2114.**

Same as above.

**Projet, p. 280. Addition adopted; no comment**

Une obligation pénale suppose nécessairement deux contrats, l'un qui consiste à donner ou à faire ce qui constitue le principal objet du contrat, et l'autre qui consiste à donner ou à faire quelque chose, si l'objet principal de la convention n'est pas accompli.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**ART. 2119.** The penal clause has this in common with a conditional obligation, that the penalty is due only on condition that the first part of the contract be not performed. But it differs from it in this, that in penal contracts there must be always a principal obligation, independent of the penalty, while, in conditional contracts, there is no obligation, unless the condition happens.

RCC—2021 et seq., 2043, 2044, 2045 et seq., 2117, 2118, 2121 et seq., 3075, 3106, 3130.

**RCC 1870, Art. 2119.**

Same as above.

**CC 1825, Art. 2115.**

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

**Projet, p. 280. Addition adopted; no comment**

La clause pénale a cela de commun avec l'obligation conditionnelle, que la peine n'est due que sous la condition que la première partie du contrat n'ait pas été accomplie. Mais il en diffère, en ce que, dans les contrats avec clauses pénales, il doit toujours y avoir une obligation principale indépendante de la peine, tandis que dans les contrats conditionnels, il n'y a point d'obligation, à moins que la condition n'arrive.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

1161
Art. 2120

The penalty being stipulated merely to enforce the performance of the principal obligation, it is not incurred, although the principal obligation be not performed, if there be a lawful excuse for its non-performance, such as inevitable accident, or irresistible force.

RCC—1916, 1933, 2117, 2118, 2121 et seq., 2691, 2743, 2754, 2758 et seq., 2939.

RCC 1870, Art. 2120.

Same as above.

CC 1825, Art. 2116.

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2121. But if the form of the contract be changed, and only one obligation entered into subject to a condition, then the obligor takes all risks upon himself, and the penalty becomes the principal obligation, and may be recovered,* if the condition be not performed, although there may have been inevitable accidents to prevent it.

RCC—1933, 2044, 2117 et seq., 2122.

RCC 1870, Art. 2121.

Same as above.

CC 1825, Art. 2117.

(Projet, p. 280. Addition † adopted; no comment)

Mais si la forme du contrat est changée, et qu'une seule obligation soit contractée, sujette à une condition, alors le débiteur prend tous les risques sur lui, et la peine devient l'obligation principale, et peut être encourue (encourue), si la condition n'est pas accomplie, quoiqu'il y ait eu un accident inévitable qui l'ait empêché.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “recovered” should be “incurred.”

Art. 2122. The cases provided for by the two last preceding articles may always be modified, like all other obligations, by express stipulations. A contract to build* a house by a certain day, and if it is not built,** to pay one thousand dollars, is an example of a penal obligation, in which the obligor would be excused from paying the penalty, if inevitable accident had prevented him from building.
A contract to pay one thousand dollars, if the building be not finished at a stipulated time, is a conditional obligation, and gives a right to the penalty, if, from whatever cause, the condition be not performed.

RCC—1764, 1891, 1933, 2043, 2051, 2117, 2119 et seq., 2125, 2127.

RCC 1870, Art. 2122.
Same as above.

CC 1825, Art. 2118. (Projet, p. 280. Addition † adopted; no comment)
Les cas, auxquels il est pourvu dans les deux articles précédents, peuvent toujours être modifiés, comme toutes les autres obligations, par une stipulation expresse. Un contrat, par lequel quelqu'un s'engage à bâtir et livrer* une maison à certain jour, et de payer mille piastres si elle n'est pas bâtie à l'époque fixée,** est un exemple d'une obligation pénale dans laquelle le débiteur sera exempté de payer la peine, si un accident inévitable l'a empêché de bâtir.

Un contrat, par lequel quelqu'un s'engage à payer mille piastres, si la maison n'est pas finie au temps stipulé, est une obligation conditionnelle, et donne droit à exiger la peine, si la condition n'est pas accomplie par quelque cause que ce soit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include “and deliver.”
**English translation of French text incomplete; should include “at the time fixed.”

ART. 2123. The nullity of the principal obligation involves that of the penal clause.
The nullity of the latter does not involve that of the principal obligation.

RCC—2117 et seq., 3130.

RCC 1870, Art. 2123.
Same as above.

CC 1825, Art. 2119. (No reference in Projet)
La nullité de l'obligation principale entraîne celle de la clause pénale.
La nullité de celle-ci n'entraîne pas celle de l'obligation principale.

CC 1808, p. 284, Art. 127.
Same as above.

-CN 1804, Art. 1227.
Same as above.
ART. 2124. The creditor, instead of exacting the penalty stipulated from the debtor who is in default, may sue for the execution of the principal obligation.

RCC—1912, 1926, 1927, 2117, 2118, 2125, 2126.

RCC 1870, Art. 2124. Same as above.

CC 1825, Art. 2120. (No reference in Projet) Le créancier, au lieu de demander la peine contre le débiteur qui est en demeure, peut poursuivre l'exécution de l'obligation principale.


CN 1804, Art. 1228. Same as above.

ART. 2125. The penal clause is the compensation for the damages which the creditor sustains by the non-execution of the principal obligation.

He can not demand the principal and the penalty together, unless the latter be stipulated for the mere delay.

RCC—1926, 1927, 1930, 1933, 1934, 2117, 2118, 2122, 2124, 2127, 2463, 2485, 2486, 3075, 3106, 3130.

RCC 1870, Art. 2125. Same as above.

CC 1825, Art. 2121. (No reference in Projet) La clause pénale est la compensation des dommages et intérêts que le créancier souffre de l'inexécution de l'obligation principale.

Il ne peut demander, en même temps, le principal et la peine, à moins qu'elle n'ait été stipulée pour le simple retard.

CC 1808, p. 284, Art. 129. -p. 285, Art. 129. Same as above; but comma (,) after "pénale."

CN 1804, Art. 1229. Same as above; but no punctuation after "pénale", after "demander", or after "temps."

ART. 2126. Whether the principal obligation contain, or do not contain, a term in which it is to be fulfilled, the penalty is forfeited only when he who has obligated himself either to deliver, to take, or to do, is in default.

RCC—1911, 1912, 1930, 1933, 1934, 2048, 2117, 2124.

RCC 1870, Art. 2126. (Same as Art. 2126 of Proposed Revision of 1869)
CIVIL CODES OF LOUISIANA

Art. 2128

CC 1825, Art. 2122. (No reference in Projet)
Whether the principal obligation contain, or do not contain a term in which it is to be fulfilled, the penalty is forfeited, only when he who has obligated himself either to deliver, to take, or to do, is in delay.

CC 1808, p. 284, Art. 130.
Same as above; but comma (,) after "not contain", and after "himself"; no punctuation after "forfeited."

CN 1804, Art. 1230.
Same as above; RCC 1870 preferred.

ART. 2127. The penalty may be modified by the judge, when the principal obligation has been partly executed, except in case of a contrary agreement.

RCC—1934 (5), 2117, 2122, 2125.

RCC 1870, Art. 2127.
Same as above.

CC 1825, Art. 2123. (No reference in Projet)
Same as above.

CC 1808, p. 284, Art. 131.
Same as above.

CN 1804, Art. 1231.
The penalty may be modified by the judge when the principal obligation has been partly executed.

ART. 2128. When the primitive obligation, contracted with a penal clause, is of an indivisible thing, the penalty is incurred by the contravention of any one of the heirs of the debtor; and it may be exacted, either wholly against him who has contravened the obligation, or against every one of the coheirs for his part and portion, and, in case of mortgage for the whole, they having their remedy against him who has caused the penalty to be incurred.

RCC—1420, 1425, 1427, 1432, 1433, 1435, 2008, 2096, 2108, 2109, 2112, 2114, 2116, 2117, 3282.

RCC 1870, Art. 2128. (Same as Art. 2128 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2124. (No reference in Projet)
When the primitive obligation, contracted with a penal cause (clause), is of an indivisible thing, the penalty is forfeited by the default of any one of the heirs of the debtor, and it may be exacted, either wholly against him who

La peine peut être modifiée par le juge lorsque l'obligation principale a été exécutée en partie, à moins de convention contraire.

La peine peut être modifiée par le juge lorsque l'obligation principale a été exécutée en partie.

Lorsque l'obligation primitive contrac-tée avec une clause pénale, est d'une chose indivisible, la peine est encourue par la contravention d'un seul des héritiers du débiteur, et elle peut être demandée, soit en totalité con-
Art. 2129. When the primitive obligation contracted under a penalty is divisible, the penalty is incurred only by that one of the debtor’s heirs who contravened the obligation, and only for the part for which he was liable in the principal obligation, no action lying against those who have executed it.

This rule has an exception, when the penal clause having been added in the intention that the payment should not be made partially, a coheir has prevented the execution of the obligation for the whole.

In that case the entire penalty may be exacted of him, and against the other coheirs only for their part; but the latter have their recourse against the former.

RCC—1420, 1425, 1427, 2008, 2108, 2109, 2111, 2112, 2114, 2116, 2117.

RCC 1870, Art. 2129.

Same as above.

CC 1825, Art. 2125. (No reference in Projet)

Lorsque l’obligation primitive contractée sous une peine, est divisible, la peine n’est encourue (encourue) que par celui des héritiers du débiteur qui contrevient à cette obligation, et pour la part seulement dont il était tenu dans l’obligation principale, sans qu’il y ait d’action contre ceux qui l’ont exécutée.

Cette règle reçoit exception, lorsque la clause pénale ayant été ajoutée dans l’intention que le payement ne pût se faire partiellement, un co-héritier a empêché l’exécution de l’obligation pour la totalité.

En ce cas, la peine entière peut être exigée contre lui, et contre les autres co-héritiers pour leur portion seulement, sauf leur recours.

CC 1808, p. 286, Art. 133.

Par. 1 same as par. 1, above; but comma (...) after “heirs.”

This rule has this exception, that when the penal clause having been added in the intention that the payment should
not be made partially, a co-heir has prevented the execution of the obligation for the whole.

Par. 3 same as par. 3, above; but comma (,) after "case"; semicolon (;) after "part."

CN 1804, Art. 1233.
Same as above.

Chapter 5—Of the Manner in which Obligations may be Extinguished

Art. 2130. Obligations are extinguished:
By payment.
By novation.
By voluntary remission.
By compensation.
By confusion.
By the loss of the thing.
By nullity or rescission.
By the effect of the dissolving condition, which has been explained in the preceding chapter.
By prescription, which shall be treated of in a subsequent title.


RCC 1870, Art. 2130.
Same as above.

CC 1825, Art. 2126. (No reference in Projet)
Same as above; but semicolon (;) after "payment", after "novation", after "remission", after "compensation", after "thing", after "rescission", and after "chapter."

Les obligations s'éteignent:
Par le payement;
Par la novation;
Par la remise volon taire;
Par la compensation;
Par la confusion;
Par la perte de la chose;
Par la nullité ou la rescision;
Par l'effet de la condition résolutoire qui a été expliquée au chapitre précédent;
Par la prescription qui fera l'objet d'un titre particulier.

Et par la prescription, qui fera l'objet d'un titre particulier.
ART. 2131

BY PAYMENT IS MEANT, NOT ONLY THE DELIVERY OF A SUM OF MONEY, WHEN SUCH IS THE OBLIGATION OF THE CONTRACT, BUT THE PERFORMANCE OF THAT WHICH THE PARTIES RESPECTIVELY UNDERTOOK, WHETHER IT BE TO GIVE OR TO DO.

RCC—1799, 1905, 1907, 1913, 1914, 1926, 2130, 2150, 2655, 3045, 3411.

RCC 1870, Art. 2131.
Same as above.

CC 1825, Art. 2127. (Projet, p. 281. Addition adopted; no comment)
On entend par payement, non seulement la délivrance d'une somme d'argent, si telle est l'obligation du contrat, mais l'exécution de ce à quoi les parties se sont respectivement obligées, soit que l'obligation consiste à donner, soit qu'elle consiste à faire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2132. He who is bound to do, or not to do, or to give, is indifferently called the obligor, or the debtor; and he to whom the obligation is made is in like manner without distinction called the obligee or the creditor.


RCC 1870, Art. 2132.
Same as above.

CC 1825, Art. 2128. (Projet, p. 281. Addition adopted; no comment)
Celui qui s'est obligé à faire ou à ne pas faire ou à donner, est, comme dans les contrats d'argent, appelé le débiteur, et celui en faveur de qui l'obligation est contractée, est appelé le créancier.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

§1—OF PAYMENT OR PERFORMANCE IN GENERAL

ART. 2133. Every payment presupposes a debt; what has been paid without having been due, is subject to be reclaimed.

That can not be reclaimed that has been voluntarily given in discharge of a natural obligation.

Art. 2135. A third person may, for the advantage of the obligor, put the obligee in default, by offering to perform the obligation on the part of the debtor, even without his knowledge; but it must be for the advantage of the debtor, and not merely to change the creditor.

RCC—1913, 1914, 2134, 2136, 2137.
Art. 2136  

The obligation of doing can not be discharged by a third person against the will of the creditor, when it is the interest of the latter that it be fulfilled by the debtor himself.


RCC 1870, Art. 2136.  
Same as above.

CC 1825, Art. 2132.  
(No reference in Projet)  
L'obligation de faire ne peut etre acquittee par un tiers contre le gre du créancier, lorsque ce dernier a intérêt qu'elle soit remplie par le débiteur lui-même.

CC 1808, p. 286, Art. 137.  
Same as above; but comma (,) after “latter.”

CC 1808, p. 287, Art. 137.  
Same as above; but comma (,) after “doing”, and after “person.”

CN 1804, Art. 1237.  
Same as above.

Art. 2137.  
But where the act to be done may as well be performed by a third person, who offers to do it, as by the obligor, then it may be discharged by this third person, or the creditor may be put in default by his offer to perform it, always under the condition that some advantage may result to the debtor, or that the offer be made at his request.

RCC—1913, 1914, 2043, 2134 et seq.

RCC 1870, Art. 2137.  
(Same as Art. 2137 of Proposed Revision of 1869)  
Same as above.

CC 1825, Art. 2133.  
(Projet, p. 281. Addition adopted; no comment)  
Mais lorsque l'obligation de faire peut être aussi bien exécutée par le tiers qui offre de l'accomplir, que par le débiteur, cette obligation peut être exécutée par ce tiers,* ou bien le créancier peut être mis en demeure par son
ART. 2138. If the debtor give a thing in payment of his obligation, which he has no right to deliver, it does not discharge his obligation, and the owner of the thing given may reclaim it in the hands of the creditor, unless the obligation has been discharged by the payment of money, or the delivery of some of those things which are consumed in the use, and the creditor has used them; in which cases neither the money nor the things consumed can be reclaimed, and the payment will be good.

RCC—1758, 2139, 2301, 3062.

To make valid payment, the payer must be the owner of the thing given in payment, and capable of alienating it. Nevertheless payment in a sum of money, or in any thing that is consumed by use, cannot be reclaimed from the creditor who has fairly consumed it, although the payment was made by a person who was not the owner of the thing, or was not capable of alienating it.

CN 1804, Art. 1238.
Same as above.

*Note error in English translation of French text; “it” should be “the obligation.”
ART. 2139. If money, or other stolen property, be given in payment,* the payment is not good, and the owner may recover the amount paid.


RCC 1870, Art. 2139.
Same as above.

CC 1825, Art. 2135.
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “If money, or other stolen property, be given in payment” should be “If the money or other articles with which payment is made are stolen.”

ART. 2140. The payment must be made to the creditor, or to some person having a power from him to receive it, or who is authorized by a court, or by law, to receive it for him. Payment made* to a person, not having power to receive it for the creditor, is valid, if the creditor has ratified it, or has profited by it.

RCC—221, 337, 415, 1839, 2141, 2143, 2145, 2146, 2167, 2272, 2404, 2949, 2985, 2997, 3170.

RCC 1870, Art. 2140.
(Same as Art. 2140 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2136.
The payment must be made to the creditor, or to some person having a power from him to receive it, or authorized by a court, or by law to receive it from** him.
Par. 2 same as par. 2, above.

CC 1808, p. 288, Art. 139.
Par. 1 same as RCC 1870, Art. 2140, above; but no punctuation after “creditor.”
Par. 2 same as par. 2, above; but no punctuation after “person”, or after “valid.”

CN 1804, Art. 1239.
Same as above.

*English translation of French text incomplete; should include “in good faith.”
**Note error in English translation of French text; “from” should be “for.”
ART. 2141. If the power be revoked, either expressly or by the death of the creditor, payment to the bearer of the power will discharge the debtor, provided he were ignorant of the revocation.
RCC—2140, 2142, 3027, 3029, 3030, 3032, 3033.

RCC 1870, Art. 2141.
Same as above.

CC 1825, Art. 2137. (Projet, p. 283. Addition adopted; no comment)
Si les pouvoirs sont révoqués, soit expressément, soit par la mort du créancier, le payement fait au porteur de ces pouvoirs déchargera le débiteur, s'il a ignoré la révocation.

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

ART. 2142. A power to receive payment is revoked, as well by such change in the state of the creditor as renders him incapable himself of legally receiving, as by his death or express revocation; if he should become interdicted, or (if a woman) she should be married, the powers, given before these changes took place, are void.

RCC 1870, Art. 2142.
Same as above.

CC 1825, Art. 2138. (Projet, p. 283. Addition adopted; no comment)
Un pouvoir pour recevoir un payement, est aussi bien révoqué par un changement arrivé dans l'état du créancier qui le rendrait lui-même incapable de le recevoir valablement, que par sa mort ou par une révocation expresse. Ainsi, dans le cas où le créancier viendrait à être interdit, ou si c'est une femme, dans le cas où elle se marierait, les pouvoirs que ce créancier aurait donnés à son avocat avant ce changement, deviennent nuls.

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

ART. 2143. A payment made to an attorney at law, employed to sue for the payment, will discharge the debtor, although the attorney be not specially empowered to receive the debt.
RCC—2140, 2146, 2997, 2999, 3000, 3010. CP—766.

RCC 1870, Art. 2143.
Same as above.

CC 1825, Art. 2139. (Projet, p. 283. Addition amended and adopted; no comment)
Un payement fait à un procureur aux causes, qui est employé pour poursuivre le recouvrement d'une créance, déchargera le débiteur, sans que le procureur ait reçu un pouvoir spécial à cet effet.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 2144. If the authority of him who gave the power ceases, the power is revoked. Thus a power given by a curator, an executor or a tutor, is no longer valid, after he ceases to exercise his trust.

RCC—3027, 3032.

RCC 1870, Art. 2144. (Same as Art. 2144 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2140. (Projet, p. 283. Addition † adopted; no comment)

If the authority of him who gave the power ceases, the power is revoked. Thus, a power given by a curator, an executor, or a tutor, is no longer valid, after they cease to exercise their trust.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2145. Payments in general can legally be made only to the creditor, or some one empowered by him. The debtor, however, is discharged by a payment made in good faith to one who is really not the creditor nor empowered by him, in the following cases:

1. When the debt is due on an instrument in writing, payable to the bearer, or payable to order, and indorsed, or if not payable to the bearer, if it be assigned in blank, or to bearer, and the payment is made to one in possession of the original evidence of the debt.

2. When the person, to whom the payment has been made, was at the time in possession of the evidence of the debt, under an order of a competent court, as syndic or trustee of creditors, as curator,* executor, heir, or by virtue of any office or other trust, that apparently gives him the power to receive the payment.

3. When the debt accrues for rents or other incidents of the administration of immovable property, or for the sale or expenses relative to movable property, of which the person** is in possession by virtue of any of the titles mentioned in the last preceding rule, or where he has been in the uninterrupted possession of such immovable property for more than one year under any other title.

RCC—1839, 2138, 2140, 2202, 2310, 2644, 3170, 3454. Acts 1894, No. 112; 1906, No. 109, §17; 1914, No. 301; 1918, No. 51; 1918, No. 140; 1921, E.S., No. 64; 1921, E.S., No. 127.

RCC 1870, Art. 2145. (Same as Art. 2145 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2141. (Projet, p. 282. Substitution amended in French text and adopted; no comment)

Payments in general can legally be made only to the creditor, or some one empowered by him. The debtor however is discharged by a payment made in good faith to one who is really not the creditor, and is not empowered by him in the following cases:

Subds. 1, 2 same as subds. 1, 2, above; but semicolon (;) after "original evi-
ART. 2146. A special power to sell includes a power to receive the price, unless the contrary appear from the power, or unless the power be only to sell on a credit, in which case the attorney has no right to receive the price.

RCC—2140, 2143, 2997, 2999.

RCC 1870, Art. 2146.
Same as above.

CC 1825, Art. 2142.
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
Art. 2147

COMPiled EDITION

Art. 2147. Payment made to the creditor is not valid, if he is one of those whom the law has placed under an incapacity to receive it, unless the debtor prove that the payment was applied to some object of utility for the creditor; it is not sufficient if it was applied merely to contribute to his pleasure.


RCC 1870, Art. 2147.
Same as above.

CC 1825, Art. 2143. (Projet, p. 283. Amendment * adopted; no comment)
Same as above; but comma (,) after "sufficient."

CC 1808, p. 288, Art. 141.
Payment made to the creditor is not valid, if he was incapable of receiving it, unless the debtor proves that the thing paid has accrued to the profit of the creditor.

CC 1804, Art. 1241.
Same as above.

Art. 2148. But if the incapacity to receive the payment arose from the privation of civil rights by the effect of a sentence, then the payment is not good, although the payment were applied to the utility of the creditor.


RCC 1870, Art. 2148. (Same as Art. 2148 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2144. (Projet, p. 283. Addition amended in French text and adopted; no comment)
But if the incapacity to recover* arose from the privation of civil rights by the effect of a sentence, then the payment is not good, although the payment were applied to the utility of the creditor.

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

*Note error in English translation of French text; "recover" should be "receive the payment."

1176
ART. 2149. Payment made by a debtor to his creditor, to the prejudice of a seizure or an attachment, is not valid with regard to the creditors seizing or attaching; these may, according to their claims, oblige him to pay anew, and he has in that case alone recourse against the creditor.

RCC—1923, 2215, 2643, 2644, 3183. CP—264, 265.

RCC 1870, Art. 2149. (Same as Art. 2149 of Proposed Revision of 1869)

CC 1825, Art. 2145. (Projet, p. 283. Amendment adopted; comment by redactors)

Payment made by a debtor to his creditor, to the prejudice of a seizure or an attachment, is not valid with regard to the creditors seizing or attaching; those may, according to their claims, oblige him to pay anew, and he has in that case alone recourse against the creditor.

CC 1808, p. 288, Art. 142.

Same as RCC 1870, Art. 2149, above; but comma (,) after “attaching”, and after “alone”; no punctuation after “may.”

CN 1804, Art. 1242.

Same as above.

ART. 2150. The creditor can not be constrained to receive any other thing than that which is due, although the value of the thing tendered be equal, or even greater.


RCC 1870, Art. 2150.

Same as above.

CC 1825, Art. 2146. (No reference in Projet)

Same as above.

CC 1808, p. 288, Art. 143.

Same as above.

CN 1804, Art. 1243.

Same as above.

ART. 2151. But if the thing agreed to be delivered, be a specific object, and it be destroyed before the time agreed for its delivery, the debtor may be forced to give, and the creditor to receive the value of this thing in money.

RCC—1898, 1907, 1910, 1916, 1918, 1919, 2150, 2152, 2467 et seq., 2551.
ART. 2152  

RCC 1870, Art. 2151.  
Same as above.

CC 1825, Art. 2147.  
Same as above; but comma (,) after “destroyed.”

CC 1808.  No corresponding article.

CN 1804.  No corresponding article.

ART. 2152. In the case provided for in the last preceding article, and in all other cases where the value of the thing to be delivered, enters into the measure of damages, its price, or that sum for which others of the like quality could have been purchased at the time agreed on for the delivery, is to be the rule for calculating the value; or, if no time was stipulated, then the price, at the time of the demand, must be referred to.

RCC—1934, 2151.

RCC 1870, Art. 2152.  
Same as above.

CC 1825, Art. 2148.  
Same as above.

CC 1808.  No corresponding article.

CN 1804.  No corresponding article.

ART. 2153. The debtor can not oblige the creditor to receive in part the payment of a debt, even divisible.

RCC—2108, 2111, 2154, 2168(3), 3163, 3164, 3171.

RCC 1870, Art. 2153.  
Same as above.

CC 1825, Art. 2149.  
Same as above.

CC 1808, p. 288, Art. 144.  
Same as above; but comma (,) after “part.”

-p. 289, Art. 144.  
Same as above; but “payment” correctly spelled “payement”; comma (,) after “recevoir”, and after “partie.”
ART. 2154. But if the sum due consists of several different debts, or of rents falling due at different times, the debtor may force the creditor to receive the payment of one of the debts, or of a single term of the rent; but a creditor is not obliged to receive the rent of a later term, when there is a former due.

RCC—2052, 2062, 2063, 2065, 2153.

RCC 1870, Art. 2154.
Same as above.

ART. 2155. The debtor of a certain and determinate matter is discharged by the delivery of the thing in the state in which it is at the time of delivery, provided* that, previously to the deterioration, he was not in default.

RCC—1636, 1643, 1700, 1701, 1886, 1907, 1910, 1916, 1918, 2044, 2219, 2312, 2455, 2489, 2723, 2863, 2899, 2902, 2945, 3407.

RCC 1870, Art. 2155. (Same as Art. 2155 of Proposed Revision of 1869)
Same as above.

ART. 2151. The debtor of a certain and determinate matter is discharged by the delivery of the thing in the state in which it is at the time of delivery, provided* that, previously to the deterioration, he was not chargeable with delay.

CC 1808, p. 288, Art. 145.
Same as above; but comma (,) after "matter"; and after "it is."

CN 1804, Art. 1245.
The debtor of a certain and determinate matter is discharged by the delivery of the thing in the state in which it is at the time of the delivery, provided that the deterioration which has occurred has
ART. 2156. If the debt be of a thing which is determined only by its species, the debtor, in order to his discharge,* is not bound to deliver it of the best kind, but he can not tender it of the worst.

RCC—1640, 1886, 2910, 1915, 2920.

RCC 1870, Art. 2156.
Same as above.

CC 1825, Art. 2152.
(No reference in Projet)
Same as above.

CC 1808, p. 288, Art. 146.
Same as above; but no punctuation after “debtor”, or after “discharge”;
comma (,) after “deliver it.”

CC 1804, Art. 1246.
If the debt be of a thing which is determined only by its species, the debtor, in order to be discharged, is not bound to deliver it of the best kind, but he cannot tender it of the worst.

*Note error in English translation of French text; “his discharge” should be “be discharged.”

ART. 2157. The payment must be made in the place specified in the agreement. If the place be not thus specified, the payment, in case of a certain and determinate substance, must be made in the place where was, at the time of the agreement, the thing which is the object of it.

These two cases excepted, the payment must be made at the dwelling of the debtor.

RCC—1913, 1914, 2168, 2213, 2484, 2549, 2550, 2920, 2921, 2953, 2954.
CP—406.

RCC 1870, Art. 2157.
Same as above.

CC 1825, Art. 2153.
(No reference in Projet)
Same as above.

Le payement doit être exécuté dans le lieu désigné par la convention. Si le lieu n'y est pas désigné, le payement, lorsqu'il s'agit d'un corps certain et déterminé, doit être fait dans le lieu où était, au temps de l'obligation, la chose qui en fait l'objet.

Hors ces deux cas, le payement doit être fait au domicile du débiteur.
ART. 2158. The expenses attending the payment are at the charge of the debtor.

RCC—1632, 2213, 2466, 2483, 2638, 2953.

RCC 1870, Art. 2158.
Same as above.

CC 1825, Art. 2154. (No reference in Projet)
Same as above. Les frais du payement sont à la charge du débiteur.

Same as above.

CN 1804, Art. 1248.
Same as above.

§2—Of Payment with Subrogation

ART. 2159. Subrogation to the right of a creditor in favor of a third person who pays him, is either conventional or legal.

RCC—2160 et seq.

RCC 1870, Art. 2159.
Same as above.

CC 1825, Art. 2155. (No reference in Projet)
Same as above. La subrogation dans les droits du créancier, au profit d’une tierce personne qui le paye, est ou conventionnelle ou légale.

Same as above.

CN 1804, Art. 1249.
Same as above; but no punctuation after “créancier.”

ART. 2160. The subrogation is conventional:

1. When the creditor, receiving his payment from a third person, subrogates him in his rights, actions, privileges, and mortgages against the debtor; this subrogation must be expressed and made at the same time as the payment.

2. When the debtor borrows a sum for the purpose of paying his debts, and intending to subrogate the lender in the rights of the creditor. To make this subrogation valid, it is necessary that the act of borrowing and the receipt be executed in presence of a notary and two witnesses; that, in the act of borrowing, it be declared that the
sum was borrowed to make the payment, and that in the receipt it be declared that the payment has been made with the money furnished for that purpose by the new creditor. That subrogation takes place independently of the will of the creditor.


RCC 1870, Art. 2160.

Same as above.

CC 1825, Art. 2156. (No reference in Projet)

Same as above; but semicolon (;) after "as the payment"; comma (,) after receipt it be declared." 

Cette subrogation est conventionnelle:

1. Quand le créancier, recevant son payement d'une tierce personne, la subroge dans ses droits, actions, privilèges ou hypothèques contre le débiteur; cette subrogation doit être expresse, et faite en même temps que le payement;

2. Lorsque le débiteur emprunte une somme, à l'effet de payer sa dette, et de subroger le prêteur dans les droits du créancier; il faut, pour que cette subrogation soit valable, que l'acte d'emprunt et la quittance soient passés devant un notaire et deux témoins; que dans l'acte d'emprunt il soit déclaré que la somme a été empruntée pour faire le payement, et que dans la quittance il soit déclaré que le payement a été fait des deniers fournis à cet effet par le nouveau créancier. Cette subrogation s'opère sans le secours (concours) de la volonté du créancier.*

CC 1808, p. 288, Art. 150.

Par. 1 and subd. 1 same as par. 1 and subd. 1, above; but dash (—) after "conventionnelle"; no punctuation after "creditor"; period (.) after "as the payment."

2dly. When the debtor borrows a sum for the purpose of paying his debts, and intending to subrogate the lender in the rights of the creditor. To make this subrogation valid, it is necessary that the act of borrowing, and the receipt, be executed in presence of a notary and two witnesses; that in the act of borrowing, it be declared that the sum was borrowed to make the payment, and that in the receipt, it be declared that the payment has been made with the money furnished for that purpose be [by] the new creditor.*

CN 1804, Art. 1250.

Par. 1 and subd. 1 same as par. 1 and subd. 1, above.

Par. 1 and subd. 1 same as par. 1 and subd. 1, above; but comma (,) after "conventionnelle"; no punctuation after "crediteur", after "personne", or after "expresse"; colon (:) after "débiteur."
2. When the debtor borrows a sum for the purpose of paying his debts, and intending to subrogate the lender in the rights of the creditor. To make this subrogation valid, it is necessary that the act of borrowing and the receipt, be executed in presence of notaries; that in the act of borrowing it be declared that the sum was borrowed to make the payment, and that in the receipt, it be declared that the payment has been made with the money furnished for that purpose by the new creditor. That subrogation takes place independently of the will of the creditor.

*English translation of French text incomplete; should include “That subrogation takes place independently of the will of the creditor.”

ART. 2161. Subrogation takes place of right:
1. For the benefit of him who, being himself a creditor, pays another creditor, whose claim is preferable to his by reason of his privileges or mortgages.
2. For the benefit of the purchaser of any immovable property, who employs the price of his purchase in paying the creditors, to whom this property was mortgaged.
3. For the benefit of him who, being bound with others, or for others, for the payment of the debt, had an interest in discharging it.
4. For the benefit of the beneficiary heir, who has paid with his own funds the debts of the succession.

RCC—581, 1433, 1435, 2087, 2091, 2103, 2104, 2106, 2112, 2116, 2159, 2160, 2162, 2772, 2773, 3052, 3053, 3058, 3061. Acts 1898, No. 170, §89 (as am. by 1924, No. 138, and 1932, No. 228); 1902, No. 179; 1934, No. 180, §5.

RCC 1870, Art. 2161. (Same as Art. 2161 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2157. (No reference in Projet)
Par. 1 and subd. 1 same as par. 1 and subd. 1, above; but comma (,) after “to his”; semicolon (;) after “mortgages.”

2. For the benefit of the purchaser of any immovable property, who employs the price of his purchase in paying the creditors, to whom the hereditament was mortgaged;
Subds. 3, 4 same as subds. 3, 4, above; but semicolon (;) after “it”, and after “succession.”

CC 1808, p. 290, Art. 151.
Same as above; but semicolon (;) after “right”; no punctuation after “another creditor”, or after “who” in subd. 3; period (.) after “mortgaged”, after “it”, and after “succession.”

Same as above; but no punctuation after “autre créancier”, or after “bénéficiaire”; comma (,) after “préférable”, after “avec d’autres”, after “payé”, and after “deniers.”

1183
ART. 2162. The subrogation established by the preceding articles, takes place as well against the securities, as against the debtors. It cannot injure the creditor, since, if he has been paid but in part, he may exercise his right for what remains due, in preference to him from whom he has received only a partial payment.

RCC 1870, Art. 2162. (Same as Art. 2162 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2158. (No reference in Projet)
La subrogation, établie par les articles précédents, a lieu tant contre les cautions que contre les débiteurs; elle ne peut nuire au créancier, lorsqu'il n'a été payé qu'en partie; en ce cas, il peut exercer ses droits pour ce qui reste dû, par préférence à celui dont il n'a reçu qu'un paiement partiel.

CC 1808, p. 290, Art. 152.
The subrogation established by the preceding articles, takes place as well against the securities, as against the debtors. It cannot injure the creditor, since if he has been paid but in part, he may exercise his right for what remains due, in preference to him for whom* he has received only a partial payment.

CN 1804, Art. 1252.
La subrogation a lieu de plein droit, 1. Au profit de celui qui étant lui-même créancier paye un autre créancier qui lui est préférable à raison de ses privilèges ou hypothèques;
Subds. 2-4 same as subds. 2-4, above; but no punctuation after "celui qui", after "avec d'autres", after "payé", or after "deniers."

ART. 2163. The debtor of several debts has a right to declare, when he makes a payment, what debt he means to discharge.

RCC 1870, Art. 2163.
Same as above.

CC 1825, Art. 2159. (No reference in Projet)
Le débiteur de plusieurs dettes a le droit de déclarer, lorsqu'il paye, quelle dette il entend payer.

§3—Of the Imputation of Payments
CIVIL CODES OF LOUISIANA

Art. 2164.

The debtor of a debt, which bears interest or produces rents, can not, without the consent of the creditor, impute to the reduction of the capital any payment he may make, when there is interest or rent due.

Every payment which does not extinguish both the principal and interest, must be imputed first to the payment of the interest.

RCC—1938, 2163, 3169, 3176.

RCC 1870, Art. 2164.

(Same as Art. 2164 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2160.

(Projet, p. 284. Amendment amended and adopted; no comment)

Same as par. 1, above.

CC 1808, p. 290, Art. 154.

The debtor of a debt which bears interest or produces arrearages, cannot, without the consent of the creditor, impute the payment which he makes on the capital, to the interest or arrearages in preference: a payment made on the capital and interest, but which is not integral, is first imputed to the interest.

CN 1804, Art. 1254.

The debtor of a debt which bears interest or produces arrearages, cannot, without the consent of the creditor, impute the payment which he makes on the capital, in preference to the arrearages or interest; a payment made on the capital and interest, but which is not integral, is first imputed to the interest.

*English translation of French text incomplete; should include “of a thing which.”

**A literal translation of “à la fois le capital ou” would be “both the principal or”, but the given English version, “both the principal and” is the only one that fits the context.

***English translation of French text incomplete; should include “Every payment which does not extinguish both the principal and interest, must be imputed first to the payment of the interest.”

****Note error in English translation of French text; “to the interest or arrearages in preference” should be “in preference to the arrearages or interest.”
Art. 2165. When the debtor of several debts has accepted a receipt, by which the creditor has imputed what he has received to one of the debts specially, the debtor can no longer require the imputation to be made to a different debt, unless there have been fraud or surprise on the part of the creditor.

RCC—1819, 2166.

RCC 1870, Art. 2165. Same as above.

CC 1825, Art. 2161. (No reference in Projet) Same as above; but comma (,) after “received.”

CC 1808, p. 290, Art. 155. Lorsque le débiteur de diverses dettes a accepté une quittance par laquelle le créancier a imputé ce qu'il a reçu sur l'une des dettes spécialement, le débiteur ne peut plus demander l'imputation sur une dette différente, à moins qu'il n'y ait eu dol ou surprise de la part du créancier.

CC 1804, Art. 1255. Same as above.

ART. 2166. When the receipt bears no imputation, the payment must be imputed to the debt, which the debtor had at the time most interest in discharging, of those that are equally due; otherwise to the debt which has fallen due, though less burdensome than those which are not yet payable.

If the debts be of a like nature, the imputation is made to the debt which has been longest due; if all things are equal, it is made proportionally.

RCC—2163 et seq., 2214, 2860.

RCC 1870, Art. 2166. (Same as Art. 2166 of Proposed Revision of 1869) Same as above.

CC 1825, Art. 2162. (No reference in Projet) Par. 1 same as par. 1, above; but comma (,) after “equally due.”

If the debts be of a like nature, the imputation is made to the less burdensome; if all things are equal it is made proportionally.

If les dettes sont d'égale nature, l'imputation se fait sur la plus ancienne; toutes choses égales, elle se fait proportionnellement.
§4—Of Tenders of Payment and Consignment

ART. 2167. When the creditor refuses to receive his payment, the debtor may make him a real tender; and on the creditor's refusal to accept it, he may consign the thing or the sum tendered.

A real tender, followed by a consignment, exonerates the debtor; it has the same effect, with regard to him, as a payment, when it is validly made; and the thing thus consigned remains at the risk of the creditor.


RCC 1870, Art. 2167.
Same as above.

CC 1825, Art. 2163. (No reference in Projet)
Same as above; but comma (,) after "him a real tender."

Lorsque le créancier refuse de recevoir son payement, le débiteur peut lui faire des offres réelles, et au refus du créancier de les accepter, consigner la somme ou la chose offerte.

Les offres réelles, suivies d'une consignation, libèrent le débiteur; elles tiennent lieu, à son égard, de payement, lorsqu'elles sont valablement faites; et la chose, ainsi consignée, demeure aux risques du créancier.

Same as above; but "refuses" spelled "refusés"; no punctuation after "effect", or after "to him"; comma (,) after "consigned."

Same as above; but comma (,) after "refus du créancier", and after "faites."

CN 1804, Art. 1257.
Same as above.

Same as above; but no punctuation after "refus du créancier", after "Les offres réelles", after "consignation", after "lieu", after "égard", after "et la chose", or after "consignée."
ART. 2168. To make a real tender valid, it is necessary:
1. That it be made to the creditor having capacity to receive it.*
2. That it be made by a person capable of paying.
3. That it be for the whole of the sum demandable, of the arrearages of interest due, for the liquidated costs, and for a sum towards the costs not liquidated, the deficit of which sum is hereafter to be made up.**
4. That the term be expired, if it has been stipulated in favor of the creditor.
5. That the condition on which the debt has been contracted be fulfilled.
6. That the tender be made in the place agreed upon for the payment, or that, if there be no special agreement as to the place of payment, it be made either to the creditor himself, or at his dwelling, or at the house chosen for the execution of the agreement.

RCC—1913, 1914, 2043, 2052, 2053, 2153, 2156, 2157, 2167, 2638, 2996.
CP—404-418.

RCC 1870, Art. 2168. (Same as Art. 2168 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2164. (No reference in Projet)
Par. 1 and subds. 1, 2 same as par. 1 and subds. 1, 2, above; but semicolon (;) after “receiving it”, and after “paying.”

3. That it be for the whole of the sum demanded, of the arrearages or interest due, for the liquidated costs, and for a sum towards the costs not liquidated, the deficit of which sum is hereafter to be made up**;
Subds. 4-6 same as subds. 4-6, above; but comma (,) after “condition”, and after “contracted”; semicolon (;) after “of the creditor”, and after “fulfilled.”

Pour que les offres réelles soient valables, il faut:
1.* Qu'elles soient faites par une personne capable de payer;
2.* Qu'elles soient faites au créancier ayant la capacité de recevoir, ou à celui qui a pouvoir de recevoir pour lui**;
3. Qu'elles soient de la totalité de la somme exigible, des arrérages ou intérêts dus, et d'une somme pour les frais non liquidés**;

4. Que le terme soit échu, s'il a été stipulé en faveur du créancier;
5. Que la condition, sous laquelle la dette a été contractée, soit arrivée;
6. Que les offres de payement soient faites au lieu dont on est convenu pour le payement, et que s'il n'y a pas de convention spéciale sur le lieu du payement, elles soient faites à la personne du créancier ou à son domicile, ou au domicile élu pour l'exécution de la convention.

CC 1808, p. 292, Art. 158.
Par. 1 and subds. 1-6 same as par. 1 and subds. 1-6, above; but semicolon (;) after “valid”; and after “the agreement”; dash (—) after “necessary”; “demanded” correctly spelled “demandable”; no punctuation after “condition”; comma (,) after “special agreement.”

p. 293, Art. 158.
Par. 1 same as par. 1, above. Subd. 1 same as subd. 2, above. Subd. 2 same as subd. 1, above.
3. Qu'elles soient de la totalité de la somme exigible, des arrérages ou intérêts dus, des frais liquidés, et d'une somme pour les frais non liquidés, sauf à la parfaire;
Subds. 4, 5 same as subds. 4, 5, above.
CIVIL CODES OF LOUISIANA

Art. 2170

7thly. That the tender be made by the sheriff of the parish or district where it is to be made, conformably to what is hereafter prescribed.

CN 1804, Art. 1258.

Par. 1 same as par. 1, above.

1. That it be made to the creditor having capacity to receive it, or to one who has the power to receive it for him;

2. That it be made by a person capable of paying;

Subds. 3-6 same as subds. 3-6, above.

7. That the tender be made by a public officer having capacity for this kind of acts.

*Note that subd. 1 of the English is a translation of subd. 2 of the French, and subd. 2 of the English is a translation of subd. 1 of the French.

**English translation of French text incomplete; should include “or to one who has the power to receive it for him.”

***“The deficit of which sum is hereafter to be made up” has no counterpart in French text.

ART. 2169.* The mode in which a tender and consignment must be made, is pointed out in the laws regulating the practice of the courts.

RCC—2176, 2634, 2638. CP—404-418, 1094.

RCC 1870, Art. 2169.

Same as above.

CC 1825, Art. 2165. (Projet, p. 284. Addition adopted; no comment)

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

CC 1808. No corresponding article.**

CN 1804. No corresponding article.

*In connection with this article see CP, Arts. 404-418.

**The procedural regulations are omitted at this point but may be found in the appendix.

§5—Of the Cession of Property

ART. 2170. The surrender of property is the relinquishment that a debtor makes of all his property to his creditors, when he finds himself unable to pay his debts.


1189
Art. 2171  COMPIL EDITION

RCC 1870, Art. 2170.
Same as above.

CC 1825, Art. 2166.  (No reference in Projet)
La cession de biens est l’abandon qu’un débiteur fait de tous ses biens à ses créanciers, lorsqu’il se trouve hors d’état de payer ses dettes.

CC 1808, p. 294, Art. 166.
La cession des biens, est l’abandon qu’un débiteur fait de tous ses biens, à ses créanciers, lorsqu’il se trouve hors d’état de payer ses dettes.

CN 1804, Art. 1265.
La cession de biens est que l’un de biteur fait de tous ses biens, lorsqu’il se trouve hors d’état de payer ses dettes.

ART. 2171. The surrender of property is voluntary or forced.
RCC—2170, 2172 et seq., 3085.  RS—1784-1822.

RCC 1870, Art. 2171.
Same as above.

CC 1825, Art. 2167.  (No reference in Projet)
La cession de biens est ou volontaire ou forcée.

CC 1808, p. 294, Art. 167.
La cession de biens est volontaire ou judiciaire.

CN 1804, Art. 1266.
The surrender of property is voluntary or judicial.

Projet du Gouvernement (1800), Book III, Title II, Art. 188.
La cession de biens est ou volontaire ou judiciaire.

ART. 2172. The voluntary surrender of property is that which is made at the desire of the debtor himself.
The forced surrender is that which is ordered at the instance of the creditors of the debtor, or of some of them, in cases provided for by law.
RCC—2171, 2174, 3085, 3093.

RCC 1870, Art. 2172.
Same as above.

CC 1825, Art. 2168.  (No reference in Projet)
La cession de biens volontaire est celle qui est faite à la requête même du débiteur.

CC 1808, p. 294, Art. 168.
The voluntary surrender of property is that which is made at the desire of the creditor himself.

Same as above; but comma (,) after “volontaire”, after “requête”, and after “forcée.”

1190
And the forced surrender is that which is ordered at the instance of the debtor’s creditors, or of some of them, in cases provided for by law.

CN 1804, Art. 1267.
The voluntary surrender of property is that which the creditors accept voluntarily, and which has no effect beyond that resulting from the very stipulations of the contract passed between them and the debtor.

*Note error in English translation of French text; “creditor” should be “debtor.”

ART. 2173. Both those kinds of surrender are subject to formalities, which are prescribed by special laws.

RCC—2171. RS—1781-1822.

RCC 1870, Art. 2173.
Same as above.

CC 1825, Art. 2169. (No reference in Projet)
Same as above.

CC 1808, p. 294, Art. 169.
Same as above; but comma (,) after “surrender”; no punctuation after “formalities.”

CN 1804. No corresponding article.

ART. 2174. The voluntary surrender is a benefit which the law grants to the honest but unfortunate debtor, by which he is permitted to secure the liberty of his person by surrendering, in a judicial manner, all his property to his creditors, any stipulation to the contrary, notwithstanding.

RCC—2172, 2956, 2958. RS—1784.

RCC 1870, Art. 2174.
Same as above.

CC 1825, Art. 2170. (No reference in Projet)
Same as above; but comma (,) after “benefit”; no punctuation after “contrary.”

CC 1808, p. 294, Art. 170.
Same as above; but no punctuation after “benefit”, or after “surrendering.”

CN 1804, Art. 1268.
The judicial surrender is a benefit which the law grants to the honest but unfortunate debtor, by which he is per-
Art. 2175. The surrender does not give the property to the creditors; it only gives them the right of selling it for their benefit and receiving the income of it, till sold.

RCC—2178 et seq., 2182. RS—1791.

RCC 1870, Art. 2175.
Same as above.

CC 1825, Art. 2171. (No reference in Projet)
Same as above; but comma (,) after "benefit."

CC 1808, p. 294, Art. 171.
Same as above; but comma (,) after "creditors"; no punctuation after "of it."

La cession ne transfère pas la propriété aux créanciers; elle leur donne seulement le droit de faire vendre les biens à leur profit, et d'en percevoir les revenus jusqu'à la vente.

La cession ne transfère point la propriété aux créanciers; elle leur donne seulement le droit de faire vendre les biens à leur profit, et d'en percevoir les revenus jusqu'à la vente.

ART. 2176. The creditors can not refuse the surrender made according to the forms ordained by law, unless in case of fraud on the part of the debtor.

It operates the discharge of the restraint of the debtor's person, and delivers him from actual imprisonment.

It also suspends all kinds of judicial process against the debtor.

RCC—1847, 2958.

RCC 1870, Art. 2176.
Same as above.

CC 1825, Art. 2172. (No reference in Projet)
Same as above.

Les créanciers ne peuvent refuser la cession faite et ordonnée dans la forme prescrite par la loi, si ce n'est dans le cas de fraude de la part du débiteur.

Elle opère la décharge de la contrainte par corps et de l'emprisonnement actuel où serait le débiteur.

Elle a aussi l'effet de suspendre toute espèce de poursuites judiciaires contre le débiteur.
ART. 2177. A cession of property discharges all the debts, which the debtor placed on his bilan, including those arising from offenses and quasi offenses, provided a majority of his creditors in number, and who are also creditors for more than the half of the whole sum due by him, agree to such discharge. But if such consent be not obtained, any one of his creditors may afterwards force a new cession, on showing that the debtor has acquired property over and above what is necessary for his maintenance. But on such new cession, the creditors, who have become such since the first cession, must be paid in preference to the others.

RCC—3086.

RCC 1870, Art. 2177.
Same as above.

CC 1825, Art. 2173. (Projet, p. 284. Substitution amended and adopted; no comment)

Moreover it exonerates the debtor only to the amount of the value of the property surrendered; and in case that amount be insufficient for the discharge of his debts, he is still obliged to surrender whatever property he may afterwards become possessed of, until full payment, unless he has been discharged by the majority of his creditors, in number and in amount, at the time of the surrender.

CC 1808, p. 294, Art. 172, par. 4.

Moreover it exonerates the debtor only to the amount of the value of the property surrendered; and in case that amount be insufficient for the discharge of his debts, he is still obliged to surrender whatever property he may afterwards become possessed of, until full payment, unless he has been discharged by the majority of his creditors, in number and in amount, at the time of the surrender.
Moreover it exonerates the debtor only to the amount of the value of the property surrendered; and in case that amount be insufficient for the discharge of his debts, he is still obliged to surrender whatever property he may afterwards become possessed of, until full payment.

**Art. 2178.** As the debtor preserves his ownership of the property surrendered, he may divest the creditors of their possession of the same, at any time before they have sold it, by paying the amount of his debts, with the expenses attending the cession.

RCC—1970, 2175, 2182, 3097. RS—1791.

**RCC 1870, Art. 2178.**
Same as above.

**CC 1825, Art. 2174.**
Same as above.

(Projet, p. 285. Addition † adopted; no comment) Le débiteur conservant la propriété des biens, dont il a fait cession à ses créanciers, il en résulte qu'il peut leur en ôter la possession avant qu'ils soient vendus, en leur payant le montant de ses dettes, avec les frais qui auront pu accompagner sa cession.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**Art. 2179.** Any surplus that may be in the hands of the creditors, or their syndics, or other agents, after paying the debts and expenses, must be paid over to the debtor.

RCC—2175.

**RCC 1870, Art. 2179.**
Same as above.

**CC 1825, Art. 2175.**
Same as above; but comma (,) after “surplus.”

(Projet, p. 285. Addition adopted; no comment) Le surplus qui pourra rester entre les mains des créanciers ou de leurs syndics ou agents, après le payement des dettes et des frais, devra être remis au débiteur.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**Art. 2180.** The property surrendered forms a part of the succession of the debtor, if he should die before the sale; but the creditors are entitled to retain the possession and to sell, in the same manner as they were before the death of the debtor.

RCC—2175.

**RCC 1870, Art. 2180.**
Same as above.
CIVIL CODES OF LOUISIANA

ART. 2183

CC 1825, Art. 2176.
Same as above.

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

ART. 2181. The creditors of those in whose favor a cession or surrender of property has been made, even when they have a general mortgage, can not enforce it against the property surrendered; but they may seize the credits against the ceded estate on execution, and in cases where such proceeding is allowed, may attach them.

RCC 1870, Art. 2181.
Same as above.

CC 1825, Art. 2177.
Same as above; but comma (,) after "those."

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

*English translation of French text incomplete; should include "which their debtors have."

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

ART. 2182. The creditors can never prescribe by any lapse of time, so as to gain the ownership of the property ceded.

RCC—2175, 2178.

RCC 1870, Art. 2182.
(Same as Art. 2182 of Proposed Revision of 1869)

Same as above.

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

ART. 2183. The debtor is not obliged to comprehend in his surrender any property that is not subject to be seized and sold on execution against him; but, with this exception, all his property must be surrendered.


1195
Art. 2184

COMPILED EDITION

RCC 1870, Art. 2183.
Same as above.

CC 1825, Art. 2179. (Projet, p. 285. Addition adopted; no comment)
Same as above; but comma (,) after "him."

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

ART. 2184. All sales of property ceded to creditors must be made at the same terms and under the same formalities that property seized on execution is sold; but the sale is made by the syndics, or some person appointed by them, at public auction.

RCC—1869, 2170. CP—675, 680-682. RS—1812.

RCC 1870, Art. 2184.
Same as above.

CC 1825, Art. 2180. (Projet, p. 285. Addition adopted; no comment)
Toute vente de biens cédés à des créanciers doit être faite aux mêmes termes et avec les mêmes formalités, que la vente des biens saisis sur exécution; mais cette vente est faite par les syndics ou par quelqu'un nommé par eux et à l'encan public.

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

Section 2—OF NOVATION

ART. 2185. Novation is a contract, consisting of two stipulations; one to extinguish an existing obligation, the other to substitute a new one in its place.


RCC 1870, Art. 2185.
Same as above.

CC 1825, Art. 2181. (Projet, p. 286. Addition adopted; no comment)
La novation est un contrat qui renferme deux stipulations, l'une d'éteindre une obligation existante, et l'autre d'en substituer une nouvelle à sa place.

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

ART. 2186. To constitute a novation, there must be, at the time it is made, a valid obligation on which it can operate; if the first obligation, which it is intended to replace by the new one, be void, or if there be no such obligation, then the new obligation [is] of no effect.

RCC—2185.

1196
RCC 1870, Art. 2186.
Same as above.

CC 1825, Art. 2182. (Projet, p. 286. Addition adopted; no comment)
Same as above; but “obligation of” correctly spelled “obligation is of”;
comma (,) after “operate”, and after “or.”

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

ART. 2187. The preëxistent obligation must be extinguished, otherwise there is no novation; if it be only modified in some parts, and any stipulation of the original obligation be suffered to remain, it is no novation.
RCC—1455, 2185, 2186, 2190.

RCC 1870, Art. 2187.
Same as above.

CC 1825, Art. 2183. (Projet, p. 286. Addition adopted; no comment)
L’obligation antérieure doit être éteinte, autrement il n’y a point de
novation; si elle n’est que modifiée dans quelques-unes de ses parties, et qu’on
laisse subsister quelqu’une des stipulations de l’obligation primitive, il n’y
a pas de novation.

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

ART. 2188. All kinds of legal obligations are subject to novation.
RCC—2185.

RCC 1870, Art. 2188.
Same as above.

CC 1825, Art. 2184. (Projet, p. 286. Addition † adopted; no comment)
Toute (Toutes) espèce (espèces) d’obligations sont sujettes à novation.

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

ART. 2189. Novation takes place in three ways:
1. When a debtor contracts a new debt to his creditor, which
   new debt is substituted to the old one, which is extinguished.
2. When a new debtor is substituted to the old one, who is dis-
   charged by the creditor.
3. When by the effect of a new engagement, a new creditor is
   substituted to the old one, with regard to whom the debtor is dis-
   charged.
RCC—1454, 1455, 2185, 2191 et seq.
Art. 2190. Novation can be made only by persons capable of contracting; it is not presumed; the intention to make it must clearly result from the terms of the agreement, or by a full discharge of the original debt.

RCC—1782, 1945, 2185, 2192, 2194.

RCC 1870, Art. 2190.
Same as above.

CC 1825, Art. 2186.
Same as above.

CC 1808, p. 296, Art. 174.
Novation can take place only between persons capable of contracting; it is not presumed, the intention of making it must appear clearly on the face of the act.

CN 1804, Art. 1272.
Novation can take place only between persons capable of contracting.
ART. 2191. Novation by the substitution of a new debtor may take place without the concurrence of the former debtor.  
RCC—1890, 2189, 2192, 2194, 2196.

RCC 1870, Art. 2191.  
Same as above.

CC 1825, Art. 2187.  
(No reference in Projet)  
Same as above; but comma (,) after "new debtor."  

CC 1808, p. 296, Art. 175.  
Same as above.

CN 1804, Art. 1274.  
Same as above.

ART. 2192. The delegation, by which a debtor gives to the creditor another debtor who obliges himself towards such creditor, does not operate a novation, unless the creditor has expressly declared that he intends to discharge his debtor who has made the delegation.  
RCC—1780, 2185, 2190, 2191, 2193, 2194.

RCC 1870, Art. 2192.  
Same as above.

CC 1825, Art. 2188.  
(No reference in Projet)  
La délégation, par laquelle un débiteur donne au créancier un autre débiteur qui s'oblige envers le créancier, n'opère point de novation, si le créancier n'a expressément déclaré qu'il entendait décharger son débiteur qui a fait la délégation.

CC 1808, p. 296, Art. 176.  
Same as above; but no punctuation after "The delegation"; comma (,) after "to the creditor", and after "another debtor."

CN 1804, Art. 1275.  
Same as above; but no punctuation after "La délégation", after "déclaré", or after "son débiteur."

ART. 2193. The creditor who has discharged the debtor by whom a delegation has been made, has no recourse against the debtor, if the person delegated becomes insolvent, unless that act contains an express reservation to that purpose, or unless the delegated person was in a state of open failure or insolvency at the time of the delegation.  
RCC—1392, 2192, 2647 et seq.

RCC 1870, Art. 2193.  
Same as above.
Art. 2194

The mere indication made by a debtor of a person who is to pay in his place, does not operate a novation.

The same is to be observed of the mere indication made by the creditor of a person who is to receive for him.

RCC—1890, 2160, 2190 et seq., 2644.

RCC 1870, Art. 2194.

Same as above.

Art. 2195. The privileges and mortgages of the former credit are not transferred to that which is substituted to it, unless the creditor has expressly reserved them.

RCC—2196, 2197, 2216, 3186, 3282.

RCC 1870, Art. 2195.

Same as above.
CC 1825, Art. 2191.  
Same as above.  

Les privilèges et hypothèques de l'ancienne créance ne passent point à celle qui lui est substituée, à moins que le créancier ne les ait expressément réservés.

CC 1808, p. 296, Art. 179.  
Same as above; but comma (,) after "credit."  

-p. 297, Art. 179.  
Same as above.

CN 1804, Art. 1278.  
Same as above.

ART. 2196. When novation takes place by the substitution of a new debtor, the original privileges and mortgages of the credit cannot be transferred on the property of the new debtor.

RCC—2191, 2195, 2197, 3186, 3282.

RCC 1870, Art. 2196.  
Same as above.

CC 1825, Art. 2192.  
When novation takes place by the substitution of a new debtor, the original privileges and mortgages of the creditor* cannot be transferred on the property of the new debtor.

CC 1808, p. 296, Art. 180.  
Same as above.

Same as above.

CN 1804, Art. 1279.  
Same as RCC 1870, Art. 2196, above.

Same as above.

*Note error in English translation of French text; "creditor" should be "credit."

ART. 2197. When novation takes place between the creditor and one of the debtors in solido, the privileges and mortgages of the former credit can be reserved only on the property of him who contracts the new debt.

RCC—2091, 2195, 2196, 2198, 3186, 3282.

RCC 1870, Art. 2197.  
Same as above.

CC 1825, Art. 2193.  
Same as above.  

Lorsque la novation s'opère entre le créancier et l'un des débiteurs solidaires, les privilèges et hypothèques de l'ancienne créance, ne peuvent être réservés que sur les biens de celui qui contracte la nouvelle dette.

CC 1808, p. 296, Art. 181.  
Same as above; but comma (,) after "credit."

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

CN 1804, Art. 1280.  
Same as above.
ART. 2198. By the novation made between the creditor and one of the debtors in solido, the codebtors are discharged.

The novation that takes place with regard to the principal debtor, discharges the sureties.

Nevertheless, if the creditor has required, in the first case, the accession of the codebtors, or in the second, that of the sureties, the former credit subsists, if the codebtors or the sureties refuse to accede to the new arrangement.

RCC—2091, 2100, 2101, 2189, 2190, 2197, 2203, 3059, 3061 et seq.

RCC 1870, Art. 2198. (Same as Art. 2198 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2194. (No reference in Projet)

Par. 1 same as par. 1, above.

The novation that takes place with regard to the principal debtor, discharges the securities.

Nevertheless, if the creditor has required, in the first case, the accession of the co-debtors, or in the second, that of the securities, the former credit subsists, if the co-debtors or the securities refuse to accede to the new arrangement.

CC 1808, p. 296, Art. 182.

Same as above; but "Nevertheless" spelled "Nevertheless"; no punctuation after "required."

CN 1804, Art. 1281.

Same as above; RCC 1870 preferred.

Same as above; but no punctuation after "principal"; "l'acception" correctly spelled "l'acceision"; comma (,) after "ou."

Section 3—OF THE REMISSION OF THE DEBT

ART. 2199. The remission of the debt is either conventional, when it is expressly granted to the debtor by a creditor either having [creditor having] a capacity to alienate;

Or tacit, when the creditor voluntarily surrenders to his debtor the original title under private signature which establishes the obligation.

RCC—1766, 1780, 1811, 2200, 2201, 3094, 3411.

RCC 1870, Art. 2199. (Same as Art. 2199 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2195. (No reference in Projet)

The remission of the debt is either conventional, when it is expressly granted to the debtor by a creditor having a capacity to alienate; La remise d'une dette est ou conventionnelle, lorsqu'elle est accordée expressément au débiteur par un créancier qui a la capacité d'aliéner;
Art. 2201. The release or remission of a debt is presumed always to have been accepted by the debtor, and it can not be revoked by the creditor.

RCC—1766, 1780, 1797, 1800, 1802, 1811, 2199, 2200, 2285, 2287, 3094.
**Art. 2202**

The delivery to the debtor of the authenticated copy of a notarial act, by which the obligation is created, does not alone form a presumption of the release of the debt, but it may, when accompanied by other proof, form such presumption.

RCC-2200, 2232, 2285, 2287.

**Art. 2203.** The remission or conventional discharge in favor of one of the codebtors in solido, discharges all the others, unless the creditor has expressly reserved his right against the latter.

In the latter case, he can not claim the debt without making a deduction of the part of him to whom he has made the remission.

RCC-2091, 2100 et seq., 2198, 2205, 2218, 2324, 3077. Acts 1904, No. 64.

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

*Official edition reads “p. 297.”*
ART. 2204. The remission of the thing, given as a pledge, does not suffice to raise a presumption of the remission of the debt.

RCC—2200, 2285, 2287, 3133.

RCC 1870, Art. 2204.
Same as above.

CC 1825, Art. 2200. (No reference in Projet)
Same as above.

La remise de la chose donnée en nantissement, ne suffit point pour faire prêsumer la remise de la dette.

CC 1808, p. 298, Art. 186.
Same as above; but no punctuation after “thing”, or after “pledge.”

-p. 299,* Art. 186.
Same as above; but no punctuation after “nantissement.”

CN 1804, Art. 1286.
Same as above.

Same as above.


ART. 2205. The remission or even* conventional discharge granted to a principal debtor, discharges the sureties. That granted to the sureties does not discharge the principal debtor.

That granted to one of the sureties does not discharge the others.

RCC—2203, 2206, 2211, 2218, 3045, 3049, 3076.

RCC 1870, Art. 2205. (Same as Art. 2205 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2201. (No reference in Projet)
The remission or even* conventional discharge granted to a principal debtor, discharges the securities.

That granted to the securities does not discharge the principal debtor;

That granted to one of the securities does not discharge the others.

CC 1808, p. 298, Art. 187.
The remission or conventional discharge granted to a principal debtor, discharges the securities;

Para. 2, 3 same as para. 2, 3, above.

-p. 299,** Art. 187.
Same as above; but comma (,) after “conventionnelle”, and after “caution.”

CN 1804, Art. 1287.
Same as above.

Same as above; but no punctuation after “conventionnelle”, after “au débiteur principal”, after “la caution”, or after “des cautions”; semicolon (;) after “les cautions”, and after “le débiteur principal.”

**“Even” has no counterpart in French text.

**Official edition reads “p. 297.”

ART. 2206. What the creditor has received from one of the sureties, in discharge of his suretyship, must be imputed to the debt, and goes towards the discharge of the principal debtor and the other sureties.

RCC—2134, 2163, 2205, 3076.

1205
Section 4—OF COMPENSATION

ART. 2207. When two persons are indebted to each other, there takes place between them a compensation that extinguishes both the debts, in the manner and cases hereafter expressed.

RCC—1641, 1880, 2208 et seq., 2499, 2701, 2862, 2903, 3177, 3180, 3411.
CP—366 et seq.

RCC 1870, Art. 2207.
Same as above.

CC 1825, Art. 2203.
Same as above.

CC 1808, p. 298, Art. 189.
Same as above.

CN 1804, Art. 1289.
Same as above.

ART. 2204. (No reference in Projet)
Same as above.

CC 1808, p. 298, Art. 190.
Same as above; but no punctuation after “extinguished”, or after “simultaneously.”

CC 1825, Art. 2205.
Same as par. 1, above; but comma (,) after “object.”

ART. 2205. (No reference in Projet)
Same as RCC 1870, Art. 2209, par. 2, above.

CC 1808, p. 298, Art. 191.
Same as CC 1825, Art. 2205, above; but no punctuation after “debts”, or after “money.”

CC 1808, p. 299, Art. 192.
Same as CC 1825, Art. 2206, above.

CN 1804, Art. 1291, par. 1.
Same as CC 1808, p. 298, Art. 191, above.

-ART. 1292.
Same as CC 1808, p. 298, Art. 192, above.


ART. 2209. Compensation takes place only between two debts, having equally for their object a sum of money, or a certain quantity of consumable things of one and the same kind, and which are equally liquidated and demandable.

The days of grace are no obstacle to the compensation.
RCC—2208, 2215.

RCC 1870, Art. 2209. (Same as Art. 2209 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2206. (No reference in Projet)
La compensation n'a lieu qu'entre deux dettes qui ont également pour objet un lunel somme d'argent, ou une cer­taine quantité de choses fungibles de la même espèce, et qui sont également liquides et exigibles.

-ART. 2206. (No reference in Projet)
Same as RCC 1870, Art. 2209, par. 2, above.

CC 1808, p. 298, Art. 191.
Same as CC 1825, Art. 2205, above; but comma (,) after “lieu”; “un” cor­rectly spelled “une.”

-ART. 1292.
Same as CC 1808, p. 299, Art. 192, above.


ART. 2210. Compensation takes place, whatever be the causes of either of the debts, except in case:
Art. 2211

1. Of a demand of restitution of a thing of which the owner has been unjustly deprived.
2. Of a demand of restitution of a deposit and of a loan for use.
3. Of a debt which has, for its cause, aliments declared not liable to seizure.


RCC 1870, Art. 2210.
Same as above.

CC 1825, Art. 2207.
Same as above; but semicolon (;) after "deprived"; and after "use"; no punctuation after "which has."

CC 1808, p. 298, Art. 193.
Par. 1 same as par. 1, above; but no punctuation after "place."
1st, Of a demand of a restitution of a thing of which the owner has been unjustly deprived;
Subds. 2, 3 same as subds. 2, 3, above.

CN 1804, Art. 1293.
Same as above; but "quelques" correctly spelled "quelles que"; comma (,) after "cas."

*Official edition reads "p. 297."

ART. 2211. The surety may oppose* the compensation of what the creditor owes to the principal debtor.
But the principal debtor can not oppose* the compensation of what the creditor owes to the surety.
Neither can the debtor in solido oppose* the compensation of what the creditor owes to his codebtor.

RCC—2099, 2218, 3045, 3060.

RCC 1870, Art. 2211.
Same as above.

CC 1825, Art. 2208.
Same as above.

(No reference in Projet)

La caution peut opposer* la compensation de ce que le créancier doit au débiteur principal.
Mais le débiteur principal ne peut opposer* la compensation de ce que le créancier doit à la caution.
Le débiteur solidaire ne peut, pareillement, opposer* la compensation de ce que le créancier doit à son co-débiteur.
ART. 2212. The debtor, who has accepted purely and simply
the transfer which a creditor has made of his rights to a third person,
can no longer oppose to* the latter the compensation which, before
the acceptance, he might have opposed to* the former.

As to the transfer which has not been accepted by the debtor,
but which has been notified to him, it hinders only the compensation
of credits posterior to that notification.

RCC—1822, 2207, 2208, 2642 et seq. Acts 1906, No. 5.

ART. 2213. When the two debts are not payable at one and
the same place, the compensation of them can not be opposed,* without
allowing for the expense of the remittance.

RCC—2157, 2158, 2208.
Art. 2214

COMPILED EDITION

CC 1825, Art. 2210. (No reference in Projet)
When the two debts are not payable both at one and the same place, the compensation of them cannot be opposed,* without allowing for the expense of the remittance.

Same as above.

CN 1804, Art. 1296.
Same as above.

Same as above; but no punctuation after “compensation.”

*** “Opposed” is used here in the sense of “set up” or “asserted.”

Art. 2214. When there are several compensable debts, due by the same person, the same rules are observed for the compensation, as are established for imputation in article 2166.

RCC—2163, 2166.

RCC 1870, Art. 2214. (Same as Art. 2214 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2211. (No reference in Projet)
When there are several compensable debts, due by the same person, the same rules are observed for the compensation, as are established for imputation in article 2162.

When there are several compensable debts due by the same person, the same rules are observed for the compensation, as are established for imputation in article the 166th of this title.

CN 1804, Art. 1297.
When there are several compensable debts due by the same person, the same rules are observed for the compensation as are established for imputation in article 1256.

Art. 2215. Compensation can not take place to the prejudice of the rights acquired by a third person; therefore, he who, being a debtor, is [has] become creditor since the attachment made by a third person in his hands, can not, in prejudice to the person seizing, oppose* compensation.

RCC—2149, 2208, 2209, 2216.

RCC 1870, Art. 2215.
Same as above.

CC 1825, Art. 2212. (No reference in Projet)
Same as above; but comma (,) after “he”; no punctuation after “who.”

La compensation n’a pas lieu au préjudice des droits acquis à un tiers. Ainsi, celui qui, étant débiteur, est devenu créancier depuis la saisie-arrêt faite par un tiers entre ses mains, ne peut, au préjudice du saisissant, opposer* la compensation.
Compensation cannot take place to the prejudice of the rights acquired by a third person; therefore he who being a debtor, is [has] become a creditor since the attachment made by a third person in his hands, cannot in prejudice to the person seizing, oppose* compensation.

Same as above.

*"Oppose" is used here in the sense of "set up" or "assert."

**ART. 2216.** He who has paid a debt which was of right extinguished by compensation, can no longer, in exercising the credit which he has not offered in compensation, avail himself, to the prejudice of a third person, of the privileges and mortgages that were attached to it, unless he had a just cause to be ignorant of the credit which was to compensate his debt.

Same as above.

**CC 1808, p. 300, Art. 199.**

Same as above; but no punctuation after "longer", after "himself", or after "person."

**CN 1804, Art. 1299.**

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

**Section 5—OF CONFUSION**

**ART. 2217.** When the qualities of debtor and creditor are united in the same person, there arises a confusion of right, which extinguishes the obligation.

RCC—619, 628, 783, 805, 807, 972, 1054, 1388, 1429, 1450, 2099, 2130, 2218, 2959, 3059, 3277, 3411.

RCC 1870, Art. 2217. (Same as Art. 2217 of Proposed Revision of 1869)

Same as above.

**CC 1825, Art. 2214.**

Lorsque les qualités de créancier et de débiteur se réunissent dans la même personne, il se fait une confusion de droits (droit), qui éteint les deux créances.
ART. 2218. The confusion that takes place in the person of the principal debtor, avails his sureties.

That which takes place in the person of the surety, does not operate the extinction of the principal obligation.

That which takes place in the person of the creditor, avails his co-debtors in solido only for the portion in which he was debtor. (As amended by Acts 1871, No. 87)

RCC—2091, 2099, 2203, 2205, 2211, 2217, 3059.

ART. 2219. When the certain and determinate substance, which was the object of the obligation, is destroyed, is rendered unsaleable, or is lost, so that it is absolutely not known to exist, the obligation is extinguished, if the thing has been destroyed or lost, without the fault of the debtor, and before he was in default.

Even when the debtor is in default, if he has not taken upon himself fortuitous accidents, the obligation is extinguished, in case the thing might have equally been destroyed in the possession of the creditor, if it had been delivered to him.
The debtor is bound to prove the fortuitous accident he alleges.
In whatever manner a thing stolen may have been destroyed or lost, its loss does not discharge the person who carried it off, from the obligation of restoring its value.

RCC—783, 1700, 1701, 1886, 1909, 1910, 1912, 1916, 1918, 1919, 2044, 2071, 2096, 2130, 2155, 2220, 2312, 2455, 2467 et seq., 2486, 2532, 2533, 2536, 2552, 2697, 2723, 2728, 2743, 2744, 2754, 2758 et seq., 2785, 2879, 2899, 2939, 2945, 2946, 2970, 3407, 3411.

RCC 1870, Art. 2219. (Same as Art. 2219 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2216. (No reference in Projet)
When the certain and determinate substance, which was the object of obligation, is destroyed, is rendered unsaleable, or is lost, so that it is absolutely not known to exist, the obligation is extinguished, if the thing has been destroyed or lost, without the fault of the debtor, and before he was in delay.

Even when the debtor is in delay, if he has not taken upon himself fortuitous accidents, the obligation is extinguished, in case the thing might have equally been destroyed in the possession of the creditor, if it had been delivered to him.

The debtor is bound to prove the fortuitous accidents he alleges.

Par. 4 same as par. 4, above; but "carried" spelled "carried"; comma (,) after "person."

Same as above; but no punctuation after "substance"; after "accidents, the obligation is extinguished", after "person", or after "off"; comma (,) after "himself"; and after "stolen."

CN 1804, Art. 1302.
Same as above; RCC 1870 preferred.

Art. 2220. When the thing is destroyed, rendered unsaleable, or lost, without the fault of the debtor, he is bound, if he has any claim or action for indemnification, on account of that thing, to make over the same to the creditor.

RCC—2219, 2936, 2945, 2946.

RCC 1870, Art. 2220.
Same as above.
Art. 2221  

Section 7—OF THE ACTION OF NULLITY OR OF RESCISSION OF AGREEMENTS

Art. 2221. In all cases, in which the action of nullity or of rescission of an agreement, is not limited to a shorter period by a particular law, that action may be brought within ten years.

That time commences in case of violence, only from the day on which the violence has ceased; in case of error or deception, from the day on which either was discovered, and for acts executed by married women not authorized, from the day of the dissolution of the marriage or of the separation.

With regard to acts executed by persons under interdiction, the time commences only from the day that the interdiction is taken off; and with regard to acts executed by minors, only from the day on which they become of age.

RCC—134, 362, 420, 1397, 1402, 1410, 1413, 1567, 1782, 1784 et seq., 1791, 1794, 1834, 1842, 1847, 1850, 1852, 1855, 1861, 1864 et seq., 1876, 1881, 1978, 2130, 2222, 2272, 2363, 2364, 2452, 2571, 2595, 2596, 3299, 3522, 3542, 3543, 3544.

RCC 1870, Art. 2221.  

Same as above.

Art. 2221. In all cases, in which the action of nullity or of rescission of an agreement, is not limited to a shorter period by a particular law, that action may be brought within ten years.

Dans tous les cas où l'action en nullité, ou en rescision d'une convention, n'est pas limitée à un moindre temps par une loi particulière, cette action dure dix ans.

Ce temps ne court, dans le cas de violence, que du jour où elle a cessé; dans le cas d'erreur ou de dol, du jour où ils ont été découverts; et pour les actes passés par les femmes mariées non autorisées, du jour de la dissolution du mariage ou séparation.

Le temps ne court, à l'égard des actes faits par les interdits, que du jour où l'interdiction est levée, et à l'égard de ceux faits par les mineurs, que du jour de la majorité.
CIVIL CODES OF LOUISIANA

ART. 2223.

A minor is not restituahle (can not be relieved against his engagements)* on the plea of lesion, when it proceeds only from a casual and unforeseen [unforeseen] event.

RCC—1793, 2022, 2023, 2224 et seq.

RCC 1870, Art. 2223.

Same as above.

1215
Art. 2224

The mere declaration of majority made by a minor, is no obstacle to his restitution.

RCC—1865, 1872.

RCC 1870, Art. 2224.
Same as above.

CC 1825, Art. 2221. (No reference in Projet)
La simple déclaration de majorité, faite par le mineur, ne fait point obstacle à la restitution.

Same as above; but no punctuation after “minor.”

CN 1804, Art. 1307.
La simple déclaration de majorité, faite par le mineur, ne fait point obstacle à sa restitution.

Art. 2225. A minor, carrying on commerce, or being an artisan, is not restituable against the engagements into which he has entered in the way of his business or art.

RCC—376, 1782, 1785, 1872, 1873, 2222.

RCC 1870, Art. 2225.
Same as above.

CC 1825, Art. 2222. (No reference in Projet)
Le mineur commerçant ou artisan, n’est point restituable contre les engagements qu’il a pris, à raison de son commerce ou de son art.

Same as above.

CN 1804, Art. 1308.
Le mineur commerçant, banquier ou artisan, n’est point restituable contre les engagements qu’il a pris à raison de son commerce ou de son art.
ART. 2226. A minor is not restituable against the engagements stipulated in his marriage contract, if they were entered into with the consent or in the presence* of those whose consent is requisite for the validity of his marriage.

RCC—97, 1477, 1748, 1785, 1873, 2231, 2330.

RCC 1870, Art. 2226.
Same as above.

CC 1825, Art. 2223.
Same as above.

CC 1808, p. 302, Art. 209.
Same as above.

CC 1808, p. 303, Art. 209.
Same as above; but comma (,) after “avec le consentement.”

CN 1804, Art. 1309.
A minor is not restituable against the engagements stipulated in his marriage contract, if they were entered into with the consent and with the assistance of those whose consent is requisite for the validity of his marriage.

*Note error in English translation of French text; “in the presence” should be “with the assistance.”

ART. 2227. He is not restituable against the obligations resulting from his offenses or quasi offenses.

RCC—1785, 1874, 2315, 2318.

RCC 1870, Art. 2227.
Same as above.

CC 1825, Art. 2224.
Same as above.

Same as above.

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

CN 1804, Art. 1310.
Same as above.

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

ART. 2228. He can not make void the engagement which he had subscribed in his minority, when once he has ratified it in his majority, whether that engagement was null in its form, or whether it was only subject to restitution.

RCC—1782, 1785, 1794, 1795, 1846, 1875, 2224, 2272.

RCC 1870, Art. 2228.
Same as above.

1217
Art. 2229. When minors, persons under interdiction, or married women are admitted, in these qualities, to the benefit of restitution against their engagements, the reimbursement of what may have been paid, in consequence of those engagements, during minority, interdiction, or marriage, can not be required of them, unless it be proved that what was paid, accrued to their benefit.


RCC 1870, Art. 2229.
Same as above.

Art. 2230. Persons of the age of majority can not receive the benefit of restitution on account of lesion, except in cases and under conditions specially expressed by law.

RCC—1009, 1398, 1401, 1402, 1406, 1407, 1411, 1414, 1730, 1860 et seq., 2589 et seq., 3078.

RCC 1870, Art. 2230.
Same as above.
CIVIL CODES OF LOUISIANA

Art. 2232

CC 1825, Art. 2227. (No reference in Projet)

Les majeurs ne sont restitués pour cause de lésion, que dans les cas et sous les conditions spécialement exprimés par la loi.

Same as above.

CC 1808, p. 302, Art. 213.

Same as above.

CN 1804, Art. 1313.

Same as above; but "exprimés" spelled "exprimées"; comma (,) after "restitués", and after "cas."

Persons of the age of majority cannot receive the benefit of restitution on account of lesion, except in cases and under conditions specially expressed in the present Code.

ART. 2231. When the formalities required with regard to minors or persons under interdiction, either for the alienation of immovable property, or in a partition of a succession, have been complied with, they are considered, as to these acts, as though they had executed them, being of full age or before interdiction.


RCC 1870, Art. 2231.

Same as above.

CC 1825, Art. 2228. (No reference in Projet)

Lorsque les formalités requises à l’égard des mineurs ou des interdits, soit pour aliénation d’immeubles, soit dans un partage de succession, ont été remplies, ils sont, relativement à ces actes, considérés comme s’ils les avaient faits en majorité ou avant l’interdiction.

CC 1808, p. 302, Art. 214.

Same as above; but no punctuation after “them.”

Same as above; but no punctuation after “considered””; comma (,) after “age.”

CN 1804, Art. 1314.

Same as above.

Chapter 6—Of the Proof of Obligations and of That of Payment

Art. 2232. He who claims the execution of an obligation must prove it.

On the other hand, he who contends that he is exonerated, must prove the payment or the fact which has produced the extinction of the obligation.


RCC 1870, Art. 2232.

Same as above.
Art. 2233

The rules which concern the literal proof, the testimonial proof, the presumption, and the confession of the party, are explained in the following sections.

RCC—1995, 2232, 2234 et seq., 2240 et seq., 2251 et seq., 2267 et seq., 2271 et seq., 2275 et seq., 2284 et seq.

RCC 1870, Art. 2233. (Same as Art. 2233 of Proposed Revision of 1869)

Same as above.

ART. 2233. The rules which concern the literal proof, the testimonial proof, the presumption, and the confession of the party, are explained in the following sections.

Les règles qui concernent la preuve littérale, la preuve testimoniale, les présomptions, l’aveu de la partie et le serment, sont expliquées dans les sections suivantes.

Section 1—OF THE LITERAL PROOF

§1—Of Authentic Acts

Art. 2234. The authentic act, as relates to contracts, is that which has been executed before a notary public or other officer authorized to execute such functions, in presence of two witnesses, aged at least fourteen years, or of three witnesses, if a party be blind. If a party does not know how to sign, the notary must cause him to affix his mark to the instrument.
All proces verbal of sales of succession property, signed by the sheriff or other person making the same, by the purchaser and two witnesses, are authentic acts. (As amended by Act 1920, No. 171)


Art. 2234.
Same as par. 1, above; but no punctuation after "authentic act", or after "functions." (As amended by Acts 1908, No. 67)

RCC 1870, Art. 2234. (Same as Art. 2234 of Proposed Revision of 1869)
The authentic act, as relates to contracts, is that which has been executed before a notary public or other officer authorized to execute such functions, in presence of two witnesses, free, male, and aged at least of fourteen years, or of three witnesses, if the party be blind. If the party does not know how to sign, the notary must cause him to affix his mark to the instrument.

All proces verbals of sales of succession property, signed by the sheriff or other person making the same, by the purchaser and two witnesses, are authentic acts.

CC 1825, Art. 2231. (No reference in Projet)
Same as par. 1, above.

L'acte authentique, en matière de convention, est celui qui a été reçu par un notaire public, ou autre officier autorisé à en exercer les fonctions, en présence de deux témoins libres, mâles et âgés d'au moins quatorze ans, ou de trois témoins si la partie contractante est aveugle.

Si la partie ne sait pas signer, le notaire doit lui faire apposer à l'acte sa marque ordinaire.

CC 1808, p. 304, Art. 217.
The authentic act is that which has been received by public officers having power to record public acts* in the place where the act has been drawn up, and with the requisite solemnities.

CN 1804, Art. 1317.
The authentic act is that which has been received by public officers having power to draw up public acts in the place where the act has been drawn up, and with the requisite solemnities.

*Note error in English translation of French text; "record public acts" should be "draw up public acts."

Art. 2235. An act which is not authentic, through the incompetence or the incapacity of the officer, or through a defect of form, avails as a private writing, if it be signed by the parties.

RCC—2234, 2238, 2240 et seq.
ART. 2236. The authentic act is full proof of the agreement contained in it, between the contracting parties and their heirs or assigns, unless it be declared and proved a forgery.

RCC—1647, 1762, 1763, 1901, 2234, 2235, 2237, 2238, 2242, 2244, 2251, 2255, 2266, 2267, 2268, 2276, 2440, 3159, 3309, 3348, 3374.

RCC 1870, Art. 2236.
Same as above.

ART. 2237. The acknowledgment of payment, made in an authentic act, can not be contested, under pretense of the exception of non numerata pecunia, which is hereby* abolished.

RCC—1896, 1900, 2236, 2238, 2276, 2278.

RCC 1870, Art. 2237.
Same as above.
ART. 2238. An act, whether authentic or under private signature, is proof between the parties, even of what is there expressed only in enunciative terms, provided the enunciation have a direct reference to the disposition.

Enunciations foreign to the disposition, can serve only as a commencement of proof.

RCC—2234 et seq., 2242, 2275.

ART. 2239. Counter letters can have no effect against creditors or bona fide purchasers; they are valid as to all others; but forced heirs shall have the same right to annul absolutely and by parol evidence the simulated contracts of those from whom they inherit, and shall not be restricted to the legitimate [legitime]. (As amended by Acts 1884, No. 5)


ART. 2239. Counter letters can have no effect against creditors, or bona fide purchasers; they are valid as to all others.
Art. 2240

All acts may be executed under private signature, except such as positive laws have ordained to be passed in presence of a notary.


RCC 1870, Art. 2240.
Same as above.

Art. 2241. It is not necessary that those acts be written by the contracting parties, provided they be signed by them.

RCC—1579, 1581, 1582, 1584, 1586, 2235.
CIVIL CODES OF LOUISIANA

ART. 2243

A note or promise under private signature, by which one party alone obligates himself to the other to pay a sum of money or a special thing, must be written entirely in the handwriting of him who signs it; or, at least, it is necessary that, besides his signature, he have written in his own hand a good for or an approved with the sum or the quantity of the thing written out in words;

Except in the case where the act emanates from merchants, artisans, laborers, vine-dressers, day laborers and servants.

ART. 2242. An act under private signature, acknowledged by the party against whom it is adduced, or legally held to be acknowledged, has, between those who have subscribed it, and their heirs and assigns, the same credit as an authentic act.

RCC—1901, 1921, 1999, 2236, 2238, 2244, 2246, 2253, 2260, 2261, 2275, 2277, 2440, 3305, 3348, 3375. Acts 1877, No. 7; 1894, No. 86; 1894, No. 117; 1898, No. 164; 1914, No. 68; 1920, No. 226.

RCC 1870, Art. 2242.
Same as above.

CC 1825, Art. 2239. (No reference in Projet)
Same as above.

Same as above.

CN 1804, Art. 1322.
Same as above.

ART. 2243. No bill of exchange, promissory note or other instrument for the payment of money, made within this State, shall be received as evidence of a debt, when the whole sum shall be expressed in figures, unless the same shall be accompanied by proof that it was given for the sum therein expressed. The cents or fractional parts of a dollar may be in figures.

Acts 1855, No. 55; 1904, No. 64.

RCC 1870, Art. 2243.
Same as above.

(Same as Art. 2243 of Proposed Revision of 1869; analogous to Acts 1823, p. 36, §1; similar to Acts 1825, p. 56, §12, 3, and Acts 1855, No. 55, §1 [RS §§1319, 1458])

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

1225
ART. 2244. The person against whom an act under private signature is produced, is obliged formally to avow or disavow his signature.

The heirs or assigns may simply declare that they know not the handwriting or the signature of the person they represent.

RCC—2242, 2245. CP—324 et seq.

RCC 1870, Art. 2244.
Same as above.

CC 1825, Art. 2240. (No reference in Projet)
Same as above; but comma (,) after "The person", and after "declare."

Par. 1 same as par. 1, above; but no punctuation after "The person."
Their heirs or assigns may simply declare that they know not the handwriting or the signature of the person they represent.

CC 1804, Art. 1323.
The person against whom an act under private signature is produced, is obliged formally to avow or disavow his handwriting or his signature.
Par. 2 same as par. 2, above.

ART. 2245. If the party disavow the signature, or the heirs or other representatives declare that they do not know it, it must be proved by witnesses or comparison, as in other cases.

RCC—2244. CP—325, 326.

RCC 1870, Art. 2245.
Same as above.

CC 1825, Art. 2241. (Projet, p. 287. Substitution † adopted; no comment)
Same as above.

In case the party disavows his signature, and in case the heirs or assigns declare that they do not know the signature of the person whom they represent, proof of it may be given under oath or affirmation, by at least one credible witness, declaring positively

Same as above; but comma (,) after "l’écriture."

Dans le cas où la partie désavoue sa signature, et dans le cas où ses héritiers ou ayans cause déclarent ne la point connaître, la preuve pourra s’en faire par la déposition, sous serment, ou affirmation d’au moins un témoin digne de foi, qui déclare positivement recon-
that he knows the signature as having seen the obligation signed by the person from whom or from whose heirs the payment or execution of it is demanded, and if there be no such deposition, the signature of the person must be ascertained by two persons having skill to judge of hand writing, appointed by the judge before whom the cause is pending, which two persons shall report on oath whether the signature appear to them to be that of the person whose it is alleged to be, on their having compared it with papers acknowledged to have been signed by him. (Suppressed on recommendation of redactors; Projet, p. 287)

ART. 2246. Sales or exchanges of immovable property by instruments made under private signature, are valid against bona fide purchasers and creditors only from the day on which they are registered in the manner required by law.

RCC—1550, 1920, 1921, 2015, 2240, 2242, 2251 et seq., 2261, 2262, 2264 et seq., 2442, 2479.

RCC 1870, Art. 2246. (Same as Art. 2246 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2242. (Projet, p. 287. Substitution amended and adopted; no comment)

Sales or exchanges of real property and slaves, by instruments made under private signature, are valid against bona fide purchasers and creditors, only from the day on which they are registered in the office of a notary, or from the time of the actual delivery of the thing sold or exchanged.

CC 1808, p. 306, Art. 228.

Acts under private signature expressing a sale or exchange of immovable property or slaves must be acknowledged and registered in the office of a notary public, six days from their date, if they be passed in the city of New-Orleans or within its liberties; and within ten days from its date, if they be passed without the city and its liberties, in any part of the territory.

When acts under private signature expressing a sale or exchange of immovable property or slaves have been registered within the above mentioned time, they shall have effect against third persons from the day of their date, otherwise they shall have

naître la signature, comme ayant vu signer l'obligation par la partie à laquelle ou aux héritiers de laquelle le payement ou l'exécution en est demandée, à défaut de laquelle déposition, la signature de la partie devra être vérifiée par deux experts écrivains, nommés par le juge saisi de la contestation, lesquels feront leur rapport, sous serment, si la signature leur paraît être celle de la partie, d'après la comparaison qu'ils en feront avec des pièces reconnues comme étant par lui signées. (Suppressed on recommendation of redactors; Projet, p. 287)

Dans le cas où la partie désavoue son écriture ou sa signature, et dans le cas où ses héritiers ou ayant-cause déclarent ne les point connaître, la vérification en est ordonnée en justice.

ART. 2246. Les ventes ou échanges de bien-fonds et d'esclaves, faits par acte sous signature privée, sont valables contre les acquéreurs de bonne foi et les créanciers, mais seulement du jour où ils ont été enregistrés dans l'étude d'un notaire, ou du moment que la chose vendue ou échangée a été délivrée.

-p. 307, Art. 228.

Les actes sous signature privée, portant vente ou échange d'immeubles ou d'esclaves, devront être reconnus et enregistrés en l'étude d'un notaire public, dans les six jours de leur date, s'ils sont passés dans la ville de la Nouvelle-Orléans, et sa banlieue, et dans les dix jours de cette même date, s'ils sont passés hors de la ville et banlieue, dans le reste du territoire.

Lorsque les actes sous signature privée, portant vente ou échange d'immeubles ou d'esclaves, auront été enregistrés dans les délais ci-dessus, ils auront effet contre les tiers, du jour de leur date, autrement ils n'en auront que de celui de leur enregistrement; mais
Art. 2247

Sales or exchanges of movable property are void against *bona fide* purchasers and creditors unless possession is given before such *bona fide* purchaser or creditor acquires his right by possession. What a delivery of possession is depends on the nature of the property*; it may be constructive or actual; the delivery of the key of a store in which it is contained, or an order accepted by the person in whose custody it is held, if at the order of the vendor, is good evidence of delivery.

RCC—1539, 1541, 1550, 1922 et seq., 2441, 2456, 2477, 2478, 2480, 2481, 3426 et seq.

RCC 1870, Art. 2247. (Same as Art. 2247 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2243. (Projet, p. 288. Substitution adopted; no comment)

Sales or exchanges of personal property are void against *bona fide* purchasers and creditors, unless possession is given before such *bona fide* purchaser or creditor acquires his right by possession. What a delivery of possession is depends on the nature of the property*; it may be constructive or actual; the delivery of the key of a store in which it is contained, or an order accepted by the person in whose custody it is held, if at the order of the vendor, is good evidence of delivery.


Acts under private signature expressing a sale or exchange of moveable things, have effect against third persons, and can prejudice them only from the day of their being registered in the office of a notary public, unless it be proved that the sale or exchange was accompanied with the actual de-
livery of the object sold or exchanged, or with some of the circumstances that are equivalent to the actual delivery, according to law or usage.

There is an exception to this rule in favor of the sales of produce or merchandise, if the truth of the date at which they appear to have been passed, be attested on oath or affirmation by at least one credible and disinterested witness. (Suppressed on recommendation of redactors; Projet, p. 288)

CN 1804, Art. 1328.
Quoted under RCC 1870, Art. 2246, above.

*English translation of French text incomplete; should include “the ownership of which is transferred.”

**Art. 2248. The books of merchants can not be given in evidence in their favor; they are* good evidence against them, but if used as evidence, the whole must be taken together.

RCC—2249, 2250.

RCC 1870, Art. 2248.
Same as above.

CC 1825, Art. 2244.
(Projet, p. 288. Substitution amended in English text and adopted; no comment)

Same as above.

CC 1808, p. 308, Art. 230.

Merchants’ books do not prove against persons who are not in trade, the sale and delivery of the articles there entered. (Suppressed on recommendation of redactors; Projet, p. 288)

*p. 308, Art. 231.

Merchants’ books are good evidence against the merchants themselves, but whoever wishes to avail himself of that evidence, must admit the books to prove what they contain contrary to his pretensions. (Suppressed on recommendation of redactors; Projet, p. 288)

CN 1804, Art. 1329.

The registers of merchants do not prove against persons who are not in trade the sale and delivery of the articles there entered; except as to that which shall be provided in connection with the oath.

*p. 309, Art. 231.

Les registres des marchands ne font point, contre les personnes non marchandes, preuve des fournitures qui y sont portées. (Suppressed on recommendation of redactors; Projet, p. 288)

Same as CC 1808, p. 308, Art. 231, above.

Same as CC 1808, p. 309, Art. 231, above; but semicolon (;) after “eux.”

*English translation of French text incomplete; should include “on the contrary.”
Art. 2249

ART. 2249. Domestic books and papers are no proof in favor of him who has written them; they are proofs against him:

1. In all cases where they formally declare a payment received.
2. When they contain an express mention that the minute was made to supply the want of a title in favor of him for whose advantage they declare that an obligation was made.

RCC—2248, 2250.

RCC 1870, Art. 2249.
Same as above.

CC 1825, Art. 2245.
(No reference in Projet)
Same as above; but semicolon (;) after "received"; comma (,) after "title."

CC 1808, p. 308, Art. 232.
Same as above; but period (.) after "them"; comma (,) after "against him"; no punctuation after "title."

CN 1804, Art. 1331.
Same as above.

Les registres et papiers domestiques ne font point un titre pour celui qui les a écrits; ils font foi contre lui:
1. Dans tous les cas où ils énoncent formellement un paiement reçu;
2. Lorsqu'ils contiennent la mention expresse, que la note a été faite pour suppléer le défaut de titre en faveur de celui au profit duquel ils énoncent une obligation.

Art. 2250. What is written by the creditor at the foot, in the margin, or on the back of the title, that has always remained in his possession, though it be neither signed nor dated by him, is good evidence when it tends to establish the discharge of the debtor.

In like manner, what is written by the creditor on the back, in the margin, or at the foot of the duplicate of a title, or of a receipt, is evidence, provided that duplicate be in the hands of the debtor.

RCC—2248, 2249.

RCC 1870, Art. 2250.
Same as above.

CC 1825, Art. 2246.
(No reference in Projet)
Same as above; but comma (,) after "good evidence."

L'écriture mise par le créancier à la suite, en marge, ou au dos d'un titre, qui est toujours resté en sa possession, fait foi, quoique non signée ni datée par lui, lorsqu'elle tend à établir la libération du débiteur.
CIVIL CODES OF LOUISIANA

Art. 2251

It shall be the duty of all notaries public within this State, without the limits of the city of New Orleans to deposit in the office of the parish recorder of the parish in which the property is situated within fifteen days, at farthest, after the same shall have been passed, the original of all acts of sale, exchange, donation and mortgage of immovable property passed before them, and in the order of their respective dates, first making a careful record of said acts in their record books.

The foregoing provision shall not be so construed as embracing inventories or partitions or any other act required by law to be performed by notaries or parish recorders under any order of court; but the original of all such acts, without being recorded, shall be returned to the court from which the order is issued.

All notaries without the limits of the city of New Orleans, who may contravene the provisions of this article, shall be liable to a fine of one hundred dollars for each infraction of the same, to be recovered before any court of competent jurisdiction, one-half for the benefit of the informer, as well as all such damages as the parties may suffer thereby. (As amended by Acts 1890, No. 48)


RCC 1870, Art. 2251. (Same as Art. 2251 of Proposed Revision of 1869; similar to Acts 1839, No. 62, §1, Acts 1853, No. 151, §§1, 4, and Acts 1855, No. 261, §§12, 13 (RS §§2501, 25021)

It shall be the duty of all notaries public within this State, without the limits of the city of New Orleans, to deposit in the office of the parish recorder of the parish in which they may be respectively commissioned within fifteen days, at farthest, after the same shall have been passed, the original of all acts passed before them,
Art. 2252  COMPILER EDITION

and in the order of their respective dates, first making a careful record of said acts in their record books. The foregoing provision shall not be so construed as embrac­ ing inventories or partitions, or any other act required by law to be performed by notaries or parish recorders under any order of court; but the original of all such acts, without being recorded, shall be returned to the court from which the order is issued.

Par. 2 same as par. 3, above.

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 2252. The acts of notaries, when deposited in the office of the parish recorder, shall form a part of the archives of his office, and shall be immediately recorded by him as follows: If the act contains a conveyance of immovable property without a mortgage, in a book of conveyances, if it contains a conveyance of immovable property, together with a mortgage, in the aforesaid book of conveyances, and also in a book of conventional mortgages.

Acts 1886, No. 57; 1900, No. 30.

RCC 1870, Art. 2252. (Same as Art. 2252 of Proposed Revision of 1869; same as Acts 1895, No. 53, §13, sentence 1 (RS $30801))

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 2253. The record of an act under private signature, purporting to be a sale or exchange of real property, shall not have effect against creditors or bona fide purchasers, unless, previous to its being recorded, it was acknowledged by the party, or proved by the oath of one of the subscribing witnesses, and the certificate of such acknowledgement be signed by the parish recorder, a notary, or a justice of the peace, and recorded with the instrument.

RCC—1920, 2242, 2246, 2254, 2260, 2261, 2264, 2266, 2440, 2442, 3342, 3348, 3367. RS—2492, 3066.

RCC 1870, Art. 2253. (Same as Art. 2253 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2250. (Projet, p. 288. Addition adopted; no comment)
The record of an act purporting to be a sale or exchange of real property, shall not have effect against creditors or bona fide purchasers, unless, previous to its being recorded, it was acknowledged by the party, or proved by the oath of one of the subscribing witnesses, and the certificate of such acknowledgement be signed by a judge or notary, and recorded with the instrument.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 2254. It shall be the duty of the recorder to indorse on the back of each act deposited with him the time it was received by him, and to record the same without delay in the order in which they were received; and such acts shall have effect against third persons only from the date of their being deposited in the office of the parish recorders.


RCC 1870, Art. 2254. (Same as Art. 2254 of Proposed Revision of 1869; similar to Acts 1865, No. 53, §14 (RS §3081))

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 2255. It shall be the duty of the notaries in New Orleans to cause every deed of sale, donation, or any other sort of conveyance of immovable property, passed before them respectively, even when the parties shall agree to dispense therewith, to be registered at the office of [the] register of conveyances for the parish of Orleans, within forty-eight hours after the passage of said acts, and this under the penalty of five hundred dollars fine, to be recovered before any court of competent jurisdiction, for the use and profit of the Charity Hospital, and also under the penalty of being liable for all damages which the parties may suffer through the neglect of said notary to register the acts.

RCC—2251, 2256, 2258, 2259, 2262, 2264, 2266, 3343, 3344, 3366, 3368, 3370, 3394, 3399. Acts 1890, No. 42 (as am. by 1896, No. 138; 1902, No. 187; 1916, No. 239; 1920, No. 157; 1924, No. 47; 1926, No. 40; 1928, No. 118; 1928, E.S., No. 13); 1912, No. 22; 1938, No. 73; 1938, No. 203, §§3-7. RS—2521.

RCC 1870, Art. 2255. (Same as Art. 2255 of Proposed Revision of 1869; analogous to Acts 1838, p. 17, §1; similar to Acts 1850, No. 240, §1, and Acts 1855, No. 259, §1 (RS §§2524, 3165))

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 2256. It shall be the duty of the register of conveyances to affix to the act to be enregistered a certificate that he has enregistered the same.

RCC—2254, 2255, 2257, 2258.

RCC 1870, Art. 2256. (Same as Art. 2256 of Proposed Revision of 1869; same as Acts 1838, p. 17, §2, and Acts 1855, No. 259, §3 (RS §§2526, 3166))

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

1233
ART. 2257. It shall be the duty of the register of conveyances of the parish of Orleans, to keep his office in as central a situation as possible, and in a brick house, and to keep his record books open to the inspection of all persons, and to deliver to them certificates of the inscriptions that may have been made, if they require the same.

Such certificates, when signed by the register and sealed with the seal of office, which it shall be the duty of the register to keep, shall be received in courts of justice in evidence in the same manner as all other public acts.

RCC—2256, 2267, 3364, 3391, 3393.

RCC 1870, Art. 2257. (Same as Art. 2257 of Proposed Revision of 1869; in conformity with Acts 1809, Chap. 26, §2, as amended by Acts 1821, p. 40, §12; similar to Acts 1855, No. 285, §4 [RS §13154])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2258. The register is authorized to open as many records at a time as may be necessary; they shall be numbered and paraphed by a judge of the district. He shall register all acts of transfer of immovable property passed in the parish of Orleans, which shall be presented to him, in the order in which said acts shall have been delivered to him, to be registered.

RCC—2254 et seq., 3389 et seq. Acts 1908, No. 76.

RCC 1870, Art. 2258. (Same as Art. 2258 of Proposed Revision of 1869; analogous to Acts 1810, Chap. 25, §§2, 3, Acts 1827, p. 136, §1, and Acts 1828, No. 54, §1; similar to Acts 1855, No. 285, §5 [RS §13155])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2259. In the parish of Orleans, when the act of transfer of property shall have been passed before a notary public, it shall be sufficient that the registering of the act be made, on a certificate being presented from the notary, who shall have passed the act containing:

1. The date of the act, and the place where it was passed.
2. The names, surnames and qualities of the contracting parties.
3. A description of the immovable property which has been transferred, with all necessary details.
4. The price of the transfer, whether paid in ready money, or on time, and in the latter case what the terms and conditions are.

RCC—2255, 2260, 2263, 3306, 3309.

RCC 1870, Art. 2259. (Same as Art. 2259 of Proposed Revision of 1869; similar to Acts 1827, p. 136, §2, and Acts 1855, No. 285, §6 [RS §13156])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 2260. In the parish of Orleans, whenever an act of transfer shall have been passed under private signature, the register shall register it in toto, with an act ascertaining the signatures, if the contracting parties wish the registry of the act to be accompanied with an act ascertaining their signatures.

RCC—2242, 2246, 2253, 2261, 3348.

RCC 1870, Art. 2260. (Same as Art. 2260 of Proposed Revision of 1869; similar to Acts 1827, p. 136, §3; same as Acts 1855, No. 285, §7 [RS 132260, 3157])

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 2261. Whenever an act under private signature shall be taken to the register to be recorded, as required by the preceding article, he may, if thereunto requested by the parties, take an acknowledgment of their signatures, which acknowledgment shall be recorded with the act under private signature.

RCC—2242, 2246, 2253, 2260, 3348, 3367.

RCC 1870, Art. 2261. (Same as Art. 2261 of Proposed Revision of 1869; similar to Acts 1828, No. 54, §14; same as Acts 1855, No. 285, §8 [RS 13158])

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 2262. In the parish of Orleans, acts, whether they are passed before a notary public or otherwise, shall have no effect against third persons, but from the date of their being deposited in the office of the register of conveyances.

RCC—2246, 2254, 2255, 2264, 2266, 3342, 3345, 3347, 3366 et seq., 3391, 3392, 3397. RS—2516.

RCC 1870, Art. 2262. (Same as Art. 2262 of Proposed Revision of 1869; analogous to Acts 1827, p. 136, §5, and Acts 1855, No. 285, §9 [RS 13159])

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 2263. Whenever a notary shall neglect to send to the register of conveyances an extract of the act by him passed, the register is authorized, on the production of an authentic copy of the act, to record only an extract thereof, containing the same clauses as are required to be contained in the extracts which notaries are authorized to deliver.

RCC—2259.
ART. 2264. No notarial act concerning immovable property shall have any effect against third persons, until the same shall have been deposited in the office of the parish recorder, or register of conveyances of the parish where such immovable property is situated.

RCC—2246, 2251, 2253 et seq., 2262, 2266, 3322, 3342, 3345 et seq., 3373, 3391, 3394, 3399.

ART. 2265. All sales of immovable property made by any sheriff or other officer, by virtue of anyexecution or other order of court; all marriage contracts made within this State, tending in any wise to convey, transfer, assure or affect the estates of the parties, or being only intended to ascertain the dotal rights of the wife, or that her marriage portion is liable to some reserves, or stipulated to be paraphernal or extradotal property; and all final judgments affecting immovable property shall be recorded in the parish where the immovable property is situated.

RCC—2246, 2266, 2442, 2617, 3319, 3322 et seq., 3346, 3347, 3349, 3356.

ART. 2266. All sales, contracts and judgments affecting immovable property, which shall not be so recorded, shall be utterly null and void, except between the parties thereto. The recording may be made at any time, but shall only affect third persons from the time of the recording.

The recording shall have effect from the time when the act is deposited in the proper office, and indorsed by the proper officer.

CIVIL CODES OF LOUISIANA

ART. 2268

RCC 1870, Art. 2266. (Same as Art. 2266 of Proposed Revision of 1869; par. 1 similar to Acts 1855, No. 274, §2, sentences 2, 3 (RS §3189, par. 2))

Same as above.

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

§4—Of Copies of Titles

ART. 2267. It shall be the duty of the recorder or other officers having charge thereof, to grant copies of the original acts deposited with them, under their signatures and seals of office.

When the original acts are authentic, such copies shall be considered legal evidence of their contents.

Copies of official bonds, duly certified by the officer in whose office they are required to be filed, shall always be admissible in evidence.

RCC—2233, 2236, 2257, 2268 et seq., 2848.

RCC 1870, Art. 2267. (Same as Art. 2267 of Proposed Revision of 1869)

Same as above.

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2268. The copies of the acts, which are certified true copies from the originals by the notaries who are the depositaries of such originals, make proof of what is contained in the originals, unless it be proved that such copies are incorrect.

RCC—2236, 2269, 2270. RS—1455.

RCC 1870, Art. 2268.

Same as above.

CC 1825, Art. 2247. (No reference in Projet)

Same as above.

CC 1808, p. 308, Art. 234.

Les copies d'actes, certifiées conformes à la minute par les notaires qui en sont dépositaires, font foi de ce qui est contenu en la minute, sauf le cas où il serait prouvé que ces copies sont inexactes.


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

CN 1804, Art. 1334.

As long as the original act exists, copies make proof only of what is contained in the act, the production of which may always be demanded.

Les copies, lorsque le titre original subsiste, ne font foi que de ce qui est contenu au titre, dont la représentation peut toujours être exigée.
Art. 2269. When the original title or record is no longer in being, a copy is good proof, and supplies the want of the original, when it is certified as being conformable to the record, by the notary who has received it, or by one of his successors, or by any other public officer, with whom the record was deposited and who had authority to give certified copies of it, provided the loss of the original be previously proved.

RCC—2267, 2268, 2270, 2279, 2280. RS—1455.

RCC 1870, Art. 2269. (Same as Art. 2269 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2248. (No reference in Projet)

When the original titles or records are no longer in being, copies are good proof, and supply the want of the original, when they are certified as being conformable to the record, by the notary who has received it, or by one of his successors, or by any other public officer, with whom the record was deposited, and who had authority to give certified copies of it, provided the loss of the original be previously proved.

CC 1808, p. 308, Art. 235.

Same as above; but no punctuation after “proof”, or after “officer.”

CN 1804, Art. 1335.

When the original act no longer exists, copies are good proof, according to the following provisions:

1. Executory copies or first certified copies are as good proof as the original. The same is true of copies which have been made by order of a magistrate, with parties present or duly summoned, or to those which have been made in presence of the parties and with their common consent.

2. Copies which have been made without the order of the magistrate, or without the consent of the parties, and since the delivery of executory copies or first certified copies, and which have been made from the record of the act by the notary who received it, or by one of his successors, or by public officers who, in this capacity, are depositaries of the records, are, in case of loss of the original, good proof if they are ancient.

They are considered as ancient when they are more than thirty years old;

Lorsque le titre original, ou la minute ne subsiste plus, les copies font foi, et suppléent l’original, lorsqu’elles sont certifiées conformes à la minute par le notaire qui l’a reçue, ou par l’un de ses successeurs, ou par tout autre officier public, qui aura été dépositaire de cette minute, et autorisé à en délivrer des expéditions, pourvu que la perte de l’original soit préalablement prouvée.


Lorsque le titre original n’existe plus, les copies font foi, d’après les distinctions suivantes:

1. Les grosses ou premières expéditions font la même foi que l’original : il en est de même des copies qui ont été tirées par l’autorité du magistrat, parties présentes ou dûment appelées, ou de celles qui ont été tirées en présence des parties et de leur consentement réciproque.

2. Les copies qui, sans l’autorité du magistrat, ou sans le consentement des parties, et depuis la délivrance des grosses ou premières expéditions, auront été tirées sur la minute de l’acte par le notaire qui l’a reçu, ou par l’un de ses successeurs, ou par officiers publics qui, en cette qualité, sont dépositaires des minutes, peuvent, en cas de perte de l’original, faire foi quand elles sont anciennes.

Elles sont considérées comme anciennes quand elles ont plus de trente ans;
If they are less than thirty years old, they may serve only as a beginning of proof in writing.

3. When copies made from the record of an act have not been made by the notary who received it, or by one of his successors, or by public officers who, in this capacity, are depositaries of the records, they serve only as a beginning of proof in writing, no matter how old they may be.

4. Copies of copies may, according to circumstances, be considered as mere information.

**ART. 2270.** When an original title, by authentic act, or by private signature duly acknowledged, has been recorded in any public office, by an officer duly authorized, either by the laws of this State, or of the United States, to make such record, the copy of such record, duly authenticated, shall be received in evidence, on proving the loss of the original, or showing circumstances supported by the oath of the party, to render such loss probable.

RCC—2267 et seq., 2279, 2280. RS—1445, 1455.

**RCC 1870, Art. 2270.**

Same as above.

**CC 1825, Art. 2249.**

Same as above. (Projet, p. 288. Substitution adopted; no comment)

Lorsqu'un titre original, rédigé dans une forme authentique ou sous signature privée, mais dûment reconnu, a été enregistré dans quelque bureau public, par un officier dûment autorisé, soit par les lois de cet État, soit par celles des États-Unis, à faire de pareils enregistrements, la copie authentique de l'acte ainsi enregistré sera reçue comme preuve, si l'on prouve la perte de l'original, ou s'il existe des circonstances, soutenues du serment de la partie, qui rendent cette perte probable.

**CC 1808, p. 308, Art. 236.**

The recording in some public office, as that of the register of the land office in this territory, of any act the record of which is lost, and of which there is no certified copy in due form, can serve only as a commencement of proof in writing.

And when proof by witnesses is admitted in support of the act thus transcribed [transcribed], it is necessary those persons who were witnesses to the passing of the original act, be heard, if they be still living and convenient to the place.* (Suppressed on recommendation of redactors; Projet, p. 288)

**p. 309, Art. 236.**

La transcription sur des registres publics, comme sur ceux du bureau des terres dans ce territoire, d'un acte dont la minute aura été perdue et dont il ne subsistera aucune expédition en bonne forme, ne pourra servir que de commencement de preuve par écrit.

Et lorsque la preuve, par témoins, sera admise au soutien de l'acte ainsi transcrit, il sera nécessaire que ceux qui ont été témoins, lors de la passation de l'acte original, soient entendus, s'ils existent encore, ou sont sur les lieux.* (Suppressed on recommendation of redactors; Projet, p. 288)
The recording of an act in the public registry books can serve only as a commencement of proof in writing; and even for that it is necessary,

1. That it be certain that all records of the notary for the year in which the act appears to have been made be lost, or that it be proved that the loss of the record of this act occurred as a result of a particular accident;

2. That there exist a properly kept official diary of the notary proving that the act was made on the same date.

When, because of the concurrence of these two circumstances proof by witnesses is admitted, it is necessary that those who have been witnesses to the act, be heard, if they are still alive.

---

"Note error in English translation of French text; "and convenient to the place" should be "or are on the spot.""

§5—Of Recognitive and Confirmative Acts

ART. 2271. Recognitive acts do not dispense with the exhibition of the primordial title, unless its tenor be there specially set forth.

Whatever they contain over and above the primordial title, or different from it, is of no effect.

Nevertheless, if there be several recognitions conformable, supported by possession, one of them being dated thirty years back, the creditor may dispense with the exhibition of the primordial title.

RCC—770, 2233, 2272.

RCC 1870, Art. 2271.
Same as above.

CC 1825, Art. 2251.
(No reference in Projet)
Same as above.

CC 1808, p. 308, Art. 237.
Same as above; but no punctuation after "title" in par. 1.
ART. 2272. The act of confirmation or ratification of an obligation, against which the law admits the action of nullity or rescission, is valid only when it contains the substance of that obligation, the mention of the motive of the action of rescission, and the intention of supplying the defect on which that action is founded.

In default of an act of confirmation or ratification, it is sufficient that the obligation be voluntarily executed, subsequently to the period at which the obligation could have been validly confirmed or ratified.

The confirmation, ratification, or voluntary execution in due form, and at the period fixed by law, involves a renunciation of the means and exceptions that might be opposed to the act, without prejudice, however, to the right of persons not parties to it.

RCC—1782, 1785, 1786, 1791, 1794, 1795, 1840, 1846, 1875, 1877, 1889, 2140, 2228, 2271, 2274, 3010, 3021, 3080, 3139.

RCC 1870, Art. 2272.

Same as above.

CC 1825, Art. 2252. (No reference in Projet)

Same as above; but period (,) after "that obligation"; no punctuation after "prejudice", or after "however."

The act of confirmation or ratification of an obligation against which the law admits the action of nullity or of rescission, is valid only when it contains the substance of that obligation, the mention of the motive of the action of rescission, and the intention of supplying the defect on which that action is founded.

Pars. 2, 3 same as pars. 2, 3, above; but no punctuation after "executed", or after "form."

-p. 311, Art. 238.

Same as above; but comma (,) after "L'acte de confirmation ou ratification d'une obligation, contre laquelle la loi admet l'action en nullité ou en rescision, n'est valable que lorsqu'on y trouve la substance de cette obligation, la mention du motif de l'action en rescision, et l'intention de réparer le vice sur lequel cette action est fondée."

A défaut d'acte de confirmation ou ratification, il suffit que l'obligation soit exécutée volontairement, après l'époque à laquelle l'obligation pouvait être valablement confirmée ou ratifiée.

La confirmation, ratification ou exécution volontaire, dans les formes et à l'époque déterminée par la loi, emporte la renonciation aux moyens et exceptions que l'on pouvait opposer contre cet acte, sans préjudice néanmoins du droit des tiers.

CC 1808, p. 310, Art. 238.

The act of confirmation or ratification of an obligation against which the law admits the action of nullity or of rescission, is valid only when it contains the substance of that obligation, the mention of the motive of the action of rescission, and the intention of supplying the defect on which that action is founded.

Pars. 2, 3 same as pars. 2, 3, above; but no punctuation after "executed", or after "form."
ART. 2273. The donor can not, by any confirmative act, supply the defects of a donation *inter vivos* null in form; it must be executed again in legal form.

RCC—1536 et seq., 1558, 1734, 1744, 2274.

RCC 1870, Art. 2273.
Same as above.

CC 1825, Art. 2253. (No reference in Projet)
Same as above.

CC 1808, p. 310, Art. 239.
The donor cannot, by any confirmative act, supply the defects of a donation *inter vivos* (between living persons) null in form; it must be executed again in legal form.

CN 1804, Art. 1339.
The donor cannot by any confirmative act supply the defects of a donation *inter vivos*; null in form, it must be executed again in legal form.

Projet du Gouvernement (1800), Book III, Title II, Art. 230.
The defects of a donation *inter vivos* null in form cannot be supplied by any confirmative act; it must be executed again in legal form.

---

"(between living persons)" has no counterpart in French text.

ART. 2274. The confirmation, ratification,* or voluntary execution of a donation by the heirs or assigns of the donor, after his decease, involves their renunciation to oppose** either defects of form or any other exceptions.


RCC 1870, Art. 2274. (Same as Art. 2274 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2254. (No reference in Projet)
The confirmation, ratification,* or voluntary execution of a donation by the heirs or assigns of the donor, after his decease, involves their renunciation to oppose** either defects of forms or any other exceptions.
Section 2—OF TESTIMONIAL PROOF

Art. 2275. Every transfer of immovable property must be in writing; but if a verbal sale, or other disposition of such property, be made, it shall be good against the vendor, as well as against the vendee, who confesses it when interrogated on oath, provided actual delivery has been made of the immovable property thus sold.

RCC—463, 743, 817, 1766, 1797, 1798, 1811, 1920, 1924, 2233, 2238, 2239, 2240, 2242, 2276, 2289, 2290, 2440, 2462, 2479, 2997, 3176, 3305, 3486.

Art. 2276. Neither shall parol evidence be admitted against or beyond what is contained in the acts, nor on what may have been said before, or at the time of making them, or since.

RCC—1813, 2236, 2237, 2239, 2440, 2442, 2444, 2522, 3309.
Art. 2277

All agreements relative to movable property, and all contracts for the payment of money, where the value does not exceed five hundred dollars, which are not reduced to writing, may be proved by any other competent evidence; such contracts or agreements, above five hundred dollars in value, must be proved at least by one credible witness, and other corroborating circumstances.

RCC—1922, 2232, 2247, 2278, 2290, 2441, 2775, 2834, 2964, 2971, 3071, 3100, 3108, 3222, 3379. Acts 1906, No. 207 (as am. by 1926, No. 11).

RCC 1870, Art. 2277. (Same as Art. 2277 of Proposed Revision of 1869)

All agreements relative to personal property, and all contracts for the payment of money, where the value does not exceed five hundred dollars, which are not reduced to writing, may be proved by any other competent evidence; such contracts or agreements, above five hundred dollars in value, must be proved at least by one credible witness, and other corroborating circumstances.

CC 1825, Art. 2256. (Projet, p. 289. Substitution rejected; no comment)

Il ne sera également reçu aucune preuve par témoin, contre et outre le contenu aux actes, ni sur ce qui serait allégué avoir été dit avant, lors, ou depuis les actes.

CC 1808, p. 310, Art. 242. (p. 311, Art. 242)

Il ne sera également reçu aucune preuve par témoin contre et outre le contenu aux actes, ni sur ce qui serait allégué avoir été dit avant, lors, ou depuis lesdits actes.

CN 1804. No corresponding article, but see CN 1804, Art. 1341, quoted under RCC 1870, Art. 2277.

Projet du Gouvernement (1800), Book III, Title II, Art. 210, par. 2.

La preuve testimoniale n'est point admise contre et outre le contenu de l'acte.

Art. 2277.

All agreements relative to movable property, and all contracts for the payment of money, where the value does not exceed five hundred dollars, which are not reduced to writing, may be proved by any other competent evidence; such contracts or agreements, above five hundred dollars in value, must be proved at least by one credible witness, and other corroborating circumstances.

RCC—1922, 2232, 2247, 2278, 2290, 2441, 2775, 2834, 2964, 2971, 3071, 3100, 3108, 3222, 3379. Acts 1906, No. 207 (as am. by 1926, No. 11).

RCC 1870, Art. 2277. (Same as Art. 2277 of Proposed Revision of 1869)

All agreements relative to personal property, and all contracts for the payment of money, where the value does not exceed five hundred dollars, which are not reduced to writing, may be proved by any other competent evidence; such contracts or agreements, above five hundred dollars in value, must be proved at least by one credible witness, and other corroborating circumstances.

CC 1825, Art. 2256. (Projet, p. 289. Substitution rejected; no comment)

Toutes conventions contractées sans écrit, relativement à des biens-muebils ou à un payement de somme d'argent, lorsque la valeur de ces objets, ou le montant de ces conventions, n'excédera pas cinq cents piasters, pourront se prouver par toute espèce de preuves légales. Mais de semblables conventions, lorsqu'elles sont au-dessus de cinq cents piasters, doivent se prouver par la déposition d'au moins un témoin digne de foi, accompagnée de circonstances qui la corroborent.

CC 1808, p. 310, Art. 242. (p. 311, Art. 242)

Dans toutes les conventions, dont l'objet est appréciable en argent, et autres, que fautes quel celle mentionnée en l'article 241 ci-dessus, s'il n'en a pas été passé acte par écrit, la preuve testimoniale pourra en être admise, pourra qu'elle soit faite par la déposition, sous serment, ou affirmation de deux témoins compétents et dignes de foi, dans tous les cas où la valeur de l'objet de la convention excédera la somme de cinq cents piasters; au-dessous de cinq cents piasters, la déposition non
ART. 2278. Parol evidence shall not be received:

1. To prove any acknowledgment or promise to pay any judgment, sentence or decree of any court of competent jurisdiction, either in or out of this State, for the purpose or in order to take such judgment, sentence or decree out of prescription, or to revive the same, after prescription has run or been completed.

2. To prove any acknowledgment or promise of a party deceased to pay any debt or liability, in order to take such debt or liability out of prescription, or to revive the same after prescription has run or been completed.

3. To prove any promise to pay the debt of a third person.

4. To prove any acknowledgment or promise to pay any debt or liability, evidenced by writing, when prescription has already run. But in all cases mentioned in this article, the acknowledgment or promise to pay shall be proved by written evidence signed by the competent and credible witness shall be sufficient to prove the covenant. (Suppressed on recommendation of redactors; Projet, p. 289)

-p. 310, Art. 244.

Even in the case of the preceding article, that is when the object of the verbal covenant exceeds five hundred dollars, the uncontroverted deposition of a single competent and credible witness may be sufficient, if there exists a beginning of proof in writing.

A beginning of proof in writing is said of any act in writing which has proceeded from him against whom the demand is made, or from him whom he represents and which renders probable the facts alleged.

CN 1804, Art. 1341.

An act before a notary or under private signature must be made of all obligations, including voluntary deposits, exceeding one hundred fifty francs in sum or value; and no parol evidence shall be admitted against or beyond what is contained in the acts, nor on what may have been said before, at the time of making the acts or since, even though less than one hundred fifty francs in sum or value be involved.

The above provisions shall not prejudice what is prescribed in the laws relating to commerce.

-Art. 1347.

The above rules are subject to exception when there is a beginning of proof in writing.

By this is meant any act in writing which has proceeded from him against whom the demand is made, or from him whom he represents, and which renders probable the fact alleged.

-p. 311, Art. 244.

Dans le cas, même de l'article précédent, c'est-à-dire, lorsque l'objet de la convention verbale excède cinq cents piastres, la déposition non contestée, d'un seul témoin compétent et digne de foi, peut suffire, s'il y a commencement de preuve par écrit. On appelle commencement de preuve par écrit, tout acte émané de celui contre lequel la demande est formée, ou de celui qu'il représente, et qui rend vraisemblable le fait allégué.
party who is alleged to have made the acknowledgment or promise or by his agent or attorney in fact, specially authorized in writing so to do. (As amended by Acts 1886, No. 121)


Art. 2278.  
But in all cases mentioned in this article, the acknowledgment or promise to pay shall be proved by written evidence, signed by the party who is alleged to have made the acknowledgment or promise, or by his agent or attorney, in fact specially authorized in writing so to do. (As amended by Acts 1882, No. 51)  

RCC 1870, Art. 2278.  
(Same as Art. 2278 of Proposed Revision of 1869; similar to Acts 1858, No. 208 (RS §§1441-1444, 2818-2821)).

Par. 1 and subds. 1-3 same as RCC 1870, Art. 2278, as amended by Acts 1886, No. 121, par. 1 and subds. 1-3, above; but no punctuation after “same” in subd. 1; comma (,) after “deceased.”

4. To prove any acknowledgment or promise to pay any debt or liability evidenced by writing, when prescription has already run.  
But in all the cases mentioned in this article, the acknowledgment or promise to pay shall be proved by written evidence signed by the party, who is alleged to have made the acknowledgment or promise, or by his specially authorized agent or attorney in fact.

CC 1825. No corresponding article.  
CC 1808. No corresponding article.  
CN 1804. No corresponding article.  

ART. 2279. When an instrument in writing, containing obligations which the party wishes to enforce, has been lost or destroyed, by accident or force, evidence may be given of its contents, provided the party show the loss, either by direct testimony, or by such circumstances, supported by the oath of the party, as render the loss probable; and in this case, the judge may, if required, order reasonable security to be given to indemnify the party against the appearance of the instrument, in case circumstances render it necessary.

RCC—2269, 2270, 2280, 3486. Acts 1886, No. 57 (as am. by 1900, No. 30).

RCC 1870, Art. 2279.  
Same as above.

CC 1825, Art. 2258.  
(Projet, p. 289. Substitution † adopted; no comment)

Same as above.  

Lorsqu'un acte écrit contenant des obligations que la partie désire faire exécuter, a été perdu ou détruit par accident ou par la force, elle pourra faire la preuve de son contenu, pourvu qu'elle en prouve la perte, soit par un témoignage direct, soit par des circonstances soutenues de son serment, qui en rendent la perte probable. Dans ce cas, le juge peut exiger qu'il soit donné un cautionnement suffisant pour garantir le débiteur dans le cas où l'acte serait représenté, si les circonstances rendent ce cautionnement nécessaire.
CC 1808, p. 312, Art. 247.

There is at last an exception to the rules laid down in the foregoing 241 and 242 (243) articles, whenever the creditor has lost the title which served him as a literal proof, through a fortuitous event, an unforeseen accident, or over powering force.

But in this last case in order that the judge may admit the deposition either of two or of a single witness to supply the loss of the title, the fortuitous event which occasioned the loss of the title which formed the literal proof, must be established; for he who requires to be admitted to produce testimonial proof, merely alledges that he has lost his titles, without any fact appearing or over powering force by which his has lost them, he cannot be admitted to give testimonial proof that those titles existed.

CN 1804, Art. 1348, par. 2 and subd. 4.

This second exception applies:

4. To the case where the creditor has lost the title which served him as a literal proof through a fortuitous event, unforeseen and resulting from an over powering force.

*Note error in English translation of French text; “an unforeseen accident, or” should be “unforeseen and resulting from an.”

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

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

ART. 2280. In every case, where a lost instrument is made the foundation of a suit or defense, it must appear that the loss has been advertised, within a reasonable time,* in a public newspaper, and proper means taken to recover the possession of the instrument.

RCC—2269, 2270, 2279, 3486. Acts 1886, No. 57 (as am. by 1900, No. 30).

RCC 1870, Art. 2280. (Same as Art. 2280 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2259. (Projet, p. 289. Addition † adopted; no comment)

In every case, where a lost instrument is made the foundation of a suit or defense, it must appear that the loss has been advertised, within a reasonable time,* in a public paper, and proper means taken to recover the possession of the instrument.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include “since it occurred.”


Art. 2281.

The competent witness of any covenant or fact, whatever it may be, in civil matters, is a person of proper understanding. The husband cannot be a witness for or against his wife, nor the wife for or again (against) the husband; but in
Art. 2281

any case where the husband or wife may be joined as plaintiffs or defendants and have a separate interest, they shall be competent witnesses for or against their separate interest therein; and provided further that in all civil suits for damages instituted by the husband for or on account of personal injuries sustained or suffered by his wife, the wife shall be a competent witness.

Provided further, that in all cases where either spouse has acted as the agent of the other spouse, such spouse so acting as agent, shall be a competent witness as to all transactions arising from, involved in, or connected with such agency; but no statement or statements of either party in suits for separation of property and separation from bed and board or divorce shall be received in evidence. (As amended by Acts 1898, No. 190)

Art. 2281.

The competent witness of any covenant or fact, whatever it may be in civil matters, is a person of proper understanding.

The husband cannot be a witness for or against his wife, nor the wife for or against her husband; provided, that in any case where the husband or wife may be joined as plaintiffs or defendants and have a separate interest, they shall be competent witnesses for or against their separate interest therein.

Provided further, that in all cases where either spouse has acted as agent for the other spouse, such spouse so acting as agent shall be a competent witness as to all transactions arising from, involved in, or connected with such agency.

That no statement or statements of either party in suits for separation of property and separation from bed and board or divorce shall be received in evidence. (As amended by Acts 1888, No. 59)

RCC 1870, Art. 2281. (Same as Art. 2281 of Proposed Revision of 1869; similar to CC 1825, Art. 2260, as amended by Acts 1867, No. 71, and by Acts 1868, No. 204 (RS §§1437, 3961); in conformity with Acts 1832, No. 5)

Par. 1 same as par. 1, above.

The husband can not be a witness for or against his wife, nor the wife for or against her husband; but in any case where the husband or wife may be joined as plaintiffs or defendants and have a separate interest, they shall be competent witnesses for or against their separate interest therein.

CC 1825, Art. 2260. (Projet, p. 289. Substitution rejected; no comment)

Pour pouvoir être admis comme témoin compétent d’une convention ou d’un fait quelconque en matière civile, il faut avoir quatorze ans accomplis, être sain d’esprit, être libre ou affranchi, et n’être pas du nombre de ceux que la loi répute infames; il faut en outre n’avoir aucun intérêt direct ou indirect dans la contestation.

Le mari ne peut pas être témoin pour ou contre sa femme, ni la femme pour ou contre son mari; il en est de même des ascendants à l’égard de leurs descendants, et des descendants à l’égard de leurs ascendants.

CC 1808, p. 312, Art. 248.

Par. 1 same as par. 1, above; but “deem” correctly spelled “deems”; no punctuation after “fact”, or after “be.”

He must besides be not interested, neither directly nor indirectly, in the cause.

The husband cannot be a witness either for or against his wife, nor the wife for or against her husband; neither can ascendants with respect to their descendants, nor descendants with respect to their ascendants.

CN 1804. No corresponding article.
ART. 2282. The circumstance of the witness being a relation, a party to the cause, interested in the result of the suit, or in the actual service or salary of one of the parties, is not a sufficient cause to consider the witness as incompetent, but may, according to circumstances, diminish the extent of his credibility.

RCC—1591, 1592, 2283. RS—438.

RCC 1870, Art. 2282. (Same as Art. 2282 of Proposed Revision of 1869; same as CC 1825, Art. 2261, as amended by Acts 1867, No. 70 [RS 438].)

CC 1825, Art. 2261. (Projet, p. 290. Recommendation to suppress recommendation)

The circumstance of the witness being a relation in the collateral line, as far as the fourth degree inclusively, of one of the parties interested in the cause, or engaged in the actual service or salary of one of the said parties, or a free colored person, is not a sufficient cause to consider the witness as incompetent, but may, according to circumstances, diminish the extent of his credibility.

CC 1808, p. 312, Art. 249. Same as above; but no punctuation after "line", after "inclusively", after "may", or after "circumstances."

CN 1804. No corresponding article.

ART. 2283. No attorney or counsellor at law shall give evidence of any thing that has been confided to him by his client, without the consent of such client; but his being employed as a counsellor or attorney, does not disqualify him from being a witness in the cause in which he is employed.

RCC—2282.

RCC 1870, Art. 2283. Same as above.

CC 1825, Art. 2262. (Projet, p. 290. Addition adopted; no comment)

Aucun avocat ou procureur ne donnera son témoignage sur ce qui peut lui avoir été confié par son client, sans le consentement de celui-ci; mais la circonstance de ce qu’il est employé comme avocat ou procureur, ne le rend pas incapable d’être témoin dans la cause où il est ainsi employé.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Section 3—OF PRESUMPTIONS

ART. 2284. Presumptions are consequences which the law or the judge draws from a known fact to a fact unknown.

RCC—60, 1818, 1848, 1849, 2233, 2285, 2287, 2288, 3443, 3444, 3461, 3481, 3486, 3488, 3492, 3496, 3501.

1249
§1—Of Presumptions Established by Law

**Art. 2285.** Legal presumption is that which is attached by a special law, to certain acts or to certain facts; such are:

1. Acts which the law declares null, as presumed to have been made to evade its provisions, from their very quality.

2. Cases in which the law declares that the ownership or discharge results from certain determinate circumstances.

3. The authority which the law attributes to the thing adjudged.

RCC—131, 184, 189, 211, 469, 506, 522, 524, 526, 677, 688, 689, 936, 938, 939, 946, 1491, 1641, 1707, 1735, 1754, 1765, 1848, 2040, 2093, 2200, 2201, 2202, 2204, 2232, 2233, 2284, 2286, 2287, 2288, 2291, 2405, 2530, 2685, 2687, 2720, 2761, 2925, 3039, 3443, 3444, 3481, 3487 et seq., 3492, 3498, 3500, 3501, 3519.

RCC 1870, Art. 2285. (Same as Art. 2285 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2284. (No reference in Projet)

Same as above.

CC 1808, p. 312, Art. 250.

Presumptions are consequences which the law or the magistrate, draws from a known fact to a fact unknown.

CC 1808, p. 314, Art. 251.

Par. 1 and subd. 1 same as par. 1 and subd. 1, above; but comma (,) after “attached”; semicolon (;) after “quality.”

2. Cases in which the law declares that the property or discharge results from certain determinate circumstances;

Subd. 3 same as subd. 3, above; but semicolon (;) after “adjudged.”

4. The weight which the law attaches to the confession of the party, or to his oath.

CC 1808, p. 315, Art. 251.

Same as above; but comma (,) after “légale”, after “certains actes”, and after “certains faits”; no punctuation after “libération”, or after “partie.”
Subd. 2 same as subd. 2, above; but period (.) after "circumstances."
3dly. The authority which the law attributes to the thing judged;
Subd. 4 same as subd. 4, above.

CN 1804, Art. 1350.
Same as above.

ART. 2286. The authority of the thing adjudged takes place only with respect to what was the object of the judgment. The thing demanded must be the same; the demand must be founded on the same cause of action; the demand must be between the same parties, and formed by them against each other in the same quality.

RCC—2095, 2285, 3078, 3082, 3556 (31). CP—536, 538, 539, 746. RS—2376.
RCC 1870, Art. 2286.
Same as above.
CC 1825, Art. 2265. (No reference in Projet)
Same as above.

L'autorité de la chose jugée n'a lieu qu'à l'égard de ce qui a fait l'objet du jugement; il faut que la chose demandée soit la même, que la demande soit fondée sur la même cause, que la demande soit entre les mêmes parties, et formée par elles et contre elles en la même qualité.

p. 315, Art. 252.
L'autorité de la chose jugée, n'a lieu qu'à l'égard de ce qui a fait l'objet du jugement; il faut que la chose demandée soit la même,* que la demande soit entre les mêmes parties, et formées (formée) par elles et contre elles en la même qualité.

CN 1804, Art. 1351.
Same as CC 1825, Art. 2265, above.

Same as CC 1825, Art. 2265, above; but period (.) after "jugement"; semicolon (;) after "soit la même", and after "cause."

*"The demand must be founded on the same cause" has no counterpart in French text.

ART. 2287. Legal presumption dispenses with all other proof, in favor of him for whom it exists.
No proof is admitted against the presumption of the law, when, on the strength of that presumption, it annuls certain acts, or refuses a judicial action, unless it has reserved the contrary proof, and saving what will be said on the judicial confession.

RCC—131, 184, 188, 189, 506, 936, 938, 939, 1491, 1641, 1707, 1708, 1735, 1754, 1755, 1765, 1797, 1799, 1835, 1836, 1848, 1849, 2040, 2200 et seq., 2204, 2284, 2285, 2291, 2405, 2530, 2687, 2761, 2925, 3461, 3487 et seq., 3492, 3619.
§2—Of Presumptions Not Established by Law

Art. 2288. Presumptions, not established by law, are left to the judgment and discretion of the judge, who ought to admit none but weighty, precise and consistent presumptions, and only in cases where the law admits testimonial proof, unless the act be attacked on account of fraud or deceit.

RCC—60, 61, 469, 506, 677, 688, 689, 936, 952, 1637, 1641, 1818, 1819, 1831, 1847, 1849, 1851, 1921, 2093, 2233, 2284, 2285, 2405, 2480, 3039, 3359, 3461, 3486, 3488.

RCC 1870, Art. 2288. Same as above.

CC 1825, Art. 2267. (No reference in Projet)

Les présomptions, qui ne sont point établies par la loi, sont abandonnées aux lumières et à la prudence du magistrat, qui ne doit admettre que des présomptions graves, précises et concordantes, et dans les cas seulement où la loi admet la preuve testimoniale, à moins que l'acte ne soit attaqué pour cause de fraude ou de dol.

CC 1808, p. 314, Art. 254. Same as above; but no punctuation after "Presumptions", or after "by law."
Section 4—OF THE CONFESSION OF THE PARTY

ART. 2289. The confession, which is opposed to* a party, is either extrajudicial or judicial.

RCC—2233, 2275, 2290, 2291.

ART. 2290. The allegation of an extrajudicial confession, merely verbal, is useless in all cases of a demand, in support of which testimonial proof would be inadmissible.

RCC—2275, 2277, 2289.

*“Opposed to” is used here in the sense of “set up against” or “asserted against.”
Art. 2291. **The judicial confession is the declaration which the party, or his special attorney in fact, makes in a judicial proceeding.**

It amounts to full proof against him who has made it.

It can not be divided against him.

It can not be revoked, unless it be proved to have been made through an error in fact.

It can not be revoked on a pretense of an error in law.

RCC—1819, 1821, 1822, 1846, 2248, 2289.

**RCC 1870, Art. 2291.**

Same as above.

CC 1825, Art. 2270.  
(No reference in Projet)

Same as above; but semicolon (:) after "made it", after "divided against him", and after "fact."

CC 1808, p. 314, Art. 257.

The judicial avowal is the declaration which the party, or his special attorney in fact, makes in judicial proceedings.

Par. 2 same as par. 2, above; but period (.) after "made it."

It cannot be divided against him. It cannot be revoked, unless it be proved to have been made through an error in fact. It cannot be revoked on a pretext of an error in right.

CN 1804, Art. 1356.  
Same as CC 1825, Art. 2270, above.

Same as above; but "qui la" correctly spelled "qui l'a"; no punctuation after "judiciaire", after "partie", or after "pourrait être révoqué"; period (.) after "l'a fait", and after "lui."

**TITLE V—OF QUASI CONTRACTS, AND OF OFFENSES AND QUASI OFFENSES**

Art. 2292. Certain obligations are contracted* without any agreement, either on the part of the person bound, or of him in whose favor the obligation takes place.

Some are imposed by the sole authority of the laws, others from an act done by the party obliged, or in his favor.

The first are such engagements as result from tutorship, curatorship, neighborhood, common property,** the acquisition of an inheritance, and other cases of a like nature.

The obligations, which arise from a fact, personal to him who is bound, or relative to him, result either from quasi contracts, or from offenses and quasi-offenses.