Title VI. Of the Marriage Contract, and of the Respective Rights of the Parties in Relation to Their Property (Art. 2325 - 2437)

Louisiana
ART. 2324. He who causes another person to do an unlawful act, or assists or encourages in the commission of it, is answerable, in solido, with that person, for the damage caused by such act.

RCC—2088, 2091, 2093, 2100, 2107, 2203, 2315 et seq. RS—436, 2584.

RCC 1870, Art. 2324. (Same as Art. 2324 of Proposed Revision of 1869; same as CC 1825, Art. 2304, as amended by Acts 1844, No. 20 (RS 41436))

CC 1825, Art. 2304. (Projet, p. 294. Addition adopted; no comment)

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "jointly" should be "in solido."

TITLE VI—OF THE MARRIAGE CONTRACT, AND OF THE RESPECTIVE RIGHTS OF THE PARTIES IN RELATION TO THEIR PROPERTY

Chapter 1—General Dispositions

ART. 2325. In relation to property, the law only regulates the conjugal association, in default of particular agreements, which the parties are at liberty to stipulate as they please, provided they be not contrary to good morals, and under the modifications hereafter prescribed.

RCC—11, 122 et seq., 133, 156, 158, 540, 732, 1242, 1317, 1519, 1535, 1734 et seq., 1743 et seq., 1761, 1765, 1790, 1888, 1892, 1895, 2031, 2265, 2326 et seq., 2336, 2338, 2352 et seq., 2360, 2361, 2364, 2367, 2368, 2372, 2375, 2392, 2395, 2399, 2424, 2446, 3333, 3523, 3555. RS—2512, 3066.

RCC 1870, Art. 2325. (Projet, p. 294. Amendment adopted; no comment)

La loi ne régit l'association, quant aux biens, qu'à défaut de conventions spéciales, que les époux peuvent faire comme ils le jugent à propos, pourvu qu'elles ne soient pas contraires aux bonnes moeurs, et en outre sous les modifications qui suivent.

CC 1825, Art. 2305. Same as above.

CC 1808, p. 322, Art. 1. (Projet, p. 323, Art. 1.)

Husband and wife may regulate their matrimonial agreements as they please, provided they stipulate in it nothing contrary to good morals, and provided likewise it be done under the modifications hereafter prescribed.
ART. 2326. Husband and wife can in no case enter into any agreement or make any renunciation, the object of which would be to alter the legal order of descents, either with respect to themselves in what concerns the inheritance of their children or posterity, or with respect to their children between themselves, without any prejudice to the donations inter vivos or mortis causa, which may take place according to the formalities and in the cases determined by this Code.

CC 1808, p. 324, Art. 3.

Nevertheless husband and wife can, in no case, enter into any agreement, or make any renunciation, the object of which may be to alter the legal order of descents, either with respect to themselves in what concerns the inheritance of their children or posterity, or with respect to their children between themselves, without any prejudice to the donations inter vivos or mortis causa which may take place, according to the formalities and in the cases determined by the present code.

CN 1804, Art. 1389.

They cannot enter into any agreement or make any renunciation the ob-
Art. 2327. Neither can husband and wife derogate by their matrimonial agreement from the rights resulting from the power of the husband over the person of his wife and children, or which belong to the husband as the head of the family, nor from the rights granted to the surviving husband or wife by the title: Of Father and Child, and by the title: Of Minors, of their Tutorship and Emancipation, nor from the prohibitory dispositions of this Code.

RCC—119, 178 et seq., 215 et seq., 246 et seq., 380, 1519, 1520, 2326, 2446, 3523.

RCC 1870, Art. 2327. (Same as Art. 2327 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2307. (No reference in Projet)

Neither can husband and wife derogate by their matrimonial agreement, from the rights resulting from the power of the husband over the person of his wife and children, or which belong to the husband as the head of the family, nor from the rights granted to the surviving husband or wife by the title of father and child, and by the title of minors, of their tutorship, &c., nor from the prohibitory dispositions of this Code.

CC 1808, p. 324, Art. 4.

Neither can husband and wife derogate by their matrimonial agreement, from the rights resulting from the power of the husband over the person of his wife and children, or which belong to the husband as the head of the family, nor from the rights granted to the surviving husband or wife by the title of father and child, and by the title of minors and their tutors and curators, nor from the prohibitory dispositions of this code.

CN 1804, Art. 1388.

Husband and wife cannot derogate either from the rights resulting from the power of the husband over the person of his wife and children, or which belong to the husband as the head of the family, or from the rights granted to the surviving husband or wife by the title Of Paternal Power and by the title Of Minority, Tutorship, and Emancipation, or from the prohibitory dispositions of this Code.

Les époux ne peuvent déroger ni aux droits résultant de la puissance paternelle sur la personne de la femme et des enfants, ou qui appartiennent au mari comme chef, ni aux droits conférés au survivant des époux par le titre de la Minorité, de la Tutelle et de l'Emancipation, ni aux dispositions prohibitives du présent Code.
ART. 2328. Every matrimonial agreement must be made by an act before a notary and two witnesses.

RCC—198, 1536, 1734, 1764, 2234, 2236, 2240, 2329, 3333, 3524, 3555.

RCC 1870, Art. 2328.
Same as above.

CC 1825, Art. 2308.
Par. 1. same as above.

The practice of marriage agreement under private signature is abrogated.

CC 1808, p. 324, Art. 5.
Same as above; but comma (,) after “signature.”

CN 1804, Art. 1394.
Every matrimonial agreement shall be made, prior to the marriage, by an act before a notary.

Projet du Gouvernement (1800), Book III, Title X, Art. 4.
Every matrimonial agreement must be made by authentic act before a notary. The practice of marriage agreement under private signature is abrogated.

ART. 2329. Every matrimonial agreement can be altered by the husband and wife jointly before the celebration of marriage; but it cannot be altered after the celebration. Provided that in the case of married couples removing to this State and settling therein from other States and countries after marriage, they shall have the right at any time within one year after the passage of this Act, or a like period after such settlement in this State, to make a valid marriage contract, subject in all other respects to the laws of this State. (As amended by Acts 1910, No. 236)

RCC—1734 et seq., 1743 et seq., 2326 et seq., 2340, 2400, 2401, 2446.

RCC 1870, Art. 2329.
Every matrimonial agreement can be altered by the husband and wife jointly, before the celebration of marriage; but it can not be altered after the celebration.

CC 1825, Art. 2309.
(No reference in Projet)
Same as above.

CC 1808, p. 324, Art. 6.
Same as above; but period (.) after “marriage.”

-p. 325, Art. 6.
Same as above; but no punctuation after “matrimoniales”; comma (,) after “changées.”
ART. 2330. The minor, who is capable of contracting matrimony, may give his consent to any agreements which this contract is susceptible of; and the agreements entered into and the donations he has made by the same, are valid, provided that, if he be not emancipated, he has been assisted in the agreement by those persons whose consent is necessary to his marriage.

RCC—92, 97, 112, 374, 1476, 1477, 1747, 1748, 1783, 1785, 1790, 1867, 1868, 1873, 1875, 2226, 2231, 2331.

RCC 1870, Art. 2330. (Same as Art. 2330 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2310. (Projet, p. 294. Amendment amended in English text and adopted; no comment)
Le mineur, habile à contracter mariage, peut consentir à toutes les conventions dont ce contrat est susceptible; et les conventions et donations qu'il y a faites, sont valables, pourvu que, s'il n'est pas émancipé, il ait été assisté dans le contrat par les personnes dont le consentement est nécessaire pour la validité du mariage.

CC 1808, p. 324, Art. 7.
Le mineur, habile à contracter mariage, peut consentir à toutes les conventions dont ce contrat est susceptible; et les conventions et donations qu'il y a faites, sont valables, pourvu que, s'il n'est pas émancipé, il ait été assisté, dans le contrat, par ceux de ses ascendants dont le consentement est nécessaire pour son mariage.

1278
ART. 2331. The most ordinary conventions in marriage contracts, are the settlement of the dowry and the various donations which the husband and wife may make to each other, either reciprocally or the one to the other, or which they may receive from others, in consideration of the marriage.

RCC—374, 1734, 1743 et seq., 1873, 2330, 2337 et seq., 2352.

RCC 1870, Art. 2331.
Same as above.

CC 1825, Art. 2311.
Same as above.

Les conventions les plus ordinaires dans le contrat de mariage, sont: la constitution de dot, et les diverses donations que les époux peuvent se faire, soit réciproquement, soit l'un à l'autre, ou qu'ils peuvent recevoir d'autrui, en considération du mariage.

CC 1808, p. 324, Art. 9.
The most ordinary conventions in marriage contract, are the settlement of the dowry and the various donations which the husband and wife may make to each other, either reciprocally or the one to the other, or which they may receive from others in consideration of the marriage.

No corresponding article.

ART. 2332. The partnership, or community of acquets [acquets] or gains, needs not to be stipulated; it exists by operation of law, in all cases where there is no stipulation to the contrary.

But the parties may modify or limit it; they may even agree that it shall not exist.

RCC—1764, 1967, 2334, 2392, 2399 et seq., 2424, 2806, 2807.

RCC 1870, Art. 2332.
Same as above.

CC 1825, Art. 2312.
Same as above; but "acquets" spelled "acquets."

La société ou communauté d'acquêts ou de gains n'a pas besoin d'être stipulée; elle a lieu par l'effet de la loi dans tous les cas où il n'y a pas stipulation contraire.

Mais les parties peuvent la modifier, la limiter, ou même convenir qu'elle n'aura pas lieu.

CC 1808, p. 324, Art. 10.
The partnership or community of acquêts or gains, is a necessary consequence of marriage, within this territory and needs not be stipulated in the marriage contract in order to take effect.

No corresponding article.
ART. 2333. From the various conventions which are customary in marriage contracts, or which are a consequence of the marriage, result various distinctions with respect to the property which may be the object of these conventions.

RCC—2334, 2335, 2377, 2383, 2399 et seq., 2402.

RCC 1870, Art. 2333. (Same as Art. 2333 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2313. (No reference in Projet)
From the various conventions which are customary in marriage contracts, or which are a consequence of the marriage, result various distinctions with respect to the estate which may be the object of these conventions.

CC 1808, p. 324, Art. 11.
Same as above.

CN 1804. No corresponding article.

ART. 2334. The property of married persons is divided into separate and common property.

Separate property is that which either party brings into the marriage, or acquires during the marriage with separate funds, or by inheritance, or by donation made to him or her particularly.

The earnings of the wife when living separate and apart from her husband although not separated by judgment of court, her earnings when carrying on a business, trade, occupation or industry separate from her husband, actions for damages resulting from offenses and quasi offenses and the property purchased with all funds thus derived, are her separate property.

Actions for damages resulting from offenses and quasi offenses suffered by the husband, living separate and apart from his wife, by reason of fault on her part, sufficient for separation or divorce shall be his separate property.

Common property is that which is acquired by the husband and wife during marriage, in any manner different from that above declared. But when the title to community property stands in the name of the wife, it cannot be mortgaged or sold by the husband without her written authority or consent. (As amended by Acts 1920, No. 186)

RCC—122, 131, 2332, 2333, 2335, 2337, 2338, 2383, 2402, 2403, 2430. Acts 1936, No. 158; 1940, No. 95.

Art. 2334.
Par. 1 same as par. 1, above.
Separate property is that which either party brings into the marriage, or acquired during the marriage with separate funds, or by inheritance, or by donation made to him or her particularly.

The earnings of the wife when living apart from her husband although not separated by judgment of court, her earnings when carrying on a business,
trade, occupation or industry separate from her husband, actions for damages resulting from offenses and quasi offenses, and the property purchased with all funds thus derived are her separate property.

Par. 4 same as par. 5, above. (As amended by Acts 1912, No. 170)

RCC 1870, Art. 2334. (Same as Art. 2334 of Proposed Revision of 1869)

The property of married persons is divided into separate property and common property.

Separate property is that which either party brings into the marriage, or acquires during the marriage by inheritance or by donation made to him or her particularly.

Common property is that which is acquired by the husband and wife during marriage, in any manner different from that above declared.

CC 1825, Art. 2314. (Projet, p. 295. Substitution adopted; no comment)

Par. 1 same as par. 1, above.

Separate property is that which either party brings in marriage, or acquires during the marriage, by inheritance or by donation made to him or her particularly.

Par. 3 same as par. 3, above; but comma (,) after “wife.”


We understand by effects proper or hereditary (hereditary), all such as either husband and (or) wife brings in marriage or which he or she inherits or acquires during the marriage by will or lucrative contract. (Suppressed on recommendation of redactors; Projet, p. 295)


In fine we understand by common effects or gains such as the husband and wife acquire during the marriage by their labor, industry, purchase or any other similar way. (Suppressed on recommendation of redactors; Projet, p. 295)


On appelle biens propres, ou héréditaires, tous ceux que chaque époux apporte en mariage, ou dont il hérite, ou qu'il acquiert pendant sa durée, par acte de dernière volonté ou par contrat lucratif. (Suppressed on recommendation of redactors; Projet, p. 295)


Enfin, on appelle biens communs ou de gains, ceux que les époux acquièrent durant le mariage, par leur travail, leur industrie ou par achat et autres semblables manières. (Suppressed on recommendation of redactors; Projet, p. 295)

CN 1804. No corresponding article.

ART. 2335. The separate property of the wife is divided into dotal and extradotal.

Dotal property is that which the wife brings to the husband to assist him in bearing the expenses of the marriage establishment.

Extradotal property, otherwise called paraphernal property, is that which forms no part of the dowry.

RCC—1888, 2333, 2334, 2337 et seq., 2383 et seq., 2411, 2430, 3215, 3319.

RCC 1870, Art. 2335.

Same as above.

CC 1825, Art. 2315. (Projet, p. 295. Substitution adopted; no comment)

Same as above.

Les biens propres de la femme se distinguent en dotaux et extra-dotaux.

Les biens dotaux sont ceux que la femme apporte au mari pour l'aider à supporter les charges du mariage.
Art. 2336. Husband and wife may, by their marriage contract, make reciprocally or one to the other, or receive from other persons, in consideration of their marriage, all kinds of donations, according to the rules and under the modifications prescribed in the title: Of donations inter vivos and mortis causa.

RCC-1480, 1570, 1784 et seq., 1743 et seq., 1564, 1572, 1897.

RCC 1870, Art. 2336. (Same as Art. 2336 of Proposed Revision of 1869)

Same as above.

Art. 2337. By dowry is meant the effects which the wife brings to the husband to support the expenses of marriage.

RCC-416, 611, 909, 1992, 2331, 2334, 2335, 2338, 2340, 2347, 2349, 2411, 2430, 2435, 3319, 3333, 3555.

RCC 1870, Art. 2337. (Same as Art. 2337 of Proposed Revision of 1869)

Same as above.
CIVIL CODES OF LOUISIANA

Art. 2339

CC 1825, Art. 2317. (No reference in Projet)
By dowry are meant the effects which the wife brings to the husband to support the expenses of marriage.

CC 1808, p. 326, Art. 16.
Same as above.

CN 1804, Art. 1540.
Dowry, under the dotal system as well as under the system of Chapter II, is the property which the wife brings to the husband to support the expenses of marriage.

ART. 2338. Whatever in the marriage contract is declared to belong to the wife, or to be given to her on account of the marriage by other persons than the husband, is part of the dowry, unless there be a stipulation to the contrary.

RCC—2337, 2339, 2340, 2383.

RCC 1870, Art. 2338.
Same as above.

CC 1825, Art. 2318. (Projet, p. 295. Amendment t adopted; no comment)
Same as above; but comma (,) after “Whatever”, after “contract”, and after “of the marriage.”

CC 1808, p. 326, Art. 17.
Every thing which the wife settles upon herself or which is given her by the marriage contract, is included in the dowry, unless there be a contrary stipulation.

CN 1804, Art. 1541.
Same as above.

ART. 2339. The settlement of the dowry may include all the present and future effects of the wife, or her present effects only, or a part of her present and future effects, or even an individual object.

The constitution in general terms of all the effects of the wife, does not include her future effects.

RCC—1888, 2338.

RCC 1870, Art. 2339.
Same as above.

CC 1825, Art. 2319. (No reference in Projet)
Same as above; but comma (,) after “constitution”, and after “terms.”

La constitution de dot peut comprendre tous les biens présents et à venir de la femme, ou ses biens présents seulement, ou une partie de ses biens présents et à venir, ou même un objet individuel.

La constitution en termes généraux de tous les biens de la femme ne comprend pas les biens à venir.
Art. 2340. Dowry can not be settled, nor can it even be increased during the marriage.

RCC-2329, 2331, 2337, 2338.

RCC 1870, Art. 2340.
Same as above.

CC 1825, Art. 2320.
(No reference in Projet)
La dot ne peut être constituée, ni même augmentée pendant le mariage.

CC 1808, p. 326, Art. 19.
Same as above.

CN 1804, Art. 1543.
Same as above; but no punctuation after “constituée.”

Art. 2341. Dowry can be settled either by the wife herself, or by her father or* mother, or other ascendants, or by other relations, and even by strangers.

RCC-416, 1242, 2345, 2373.

RCC 1870, Art. 2341.
Same as above.

CC 1825, Art. 2321.
(No reference in Projet)
La dot peut être constituée, soit par la femme elle-même, soit par ses père et* mère, ou autres ascendants, soit par ses autres parens, ou même par des étrangers.

CC 1808, p. 326, Art. 20.
Dowry can be settled either by the wife herself or by her father or* mother or other ascendants, or by her other relations, and even by strangers.

CN 1804. No corresponding article.

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

Art. 2342. If the father and mother settle jointly a dowry, without distinguishing the part of each, it shall be supposed to be constituted by equal portions.

1284
If the dowry be settled by the father alone, for paternal and maternal rights, the mother, although present at the making of the contract, shall not be bound; but the father alone shall remain answerable for the whole of the dowry.

RCC—2080, 2086, 2343, 2344.

RCC 1870, Art. 2342. (Same as Art. 2342 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2322. (No reference in Projet)
If the father or* mother settle jointly a dowry, without distinguishing the part of each, it shall be supposed to be constituted by equal portions. If the dowry be settled by the father alone, for paternal and maternal rights, the mother, although present at** the contract, shall not be obliged, and the father alone shall remain answerable for the whole of the dowry.

CC 1808, p. 326, Art. 21.
If the father or* mother settle jointly a dowry, without distinguishing the part of each, it shall be supposed constituted by equal portion.
Par. 2 same as par. 2, above; but no punctuation after "by the father alone."

CN 1804, Art. 1544.
Same as RCC 1870, Art. 2342, above.

*Note error in English translation of French text; "or" should be "and."
**Note error in English translation of French text; "to" should be "at the making of."

ART. 2343. If the surviving father or mother settles a dowry for paternal and maternal effects, without specifying the portions, the dowry shall be first taken out of the rights of the future wife in the succession of the deceased [deceased] father or mother, and the rest out of the estate of the person who settled the dowry.

RCC—1888, 2342, 2344.

RCC 1870, Art. 2343. (Same as Art. 2343 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2323. (No reference in Projet)
If the surviving, either father or mother, settles a dowry for paternal and maternal effects, without specifying the portions, the dowry shall be first taken out of the rights of the future husband or wife, out of the estate of the deceased husband or wife, and the rest out of the estate of the person who settled the dowry.

CC 1808, p. 326, Art. 22.
Same as above; but no punctuation after "surviving."

-p. 327, Art. 21.
Same as above; but comma (,) after "seul."

-p. 327, Art. 22.
Si le survivant des père et mère constitue une dot, pour biens paternels et maternels, sans spécifier les portions, la dot se prendra d'abord sur les droits du futur époux dans les biens du conjoint prédécédé, et le surplus, dans les biens du constituant.
Art. 2344

Although the daughter who has received a dowry from her father and mother may have effects belonging to her which they enjoy, the dowry shall be taken out of the estate of the persons settling the dowry, unless there be a stipulation to the contrary.

RCC—223, 2342, 2343.

RCC 1870, Art. 2344. (Same as Art. 2344 of Proposed Revision of 1869)

Same as above.

ART. 2345. Those who settle a dowry are bound to the warranty of the things thus settled.

RCC—1384 et seq., 1967, 2341, 2476, 2500 et seq. CP—378, 379.

RCC 1870, Art. 2345.

Same as above.

CC 1825, Art. 2325. (No reference in Projet)

Same as above; but comma (,) after "dowry:"


Same as above.

CN 1804, Art. 1546. Same as above; but no punctuation after "fille", after "mère", or after "propres:"

CN 1804, Art. 1547. Same as above.

1286
ART. 2346. The interests of the dowry begin, of right, from the day of the marriage, against those who have promised the same, although there may be time given for the payment, unless there be a contrary stipulation.

RCC—1935, 2048, 2052, 2373, 2374, 2924.

RCC 1870, Art. 2346.
Same as above.

CC 1825, Art. 2326.
Same as above.

CC 1808, p. 328, Art. 25.
Same as above; but no punctuation after "begin."

CN 1804, Art. 1548.
Same as above.

ART. 2347. The dowry is given to the husband for him to enjoy the same as long as the marriage shall last.

RCC—1925, 1992, 2337, 2349, 2350, 2352 et seq., 2369, 2435, 3523, 3524.

RCC 1870, Art. 2347.
Same as above.

CC 1825, Art. 2327.
Same as above.

The cause of the dowry is perpetual, that is the dowry is given to the husband for him to enjoy the same, as long as the marriage shall last.

CN 1804. No corresponding article.

ART. 2348. The action, which the husband has to recover the dowry from those who have settled the same, is prescribed against by the same space of time as all other personal actions.

RCC—1997, 2373.

RCC 1870, Art. 2348.
Same as above.

CC 1825, Art. 2328.
Same as above.
Art. 2349

The action which the husband has to recover the payment of the dowry of those who have settled the same, lasts thirty years as well as all other personal actions.

Art. 2350. The husband alone has the administration of the dowry, and his wife can not deprive him of it; he may act alone in a court of justice for the preservation or recovery of the dowry, against such as either owe or detain the same, but this does not prevent the wife from remaining the owner of the effects which she brought as her dowry.

Art. 2351. The income or proceeds of the dowry belong to the husband, and are intended to help him to support the charges of the marriage, such as the maintenance of the husband and wife, that of their children, and other expenses which the husband deems proper.
or recovery of the dowry, against such as either owe or detain the same, but this does not prevent the wife from remaining the proprietor of the effects which she brought as her dowry.

CC 1808, p. 328, Art. 29.

Same as above; but no punctuation after "administration of the dowry", after "justice", or after "recovery of the dowry."

CN 1804, Art. 1549, pars. 1, 2.

The husband alone has the administration of the dotal effects during the marriage.

He alone has the right to sue those who owe or detain the same, to collect the fruits and interest, and to receive repayment of capital.

ART. 2351. In case, however, of the husband's absence or neglect to sue for the dotal effects of the wife, she may sue for them herself, having first been authorized by the proper judge.

RCC-2350, 2384. Acts 1921, No. 34; 1928, No. 283.

RCC 1870, Art. 2351.

Same as above.

CC 1825, Art. 2331. (Projet, p. 296. Amendment adopted; no comment)

Same as above.

CC 1808, p. 328, Art. 30.

The wife may nevertheless appear in a court of justice, for her dotal effects, either when she is separated of property from her husband, or when she is by him authorised to that effect, or on his refusal when she is authorised by the judge.

CN 1804. No corresponding article.

ART. 2352. It may likewise be stipulated by the marriage contract that the wife shall receive annually, upon her own acquisitions, a part of her revenue for her maintenance and personal wants.

RCC—2325, 2331, 2347, 2349.

RCC 1870, Art. 2352.

Same as above.

CC 1825, Art. 2332. (No reference in Projet)

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

Il peut être également convenu par le contrat de mariage, que la femme touchera annuellement, sur ses seules acquisitions, une partie de ses revenus, pour son entretien et ses besoins personnels.
ART. 2353. The husband is not bound to give security upon his receiving the dowry, unless he has been bound to do so by the marriage contract.

RCC—558, 560, 2347, 2350, 2365, 2376, 3311, 3319, 3333.

ART. 2354. If the dowry, or part of it, should consist in moveable effects, valued by the marriage contract without declaring that the estimated value of the same does not constitute a sale, the husband becomes the owner of such moveable effects and owes nothing but the estimated value of the same.

RCC—2347, 2355, 2367, 2368, 2370, 2372.

(No reference in Projet)
ART. 2355. The ownership of dotal immovables, whether valued or not, can never be transferred to the husband, even by express agreement.

RCC—1790, 2347, 2354, 2356, 2360, 2361, 2363, 2367, 3523, 3524.

RCC 1870, Art. 2355. (Same as Art. 2355 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2335. (Projet, p. 296. Amendment adopted; no comment)
The estimated value of slaves, settled as dowry, does not transfer the property of the same to the husband, unless there be an express declaration to that effect.
The property of dotal immovable, whether valued or not, can never be transferred to the husband, even by express agreement.

CC 1808, p. 328, Art. 34.
The estimated value of immovable or of slaves settled as a dowry, does not transfer the property of the same to the husband, unless there be an express declaration to that effect.

CC 1804, Art. 1552.
The estimated value of immovable settled as dowry does not transfer the property of the same to the husband, unless there be an express declaration to that effect.

ART. 2356. An immovable, bought with the dotal funds, is dotal.

It is the same with respect to the immovable given in payment of a dowry settled in money.

RCC—2355, 2357 et seq., 2446.

RCC 1870, Art. 2356.
Same as above.

CC 1825, Art. 2336. (Projet, p. 296. Amendment adopted; no comment)
An immovable bought with the dotal funds, is not a dotal object, if the condition of their laying out in purchases of estates, has not been stipulated by the marriage contract. It is the same with respect to the immovable given in payment of a dowry settled in money.
ART. 2357. Immovables, settled as a dowry, can be alienated or mortgaged during the marriage, neither by the husband nor the wife, nor by both together, except as is hereinafter expressed.

RCC—732, 1786, 1790, 2358 et seq., 2363, 2364, 2384, 2397, 2445, 2448, 3300, 3462.

RCC 1870, Art. 2357.* (Same as Art. 2357 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2337. (No reference in Projet)
Immoveables, settled as a dowry, can be sold** or mortgaged, during the marriage, neither by the husband nor the wife, nor by both together, except as is hereinafter expressed.

Immoveables settled as a dowry, can be sold** or mortgaged during the marriage, neither by the husband, nor by the wife, nor by both together, except as is herein after excepted.

CN 1804, Art. 1554. Same as RCC 1870, Art. 2357, above.
Same as above; but no punctuation after “dot”; semicolon (;) after “conjointement.”

*Official edition reads “Art. 1357.”
**Note error in English translation of French text; “sold” should be “alienated.”

ART. 2358. The wife may, with the authorization of her husband, or, on his refusal, with the authorization of the judge, give her dotal effects for the establishment of the children she may have by a former marriage; but if she be authorized only by the judge, she is bound to reserve the enjoyment to her husband.


RCC 1870, Art. 2358.
Same as above.

CC 1825, Art. 2338. (No reference in Projet)
La femme peut, avec l’autorisation de son mari, ou, sur son refus, avec permission de justice, donner des biens dotaux pour l’établissement des enfants qu’elle aurait d’un mariage antérieur; mais si elle n’est autorisée que par justice, elle doit réserver la jouissance au mari.

Same as above; but no punctuation after “peut”, or after “ou.”
ART. 2359. She may likewise, with the authorization of her husband, give her dotal effects for the establishment of their common children.


ART. 2360. Immovables, settled as dowry, may be alienated with the wife's consent, when the alienation of the same has been allowed by the marriage contract; but their value must be reinvested in other immovables.

RCC—1901, 2325, 2355, 2357, 2361, 2363, 2426, 3300, 3319, 3524.
ART. 2361. The dotal immovable may be likewise sold with the authorization of the judge, at public auction, after three advertisements or publications in the usual places or in the newspapers, for the purpose of liberating from jail either husband or wife; of supplying the family with alimony, in the cases provided for under the title: Of Father and Child; of paying the debts of the wife or of those who settled the dowry, when such debts are of a certain date prior to the marriage contract; or for the purpose of making heavy repairs indispensably necessary for the preservation of the immovable settled as a dowry; and in fine, when the immovable is held undivided with the third person, and the same is ascertained not to be susceptible of being divided.

In all such cases, what remains unemployed, out of the proceeds of the sale, above the necessities which have been the occasion of the sale, shall remain dotal effects, and shall be laid out as such for the benefit of the wife.

RCC 1870, Art. 2361. (Same as Art. 2361 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2341. (No reference in Projet)

Such immovable may be likewise sold, with the authorization of the judge, at public auction, after three advertisements or publications in the usual places or in the newspapers, for the purpose of liberating from jail either husband or wife; of supplying the family with food, in the cases provided for under the title of father and child; of paying the debts of the wife or of those who settled the dowry, when such debts are of a certain date prior to the marriage contract; or for the purpose of making heavy repairs indispensably necessary for the preservation of the immovable settled as a dowry; and in fine, when the immovable is held undivided with a third person, and the same is ascertained not to be susceptible of being divided.

In all such cases, what remains unemployed, out of the proceeds of the sale, above the necessities which have been the occasion of the sale, shall remain dotal effects, and shall be laid out as such to the benefit of the wife.


Such immovable may be likewise sold with the authorization of the judge, at public auction, after three advertisements or publications, in the usual places or in the newspapers, for the purpose of liberating from jail either husband or wife; of supplying the family with food in the cases provided for under the title of father and child; of paying the debts of the wife, or of those who settled the dowry, when said debts are of a certain date prior to the marriage contract; or for the purpose of making heavy repairs indispensably necessary for the preservation of the immovable settled as a dowry; and in fine, when the immovable is held undivided with the third person, and the same is ascertained not to be susceptible of being divided.

In all such cases, what remains unemployed, out of the proceeds of the sale, above the necessities which have been the occasion of the sale, shall remain dotal effects, and shall be laid out as such for the benefit of the wife.

RCC 1870, Art. 2361. (Same as Art. 2361 of Proposed Revision of 1869)

Same as above.


Such immovable may be likewise sold with the authorization of the judge, at public auction, after three advertisements or publications, in the usual places or in the newspapers, for the purpose of liberating from jail either husband or wife; of supplying the family with food in the cases provided for under the title of father and child; of paying the debts of the wife, or of those who settled the dowry, when said debts are of a certain date prior to the marriage contract; or for the purpose of making heavy repairs indispensably necessary for the preservation of the immovable settled as a dowry; and in fine, when the immovable is held undivided with the third person, and the same is ascertained not to be susceptible of being divided.

In all such cases, what remains unemployed, out of the proceeds of the sale, above the necessities which have been the occasion of the sale, shall remain dotal effects, and shall be laid out as such for the benefit of the wife.

RCC 1870, Art. 2361. (Same as Art. 2361 of Proposed Revision of 1869)

Same as above.


Such immovable may be likewise sold with the authorization of the judge, at public auction, after three advertisements or publications, in the usual places or in the newspapers, for the purpose of liberating from jail either husband or wife; of supplying the family with food in the cases provided for under the title of father and child; of paying the debts of the wife, or of those who settled the dowry, when said debts are of a certain date prior to the marriage contract; or for the purpose of making heavy repairs indispensably necessary for the preservation of the immovable settled as a dowry; and in fine, when the immovable is held undivided with the third person, and the same is ascertained not to be susceptible of being divided.

In all such cases, what remains unemployed, out of the proceeds of the sale, above the necessities which have been the occasion of the sale, shall remain dotal effects, and shall be laid out as such for the benefit of the wife.

RCC 1870, Art. 2361. (Same as Art. 2361 of Proposed Revision of 1869)

Same as above.


Such immovable may be likewise sold with the authorization of the judge, at public auction, after three advertisements or publications, in the usual places or in the newspapers, for the purpose of liberating from jail either husband or wife; of supplying the family with food in the cases provided for under the title of father and child; of paying the debts of the wife, or of those who settled the dowry, when said debts are of a certain date prior to the marriage contract; or for the purpose of making heavy repairs indispensably necessary for the preservation of the immovable settled as a dowry; and in fine, when the immovable is held undivided with the third person, and the same is ascertained not to be susceptible of being divided.

In all such cases, what remains unemployed, out of the proceeds of the sale, above the necessities which have been the occasion of the sale, shall remain dotal effects, and shall be laid out as such for the benefit of the wife.

RCC 1870, Art. 2361. (Same as Art. 2361 of Proposed Revision of 1869)

Same as above.


Such immovable may be likewise sold with the authorization of the judge, at public auction, after three advertisements or publications, in the usual places or in the newspapers, for the purpose of liberating from jail either husband or wife; of supplying the family with food in the cases provided for under the title of father and child; of paying the debts of the wife, or of those who settled the dowry, when said debts are of a certain date prior to the marriage contract; or for the purpose of making heavy repairs indispensably necessary for the preservation of the immovable settled as a dowry; and in fine, when the immovable is held undivided with the third person, and the same is ascertained not to be susceptible of being divided.

In all such cases, what remains unemployed, out of the proceeds of the sale, above the necessities which have been the occasion of the sale, shall remain dotal effects, and shall be laid out as such to the benefit of the wife.
of a certain date prior to the marriage contract; or for the purpose of making heavy repairs indispensably necessary for the preservation of the immovable settled as dowry; and in fine when said immovable is held undivided with a third person and the same is ascertained not susceptible of being divided.

In all such cases what remains unemployed out of the proceeds of said sale, above the necessities which have been the occasion of the sale, shall remain dotal effects, and shall be laid out as such in purchase of estate to the benefit of the wife.

Par. 2 same as par. 2, above; but comma (,) after "cas", and after "tel."

L'immeuble dotal peut encore être aliéné avec permission de justice, et aux enchères, après trois affiches, pour tirer de prison le mari ou la femme; pour fournir des alimens à la famille dans les cas prévus par les articles 203, 205 et 206, au titre du Mariage; pour payer les dettes de la femme ou de ceux qui ont constitué la dot, lorsque ces dettes ont une date certaine antérieure au contrat de mariage; pour faire de grosses réparations indispensables pour la conservation de l'immeuble dotal; enfin lorsque cet immeuble se trouve indivis avec des tiers, et qu'il est reconnu impartageable.

Dans tous ces cas, l'excédent (l'excédent) du prix de la vente au-dessus des besoins reconnus restera dotal, et il en sera fait emploi comme tel au profit de la femme.

**ART. 2362.** The wife may also mortgage, or otherwise incumber her dotal property in the cases mentioned in the fifth chapter of the title: Of Husband and Wife, by complying with the formalities therein required.


RCC 1870, Art. 2362. (Same as Art. 2362 of Proposed Revision of 1869)

Same as above.

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

**ART. 2363.** If, except as above expressed, the wife or husband, or both jointly, alienate the dotal estate, the wife or her heirs may cause the alienation to be set aside after the dissolution of the mar-
Art. 2364

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riage; and no prescription shall run, during the marriage, in bar of this right. The wife shall have the same right, after the separation of property.


RCC 1870, Art. 2363.
Same as above.

CC 1825, Art. 2342.
Same as above.

CC 1808, p. 330, Art. 41.
If, except as above excepted, the wife or husband or both jointly sell the dotal estate, the wife or her heirs may cause said sale to be set aside, after the dissolution of the marriage and no prescription shall run during the marriage in bar of this right.

The wife shall have the same right after a separation of property.

The husband himself may cause to be annulled the sale during the marriage, but in that case, he remains however bound for the damages and losses of the purchaser, if he has not declared in the deed of sale, that the estate thus sold was a dowry estate. (Par. 3 suppressed on recommendation of redactors; see comment, Projet, p. 297)

CN 1804, Art. 1560.
Same as above.

ART. 2364. Dotal immovables not declared alienable by the marriage contract, are imprescriptible during the marriage; they become prescriptible after the separation of property.

RCC—155, 2363, 2425, 3479, 3497, 3521, 3523 et seq.

RCC 1870, Art. 2364.
Same as above.

CC 1825, Art. 2343.
Immoveables, which are a part of the dowry, and which are not declared by the marriage contract liable to be alienated, are imprescriptible during the marriage; they become prescriptible after the separation of goods.

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CC 1808, p. 330, Art. 42.
Immoveables which are a part of the dowry, and which are not declared liable to be sold* by the marriage contract, are imprescriptible during the marriage, unless the prescription began before. They become prescriptible after the separation of the goods and chattels, whatever be the time at which the prescription began.

CN 1804, Art. 1561.
Immoveables which are a part of the dowry, and which are not declared liable to be alienated by the marriage contract, are imprescriptible during the marriage, unless the prescription began before. Nevertheless they become prescriptible after the separation of property, whatever be the time at which the prescription began.

Par. 1 same as par. 1, above.

*Note error in English translation of French text; “sold” should be “alienated.”

ART. 2365. With respect to the effects of the dowry, the husband is subject to all the obligations of the usufructuary.

RCC—550, 557 et seq., 591, 2370, 2376.

RCC 1870, Art. 2365. (Same as Art. 2365 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2344. (Projet, p. 297. Amendment adopted; comment by redactors)
With respect to all the effects of the dowry, the husband is subject to all the obligations of the usufructuary.

CC 1808, p. 330, Art. 43.
With respect to all the effects of the dowry, the husband is subject to all the obligations of the usufructuary. He is answerable for all prescriptions incurred and deteriorations which have happened by his neglect.

CN 1804, Art. 1562.
Same as above.

Same as above; but comma (,) after “dotaux”; period (.) after “l'usufruitier.”

ART. 2366. If the dowry be likely to be lost, the wife may sue for a separation of property, as will be explained hereafter.

RCC—2381, 2425 et seq., 2430.

RCC 1870, Art. 2366. (Same as Art. 2366 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2345. (No reference in Projet)
If the dowry be exposed likely to be lost, the wife may sue for a separation of goods and chattels, as will be explained hereafter.

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Art. 2367

If the dowry be likely to be lost, the wife may sue for a separation of goods and chattels, as will be explained hereafter.

CN 1804, Art. 1563.

Si la dot est mise en péril, la femme peut poursuivre la séparation de biens, ainsi qu'il est dit aux articles 1443 et suivants.

ART. 2367. If the dowry consists of immovables, or if it consists of moveables not valued by the marriage contract, or valued with the declaration that the valuation is not intended to divest the wife of her property in the same, the husband or his heirs may be compelled to restore the same without delay, after the dissolution of the marriage.

RCC—136, 2354, 2355, 2363, 2368, 2372, 2373, 2376, 3319.

RCC 1870, Art. 2367.

(Same as Art. 2367 of Proposed Revision of 1869)

Same as above.

CC 1805, p. 330, Art. 44.

If the dowry be likely to be lost, the wife may sue for a separation of property, as is stated in Articles 1443 and following.

-Same as above.

CC 1804, Art. 1564.

Si la dot consiste en immeubles, ou en meubles non estimés par le contrat de mariage, ou bien mis à prix avec déclaration que l'estimation n'en ôte pas la propriété à la femme, le mari ou ses héritiers peuvent être contraints de la restituer sans délai, après la dissolution du mariage.

Art. 2368. Should the dowry consist of a sum of money, or moveables valued by the marriage contract without a declaration that the estimated value is not intended to convey the property of the same to the husband, the restitution of the same can not be enforced, until one year after the dissolution.

RCC—136, 2354, 2360, 2367, 2372.
ART. 2369. If any of the immovables,* the ownership of which is vested in the wife, have perished or** grown worse by use, and without any neglect on the part of the husband, he shall be bound to restore only such as may remain, and in the situation in which they are; nevertheless, the wife may, in all cases, take back her linen, clothing and jewels, in her actual use, under the obligation of accounting for their value, when such linen, clothes and jewels, have been, in the first instance, settled with estimation.

RCC—2338, 2347, 2370, 2416.

RCC 1870, Art. 2369. (Same as Art. 2369 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2348. (No reference in Projet)

If any of the immovablees* and slaves, the property of which is vested in the wife, have perished or** grown worse by use, and without any neglect on the part of the husband, he shall be bound to restore only such as may remain, and in the situation in which they are; nevertheless, the wife may in all cases, take back her linen, clothing and jewels, in her actual use, under the obligation of accounting for their value, when such linen, clothes and jewels, have been, in the first instance, settled with estimation.

CC 1808, p. 330, Art. 47.

If any of the immovables* and slaves whose property is vested in the wife,
Art. 2370

have perished or** grown worse by use and without any neglect on the part of the husband, he shall be bound to restore only such as may remain and in the situation in which they are; nevertheless the wife may in all cases take back her linen, clothing [clothing] and jewels in her actual use, under the obligation of accounting for their value, especially when said linen, clothes [clothes] and jewels have been in the first instance settled with estimation.

Et néanmoins la femme pourra dans tous les cas, retirer ses linges, hardes et bijoux à son usage actuel, sauf à précompter de leur valeur, lorsque ces linges, hardes et bijoux ont été principalement (primitivement) constitués avec estimation.

CN 1804, Art. 1566.

If any of the movables the ownership of which is vested in the wife have grown worse by use and without any neglect on the part of the husband, he shall be bound to restore only such as may remain, and in the situation in which they are.

And nevertheless the wife may, in all cases, take back the linen and clothing in her actual use, under the obligation of accounting for their value when such linen and clothing have been in the first instance settled with estimation.

Si les meubles dont la propriété reste à la femme ont déperi par l’usage et sans la faute du mari, il ne sera tenu de rendre que ceux qui resteront, et dans l’état où ils se trouveront.

Et néanmoins la femme pourra, dans tous les cas, retirer les linges et hardes à son usage actuel, sauf à précompter leur valeur lorsque ces linges et hardes auront été primitivement constitués avec estimation.

*Note error in English translation of French text; “immovables” should be “movables.”

**“Perished or” has no counterpart in French text.

ART. 2370. If the dowry includes bonds* or credits which could not be** recovered, whether owing to the insolvency of the debtors, or otherwise, but not owing to the fault or neglect of the husband, he shall not be answerable for the consequences, and shall be bound only to restore the instruments or vouchers upon which the credits are grounded.

RCC—2354, 2365, 2369.

RCC 1870, Art. 2370. (Same as Art. 2370 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2349. (No reference in Projet)

If the dowry includes bonds* and credits which could not be** recovered, whether owing to the insolvency of the debtors, or otherwise, but not owing to the fault or neglect of the husband, he shall not be answerable for the consequences, and shall be bound only to restore the deeds or vouchers upon which the debt is grounded.


Same as above; but no punctuation after “debtors”, or after “consequences.”

-S. 331, Art. 48.

Si la dot comprend des obligations* ou créances qui n'ont pas été** recouvrées, soit par insolvabilité des débiteurs ou autrement, mais non par la faute ou la négligence du mari, il ne sera point tenu de ce défaut de recouvrement, et en sera quitte en restituant les contrats ou titres de créances.

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ART. 2372. If the dowry consists, in whole or in part, of herds or flocks, not valued in the marriage contract, or valued with a declaration that the estimated value does not deprive the wife of her property in the same, the husband shall be bound only to deliver such proportion of the increase or young, proceeding from such flocks and herds during the marriage, as shall be necessary to complete the whole number of head of cattle that he originally received.

RCC—2354, 2367, 2368.

RCC 1870, Art. 2372. (Same as Art. 2372 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2351, par. 1. (No reference in Projet)

Same as above; but “increase” mis-spelled “increased.”
Art. 2373

If the dowry consists in whole or in part of herds or flocks not valued in the marriage contract, or valued with a declaration that the said estimated value does not deprive the wife of her property in the same, the husband shall be bound only to deliver such proportion of the increased [increase] or young proceeding from said flocks and herds during the marriage as shall be necessary to complete the whole number of head of cattle that he originally received.

CN 1804. No corresponding article.

ART. 2373. If the marriage has lasted ten years, since the time at which the payment of the dowry became due, the wife or her heirs may claim the same from the husband after the dissolution of the marriage without being bound to prove that the husband has received it, unless the husband shall satisfactorily prove that he has uselessly done every thing in his power to obtain the payment of the same.

This responsibility of the husband does not hold, when the wife herself has promised the dowry, for in such case neither she nor her heirs could claim what she has not paid.

RCC—2341, 2346, 2348, 2350, 2367 et seq., 2374.

RCC 1870, Art. 2373.
Same as above.

CC 1825, Art. 2352. (No reference in Projet)
Same as above; but comma (,) after “of the marriage.”

CC 1808, p. 332, Art. 51.
If the marriage has lasted ten years since the time at which the payment

Same as above; but comma (,) after “dot, la femme”, after “responsabilité”,
of the dowry became due, the wife or her heirs may claim the same from the husband after the dissolution of marriage, without being bound to prove that the husband has received it, unless the husband should satisfactorily prove that he has uselessly done every thing in his power to obtain the payment of the same.

This responsibility of the husband does not hold when the wife herself has promised the dowry, for in such a case, neither she or her heirs could claim what she had not paid.

CN 1804, Art. 1569.
Same as par. 1, above.

ART. 2374. If the marriage be dissolved by the death of the wife, the interests and profits* of the dowry to be returned, run of right to the benefit of her heirs, from the day of the dissolution.

If it be by the death of her husband, the wife has her choice either to claim the interests of her dowry during the year of mourning, or to claim a sustenance to be taken out of the succession of her husband. But in both cases, she has a right during that year, to be supplied with habitation and mourning dresses out of the succession, which charges shall not be deducted out of the interests due to her.

RCC—1935, 1936, 2346, 2373, 2382, 2422, 2924, 3252.

KCC 1870, Art. 2374.
Same as above.

CC 1825, Art. 2353. (No reference in Projet)
Same as above.

CC 1808, p. 332, Art. 52.
Par. 1, same as par. 1, above; but no punctuation after "heirs."

If it be by the death of her husband, the wife has her choice either to claim the interests of her dowry during the year of mourning, or to claim a sustenance to be taken out of the succession of her husband.—But in both cases, she has a right during that year to be sup-

ART. 2374. If the marriage be dissolved by the death of the wife, the interests and profits* of the dowry to be returned, run of right to the benefit of her heirs, from the day of the dissolution.

If it be by the death of her husband, the wife has her choice either to claim the interests of her dowry during the year of mourning, or to claim a sustenance to be taken out of the succession of her husband. But in both cases, she has a right during that year, to be supplied with habitation and mourning dresses out of the succession, which charges shall not be deducted out of the interests due to her.

RCC—1935, 1936, 2346, 2373, 2382, 2422, 2924, 3252.

KCC 1870, Art. 2374.
Same as above.

CC 1825, Art. 2353. (No reference in Projet)
Same as above.

CC 1808, p. 332, Art. 52.
Par. 1, same as par. 1, above; but no punctuation after "heirs."

If it be by the death of her husband, the wife has her choice either to claim the interests of her dowry during the year of mourning, or to claim a sustenance to be taken out of the succession of her husband.—But in both cases, she has a right during that year to be sup-
Art. 2375. If the lease, which the husband has granted of the dotal immovable, has more than a year to run at the dissolution of the marriage, it shall be dissolved at the end of a year from the dissolution, if the lessee does not prefer to quit sooner the property rented.

RCC—2681, 2730.

RCC 1870, Art. 2375. (Same as Art. 2375 of Proposed Revision of 1869) Same as above.

CC 1825, Art. 2354. (Projet, p. 298. Addition † adopted; no comment) If the lease, which the husband has granted of the dotal immovable, has more than a year to run, at the dissolution of the marriage, it shall be released at the end of a year from the dissolution, if the lessee does not prefer to quit sooner the property rented.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2376. The wife has a legal mortgage on the immovables, and a privilege on the moveables of her husband, to wit:

1. For the restitution of her dowry, as well as for the replacing of her dotal effects which she brought at the time of her marriage, and which were alienated by her husband,* and this from the time of the celebration of the marriage.

2. For the restitution or the replacing of the dotal effects, which she acquired during the marriage, either by succession or by donation, from the day when such succession devolved to her, or such donation began to have its effect.

RCC—130, 2350, 2353, 2355, 2365, 2367, 2377 et seq., 2390, 3095, 3191, 3215, 3252, 3254, 3312, 3313, 3319, 3329, 3330, 3332, 3333, 3338, 3349, 3523.

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ART. 2377. The privilege granted by the preceding article can not in any case extend to immovables, and can never affect the rights of creditors, whose mortgage is prior to that of the wife.

RCC—2376, 3186, 3191, 3215, 3282, 3311, 3319, 3329, 3338, 3341, 3349.

RCC 1870, Art. 2377.
Same as above.

CC 1825, Art. 2356. (Projet, p. 298. Substitution adopted; no comment)
Same as above; but comma (,) after "article."

**And which were alienated by her husband" has no counterpart in French text.
Art. 2378

Therefore the privilege which was allowed to wives by the ancient laws of this country, with respect to their dowry, and which caused them to be preferred to the creditors having a mortgage even anterior to their marriage, is hereby repealed for all and every marriage which shall be contracted after the promulgation of this code. (Suppressed on recommendation of redactors; see comment, Projet, p. 298)

CN 1804, Art. 1572.

The wife and her heirs have no privilege for the recovery of the dowry as against creditors having a prior mortgage.

CN 1808, p. 332, Art. 53, last par.

En conséquence, le privilège qui était accordé aux femmes mariées par les anciennes lois du pays, relativement à leur dot, et qui les faisait préférer aux créanciers hypothécaires, même antérieurs à leur mariage, est, et demeure aboli pour tout mariage qui se contractera après la promulgation du présent code. (Suppressed on recommendation of redactors; see comment, Projet, p. 298)

CN 1804.

No corresponding article.

CC 1808.

No corresponding article.

CC 1825.

No corresponding article.

ART. 2379. During the marriage, the husband may, with the consent of his wife, if she be of age, be authorized by the judge, with the advice of five of the nearest relations of the wife, or friends, for want of relations, to mortgage, specially for the preservation of his wife's rights, the immovables which he shall designate; and then, the surplus of his property shall be free from any legal mortgage in favor of his wife.

RCC—2378, 2380, 3333, 3338, 3339.

RCC 1870, Art. 2379.

(Same as Art. 2379 of Proposed Revision of 1869; same as Acts 1824, p. 168, §8, and Acts 1855, No. 249, §2 (RS §§1707, 24301))

CC 1825, Art. 2357.

(Projet, p. 298. Addition amended and adopted; no comment)

The husband may, at any time, release the mass of his property from this legal mortgage, by giving a special mortgage, to the satisfaction of a family meeting consisting of the relations or friends of his wife, as provided for in the title of mortgages.

CC 1808.

No corresponding article.

CN 1804.

No corresponding article.
ART. 2380. If the wife be a minor, the judge may still grant the authorization mentioned in the preceding article, provided it be with the assent of a family meeting, composed as aforesaid, and a curator ad hoc appointed to the wife.

RCC—2378, 2379, 3338 et seq.

RCC 1870, Art. 2380. (Same as Art. 2380 of Proposed Revision of 1869; same as Acts 1824, p. 170, §10, and Acts 1865, No. 249, §3 (RS §§1708, 2431))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2381. If the husband was already insolvent and had neither art, trade nor profession, when the father settled a dowry on his daughter, she shall be bound to collate to the succession of her father only, the action she has against the succession of her husband, to be reimbursed for the wife [same].

But if the husband has become insolvent only since the marriage or if he exercised a trade or profession, which was to him instead of an estate, the loss of the dowry falls solely upon the wife.

RCC—1227, 1230, 1242, 1243, 1250, 2366 et seq.

RCC 1870, Art. 2381. (Same as Art. 2381 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2358. (No reference in Projet)

If the husband was already insolvent and had neither art nor trade, when the father settled a dowry on his daughter, she shall be bound to return to the succession of her father only the action she has against the succession of her husband, to be reimbursed for the same.

Par. 2 same as par. 2, above; but comma (,) after “marriage.”

CC 1808, p. 334, Art. 54.

If the husband was already insolvent, and had neither art nor trade, when the father settled a dowry on his daughter, she shall be bound to return to the succession of her father, only the action she has against the succession of the husband, to be reimbursed for the same.

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

CN 1804, Art. 1573.

Same as above.

Si le mari était déjà insolvable, et n’avait ni art, ni métier, ni profession, lorsque le père a constitué une dot à sa fille, celle-ci ne sera tenue de rapporter à la succession du père que l’action qu’elle a contre celle de son mari, pour s’en faire rembourser.

Mais si le mari n’est devenu insolvable que depuis le mariage, ou s’il avait un métier ou une profession qui lui tenait lieu de bien, la perte de la dot tombe uniquement sur la femme.

Par. 1 same as par. 1, above; but comma (,) after “du père.”

Si le mari était déjà insolvable, et n’avait ni art ni profession lorsque le père a constitué une dot à sa fille, celle-ci ne sera tenue de rapporter à la succes-
ART. 2382. When the wife has not brought any dowry, or when what she brought as a dowry is inconsiderable with respect to the condition of the husband, if either the husband or the wife die rich, leaving the survivor in necessitous circumstances,* the latter has a right to take out of the succession of the deceased what is called the marital portion; that is, the fourth of the succession in full property, if there be no children, and the same portion, in usufruct only, when there are but three or a smaller number of children; and if there be more than three children, the surviving, whether husband or wife, shall receive only a child’s share in usufruct, and he is bound to include in this portion what has been left to him as a legacy by the husband or wife, who died first.

Whenever, during the administration of any succession, it appears that the surviving spouse will be entitled to the marital portion above provided for, upon final liquidation of the estate of the deceased, the survivor in necessitous circumstances shall be entitled to demand and receive from the executor or administrator of such succession, a periodical allowance to be fixed by the court wherein the proceedings are pending. Such allowance shall be based upon the apparent amount of the marital portion invested at five per cent. per annum interest. And should the marital portion, as finally fixed, not yield the revenue equal to the allowance as fixed by the court, the surviving spouse shall be charged with, and there shall be deducted from the marital portion, the amount of such deficiency. The provisions of this article shall apply to successions pending and unsettled, as well as those hereafter opened. (As amended by Acts 1926, No. 113)

RCC—560, 3252, 3254.

RCC 1870, Art. 2382.

When the wife has not brought any dowry, or when what she has brought as a dowry is inconsiderable with respect to the condition of the husband, if either the husband or the wife die rich, leaving the survivor in necessitous circumstances,* the latter has a right to take out of the succession of the deceased what is called the marital portion; that is, the fourth of the succession in full property, if there be no children, and the same portion, in usufruct only, when there are but three or a smaller number of children; and if there be more than three children, the surviving, whether husband or wife, shall receive only a child’s share in usufruct, and he is bound to include in this portion what has been left to him as a legacy by the husband or wife, who died first.

CC 1825, Art. 2359. (No reference in Projet)

Same as above; but comma (,) after “marital portion.”
When the wife has not brought any dowry, or when what she has brought as a dowry is but trifling with respect to the condition of the husband, if either the husband or wife die rich, leaving the survivor in necessitous circumstances,* the latter has a right to take out of the succession of the deceased what is called the marital portion; that is the fourth of said succession in full property, if there be no children, and the same portion as a usufruct only when there are but three or a smaller number of children; and if there be more than three children, the surviving whether husband or wife, shall receive only a child's share in usufruct, and he is bound to include in this portion what has been left to him as a legacy by the husband or wife who died first.

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*Note error in English translation of French text; "leaving the survivor in necessitous circumstances" should be "and if the survivor be in necessitous circumstances.”

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Section 3—OF PARAPHERNALIA OR EXTRADOTAL EFFECTS

**ART. 2383.** All property, which is not declared to be brought in marriage by the wife, or to be given to her in consideration of the marriage or to belong to her at the time of the marriage, is paraphernal.

RCC—1790, 1967, 2332, 2334, 2335, 2337 et seq., 2384 et seq., 2392, 2393, 2400, 2407, 2411, 2430, 3319, 3555.

RCC 1870, Art. 2383.

Same as above.

**CC 1825, Art. 2360.** (Projet, p. 298. Substitution adopted; no comment)

Same as above; but comma (,) after “consideration of the marriage.”

**CC 1808, p. 334, Art. 56.**

All the effects of the wife which have not been settled on her as a dowry are paraphernal.

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Tous les biens, qui ne sont point déclarés être apportés en mariage par la femme, ou lui être donnés en raison du mariage, ou lui appartenir au moment du mariage, sont parapheraux.

**-p. 335, Art. 56.**

Tous les biens de la femme, qui n’ont pas été constitués en dot, sont parapheraux.
ART. 2384. The wife has the right to administer personally her paraphernal property, without the assistance of her husband.


RCC 1870, Art. 2384.
Same as above.

CC 1825, Art. 2361.
Same as above.

CC 1808, p. 334, Art. 58, par. 1.
The wife has the administration and the enjoyment of her paraphernal effects.

CN 1804, Art. 1576, par. 1.
Same as above.

ART. 2385. The paraphernal property, which is not administered by the wife separately and alone, is considered to be under the management of the husband.

RCC—2384, 2386 et seq., 2402, 2406, 3525.

RCC 1870, Art. 2385.
Same as above.

CC 1825, Art. 2362.
Same as above.

CC 1808, p. 334, Art. 59.
The wife may give a letter of attorney to her husband as well as to any other person, to administer on its paraphernal effects, and in this her husband shall be bound towards her as any attorney in fact.

CN 1804, Art. 1577.
If the wife gives a letter of attorney to her husband to administer her paraphernal property, with the burden of accounting to her for the fruits, he shall be bound towards her as any attorney in fact.

*Note error in English translation of French text; “on its” should be “her.”

ART. 2386. When the paraphernal property is administered by the husband, or by him and the wife indifferently, the fruits of this property, whether natural, civil, or the result of labor, belong
to the conjugal partnership, if there exists a community of gains. If there do not, each party enjoys, as he chooses, that which comes to his hands; but the fruits and revenues, which are existing at the dissolution of the marriage, belong to the owner of the things which produce them. (As amended by Acts 1871, No. 87)

RCC 1870, Art. 2386.

When the paraphernal property is administered by the husband, or by him and the wife indifferently, the fruits of his property, whether natural, civil, or the result of labor, belong to the conjugal partnership, if there exists a community of gains. If there do not, each party enjoys, as he chooses, that which comes to his hand; but the fruits and revenues which are existing at the dissolution of the marriage, belong to the owner of the thing which produced them.

CC 1825, Art. 2363.

When the paraphernal property is administered by the husband, or by him and the wife indifferently, the fruits of this property, whether natural, civil, or the result of labor, belong to the conjugal partnership, if there exist a community of gains. If there do not, each party enjoys, as he chooses, that which comes to his hands; but the fruits and revenues which are existing at the dissolution of the marriage, belong to the owner of the things which produce them.

CC 1808, p. 334, Art. 60.

If the husband has enjoyed the paraphernal effects of his wife, without a letter of attorney, but without any opposition on her part, he is bound at the time of the dissolution of the marriage, or on the first demand of the wife only to account for the existing profits* and he is not accountable for such as have been previously consumed.

CN 1804, Art. 1578.

If the husband has enjoyed the paraphernal effects of his wife, without a letter of attorney, but without any opposition on her part, he is bound at the time of the dissolution of the marriage, or on the first demand of the wife, only to account for existing fruits, and he is not accountable for such as have been previously consumed.

*Note error in English translation of French text; "profits" should be "fruits."

ART. 2387. The wife who has left to her husband the administration of her paraphernal property, may afterwards withdraw it from him.

RCC—2350, 2385, 2388, 2391.

RCC 1870, Art. 2387.

Same as above.
Art. 2388

The husband, who administers the paraphernal property of his wife, notwithstanding her formal opposition, is accountable to her for all the fruits, as well those existing as those which have been consumed.

RCC-1935, 2384, 2386, 2387, 2391, 2402, 2407, 3319, 3453.

RCC 1870, Art. 2388.

Same as above.

CC 1825, Art. 2386. (Projet, p. 299. Addition adopted; no comment)

La femme qui a laissé à son mari l'administration de ses biens paraphernaux, peut la lui retirer ensuite.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 2389. If all the property of the wife be paraphernal, and she have reserved to herself the administration of it, she ought to bear a proportion of the marriage charges, equal, if need be, to one half her income.

RCC-119, 227, 2395, 2403, 2409, 2430, 2435.

RCC 1870, Art. 2389.

Same as above.

CC 1825, Art. 2366. (Projet, p. 299. Substitution adopted; no comment)

Si tous les biens de la femme sont paraphernaux, et qu'elle s'en soit réservé l'administration, elle doit supporter une portion des charges du mariage, jusqu'à concurrence de la moitié de ses revenus.
ART. 2390. * The wife may alienate her paraphernal property with the authorization of her husband, or in case of refusal or absence of the husband, with the authorization of the judge; but should it be proved that the husband has received the amount of the paraphernal property thus alienated by his wife, or otherwise disposed of** the same for his individual interest, the wife shall have a legal mortgage on all property of her husband for the reimbursing of the same.

The husband may release the mass of his property from this legal mortgage, by executing a special mortgage in the manner required in the preceding section, for dotal effects.

RCC—1480, 1746, 1786, 1790, 2376, 2378 et seq., 2383, 2391, 2394, 2397, 2448, 3319, 3333, 3338 et seq., 3349, 3523. CP—165 et seq. Acts 1896, No. 63; 1928, No. 283. RS—3988.

RCC 1870, Art. 2390. (Same as Art. 2390 of Proposed Revision of 1869)

Same as above.

RCC 1825, Art. 2367. (Projet, p. 299. Substitution rejected; no comment)

Same as par. 1, above.

CC 1808, p. 334, Art. 58, par. 2.

But she can neither alienate the same, nor appear in court of justice concerning said effects, without the authorization of the husband, or if he should not give it, without the authorization of the judge.

-p. 334, Art. 62.

The husband who enjoys the paraphernal effects is bound by all the obligations of an usufructuary, and his estate is tacitly mortgaged from the day on which he commenced to enjoy, for surety of the performance of his said obligations.

-p. 335, Art. 58, clause 2.

Mais elle ne peut les aliéner, ni paraître en jugement, à raison desdits biens, sans l’autorisation du mari, ou à son défaut, sans permission de la justice.

-p. 335, Art. 62.

Le mari, qui jouit des biens parapheraux, est tenu de toutes les obligations de l’usufruitier, et ses biens sont tacitement hypothéqués pour sûreté de l’exécution desdites obligations, du jour où il est entré dans ladite jouissance.
Art. 2391  COMPILED EDITION

CN 1804, Art. 1576, par. 2.

But she can neither alienate the same, nor appear in court of justice concerning said effects, without the authorization of her husband, or if he should refuse it, without the authorization of the judge.

-Art. 1580.

The husband who enjoys the paraphernal property is bound by all the obligations of a usufructuary.

*In connection with this article see Acts 1928, No. 283, §3.

**Note error in English translation of French text; "disposed of" should be "profited from."

Art. 2391. The wife has, even during marriage, a right of action against her husband for the restitution of her paraphernal effects and their fruits, as above expressed.

RCC—2384, 2387, 2388, 2390, 3525.

RCC 1870, Art. 2391.

Same as above.

CC 1825, Art. 2368.

(No reference in Projet)

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Section 4—OF THE CLAUSE OF SEPARATION OF PROPERTY

Art. 2392. Married persons may stipulate that there shall be no partnership between them.

RCC—2332, 2393 et seq., 2399, 2436.

RCC 1870, Art. 2392.

Same as above.

CC 1825, Art. 2394.

(Projet, p. 301. Addition adopted; no comment)

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2393. In this case, the wife preserves the entire administration of her movable and immovable property, and the free enjoyment of her revenues.

RCC—2384, 2392, 2436.

RCC 1870, Art. 2393.

Same as above.

CC 1825, Art. 2395.

(Projet, p. 301. Addition adopted; no comment)

Same as above.

CC 1808. No corresponding article.

1314
When husband and wife have stipulated in their marriage contract that they should be separate in property, the wife preserves the entire administration of her movable and immovable property, and the free enjoyment of her revenues.

Lorsque les époux ont stipulé par leur contrat de mariage qu'ils seraient séparés de biens, la femme conserve l'entière administration de ses biens-meubles et immeubles, et la jouissance libre de ses revenus.

ART. 2394. She may alienate her movable and immovable property, in the manner and in the cases above provided for with respect to paraphernal property.


Same as above.

She may alienate her real and personal property, in the manner and in the cases above provided for with respect to paraphernal property.

CC 1808. No corresponding article.

In no event, and regardless of any stipulation, can the wife alienate her immovables without the special consent of her husband, or, upon his refusal, without the authorization of the court.

Any general authorization to alienate immovables, given to the wife either by marriage contract or subsequently, is null.

Dans aucun cas, ni à faveur d'aucune stipulation, la femme ne peut aliérer ses immeubles sans le consentement spécial de son mari, ou, à son refus, sans être autorisée par justice.

Toute autorisation générale d'aliérer les immeubles donnés à la femme, soit par contrat de mariage, soit depuis, est nulle.

**"And in the cases" has no counterpart in French text.

ART. 2395. Each of the married persons separate in property, contributes to the expenses of the marriage in the manner agreed on by their contract; if there be no agreement on the subject, the wife contributes to the amount of one-half of her income.

RCC—119, 227, 2389, 2403, 2430, 2435.

Same as above.

Each of the married persons separated contributes to the expenses of the marriage, in the manner agreed on by their contract; if there be no agreement on the subject, the wife contributes to the amount of one half of her income.

CC 1808. No corresponding article.

Each of the married persons contributes to the expenses of the marriage in the manner agreed on by their contract; and, if there be no agreement on that subject, the wife contributes to these expenses to the amount of one-third of her income.
Art. 2396  

When the wife, who is separate in property, has left the enjoyment of her property to her husband without any procuration, he is not answerable for the fruits, until a demand of them be made by his wife, or if it is not made, until the dissolution of the marriage. He is not accountable for the fruits which have been previously consumed.

RCC—2386, 2388.

RCC 1870, Art. 2396.  

(Same as Art. 2396 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2398.  

(Lorsque la femme séparée a laissée (laisée) la jouissance de ses biens à son mari, sans procuration, celui-ci n'est tenu, soit sur la demande que sa femme pourrait lui faire, soit à la dissolution du mariage, qu'à la représentation des fruits existans, et il n'est pas comptable de ceux qui ont été consommés jusqu'alors.)

When the wife, who is separated, has left the enjoyment of her property to her husband without any procuration, he is only answerable for the fruits existing, whether a demand of them be made by his wife, or if it is not made, until the dissolution of the marriage. He is not accountable for the fruits which have been previously consumed.

CC 1808.  

No corresponding article.

CN 1804, Art. 1539.  

When the wife who is separate in property has left the enjoyment of her property to her husband, he is not answerable for the fruits existing, until a demand of them be made by his wife, or if it is not made, until the dissolution of the marriage. He is not accountable for the fruits which have been previously consumed.

Section 5—OF THE WIFE'S INCAPACITY TO ALIENATE HER IMMOVABLES OR TO BIND HERSELF FOR HER HUSBAND*

*In connection with this section see Acts 1928, No. 283, §3.

Art. 2397.  

The wife, whether [whether] separated in property by contract or judgment, or not separated, can not, except by and with the authorization of the husband, and in default of the husband, with that of the judge, alienate her immovable effects of whatever nature they may be, except in cases where the alienation of the dotal immovable is permitted.


RCC 1870, Art. 2397.  

(Same as Art. 2397 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2411.  

(Projet, p. 302. Addition amended and adopted; no comment)

The wife, whether separated in property by contract or judgment, or not separated, cannot, except by and with the authorization of
the authorization of the husband, and in default of the husband, with that of the judge, alienate her immoveable effects of whatever nature they may be, before the dissolution of the marriage, except in cases where the alienation of the dotal immoveable is permitted.

CC 1808, pp. 334, 335, Art. 58, par. 2.
Quoted under RCC 1870, Art. 2390, above.

CN 1804, Art. 1576, par. 2.
Quoted under RCC 1870, Art. 2390, above.

ART. 2398. The wife, whether separated in property by contract or by judgment, or not separated, can not bind herself for her husband, nor conjointly with him, for debts contracted by him before or during the marriage.


RCC 1870, Art. 2398.
Same as above.

CC 1825, Art. 2412.
Same as above.

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

Chapter 3—Of the Community or Partnership of Acquets or Gains

Section 1—Of Legal Partnership

ART. 2399. Every marriage contracted in this State, superinduces of right partnership or community of acquets or gains, if there be no stipulation to the contrary.

RCC—1967, 2332, 2333, 2392, 2400 et seq., 2806, 2807.

RCC 1870, Art. 2399.
Same as above.

CC 1825, Art. 2369.
Same as above; but comma (,) after “marriage”, and after “right.”

CC 1808, p. 336, Art. 63.
Every marriage contracted within this territory, superinduces of right, partnership or community of acquets or gains.

- p. 337, Art. 63.
Tout mariage, contracté dans cet Etat, entraîne de droit société ou communauté d’acquets ou de gains.
This community or partnership of gains takes place whether there be a marriage contract between the parties or not, and although in case there be one, said contract be entirely silent on this partnership or community. (Suppressed on recommendation of redactors; Projet, p. 299)

ART. 2400. All property acquired in this State by non-resident married persons, whether the title thereto be in the name of either the husband or wife, or in their joint names, shall be subject to the same provisions of law which regulate the community of acquets and gains between citizens of this State.

RCC-2329, 2399.

RCC 1870, Art. 2400. (Same as Art. 2400 of Proposed Revision of 1869; same as Acts 1852, No. 292 [RS §§627, 1709, 3706])

ART. 2401. A marriage, contracted out of this State, between persons who afterwards come here to live, is also subjected to community of acquets, with respect to such property as is acquired after their arrival.

RCC-2329, 2399.

RCC 1870, Art. 2401. (Same as Art. 2401 of Proposed Revision of 1869)

ART. 2402. This partnership or community consists of the profits* of all the effects of which the husband has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife, and of the estate which they may acquire during the marriage, either by donations made jointly to them both, or by purchase, or in any other similar way, even although the purchase be only in the name of one of the
two and not of both, because in that case the period of time when the purchase is made is alone attended to, and not the person who made the purchase. But damages resulting from personal injuries to the wife shall not form part of this community, but shall always be and remain the separate property of the wife and recoverable by herself alone; "provided where the injuries sustained by the wife result in her death, the right to recover damages shall be as now provided for by existing laws.” (As amended by Acts 1902, No. 68)

RCC—117, 2315, 2334, 2350, 2352, 2385, 2386, 2388, 2399, 2403 et seq., 2408, 2424, 3300. CP—106.

RCC 1870, Art. 2402.

This partnership or community consists of the profits* of all the effects of which the husband has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife, and of the estates which they may acquire during the marriage, either by donations made jointly to them both, or by purchase, or in any other similar way, even although the purchase be only in the name of one of the two and not of both, because in that case the period of time when the purchase is made is alone attended to, and not the person who made the purchase.

CC 1825, Art. 2371. (Projet, p. 299. Amendment adopted; no comment)

Same as above.

CC 1808, p. 336, Art. 64.

This partnership or community consists of the profits* of all the effects of which the husband has the administration and enjoyment; of the produce of the reciprocal labor and industry of both husband and wife; and of the estates which they may acquire during the marriage either by donations made jointly to them both, or by purchase, or in any other similar way, even although the purchase be only in the name of one of the two and not of both, because in that case the period of time when the purchase was made is alone attended to and not the person who made the purchase.

CN 1804, Art. 1401.

The assets of the community consist,

1. Of all movable property which husband and wife possessed upon the day of the celebration of the marriage, together with all the movable property which they acquire during the marriage,

La communauté se compose active-ment,

1. De tout le mobilier que les époux possédaient au jour de la célébration du mariage, ensemble de tout le mobilier qui leur échoit pendant le mariage à titre de succession ou même de donation.
Art. 2403

In the same manner, the debts contracted during the marriage enter into the partnership or community of gains, and must be acquitted out of the common fund, whilst the debts of both husband and wife, anterior to the marriage, must be acquitted out of their own personal and individual effects.

RCC 1870, Art. 2403.

Same as above.

CC 1825, Art. 2372.  
(No reference in Projet)

De même les dettes contractées pendant le mariage, tombent dans cette société ou communauté d'acquêts, et doivent être acquittées des fonds communs, tandis que les dettes des époux, antérieures au mariage, doivent être acquittées sur leurs biens personnels et particuliers.

CC 1808, p. 336, Art. 65.

In the same manner the debts contracted during the marriage enter into the said partnership or community of gains; and must be acquitted out of the common funds, whilst the debts of both husband and wife anterior to the marriage, must be acquitted out of their own personal and individual effects.

CN 1804, Art. 1409.

The liabilities of the community consist:

1. Of all movable debts which husband and wife owed upon the date of the celebration of their marriage, or with which the successions which fall to them during the marriage are burdened, saving the right of reimbursement for debts relative to the separate immovables of either spouse;

2. Of debts, as well of capital as of arrearages or interest, contracted by the husband during the community, or by the wife with the consent of the husband, saving the right of reimbursement in proper cases;

3. Of arrearages and interest only of rents or debts which are personal to the two spouses;

by succession or even by donation, unless the donor has expressed the contrary;

2. Of all fruits, revenues, interest and arrears, of whatever nature they may be, falling due or received during the marriage, and derived from property which belonged to the husband and wife at the time of the celebration, or which are acquired by them during the marriage, in any manner whatsoever;

3. Of all immovables acquired during the marriage.

*Note error in English translation of French text; “profits” should be “fruits.”
**CIVIL CODES OF LOUISIANA**

**Art. 2404.**

4. Of repairs owed by the usufructuary of immovables which do not enter into the community;

5. Of the alimony of husband and wife, of the education and support of the children, and of any other charge of the marriage.

**Art. 2404.** The husband is the head and master of the partnership or community of gains; he administers its effects, disposes of the revenues which they produce, and may alienate them by an onerous title, without the consent and permission of his wife.

He can make no conveyance inter vivos, by a gratuitous title, of the immovables of the community, nor of the whole, or of a quota of the movables, unless it be for the establishment of the children of the marriage. A gratuitous title within the contemplation of this article embraces all titles wherein there is no direct, material advantage to the donor.

Nevertheless he may dispose of the movable effects by a gratuitous and particular title, to the benefit of all persons.

But if it should be proved that the husband has sold the common property, or otherwise disposed of the same by fraud, to injure his wife, she may have her action against the heirs of her husband, in support of her claim in one-half of the property, on her satisfactorily proving the fraud. (As amended by Acts 1926, No. 96)

RCC—136, 150, 1468, 1470, 1471, 1523 et seq., 1734, 1773, 1847 et seq., 2350, 2352, 2357, 2386, 2387, 2398, 2402, 2406, 3300, 3319, 3523.

RCC 1870, Art. 2404.

(Same as Art. 2404 of Proposed Revision of 1869)

Par. 1 same as par. 1, above.

He can make no conveyance inter vivos, by a gratuitous title, of the immovables of the community, nor of the whole, or of a quota of the movables, unless it be for the establishment of the children of the marriage.

Pars. 3, 4 same as pars. 3, 4, above.

CC 1825, Art. 2373.

(Projet, p. 299. Amendment adopted; no comment)

Le mari est chef et maître de la société ou communauté (communauté) d’acquêts; il en administre les biens, dispose des revenus qu’ils produisent, et peut les aliéner à titre onéreux,* sans le consentement ni la permission de sa femme.

Il ne peut disposer entre-vifs à titre gratuit des immeubles de la communauté, ni de l’universalité ou d’une quotité du mobilier, si ce n’est pour l’établissement des enfants communs.

Il peut néanmoins disposer des effets mobiliers à titre gratuit et particulier, au profit de toutes personnes.

Mais s’il était prouvé que le mari n’a aliéné ces biens ou n’en a autrement disposé, que par dol, pour porter préjudice à sa femme, elle pourrait avoir son action contre les héritiers de son mari, en répétition de la moitié de ces biens, en par elle justifiant du dol.
Art. 2405

COMPILED EDITION

CC 1808, p. 336, Art. 66.
The husband is the head and master of the partnership or community of gains; he administers said effects; disposes of the revenues which they produce, and may sell and even give away the same without the consent and permission of his wife, because she has no sort of right in them until her husband be dead.

But if it should be proved that the husband has sold said estate or otherwise disposed of the same by fraud to injure his wife, she may have her action against the heirs of her husband, in support of her claim of one half of said estate, on her satisfactorily proving the fraud.

CN 1804, Art. 1421.
The husband alone administers the community property.

He may sell, alienate, or hypothecate it without the concurrence of the wife.

-Art. 1422.

He can make no disposition inter vivos by gratuitous title of the immovables of the community or of the whole or of a quota of the movables, unless it be for the establishment of the children of the marriage.

Nevertheless he may dispose of the movable effects by a gratuitous and particular title, to the benefit of all persons, provided that he does not reserve to himself the usufruct.

*Note error in English translation of French text; "incumbered" should be "onerous."

ART. 2405. At the time of the dissolution of the marriage, all effects which both husband and wife reciprocally possess, are presumed common effects or gains, unless it be satisfactorily proved which of such effects they brought in marriage, or which have been given them separately, or which they have respectively inherited.

RCC—136, 155, 1102, 2285, 2287, 2288, 2399, 2402, 2406, 2416.

RCC 1870, Art. 2405.

(Same as Art. 2405 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2374.
(No reference in Projet)

At the time of the dissolution of the marriage, all effects which both husband and wife reciprocally possess, are presumed common effects or gains, unless they satisfactorily prove which of such effects they brought in marriage, or have been given them separately, or they have respectively inherited.

CC 1808, p. 336, Art. 67.

Same as above; but no punctuation after "in marriage", or after "separately."
ART. 2407. The fruits hanging by the roots on the lands belonging separately to either the husband or the wife, at the time of the dissolution of the marriage, are equally divided between the husband and the wife.
Art. 2408

and the wife or their heirs. It is the same with respect to the young of cattle yet in gestation.

The fruits of the paraphernal effects of which the wife reserved to herself the enjoyment, are excepted from the rule contained in this article.

RCC—136, 499, 544, 546, 547, 915, 916, 2347, 2349, 2383, 2384, 2386, 2388.

RCC 1870, Art. 2407. (Same as Art. 2407 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2376. (No reference in Projet)

The fruits hanging by the roots on the hereditary or proper* lands of either the husband or the wife, at the time of the dissolution of the marriage, are equally divided between husband and wife, or their heirs.

It is the same with respect to the young of cattle yet in gestation; but the fruits of the paraphernal effects of which the wife reserved to herself the enjoyment, are excepted from the rule contained in this article.

CC 1808, p. 336, Art. 69.

Same as above; but “marriage” spelled “irmarage”; no punctuation after “or the wife”, after “and wife”, or after “enjoyment.”

CN 1804. No corresponding article.

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

Art. 2408. When the separate property of either the husband or the wife has been increased or improved during the marriage, the other spouse, or his or her heirs, shall be entitled to the reward of one half of the value of the increase or ameliorations, if it be proved that the increase or ameliorations be the result of the common labor, expenses or industry; but there shall be no reward due, if it be proved that the increase is due only to the ordinary course of things, to the rise in the value of property, or to the chances of trade.

RCC—1505, 2402.

RCC 1870, Art. 2408. (Same as Art. 2408 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2377. (No reference in Projet)

When the hereditary property* of either the husband or the wife has been increased or improved during the marriage, the other spouse, or his or her heirs, shall be entitled to the reward of one half of the value of the increase or ameliorations, if it be proved that the increase or ameliorations be the result of the common labour, expenses or industry; but there shall be no reward due, if it be proved that the increase is due only to the ordinary course of things, to the rise in the value of property, or to the chances of trade.

RCC—1505, 2402.
due, if it be proved that the increase is due only to the ordinary course of things, to the rise in the value of property, or to the chances of trade.

**CC 1808, p. 338, Art. 70.**

When the hereditary property* of either the husband or the wife has been increased or improved during the marriage, the other spouse or his or her heirs, shall be entitled to the reward of one half of the value of said increase, or meliorations, if it be proved that said increase or melioration be the result of the common labor, expences or industry; but there shall be no reward due, if it be proved that the increase is due only to the ordinary course of things, to the rise in the value of property, or to the chances of trade.

**CN 1804, Art. 1437.**

Whenever an amount is taken out of the community either to pay the personal debts or charges of one of the spouses, such as the price or a part of the price of an immovable belonging to him separately, or the redemption of property from servitudes, or for the recovery, preservation or amelioration of his separate property, and in general whenever either husband or wife has derived a personal profit from the community property, he must account for it to the community.

*Note error in English translation of French text; "hereditary property" should be "separate property."

**ART. 2409.** It is understood that, in the partition of the effects of the partnership or community of gains, both husband and wife are to be equally liable for their share of the debts contracted during the marriage, and not acquitted at the time of its dissolution.

**RCC 1870, Art. 2409.**

Same as above.

**CC 1825, Art. 2378.**

Same as above.

**CC 1808, p. 338, Art. 71.**

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

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*Note error in English translation of French text; "est prouvé que l'augmentation n'est due qu'au cours ordinaire des choses, à l'accroissement de la valeur des propriétés, ou aux chances du commerce."

**p. 339, Art. 70.**

Same as above; but comma (,) after "des époux", and after "commune"; semicolon (;) after " choses."

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*Note error in English translation of French text; "hereditary property" should be "separate property."

**ART. 2409.** It is understood that, in the partition of the effects of the partnership or community of gains, both husband and wife are to be equally liable for their share of the debts contracted during the marriage, and not acquitted at the time of its dissolution.

**RCC—136, 2086, 2349, 2389, 2403, 2410 et seq., 2425, 2430.**

**RCC 1870, Art. 2409.**

Same as above.

**CC 1825, Art. 2378.**

Same as above.

**CC 1808, p. 338, Art. 71.**

Same as above; but no punctuation after "that."
Art. 2410

The debts of the community are half at the expense of each of the spouses or his heirs; the expenses of seals, inventory, sale of movables, liquidation, partition by licitation and otherwise, are part of these debts.

ART. 2410. Both the wife and her heirs or assigns have the privilege of being able to exonerate themselves from the debts contracted during the marriage, by renouncing the partnership or community of gains.


RCC 1870, Art. 2410.

Same as above.

CC 1825, Art. 2379. (No reference in Projet)

Same as above.

CC 1808, p. 338, Art. 72.

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


RCC 1870, Art. 2411.

(Same as Art. 2411 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2380. (No reference in Projet)

Par. 1 same as par. 1, above.

But she takes back all her effects, whether dOTAL or extradotal.

CC 1808, p. 338, Art. 73. (No reference in Projet)

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


RCC 1870, Art. 1492.

The wife who renounces loses every sort of right to the effects of the partnership or community of gains.

But she takes back all her effects, whether dotal or extradotal.

RCC—1050, 2335, 2337, 2383, 2410, 2412, 2414, 2416, 3525.

La femme qui renonce, perd toute espèce de droit sur les biens de la société ou communauté d'acquets.

Mais elle reprend tous ses biens dotaux, extra-dotaux et propres.*

La femme qui renonce, perd toute espèce de droit sur les biens de la communauté, même sur le mobilier qui y est entré de son chef.

Elle retire seulement les linges et hardes à son usage.
ART. 1493. The wife who renounces has the right to take back:
1. Immovables belonging to her, when they exist in kind, or the immovable which has been acquired as a reinvestment;
2. The price of her immovables which have been sold, when no reinvestment has been made and accepted as is stated above;
3. Any indemnity that may be due to her by the community.

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

ART. 2412. The wife who has taken an active concern in the effects of the community, can not renounce the same.
Acts which are simply administrative or conservatory, do not come in this article, under the denomination of active concern.

RCC—994, 997, 998, 2410, 2411.

RCC 1870, Art. 2412. (Same as Art. 2412 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2381. (No reference in Projet)
The wife who took an active concern in the effects of the community, cannot renounce the same.
Acts, which are simply administrative or conservatory, do not come here under the denomination of active concern.
CC 1808, p. 338, Art. 74. Same as above; but no punctuation after “Acts.”

CN 1804, Art. 1454. Same as above.

ART. 2413. The surviving wife, who wishes to preserve the power of renouncing the community of gains, must make an inventory within the delays and with the formalities prescribed for the beneficiary heir.

RCC—1032 et seq., 2414, 3318, 3527. Acts 1882, No. 4.

RCC 1870, Art. 2413. (Same as Art. 2413 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2382. (Projet, p. 300. Amendment adopted; no comment)
The surviving wife, who wishes to preserve the power of renouncing the community of gains, must make an inventory within the terms and with the formalities prescribed for the beneficiary heir.

La femme renonçante a le droit de reprendre,
1. Les immueles a elle appartenant,
lorsqu’ils existent en nature, ou l’im­
meuble qui a été acquis en remploi;
2. Le prix de ses immueles aliénés
dont le remploi n’a pas été fait et ac­
cepté comme il est dit ci-dessus;
3. Toutes les indemnités qui peuvent
lui être dues par la communauté.

La femme renonçante a le droit de
reprendre,
1. Immovables belonging to her,
when they exist in kind, or the immo­
vable which has been acquired as a rein­
vestment;
2. The price of her immovables
which have been sold, when no rein­
vestment has been made and accepted as is
stated above;
3. Any indemnity that may be due
to her by the community.
Art. 2414  

CC 1808, p. 338, Art. 75.

The surviving wife who wishes to preserve the faculty of renouncing the partnership or community of gains, is bound within three months from the day of the death of her husband, or from the day when his death was known to her, to cause to be made a true and faithful inventory of all the effects of the said partnership or community by a notary duly authorized to that effect by the parish judge and contradictorily with the heirs of the husband or their representatives, or after they have been duly summoned.

This inventory when completed must be sworn by her to be true and faithful, before the public officer who shall have executed the same.

CN 1804, Art. 1456.

The surviving wife who wishes to preserve the faculty of renouncing the community is bound, within three months from the day of the death of her husband, to cause to be made a true and faithful inventory of all the effects of the community, contradictorily with the heirs of the husband, or after they have been duly summoned.

Par. 2 same as par. 2, above.

ART. 2414. She ought also to make her renunciation within the same delays which are allowed for the beneficiary heir to explain his intentions.

After the expiration of these delays, she may be, in the same manner, forced to make her decision, and judgment may be rendered against her as a partner, unless she renounces.


RCC 1870, Art. 2414.  
(Same as Art. 2414 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2383.  
(Projet, p. 300. Substitution adopted; no comment)

She ought also to make her renunciation, within the same terms which are allowed for the beneficiary heir to explain his intentions.

Par. 2 same as par. 2, above.

CC 1808, p. 338, Art. 76.

Within three months and forty days from the death of the husband or from the first knowledge of said death, the wife is to make her renunciation before a notary public and to witnesses.

-p. 339, Art. 75.

La femme survivante qui veut conserver la faculté de renoncer à la société ou communauté d'acquêts, doit, dans les trois mois du jour du décès de son mari, ou de celui où son décès est connu, faire faire un inventaire fidèle et exact de tous les biens de ladite société ou communauté, par un notaire public dûment autorisé à cet effet par le juge de paroisse, et contradictoirement avec les héritiers du mari ou leurs représentants ou eux dûment appelés.

Cet inventaire doit par elle être affirmé sincère et véritable lors de sa clôture par-devant l'officier public qui l'a reçu.

La femme survivante qui veut conserver la faculté de renoncer à la communauté, doit, dans les trois mois du jour du décès du mari, faire faire un inventaire fidèle et exact de tous les biens de la communauté, contradictoirement avec les héritiers du mari, ou eux dûment appelés.

Cet inventaire doit être par elle affirmé sincère et véritable, lors de sa clôture, devant l'officier public qui l'a reçu.

ART. 2414. Elle doit également faire sa renonciation dans les délais qui sont prescrits à l'héritier bénéficiaire pour s'expliquer.

Ces délais passés, elle peut être, de la même manière, forcée à s'expliquer, et condamnée comme commune, si elle ne renonce pas.

Dans les trois mois et quarante jours du décès du mari, ou de la connaissance qu'on en a eue, la femme doit faire sa renonciation par-devant un notaire, en présence de deux témoins.
Art. 2416. The widow who has made no renunciation within the term above prescribed, has not forfeited the right of renouncing, if she has not taken an active concern, and if she has made an inventory.

—Only she may be sued as concerned in common, until she does renounce, and she shall pay the costs of the suit against her until she renounced.

She may likewise be sued after the expiration of the forty days since the inventory was closed, if it was closed before the end of the three months.

CN 1804, Art. 1457.

Within three months and forty days from the death of the husband, she is to make her renunciation in the office of the clerk of the court of first instance in the district in which the husband had his domicile; this act is to be inscribed upon the register kept to receive renunciations of successions.

—Art. 1459.

Same as CC 1808, p. 338, Art. 78, above.

RCC-1017, 2234, 2236, 2410, 2414.

RCC 1870, Art. 2415. (Same as Art. 2415 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 2384. (Projet, p. 300. Amendment adopted; no comment)

The renunciation of the partnership* by the wife must be made before a notary and two witnesses.

CC 1808, pp. 338, 339, Art. 76.

Quoted under RCC 1870, Art. 2414, above.

CN 1804, Art. 1457.

Quoted under RCC 1870, Art. 2414, above.

*Note error in English translation of French text; “partnership” should be “community.”

Art. 2416. Her linen and clothes shall not, in any case, be comprised in the inventory; she has a right to take them without any formality.

RCC—2369, 2405, 2411.
Art. 2417

RCC 1870, Art. 2416.
Same as above.

CC 1825, Art. 2385. (Projet, p. 300. Addition ± adopted; no comment)
Le linge et les hardes à l’usage de la femme ne doivent, en aucun cas, être compris dans l’inventaire; elle a le droit de les reprendre sans aucune formalité.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2417. The widow, above the age of majority, who has allowed a judgment to pass against her as a partner, by a court of general jurisdiction, shall lose the power of renouncing.

RCC—988, 1000, 1037, 1057, 2806.

RCC 1870, Art. 2417. (Same as Art. 2417 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2386. (Projet, p. 300. Addition amended and adopted; no comment)
La veuve majeure, qui s’est laissée condamner comme commune par une cour de juridiction illimitée, est dor­­– mais déchue de la faculté de renoncer.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 2418. The widow who has concealed or made away with any of the effects of the partnership or community of gains, is declared to be a partner in community, notwithstanding her renunciation. It is the same with respect to her* heirs.

RCC—1029, 1061, 1849.

RCC 1870, Art. 2418. (Same as Art. 2418 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 2387. (No reference in Projet)
La veuve, qui a diverti ou recélè qu’effet de la société ou communauté d’acquêts, est déclarée commune, non­­– obstant sa renonciation; il en est de même à l’égard des* héritiers.

CC 1808, p. 338, Art. 79. Same as above; but comma (,) after “partnership”; dash (—) after “renun­­­ciation”; no punctuation after “widow.”

p. 339, Art. 79. La veuve, qui a diverti ou recélè quel­­­que effet de la société ou communauté d’acquêts, est déclarée commune, non­­– obstant sa renonciation; il en est de même à l’égard de ses héritiers.

CN 1804, Art. 1460. Same as above; RCC 1870 preferred.

La veuve qui a diverti ou recélè quelques effets de la communauté, est dé­­­clarée commune, nonobstant sa renonciation; il en est de même à l’égard de ses héritiers.

*Note error in English translation of French text; “her” should be “the.”
ART. 2419. If the widow dies before the expiration of the above fixed delay, without having made or closed the inventory, the heirs shall be allowed, for the purpose of making or closing it, another term of equal length, to begin from the day of the death of the widow, and of thirty days more to deliberate, after the inventory shall have been closed.

If the widow dies after the inventory was closed, her heirs shall be allowed to deliberate another term of thirty days, to begin from her death.

They may, however,* renounce the partnership or community of gains, according to the forms above established.

RCC—1032 et seq., 1050 et seq., 2410 et seq., 2414, 2420, 2422, 2423.

RCC 1870, Art. 2419.

Same as above.

CC 1825, Art. 2388. (Projet, p. 300. Amendment adopted; comment by redactors)

Same as above; but comma (,) after "her heirs shall be allowed", and after "allowed, to deliberate"; no punctuation after "may", or after "however."

Si la veuve meurt, avant l'expiration des délais ci-dessus fixés, sans avoir fait ou terminé l'inventaire, ses héritiers auront, pour le faire ou le terminer, un nouveau délai de semblable durée, à compter du décès de la veuve, et de trente jours pour délibérer après la clôture de l'inventaire.

Si la veuve meurt, ayant terminé l'inventaire, ses héritiers auront, pour délibérer, un nouveau délai de trente jours, à compter de son décès.

Ils peuvent au surplus* renoncer à la société ou communauté d'acquêts, dans les formes établies ci-dessus.

CC 1808, p. 340, Art. 80.

If the widow dies before the expiration of the three months, without having made or closed the inventory, the heirs shall be allowed, for the purpose of making or closing the inventory, another term of three months to begin from the day of the death of the widow, and of forty days more to deliberate, after the inventory shall have been closed.

If the widow dies after the inventory was closed, her heirs shall be allowed to deliberate another term of forty days to begin from her death.

They may however* renounce the partnership or community of gains, according to the forms above established and the 75 and 76 articles of this title are applicable to them.

CN 1804, Art. 1461.

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

Si la veuve meurt avant l'expiration des trois mois sans avoir fait ou terminé l'inventaire, les héritiers auront, pour faire ou pour terminer l'inventaire, un nouveau délai de trois mois, à compter du décès de la veuve, et de quarante jours pour délibérer, après la clôture de l'inventaire.
They may, furthermore, renounce the community, according to the forms above established; and Articles 1458 and 1459 are applicable to them.

*Note error in English translation of French text; “however” should be “furthermore.”

Art. 2420. Repealed by Acts 1926, No. 49.

RCC 1870, Art. 2420. (Same as Art. 2420 of Proposed Revision of 1869)

The wife, separated from bed and board, who has not within the delays above fixed, to begin from the separation finally pronounced, accepted the community, is supposed to have renounced the same; unless, being still within the term, she has obtained a prorogation from the judge, after the husband was heard, or after he was duly summoned.

CC 1825, Art. 2389. (Projet, p. 300. Amendment adopted; comment by redactors)

The wife, separated from bed and board, who has not, within the delays above fixed, to begin from the separation finally pronounced, accepted the community, is supposed to have renounced the same; unless, being still within the term, she has obtained a prorogation from the judge, after the husband was heard, or after he was duly summoned.

CC 1808, p. 340, Art. 81.

The wife separated from bed and board, who has not, within the three months and forty days after the separation finally pronounced, accepted the community, is supposed to have renounced the same, unless being still within the term, she has obtained a prorogation from the judge, after the husband was heard, or after he was duly summoned.

The acceptance of the partnership or community of gains, shall be made in the same form as is above prescribed for the renunciation of the same. (Par. 2 suppressed on recommendation of redactors; see comment, Projet, p. 300)

CN 1804, Art. 1463.

The wife who is divorced or separated from bed and board and who has not, within the three months and forty days after the divorce or the separation has been finally pronounced, accepted the community, is supposed to have renounced the same, unless, being still within the term, she has obtained a prorogation from the judge, after the husband was heard or after he was duly summoned.

La femme divorcée ou séparée de corps, qui n'a point dans les trois mois et quarante jours après le divorce ou la séparation de la communauté, est censée y avoir renoncé, à moins qu'étant encore dans le délai, elle n'en ait obtenu la prolongation en justice, contradictoirement avec le mari, ou lui dûment appelé.

La femme, séparée de corps, qui n'a point, dans le délai ci-dessus fixé, à compter de la séparation définivement prononcée, accepté la communauté, est censée y avoir renoncé, à moins qu'étant encore dans le délai, elle n'en ait obtenu la prolongation en justice, contradictoirement avec le mari, ou lui dûment appelé.

Art. 2421. The creditors of the wife may attack the renunciation, which may have been made by her or by her heirs with a
view to defraud her creditors, and accept the community of gains in their own names.


RCC 1870, Art. 2421.
Same as above.

CC 1825, Art. 2390.
Same as above.

CC 1808, p. 340, Art. 82.
Same as above; but comma (,) after "heirs"; no punctuation after "renunciation."*

CN 1804, Art. 1464.
The creditors of the wife may attack the renunciation which may have been made by her or by her heirs with a view to defraud her creditors, and accept the community in their own names.

Les créanciers de la femme peuvent attaquer la renonciation qui aura été faite par elle ou par ses héritiers en fraude de leurs créances, et accepter la communauté d'acquêts de leur chef.

Art. 2422. The widow, whether she accept or renounce, has a right, during the delays which are granted to her to make an inventory and deliberate, to receive her maintenance and that of her servants out of the provisions in store; and if there be none, she has a right to borrow on account of the common stock, on the condition, however, of using the privilege with moderation.

She owes no rent for the residence she may have made, during such term, in a house appertaining to the community or belonging to the heirs of the husband; and if the house, which both husband and wife did inhabit at the time of the dissolution of the marriage, was rented by them, the wife shall not contribute, during the same term, to the payment of the rent, which shall be taken out of what belongs to the whole.

RCC—1050, 2374, 2414.

RCC 1870, Art. 2422.
Same as above.

CC 1825, Art. 2391.
Same as above.

(Projet, p. 300. Amendment adopted; comment by redactors)

La veuve, soit qu'elle accepte, soit qu'elle renonce, a droit, pendant les délais qui lui sont accordés pour faire inventaire et pour délibérer, de prendre sa nourriture et celle de ses domestiques sur les provisions existantes, et à défaut, par emprunt au compte de la masse commune, à la charge d'en user modéré­ment.
Art. 2423

In case of the dissolution of the marriage by the death of the wife, her heirs may renounce the partnership or community of gains, within the term and according to the forms which the law prescribes to the surviving wife.

RCC—915, 916, 1007, 2410 et seq., 2418, 2419, 2421.

RCC 1870, Art. 2423.

Same as above.
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ART. 2425

CC 1825, Art. 2392. (No reference in Projet)
Same as above.

Dans le cas de la dissolution du mariage par la mort de la femme, ses héritiers peuvent renoncer à la société ou communauté d'acquêts, dans les délais et dans les formes que la loi prescrit à la femme survivante.

CC 1808, p. 340, Art. 84.
Same as above.

-p. 341, Art. 84.
Same as above.

CN 1804, Art. 1466.
In case of the dissolution of the community by the death of the wife, her heirs may renounce the community within the term and according to the forms which the law prescribes to the surviving wife.

Dans le cas de dissolution de la communauté par la mort de la femme, ses héritiers peuvent renoncer à la communauté dans les délais et dans les formes que la loi prescrit à la femme survivante.

Section 2—OF THE MODIFIED OR LIMITED COMMUNITY

ART. 2424. Married persons may, by their marriage contract, modify the legal community, as they think fit, either by agreeing that the portions shall be unequal, or by specifying the property, belonging to either of them, of which the fruits shall not enter into the partnership.*

RCC—1764, 2325, 2326, 2332, 2402.

RCC 1870, Art. 2424.
Same as above.

CC 1825, Art. 2393. (Projet, p. 300. Addition adopted; no comment)
Same as above.

CC 1808. No corresponding article.

CC 1804. No corresponding article.

Projet du Gouvernement (1800), Book III, Title X, Art. 113.
Married persons may, by their marriage contract, either exclude the community completely, or modify, augment or restrict it.

*Note error in English translation of French text; "partnership" should be “community.”

Chapter 4—OF THE SEPARATION OF PROPERTY PRAYED FOR BY THE WIFE DURING MARRIAGE

ART. 2425. The wife may, during the marriage, petition against the husband for a separation of property, whenever her dowry is in danger, owing to the mismanagement of her husband, or otherwise, or when the disorder of his affairs induces her to believe that his estate may not be sufficient to meet her rights and claims.

RCC—123, 155, 156, 2364, 2366, 2391, 2426 et seq., 2437, 3524, 3555.

1335
Art. 2426

RCC 1870, Art. 2425.
Same as above.

CC 1825, Art. 2399.
Same as above.

(No reference in Projet)

La femme peut, pendant le mariage, former contre le mari une demande en séparation de biens, toutes les fois que sa dot est mise en péril par la mauvaise conduite du mari ou autrement, ou lorsque le désordre de ses affaires fait craindre que ses biens ne soient pas suffisants pour remplir les droits et reprises de sa femme.

CC 1808, p. 340, Art. 86.
The wife may, during the marriage, petition against the husband for a separation of property, whenever her dowry is in danger, owing to the mismanagement of the husband, or otherwise, or when the disorder of his affairs induces her to believe that his estate may not be sufficient to meet her rights and claims.

CN 1804, Art. 1443, par. 1.
Separation of property can only be petitioned for by the wife whose dowry is in danger, and when the disorder of the husband's affairs gives reason to believe that the latter's estate may not be sufficient to meet the wife's rights and claims.

Projet du Gouvernement (1800), Book III, Title X, Art. 57.

La séparation de biens ne peut être poursuivie qu'en justice par la femme dont la dot est mise en péril, et lorsque le désordre des affaires du mari donne lieu de craindre que les biens de celui-ci ne soient point suffisants pour remplir les droits et reprises de la femme.

ART. 2426. The neglect to reinvest the dotal effects of the wife, in cases where the law directs such reinvestment, is also sufficient cause for the wife to demand a separation of property.

RCC—2360, 2425, 2427 et seq.

RCC 1870, Art. 2426.
Same as above.

CC 1825, Art. 2400.
Same as above.

(Projet, p. 301. Addition adopted; no comment)

Le défaut de remploi des biens dotaux de la femme, dans le cas où la loi prescrit ce remploi, est aussi une cause suffisante pour autoriser la femme à demander la séparation de biens.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 2427. The wife must petition for the separation of property, and it can only be ordered by a court of justice, after hearing all parties. It can, in no case, be referred to arbitration.

Every voluntary separation of property is null, both as respects third persons and the husband and wife between themselves.

RCC—140, 2425, 2426, 2428.

RCC 1870, Art. 2427. (Same as Art. 2427 of Proposed Revision of 1869)

CC 1825, Art. 2401. (No reference in Projet)

Separation of property must be petitioned for and ordered by a court of justice, after hearing all parties. It can, in no case, be referred to arbitration. Par. 2 same as par 2, above; but “respects” misspelled “respect.”

CC 1808, p. 342, Art. 87.

Separation of property must be petitioned for in and ordered by a court of justice after hearing all parties. It can in no case be referred to arbitration. Every voluntary separation of property is null both as respect [respects] third persons, and the husband and wife between themselves.

CN 1804, Art. 1443, par. 2.

Every voluntary separation is null.

Projet du Gouvernement (1800), Book III, Title X, Art. 58.

Separation of property must be petitioned for and ordered by a court of justice, after hearing all parties, according to the findings of the commissaire du Gouvernement, and without it being possible to refer it to arbitration.

Every voluntary separation is null, both as respects third persons and the husband and wife between themselves.

Toute séparation volontaire est nulle.

ART. 2428. The separation of property, although decreed by a court of justice, is null, if it has not been executed by the payment of the rights and claims of the wife, made to appear by an authentic act, as far as the estate of the husband can meet them, or at least by a bona fide non-interrupted suit to obtain payment.

RCC—2234, 2236, 2425 et seq.

RCC 1870, Art. 2428.

Same as above.

CC 1825, Art. 2402.

Same as above.

La séparation de biens est nulle, si elle n'a point été exécutée par le paiement des droits et reprises de la femme, effectué par un acte authentique, jusqu'à concurrence des biens du mari, ou au moins, par des poursuites suivies et non interrompues pour procurer le paiement.
ART. 2429. The separation of property, obtained by the wife, must be published three times in the public newspapers, at farthest within three months after the judgment which ordered the same.

If there be no paper published in the place where the judgment is rendered, the publication must be made in that which is published in the place nearest to it.

RCC—1117, 2425, 2426.

RCC 1870, Art. 2429. (Same as Art. 2429 of Proposed Revision of 1869)

CC 1825, Art. 2403. (Projet, p. 301. Amendment adopted; no comment)

The separation of property, obtained by the wife, must be published three times, both in the English and French languages, in the public papers, at farthest within three months after the judgment which ordered the same.

Par. 2 same as par. 2, above.

CC 1808, p. 342, Art. 89.

The separation of property obtained by the wife must be published three times, both in the English and French languages, in at least two of the newspapers which are printed in New-Orleans, at farthest within three months after the judgment which ordered the same.

CN 1804, Art. 1445, par. 1.

Every separation of property must, before its execution, be made public by

Toute séparation de biens doit, avant son exécution, être rendue publique
ART. 2430. The wife, who has obtained the separation of property, may, nevertheless, accept the partnership or community of gains, which has existed till that time, if it be her interest so to do, and upon her contributing, in case of acceptance, to pay the common debts.

She retakes, also, her dowry and all she brought in marriage, or which she acquired separately during the marriage by inheritance or otherwise.

RCC—123, 2334, 2335, 2337 et seq., 2363, 2366 et seq., 2383, 2391, 2409.

ART. 2431. The separation of property does not impart to the wife any of the rights of a surviving wife; but she preserves the right of exercising them, in case of the death of her husband.

RCC 1870, Art. 2431. (Same as Art. 2431 of Proposed Revision of 1869)
ART. 2432. The judgment which pronounces the separation of property, is retroactive as far back as the day on which the petition for the same was filed.

RCC 1870, Art. 2432.
Same as above.

CC 1825, Art. 2406. (No reference in Projet)
Same as above; but comma (,) after "judgment."

CC 1808, p. 342, Art. 93.
Same as above; but no punctuation after "judgment."

CN 1804, Art. 1445, par. 2.
Same as above.

ART. 2433. The personal creditors of the wife can not, without her consent, petition for a separation of property between her and her husband.

Nevertheless, in case of the failure or discomfiture of the husband, they may exercise the rights of their debtor to the amount of their credits.


RCC 1870, Art. 2433.
Same as above.
ART. 2434. The creditors of the husband may object to the separation of property decreed and even executed with a view to defraud them. They may even become parties to the suit for a separation of property, and be heard against it.


ART. 2435. The wife, who has obtained the separation of property, must contribute, in proportion to her fortune and to that of her husband, both to the household expenses and to those of the education of their children.

She is bound to support those expenses alone, if there remains nothing to her husband.

RCC—119, 227, 2347, 2349, 2358, 2359, 2389, 2395.
Art. 2436. The wife separated in property has again the free administration of her estate. She may dispose of her movable property and alienate the same. She cannot alienate her immovable property without the consent of her husband, or, if he should refuse it, without being authorized by the judge.


CC 1808, p. 342, Art. 97.
Same as above; but no punctuation after "separated", or after "husband, or": comma (,) after "immovable property."

CN 1804, Art. 1449.
Same as above.

CC 1808, p. 342, Art. 97.
Same as above.

CN 1804, Art. 1449.
Same as above.

mari, tant aux frais du ménage, qu'à ceux de l'éducation des enfants communs.
Elle doit supporter entièrement ces frais, s'il ne reste rien au mari.

-p. 343, Art. 97.
Same as above.

La femme qui a obtenu la séparation de biens, doit contribuer, proportionnellement à ses facultés et à celles du mari, tant aux frais du ménage qu'à ceux d'éducation des enfants communs.
Par. 2 same as par. 2, above.
ART. 2437. Whenever a marriage shall have been contracted in this State, and the husband, after such marriage, shall remove or shall have removed to a foreign country with his wife, if the husband shall behave or have behaved towards his wife in said foreign country in such a manner as would entitle her, under our laws, to demand a separation of property, it shall be lawful for her, on returning to the domicile where her marriage was contracted, to institute a suit there against her husband for the purposes above mentioned, in the same manner as if they were still domiciliated in said place. In such cases an attorney shall be appointed by the court to represent the absent defendant; the plaintiff shall be entitled to all the remedies and conservatory measures granted by law to married women, and the judgment shall have force and effect in the same manner as if the parties had never left the State.

RCC—142, 2425 et seq., 2436.

RCC 1870, Art. 2437. (Same as Art. 2437 of Proposed Revision of 1869; similar to Acts 1855, No. 9 [RS §§1198, 1719])

CC 1825. No corresponding article.
CC 1808. No corresponding article.
CN 1804. No corresponding article.

TITLE VII—OF SALE*

*See general comment by redactors, Projet, p. 302.

Chapter 1—Of the Nature and Form of the Contract of Sale

ART. 2438. In all cases, where no special provision is made under the present title, the contract of sale is subjected to the general rules established under the title: Of Conventional Obligations.

RCC—2441, 2457, 2516, 2547, 2659, 2667, 2668, 2783, 3485.

RCC 1870, Art. 2438. Same as above.

CC 1825, Art. 2413. (Projet, p. 302. Addition adopted; no comment)

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

ART. 2439. The contract of sale is an agreement by which one gives a thing for a price in current money, and the other gives the price in order to have the thing itself.

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