Title XX. Of Pledge (Art. 3133 - 3181)

Louisiana

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Art. 3133

The compromise and power given to the arbitrators is put at an end by any one of the following causes:

1st. By the expiration of the time limited either by the compromise or by law though the award should not be yet rendered;

Subds. 2, 3 same as subds. 2, 3, above.

4th. When the parties happen to transact touching the thing in difference, or when this thing ceases to exist.

CN 1804. No corresponding article.

TITLE XX—OF PLEDGE

Art. 3133. The pledge is a contract by which one debtor gives something to his creditor as a security for his debt.

RCC—1765, 1771, 1778, 1884, 1968, 2204, 2705 et seq., 2926, 3065, 3135, 3140 et seq., 3221, 3279 et seq., 3510.

RCC 1870, Art. 3133.

Same as above.

CC 1825, Art. 3100.

Same as above.

CC 1808, p. 446, Art. 1.

Same as above.

CN 1804, Art. 2071.

Same as above.

Art. 3134. There are two kinds of pledge:

The pawn.
The antichresis.

RCC—3135.

RCC 1870, Art. 3134.

Same as above.

CC 1825, Art. 3101.

Same as above; but semicolon (;) after "pawn."

CC 1808, p. 446, Art. 2.

Pars. 1, 2 same as pars. 1, 2, above; but semicolon (;) after "pledge."

And the antichresis.

-p. 447, Art. 35.

Par. 1 and subds. 1-3 same as par. 1 and subds. 1-3, above; but comma (,) after "pouvoir", after "aux arbitres", after "par le compromis", and after "parties."


Same as above; but comma (,) after "nantissement", and after "créancier."

-p. 447, Art. 2.

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

Et l'antichrèse.
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CN 1804, Art. 2072.
The pledge of a movable thing is called "pawn." That of an immovable is called "antichresis."

ART. 3135. A thing is said to be pawned when a movable thing is given as security; and the antichresis, when the security given consists in immovables.
RCC—1885, 2018, 3065, 3133, 3134, 3154 et seq., 3176 et seq.

RCC 1870, Art. 3135. (Same as Art. 3135 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3162. (No reference in Projet)
A thing is said to be pawned when a moveable thing is given as security; and the antichresis, when the security given consists in immovable or slaves.

CC 1808, p. 446, Art. 3. - p. 447, Art. 3.
Same as above; but no punctuation after "pawned", or after "antichresis"; comma (,) after "security."

CN 1804, Art. 2072.
Quoted under RCC 1870, Art. 3134, above.

Chapter 1—General Provisions

ART. 3136. Every lawful obligation may be enforced* by the auxiliary obligation of pledge.
RCC—1764, 1771, 1893, 1895, 1901, 3065, 3138 et seq.

RCC 1870, Art. 3136.
Same as above.

CC 1825, Art. 3103. (Projet, p. 360. Addition adopted; no comment)
Toute obligation licite peut être assurée* par l'obligation accessoire du nantissement.

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

*Note error in English translation of French text; "enforced" should be "secured."

ART. 3137. If the principal obligation be conditional, that of the pledge is confirmed or extinguished with it.
RCC—2021 et seq., 2130, 2272, 3138.

RCC 1870, Art. 3137.
Same as above.

CC 1825, Art. 3104. (Projet, p. 360. Addition † adopted; no comment)
Si l'obligation principale est conditionnelle, celle du nantissement est confirmée ou anéantie avec elle.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
Art. 3138

ART. 3138. If the obligation is null, so also is the pledge.
RCC—3136, 3137, 3139, 3285, 3299.

RCC 1870, Art. 3138.
Same as above.

CC 1825, Art. 3105.
Same as above.

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

Art. 3139. The obligation of pledge annexed to an obligation which is purely natural, is rendered valid only when the latter is confirmed and becomes executory.
RCC—1757(2), 1758, 1846, 2133, 2272, 2302, 3036, 3138, 3286, 3299. CP—17.

RCC 1870, Art. 3139.
Same as above.

CC 1825, Art. 3106.
Same as above.

(Coprojet, p. 360. Addition adopted; no comment)

Si l'obligation est nulle, celle du nantissement l'est aussi.

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

Art. 3140. Pledge may be given not only for an obligation consisting in money, but also for one having any other object; for example, a surety. Nothing prevents one person from giving a pledge to another for becoming his surety with a third.
RCC—2131, 3065, 3133, 3291, 3292, 3556(20, 21).

RCC 1870, Art. 3140.
Same as above.

CC 1825, Art. 3107.
Same as above; but comma (,) after "object."

(Projet, p. 360. Addition + adopted; no comment)

On peut donner un nantissement, non seulement pour une obligation qui consiste en argent, mais encore pour celle qui a tout autre objet, comme par exemple, un cautionnement. Rien n'empêche que quelqu'un ne donne un nantissement à un autre pour qu'il se rende sa caution envers un tiers.

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

Art. 3141. A person may give a pledge, not only for his own debt, but for that of another also.
RCC—1773, 2134, 3133, 3295, 3296.

1722
ART. 3142. A debtor may give in pledge whatever belongs to him.

But with regard to those things, in which he has an ownership which may be divested or which is subject to incumbrance, he cannot confer on the creditor, by the pledge, any further right than he had himself.

RCC—2452, 2934, 3133, 3143 et seq., 3301. CP—23.

RCC 1870, Art. 3142. (Same as Art. 3142 of Proposed Revision of 1869)
Same as above.

ART. 3143. To know whether the thing given in pledge belonged to the debtor, reference must be had to the time when the pawn was made.

RCC—3142, 3143.

RCC 1870, Art. 3143. Same as above.

CC 1825, Art. 3110. (Projet, p. 361. Addition † adopted; no comment)
Same as above; but comma (,) after "pledge."

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 3144. If at the time of the contract the debtor had not the ownership of the thing pledged, but has acquired it since, by what title soever, his ownership shall relate back to the time of the contract, and the pledge shall stand good.

RCC—3142, 3143, 3304. Acts 1874, No. 66, §1 (as am. by 1922, No. 93, §1).

RCC 1870, Art. 3144. (Same as Art. 3144 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3111. (Projet, p. 361. Addition adopted; no comment)
If at the time of the contract, the debtor had not the property of the thing pledged, but has acquired it since, by what title soever, his ownership shall relate back to the time of the contract, and the pledge shall stand good.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3145. One person may pledge the property of another, provided it be with the express or tacit consent of the owner.

RCC—1766, 1780, 1795 et seq., 1811, 1889, 2452, 2933, 2934, 3146, 3147, 3556 (30).

RCC 1870, Art. 3145. (Same as above.

CC 1825, Art. 3112. (Projet, p. 361. Addition adopted; no comment)
On peut donner en nantissement, même la chose d'autrui, pourvu que ce soit du consentement exprès ou tacite du propriétaire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3146. But this tacit consent must be inferred from circumstances, so strong as to have [leave] no doubt of the owner’s intention; as if he was present at the making of the contract,* or if he himself delivered to the creditor the thing pawned.

RCC—1811, 1816, 1817, 3145, 3147.

RCC 1870, Art. 3146. (Same as above.

CC 1825, Art. 3113. (Projet, p. 361. Addition adopted; no comment)
Mais ce consentement tacite ne pourra s’induire que de circonstances assez fortes pour ne laisser aucun doute sur l’intention du propriétaire à cet égard; comme s’il a été témoin à l’acte de nantissement,* ou s’il a délivré lui-même au créancier la chose qui lui est donnée en nantissement.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; “present at the making of the contract” should be “a witness to the act of pledge.”
ART. 3147. Although the property of another can not be given in pledge without his consent, yet so long as the owner refrains from claiming it, the debtor who has given it in pledge, can not seek to have it restored until his debt has been entirely discharged.

RCC—3145, 3146, 3157.

RCC 1870, Art. 3147.
Same as above.

CC 1825, Art. 3114. (Projet, p. 361. Addition adopted; no comment)
Quoique la chose d'autrui ne puisse être donnée en nantissement sans le consentement du propriétaire, tant que ce propriétaire ne la reclame pas, le débiteur, qui l'a donnée en nantissement, ne peut être admis à la répeter, avant que sa dette ait été entièrement acquittée.

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

ART. 3148. Tutors of minors and curators of persons under interdiction, curators of vacant estates and of absent heirs, testamentary executors and other administrators named or confirmed by a judge, can not give in pledge the property confided to their administration, without being expressly authorized in the manner prescribed by law.

RCC—50, 353, 354, 415, 1049, 1147, 1157, 1785, 1867, 3149 et seq., 3302.

RCC 1870, Art. 3148. (Same as Art. 3148 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3115. (Projet, p. 361. Addition adopted; no comment)
Les tuteurs et curateurs des mineurs et des interdits, les curateurs des successions vacantes et des héritiers absents, les exécuteurs testamentaires et autres administrateurs nommés ou confirmés par le juge, ne peuvent donner en nantissement les biens qui sont confiés à leur gestion, sans y être expressément autorisés par justice, dans la forme prescrite par la loi.

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

ART. 3149. An attorney can not give in pledge the property of his principal without the consent of the latter, or an express power to that effect.

Nevertheless, where the power of attorney contains a general authority to mortgage the property of the principal, this power includes that of giving it in pledge.

RCC—1889, 2996, 2997, 3148, 3150, 3151, 3303.

RCC 1870, Art. 3149.
Same as above.
Art. 3150

COMPILED EDITION

CC 1825, Art. 3116. (Projet, p. 361. Addition adopted; no comment)
Same as above; but comma (,) after "his principal."

Le mandataire ne peut donner en nantissement les choses qui appartennent à son mandant, sans le consentement de celui-ci, ou un pouvoir spécial à cet effet.

Néanmoins lorsque le mandat contient un pouvoir général d’hypothéquer les biens du mandant, ce pouvoir emporte celui de les donner en nantissement.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3150. The property of cities and other corporations can only be given in pledge, according to the rules and subject of [to] the restrictions prescribed on that head by their respective acts of incorporation.

RCC—438, 439, 3148, 3149.

RCC 1870, Art. 3150. (Same as Art. 3150 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3117. (Projet, p. 361. Addition adopted; no comment)
Same as above; but "subject of" correctly spelled "subject to."

Les biens des villes et autres corporations ne peuvent être donnés en nantissement, que d’après les règles et sous les restrictions qui peuvent exister à cet égard dans leurs actes respectifs d’incorporations [d’incorporation].

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3151. A partner can not for his own concerns, give in pledge the partnership property without the consent of his associates. He can not do it even for the partnership concerns, without such consent, unless he be vested with the management of the copartnership.

This rule admits of exceptions in matters of commercial partnership.

RCC—2867 et seq., 2875, 3148, 3149.

RCC 1870, Art. 3151. (Same as Art. 3151 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3118. (Projet, p. 361. Addition adopted; no comment)
Par. 1 same as par. 1, above; but comma (,) after "partner cannot."

Un associé ne peut, pour ses propres affaires, donner en nantissement la chose commune, sans le consentement [consentement] de ses associés; il ne le peut même pour les affaires sociales sans ce consentement, à moins qu’il n’ait l’administration de la société.

Cette règle reçoit des exceptions en matière de société de commerce.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 3152. It is essential to the contract of pledge that the creditor be put in possession of the thing given to him in pledge, and consequently that actual delivery of it be made to him, unless he has possession of it already by some other right.

RCC—1905, 1918, 2477 et seq., 3153, 3162, 3281. Acts 1874, No. 66, §1 (as am. by 1922, No. 93).

RCC 1870, Art. 3152.
Same as above.

CC 1825, Art. 3119. (Projet, p. 362. Addition adopted; no comment)
Il est de l'essence du contrat de nantissement que le créancier soit mis en possession réelle de la chose qui lui est donnée en nantissement, et qu'en conséquence tradition effective lui en soit faite, à moins qu'il n'en soit déjà en possession à tout autre titre.

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

ART. 3153. But this delivery is only necessary with respect to corporeal things; as to incorporeal rights, such as credits, which are given in pledge, the delivery is merely fictitious and symbolical.

RCC—2478, 2481, 3152, 3162. Acts 1938, No. 95.

RCC 1870, Art. 3153. (Same as Art. 3153 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3120. (Projet, p. 362. Addition adopted; no comment)
Mais cette tradition n'est nécessaire que pour les choses corporelles; à l'égard des droits incorporels, tels que les créances qui sont données en nantissement, la tradition est purement fictive ou symbolique.

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

Chapter 2—Of Pawn

ART. 3154. One may pawn every corporeal thing, which is susceptible of alienation.

One may even pawn money as a security for performing or refraining to perform an act.

RCC—460, 1764, 1885, 2896, 2913, 3065, 3135, 3155, 3281.

RCC 1870, Art. 3154.
Same as above.

CC 1825, Art. 3121. (Projet, p. 362. Amendment adopted; no comment)
On peut donner en gage toutes les choses corporelles qui sont susceptibles d'aliénation.
On peut même donner de l'argent en nantissement, pour sûreté qu'on fera ou qu'on ne fera pas une chose.
Art. 3156

COMPiled EDITION

CC 1808, p. 446, Art. 4.
One may pawn every moveable which
is into commerce.

CN 1804. No corresponding article.

Art. 3155. One may, in fine, pawn incorporeal movables, such
as credits and other claims of that nature.

RCC—460, 474, 1764, 1885, 2896, 3154, 3156, 3158, 3169, 3170. Acts
1938, No. 95. RS—692, 2396.

RCC 1870, Art. 3155.
(Same as Art. 3155 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3122.
(Projet, p. 362. Addition adopted; no comment)
One may, in fine, pawn incorporeal moveables, such as debts and other
claims of that nature.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 3156. When a debtor wishes to pawn a claim on another
person, he must make a transfer of it in the act of pledge, and deliver
to the creditor to whom it is transferred the note or instrument which
proves its existence, if it be under private signature, and must indorse
it if it be negotiable.

RCC—1762, 1906, 3155, 3158 et seq., 3162. Acts 1904, No. 64, §§1, 30,
49; 1938, No. 95.

RCC 1870, Art. 3156.
(Same as Art. 3156 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3123.
(Projet, p. 362. Addition adopted; no comment)
When a debtor wishes to pawn a
claim on another person, he must make
a transfer of it in the act of pledge, and
deliver to the creditor to whom it is
transferred, the note or obligation
which proves its existence, if it be
under private signature, and must en-
endorse it, if it be negotiable.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Art. 3157. The pawn invests the creditor with the right of
causing his debt to be satisfied by privilege and in preference to the
other creditors of his debtor, out of the product* of the movable,
corporeal or incorporeal, which been thus burdened.

RCC—2705, 2956, 3158 et seq., 3165, 3166, 3179, 3181, 3183, 3185, 3186,
3217 (4), 3220, 3221, 3280. Acts 1874, No. 66 (am as. by 1882, No. 44, and
1922, No. 93); 1886, No. 89; 1908, No. 192; 1908, No. 221, 149.

RCC 1870, Art. 3157.
Same as above.

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ART. 3158. But this privilege shall take place against third persons only in case the pledge is proved by some written instrument, in which shall be stated the amount of the debt intended to be secured thereby, and the species and nature of the thing given in pledge; or the description of the thing pledged may be contained in a list or statement annexed to the instrument of pledge and giving its number, weight or descriptive marks.

When a debtor wishes to pledge promissory notes, bills of exchange, bills of lading, stocks, bonds, or written obligations of any kind, he shall deliver to the creditor the notes, bills of exchange, bills of lading, stocks, bonds, or other written obligations, so pledged, and such pledge so made shall without further formalities, be valid as well against third persons as against the pledgor thereof, if made in good faith, provided that where the pledge is of instruments not negotiable, the debtor must be notified thereof. All pledges may be made by private writing of any kind if only the intention to pledge be shown in writing, but all pledges must be accompanied by actual delivery; the delivery of property on deposit in a warehouse, cotton press, or on storage with a third person, or represented by a bill of lading, shall pass to the pledgee by the mere delivery of the warehouse receipt, cotton press receipt, bill of lading, or storage receipt, showing the number, quantity or weight of the things pledged; and such pledge so made, without further formalities, shall be valid as well against third persons as against the pledgor thereof, if made in good faith. Such receipts shall be valid and binding in the order of time in which they are issued for the number, quantity, or weight of the things pledged, if there should not be enough to meet all receipts so issued. (As amended by Acts 1900, No. 157, §1)
But this privilege shall take place against third persons, only in case the pawn is proved by an act made either in a public form or under private signature; provided such act has been recorded in the manner required by law; provided also that whatever may be in the form of the act, it mentions the amount of the debt, as well as the species and nature of the thing given in pledge, or as a statement annexed thereto of its number, weight and measure.

When a debtor wishes to pawn promissory notes, bills of exchange, stocks, obligations or claims upon other persons, he shall deliver to the creditors, the notes, bills of exchange, certificates of stock or other evidences of the claims or rights so pawned; and such pawn so made, without further formalities, shall be valid as well against third persons as against the pledgers thereof, if made in good faith.

All pledges of movable property may be made by private writing, accompanied by actual delivery; and the delivery of property on deposit in a warehouse, shall pass by the private assignment of the warehouse receipt, so as to authorize the owner to pledge such property; and such pledge so made, without further formalities, shall be valid as well against third persons as against the pledgers thereof, if made in good faith.

If a credit not negotiable be given in pledge, notice of the same must be given to the debtor.

Ce privilege n'aura lieu qu'autant que le nantissement sera prouvé, soit par un acte authentique, soit par un acte sous signature privée dûment enregistré en l'étude d'un notaire public à une époque non suspecte, et, dans quelque forme que soit cet acte, il devra contenir en outre la déclaration de la somme due, ainsi que de l'espèce et de la nature des choses remises en gage, ou un état annexé de leur quantité, poids et mesure.

Ce privilege n'aura lieu, qu'autant que le nantissement sera prouvé, soit par un acte authentique, soit par un acte sous signature privée, dûment enregistré en l'étude d'un notaire public à une époque non suspecte; et, dans quelle forme que soit cet acte, il devra contenir en outre la déclaration de la somme due, ainsi que de l'espèce et de la nature des choses remises en gage, ou un état annexé de leurs qualité, poids et mesure.

Art. 3159. Acts of pledge in favor of any banks in this State, whether State banks or National banks, shall be considered as form-
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ART. 3160

ing authentic proof, if they have been passed before the cashiers of those banks, and contain such description of the objects given in pledge, as is required by the preceding Article. (As amended by Acts 1900, No. 157, §2)


RCC 1870, Art. 3159.

Nevertheless, the acts of pledge in favor of the banks of this State shall be considered as forming authentic proof, if they have been passed by the cashiers of those banks or their branches, and contain a description of the objects given in pledge, in the manner directed by the preceding article.

CC 1825, Art. 3126. (Projet, p. 362. Addition adopted; no comment)

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3160. When the thing given in pledge consists of a credit or instrument not negotiable, the pledge shall be complete as to all the world, as soon as the debtor of such pledged credit or instrument shall have been notified in writing of the giving of such pledge. (As amended by Acts 1900, No. 157, §3)

RCC—1906, 2643, 3156, 3158, 3162. Acts 1938, No. 95.

RCC 1870, Art. 3160. (Same as Art. 3160 of Proposed Revision of 1869)

When the thing given in pledge consists of a credit not negotiable, to enable the creditors to enjoy the privilege above mentioned it is necessary, not only that the proof of the pledge be made by an authentic act or* by act under private signature, duly recorded, but that a copy of this act shall have been duly served on the debtor of the credit given in pledge.

CC 1825, Art. 3127. (Projet, p. 363. Amendment: amended in French text and adopted; comment by redactors)

When the thing given in pledge consists of a credit not negotiable, to enable the creditors to enjoy the privilege above mentioned, it is necessary, not only that the proof of the pledge be made by an authentic act, or* by act under private signature, duly recorded, as stated in the preceding article, but that a copy of this act shall have been duly served on the debtor of the credit given in pledge.

CC 1808, p. 446, Art. 7.

The privilege mentioned in the preceding article, is established with respect to incorporeal moveable things, as moveable credits, only by an authentic act or by an act under private signature recorded as aforesaid and notified to the debtor of the credits given in pledge.

RCC 1870, Art. 3161. (Same as Art. 3161 of Proposed Revision of 1869)
On the other hand, this notification of the act of pledge to the person owing the debt pledged, shall not be necessary, if the debt is evidenced by a note or other instrument, payable to the bearer or to order; because in that case it will suffice that the note or instrument shall have been indorsed by the person pledging it, to invest the creditor with the privilege above mentioned.

CC 1825, Art. 3128. (Projet, p. 363. Addition adopted; comment by redactors)
On the other hand, this notification of the act of pledge to the person owing the debt pledged, shall not be necessary, if the debt is evidenced by a note or other obligation payable to the bearer or to order, because in that case it will suffice that the note or obligation shall have been endorsed by the person pledging it, to invest the creditor with the privilege above mentioned.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 3163. When several things have been pawned, the owner can not retake one of these without satisfying the whole debt, though he offers to pay a certain amount of it in proportion to the thing which he wishes to get.

RCC—2153, 3164, 3171, 3173, 3178.

RCC 1870, Art. 3163.
Same as above.

CC 1825, Art. 3130. (No reference in Projet)
Same as above.

CC 1808, p. 448, Art. 10.
Same as above; but comma (,) after "these."

CN 1804. No corresponding article.

ART. 3164. The creditor who is in possession of the pledge, can only be compelled to return it, but* when he has received the whole payment of the principal as well as the interest and costs.

RCC—2153, 2599, 2956, 3162, 3163, 3171, 3173, 3178.

RCC 1870, Art. 3164. (Same as Art. 3164 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3131. (No reference in Projet)
The creditor, who is in possession of the pledge, cannot be compelled to return it, but when he has received the whole payment of the principal as well as the interest and costs.

CC 1808, p. 448, Art. 11.
Same as above; but no punctuation after "creditor."

CN 1804, Art. 2082, par. 1.
Unless the custodian of the pawn abuses it, the debtor can claim its restitution only after having paid in full, principal as well as interest and costs, the debt for which the pawn was given.

*The word "but" was retained here erroneously when "cannot" was changed to "can only" in RCC 1870.
Art. 3165. The creditor cannot, in case of failure of payment, dispose of the pledge; but when there have been pledges of stock, bonds or other property, for the payment of any debt or obligation, it shall be necessary before such stocks, bonds or other property so pledged shall be sold for the payment of the debt, for which such pledge was made, that the holder of such pledge be compelled to obtain a judgment in the ordinary course of law, and the same formalities in all respects shall be observed in the sale of property so pledged as in ordinary cases; but in all pledges of movable property, or rights, or credits, stocks, bonds or other movable property, it shall be lawful for the pledgee to authorize the sale or other disposition of the property pledged, in such manner as may be agreed upon by the parties without the intervention of courts of justice; provided, that all existing pledges shall remain in force and be subject to the provisions of this act. (As amended by Acts 1872, No. 9)

RCC—12, 1968, 2031, 3166, 3168, 3170, 3172, 3178, 3179, 3220, 3236, Acts 1852, No. 25, §4; 1886, No. 138, §4; 1894, No. 85 (as am. by 1898, No. 167); 1908, No. 221; 1910, No. 180. RS—2907.

RCC 1870, Art. 3165. (Same as Art. 3165 of Proposed Revision of 1869; in conformity with Acts 1861-1862, No. 96)

The creditor cannot, in case of failure of payment, dispose of the pledge, but where there have been pledges of stock, bonds or other property, for the payment of any debt or obligation, it shall be necessary before such stocks, bonds, or other property so pledged shall be sold for the payment of the debt for which such pledge was made, that the holder of such pledge be compelled to obtain a judgment in the ordinary course of law, and the same formalities in all respects shall be observed in the sale of property so pledged as in ordinary cases.

Any clause which should authorize the creditor to appropriate the pledge to himself, or dispose thereof without the aforesaid formalities, shall be null.

CC 1825, Art. 3132. (Projet, p. 363. Amendment adopted; no comment)

The creditor cannot, in case of failure of payment, dispose of the pledge, but may apply to the judge to order that the thing shall remain to him in payment for as much as it shall be estimated by two* appraisers, or shall be sold at public auction, at the choice of the debtor.

Par. 2 same as par. 2, above.

CC 1808, p. 448, Art. 12.

The creditor cannot, in case of failure of payment, dispose of the pledge, saving to him the right of applying to the judge to order that the thing shall remain to him in payment for as much as it shall be estimated by two* appraisers or shall be sold at public auction.

Par. 2 same as par. 2, above; but no punctuation after "himself", or after "formalities."

CN 1804, Art. 2078.

The creditor cannot, in case of failure of payment, dispose of the pledge; saving to him the right of applying to

Le créancier ne peut, à défaut de paiement, disposer du gage; sauf à lui à faire ordonner en justice que le gage lui demeure en payement jusqu'à due concurrence, d'après une estimation faite par* experts, ou qu'il sera vendu à l'encherex, au choix du débiteur.

Toute clause qui autoriserait le créancier à s'approprier le gage; ou à en disposer sans les formalités ci-dessus, est nulle.

-p. 449, Art. 12.

Le créancier ne peut, à défaut de payement, disposer du gage; sauf à lui à faire ordonner en justice, que le gage lui demeurera en payement, jusqu'à due concurrence, d'après une estimation faite par* experts, ou qu'il sera vendu à l'enchère.

Par. 2 same as par. 2, above; but comma (,) after "clause."
the judge to order that the thing shall remain to him in payment and for as much as it shall be estimated by appraisers, or shall be sold at public auction.

Par. 2 same as par. 2, above.

**"Two" has no counterpart in French text.**

**ART. 3166.** Until the debtor be divested from his property (if it is the case), he remains the proprietor of the pledge, which is in the hands of the creditor only as a deposit to secure his privilege on it.

RCC—2995, 2911, 2926, 3157, 3165, 3168, 3175, 3179, 3220, 3222, 3279, 3280, 3284, 3426, 3438, 3441, 3458, 3485, 3510.

**RCC 1870, Art. 3166.**

Same as above.

**CC 1825, Art. 3133.** (No reference in Projet)

Same as above; but comma (,) after "property", and after "case."

**CC 1808, p. 448, Art. 13.**

Until the debtor be divested from its property, if it is the case, he remains the proprietor of the pledge which is in the hands of the creditor only as a deposit to secure his privilege on it.

**CN 1804, Art. 2079.**

Same as above.

**ART. 3167.** The creditor is answerable agreeably to the rules which have been established under the title: Of Conventional Obligations, for the loss or decay of the pledge which may happen through his fault.

On his part, the debtor is bound to pay to the creditor all the useful and necessary expenses which the latter has made for the preservation of the pledge.

RCC—567, 568, 571, 1761, 1878, 1879, 1908, 2096, 2298, 2299, 2314, 2316, 2578, 2597, 2598, 2710, 2714, 2717, 2721, 2729, 2908, 2937, 2945, 2960, 3177, 3217, 3556(13).

**RCC 1870, Art. 3167.** (Same as Art. 3167 of Proposed Revision of 1869)

Same as above.

**CC 1825, Art. 3134.** (No reference in Projet)

The creditor is answerable agreeably to the rules which have been established under the title of conventional obligations, of* the loss or decay of the pledge which may happen through his fault.

Le créancier répond, suivant les règles établies au titre des obligations conventionnelles, de* la perte ou détérioration du gage, qui serait survenue par sa faute.
Art. 3168

Par. 2 same as par. 2, above.

The creditor is answerable agreeably to the rules which have been established under the title of the contracts and conventional obligations in general, of the loss or decay of the pledge which may happen through his negligence.

Par. 2 same as par. 2, above.

CN 1804, Art. 2080.
The creditor is answerable agreeably to the rules which have been established under the title Of Contracts or Conventional Obligations in General, for the loss or decay of the pledge which may happen through his negligence.

Par. 2 same as par. 2, above.

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

ART. 3168. The fruits of the pledge are deemed to make a part of it, and therefore they remain, like the pledge, in the hands of the creditor; but he can not appropriate them to his own use; he is bound, on the contrary, to give an account of them to the debtor, or to deduct them from what may be due to him.

RCC—498, 499 et seq., 544 et seq., 2210, 2489, 2578, 2948, 3165, 3166, 3169, 3176, 3180.

RCC 1870, Art. 3165. (Same as Art. 3168 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3135. (No reference in Projet)
The fruits of the pledge are deemed to make a part of it, and therefore they remain, like the pledge, in the hands of the creditor; but he cannot appropriate them to his own use; and he is bound, on the contrary, to give an account of them to the debtor, or to deduct them from what may be due to him.

CC 1808, p. 448, Art. 15.

Same as above; but no punctuation after "it", after "remain", after "like the pledge", after "use", after "bound", after "contrary", or after "debtor"; comma (,) after "creditor."

CN 1804. No corresponding article.

ART. 3169. If it is a credit which has been given in pledge, and if this credit brings interest, the creditor shall deduct this interest from those which may be due to him; but if the debt, for the security of which the claim has been given, brings no interest itself, the deduction shall be made on the principal of the debt.

RCC—1935 et seq., 2164, 2210, 2923, 2948, 3155, 3168, 3176, 3180.

1736
ART. 3170. If the credit which has been given in pledge becomes due before it is redeemed by the person pawning it, the creditor, by virtue of the transfer which has been made to him, shall be justified in receiving the amount, and in taking measures to recover it. When received, he must apply it to the payment of the debt due to himself, and restore the surplus, should there be any, to the person from whom he held it in pledge.

RCC—2140, 2145, 3165, 3165, 3172.

RCC 1870, Art. 3170. (Same as Art. 3170 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3137. (Projet, p. 364. Addition adopted; no comment)

Si la créance, qui a été donnée en gage, vient à échoir avant qu'elle ait été retirée par celui qui l'a engagée, le créancier, en vertu du transport qui lui en aura été fait, sera bien fondé à en toucher le montant et à en poursuivre le recouvrement, et alors il devra appliquer le montant de cette créance à l'acquit de ce qui lui est dû, et s'il y a un surplus, le remettre au débiteur de qui il la tenait en gage.
ART. 3171

The pawn can not be divided, notwithstanding the divisibility of the debt between the heirs of the debtor and those of the creditor.

The debtor's heir, who has paid his share of the debt, can not demand the restitution of his share in the pledge, so long as the debt is not fully satisfied.

And respectively the heir of the creditor, who has received his share of the debt, can not return the pledge to the prejudice of those of his coheirs who are not satisfied.

RCC—1425, 2008, 2108, 2109, 2111, 2112, 2115, 2116, 2153, 3163, 3164, 3178, 3282.

RCC 1870, Art. 3171.
Same as above.

CC 1825, Art. 3138.
Same as above.

CC 1808, p. 448, Art. 17.
Same as above; but comma (,) after "divisibility of the debt"; no punctuation after "divided", after "debtor's heir", after "in the pledge", or after "heir of the creditor."

CN 1804, Art. 2083.
The pawn cannot be divided notwithstanding the divisibility of the debt between the heirs of the debtor or those of the creditor.

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

ART. 3172.
If the proceeds of the sale exceed the debt, the surplus shall be restored to the owner; if, on the contrary, they are not sufficient to satisfy it, the creditor is entitled to claim the balance out of the debtor's other property.

RCC—3165, 3170, 3182.

RCC 1870, Art. 3172.
(Same as Art. 3172 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3139.
If the proceeds of the sale exceed the debt, the surplus shall be restored to the proprietor; if, on the contrary, they are not sufficient to satisfy it, the creditor is entitled to claim the balance out of the debtor's other property.

Si le prix du gage vendu excède la dette, le surplus doit être rendu au propriétaire; si au contraire il ne suffit pas pour acquitter toute la dette, le créancier a la faculté de demander le surplus sur les autres biens du débiteur.
ART. 3173. The debtor who takes away the pledge without the creditor’s consent, commits a sort of theft.

RCC—1797 et seq., 1901, 2315, 3163, 3164, 3506.

ART. 3174. When the creditor has been deceived on the substance or quality of the thing given in pledge, he may claim another thing in its stead, or demand immediately his payment, though the debtor be solvable.

RCC—1824, 1825, 1842 et seq., 1847, 1893, 1985, 2054, 2520 et seq., 3079, 3556(11, 26).

ART. 3175. The creditor can not acquire the pledge by prescription, whatever may be the time of his possession.

RCC—1846(3), 3166, 3426, 3438, 3441, 3458, 3485, 3506, 3509, 3510, 3526.
Chapter 3—Of Antichresis

ART. 3176. The antichresis shall be reduced to writing.

The creditor acquires by this contract the right of reaping the fruits or other revenues* of the immovables to him given in pledge, on condition of deducting annually their proceeds from the interest, if any be due him, and afterwards from the principal of his debt.

RCC—533, 1797, 2018, 2164, 2275, 2845, 2948, 3100, 3135, 3168, 3169, 3177, 3179, 3180, 3281.

RCC 1870, Art. 3176. (Same as Art. 3176 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3143. (No reference in Projet)

Par. 1 same as par. 1, above.

The creditor acquires by this contract the right of reaping the fruits or other revenues* of the immovable or slaves to him given in pledge, on condition of deducting annually their proceeds from the interest, if any are due to him, and afterwards from the principal of his debt.

CC 1808, p. 448, Art. 22.

The antichresis shall be reduced into writing.

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

CN 1804, Art. 2085.

The antichresis is established only by a written document.

The creditor acquires by this contract the right of gathering the fruits of the immovable, on condition of deducting annually their proceeds from the interest, if any are due him, and afterwards from the principal of his debt.

- p. 449, Art. 22.

Same as above; but “n’acquiert” misspelled “n’acquit”; comma (,) after “n’acquit”, and after “contract.”

L’antichrèse doit être rédigée par écrit.

Le créancier n’acquit par ce contrat que la faculté de recevoir les fruits* de l’immoble ou des esclaves à lui donnés en nantissement, à la charge de les imputer annuellement sur les intérêts, s’il lui en est dû, et ensuite sur le capital de sa créance.

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

ART. 3177. The creditor is bound, unless the contrary be agreed on, to pay the taxes, as well as the annual charges of the property which have been given to him in pledge.

He is likewise bound, under penalty of damages, to provide for the keeping and useful and necessary repairs of the pledged estate, saving himself the right of levying on their fruits and revenues* all the expenses respecting such charges.


RCC 1870, Art. 3177. (Same as Art. 3177 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3144. (No reference in Projet)

Par. 1, 2 same as above.

Le créancier est tenu, s’il n’en est autrement convenu, de payer les con-
He ought also to provide for the expenses respecting the maintenance of the slaves who have been given to him in pledge.

CC 1808, p. 450, Art. 23.
Par. 1 same as par. 1, above; but no punctuation after "taxes."
He is likewise bound, under penalty of damages, to provide for the keeping and useful and necessary repairs of the pledged estate, saving himself the right of levying on their fruits and revenues* all the expenses respecting said charges.
Par. 3 same as par. 3, above.

CN 1804, Art. 2086.
The creditor is bound, unless the contrary be agreed on, to pay the taxes and the annual charges of the immovable which he holds in antichreisem.
He is likewise bound, under penalty of damages, to provide for the keeping and useful and necessary repairs of the pledged estate, saving himself the right of levying on its fruits all the expenses respecting such various charges.

*"And revenues" has no counterpart in French text.

ART. 3178. The debtor can not, before the full payment of the debt, claim the enjoyment of the immovables which he has given in pledge.

But the creditor who wishes to free himself from the obligations mentioned in the preceding articles,* may always, unless he has renounced this right, compel the debtor to retake the enjoyment of his immovable.


RCC 1870, Art. 3178. (Same as Art. 3178 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3145. (No reference in Projet)
The debtor cannot, before the full payment of the debt, claim the enjoyment of the immovable or slaves which he has given in pledge.
But the creditor who wishes to free himself from the obligations mentioned in the preceding articles,* may always, unless he has renounced this right, compel the debtor to retake the enjoyment of his immovable or slaves.

Le créancier est tenu, s'il n'en est autrement convenu, de payer les contributions et les charges annuelles de l'immeuble qu'il tient en antichrèse.
Il doit également, sous peine de dommages et intérêts, pourvoir à l'entretien et aux réparations utiles et nécessaires de l'immeuble, sauf à prélever sur leurs fruits toutes les dépenses relatives à ces divers objets.

*"And revenues" has no counterpart in French text.

ART. 3178. The debtor can not, before the full payment of the debt, claim the enjoyment of the immovables which he has given in pledge.

But the creditor who wishes to free himself from the obligations mentioned in the preceding articles,* may always, unless he has renounced this right, compel the debtor to retake the enjoyment of his immovable.


RCC 1870, Art. 3178. (Same as Art. 3178 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3145. (No reference in Projet)
The debtor cannot, before the full payment of the debt, claim the enjoyment of the immovable or slaves which he has given in pledge.
But the creditor who wishes to free himself from the obligations mentioned in the preceding articles,* may always, unless he has renounced this right, compel the debtor to retake the enjoyment of his immovable or slaves.

Le débiteur ne peut, avant l'entier acquittement de la dette, réclamer la jouissance de l'immeuble ou des esclaves qu'il a remis en nantissement.
Mais le créancier, qui veut se décharger des obligations exprimées en l'article précédent, peut toujours, à moins qu'il n'ait renoncé à ce droit, contraindre le débiteur à reprendre la jouissance de son immeuble ou de ses esclaves.
ART. 3179. The creditor does not become owner of the pledged immovable by failure of payment at the stated time; any clause to the contrary is null, and in this case it is only lawful for him to sue his debtor before the court in order to obtain a sentence against him, and to cause the objects which have been put in his hands in pledge to be seized and sold.

RCC—12, 2570, 3167, 3165, 3166, 3176. CP—617, 641 et seq.

RCC 1870, Art. 3179. (Same as Art. 3179 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3146. (No reference in Projet)

The creditor does not become proprietor of the pledged immovable or slaves, by failure of payment at the stated time: any clause to the contrary is null, and in this case, he can proceed by legal means for the compulsory sale of his debtor's property.

CC 1808, p. 450, Art. 25.

The creditor does not become proprietor of the pledged immovable or slaves by failure of payment at the stated time; any clause on the contrary is null and in this case it is only lawful for him to sue his debtor before the court in order to obtain a sentence against him and to cause the objects which have been put in his hands in pledge, to be seized and sold.

CN 1804, Art. 2088.

The creditor does not become owner of the immovable by failure of payment at the stated time; any clause to the contrary is null; in this case, he can proceed by legal means for the compulsory sale of his debtor's property.

ART. 3180. When the parties have agreed that the fruits or revenues* shall be compensated with the interest, either in whole or
only to a certain amount, this covenant is performed as every other which is not prohibited by law.

RCC—11, 1764, 1936, 2207, 3168, 3169, 3176.

RCC 1870, Art. 3180.
Same as above.

CC 1825, Art. 3147.
(No reference in Projet)
Same as above.

Lorsque les parties ont stipulé que les fruits* se compenseront avec les intérêts, ou totalement, ou jusques à une certaine concurrence, cette convention s'exécute comme toute autre qui n'est point prohibée par les lois.

Same as above; but no punctuation after “interest”, or after “amount.”

Samme as above; but comma (,) after “stipulé”, after “s'exécute”, and after “autre.”

CN 1804, Art. 2089.
Same as above.

Same as above; but no punctuation after “stipulé”, after “s'exécute”, or after “autre.”

*“Or revenues” has no counterpart in French text.

Art. 3181. Every provision, which is contained in the present title with respect to the antichresis, cannot prejudice the rights which third persons may have on the immovable, given in pledge by way of antichresis, such as a privilege or mortgage.

The creditor, who is in possession by way of antichresis cannot have any right of preference on the other creditors; but if he has by any other title, some privilege or mortgage lawfully established or preserved thereon, he will come in his rank as any other creditor.

RCC—3157, 3183, 3184, 3281, 3282, 3399, 3556 (32).

RCC 1870, Art. 3181. (Same as Art. 3181 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3148.
(No reference in Projet)
Every provision, which is contained in the present title with respect to the antichresis, cannot prejudice the rights which third persons may have on the immovable, or on the slaves, given in pledge by way of antichresis, such as a privilege or mortgage.

The creditor, who is in possession by way of antichresis, cannot have any right of preference on the other creditors at the difference of the* pawn; but if he has, at any other title, some privilege or mortgage lawfully established or preserved thereon, he will come in his rank as every other creditor.

CC 1808, p. 450, Art. 27.
Same as above; but no punctuation after “provision”, after “immovable”, after “slaves”, after “creditor”, or after “title”; comma (,) after “pawn.”

Tout ce qui est porté au présent titre, relativement à l’antichrèse, ne peut nuire aux droits que des tiers pourraient avoir sur le fonds de l’immeuble, ou sur les esclaves remis en nantissement à titre d’antichrèse, tels que seraient des privilégiés ou des hypothécaires.

Le créancier, qui est muni à ce titre, n’a aucun droit de préférence sur les autres créanciers, à la différence du* gage; mais s’il a d’ailleurs sur le fonds ou sur les esclaves en ses mains, des priviléges ou hypothèques légalement établis ou conservés, il le exercera à son ordre comme tout autre.

-p. 451, Art. 27.
Same as above; but no punctuation after “créancier”; comma (,) after “mais”, and after “d’ailleurs”; “hypothécaires” spelled “hypothécaires.”
Art. 3182

Every provision which is enacted in the present chapter, cannot prejudice the rights which third persons may have on the immovable given by way of antichresis.

If the creditor, in possession by way of antichresis, has by any other title some privilege or mortgage, lawfully established and preserved thereon, he will come in his rank as every other creditor.

*Note error in English translation of French text; “at the difference of the” should be “in contrast to.”

TITLE XXI—OF PRIVILEGES*

*See general comment by redactors, Projet, p. 364.

Chapter 1—GENERAL PROVISIONS

ART. 3182. Whoever has bound himself personally, is obliged to fulfill his engagements out of all his property, movable and immovable, present and future.


RCC 1870, Art. 3182.

Same as above.

CC 1825, Art. 3149. (Projet, p. 364. Addition adopted; no comment) Quiconque s'est obligé personnellement, est tenu de remplir son engagement sur tous ses biens mobiliers et immobiliers, présens et à venir.

CC 1808. No corresponding article.

CN 1804, Art. 2092.

Same as CC 1825, Art. 3149, above. Same as CC 1825, Art. 3149, above.

ART. 3183. The property of the debtor is the common pledge of his creditors, and the proceeds of its sale must be distributed among them ratably, unless there exist among the creditors some lawful causes of preference.


RCC 1870, Art. 3183.

Same as above.

CC 1825, Art. 3150. (Projet, p. 364. Amendment adopted; no comment) Les biens du débiteur sont le gage commun de ses créanciers, et le prix s'en distribue entre'eux par contribution, à moins qu'il n'y ait entre les créanciers des causes légitimes de préférence.