Title XXII. Of Mortgages (Art. 3278 - 3411)

Louisiana
3. By the extinction of the debt which gave birth to it; 
Subd. 4 same as subd. 4, above.

CC 1808, p. 472, Art. 81.
Privileges and mortgages are extinguished:
1st, By the extinction of the principal obligation
2d, By the creditor’s renunciation of the mortgage;
3d, By prescription.
Prescription is acquired to the debtor as to the property which is in his pos-
session, through the lapse of the time fixed for the prescriptions (prescription) of the action which gives the mortgage or the privilege.
And as to the property which is held by a third possessor, prescription is ac-
tained to him through the lapse of the time fixed for the prescription of the ownership in his favor.

CN 1804, Art. 2180, par. 1, subs. 1, 2, 4; pars. 2, 3.
Par. 1 and subs. 1, 2, 4 same as par. 1 and subs. 1-3, above.
Par. 2 same as par. 2, above.
As to the property which is held by a third possessor, prescription is acquired to him through the lapse of the time fixed for the prescription of the ownership in his favor; in the cases where prescription implies a title, it begins to run only from the day when the title is inscribed on the books of the recorder.

2. Par l’acquisition que le créancier fait de la chose affectée au privilège;
3. Par l’extinction de la dette qui a donné naissance au privilège;
4. Par la prescription de ce droit.

p. 473, Art. 81.
Les privilèges et hypothèques s’éteignent:
1. Par l’extinction de l’obligation principale;
2. Par la renonciation du créancier à l’hypothèque;
3. Par la prescription;
La prescription est acquise au débiteur, quant aux biens qui sont dans ses mains, par le temps fixé pour la prescription des actions qui donnent l’hypothèque ou le privilège.
Quant aux biens qui sont dans les mains d’un tiers détenteur, elle lui est acquise par le temps réglé pour la prescription de la propriété à son profit.

477

TITLE XXII—OF MORTGAGES*

*In connection with this title see Acts 1908, No. 76; 1908, No. 254; 1910, No. 215; 1910, No. 232; 1914, No. 169; 1916, No. 133; 1918, No. 198 (as am. by 1922, No. 81; 1924, No. 232; 1932, No. 189; and 1936, No. 178); 1924, No. 119; 1928, No. 157; 1932, No. 166; 1934, No. 67; 1934, No. 199; 1938, No. 96. See also general comment by redactors, Projet, p. 381.

Chapter 1—General Provisions

ART. 3278. Mortgage is a right granted to the creditor over the property of the debtor for the security of his debt, and gives him the power of having the property seized and sold in default of payment.

**Art. 3279**

**Mortgage** is a species of pledge, the thing mortgaged being bound for the payment of the debt or fulfillment of the obligation.


**Art. 3280.** It resembles the pledge:
1. In that both are granted to the creditor for the security of his debt.
2. In that both bind the thing subjected to them, and that the same thing can not be engaged to a second creditor to the prejudice of the first.

RCC—3133, 3157, 3166, 3181, 3279, 3281, 3290, 3329 et seq., 3342 et seq. Acts 1874, No. 66 (as am. by 1882, No. 44, and 1922, No. 93); 1928, No. 249.
ART. 3282. The mortgage is a real right on the property bound for discharge of the obligation.
It is in its nature indivisible and prevails over all the immovables subjected to it, and over each and every portion.*

It follows them into whatever hands they pass.

RCC—1642, 1996, 1997, 2011 et seq., 2108, 2109, 2112, 3163, 3164, 3171, 3278, 3279, 3342 et seq., 3376 et seq., 3397, 3399 et seq. CP—4, 12, 41 et seq., 61 et seq., 163, 275, 648. Acts 1877, No. 38, §5 (as am. by 1916, No. 111, §5); 1900, No. 111, §5; 1902, No. 25; 1914, No. 72 (as am. by 1940, No. 291); 1914, No. 176, §§4, 14; 1918, No. 198, §4 (as am. by 1936, No. 178); 1928, No. 249, §10; 1932, No. 140, §43; 1932, No. 166; 1934, No. 41; 1934, No. 169. RS—1491. Const. 1921, XIX, 19 (as am. by Acts 1938, No. 35).

RCC 1870, Art. 3282. (Same as Art. 3282 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3249. (Projet, p. 382. Amendment adopted; comment by redactors)

The mortgage is a real** right on the property bound for the discharge of the obligation.

Pars. 2, 3 same as paras. 2, 3, above; but comma (,) after “indivisible.”

CC 1808, p. 452, Art. 3.

The mortgage is a real right on the immovable affected by it.

It is in its nature indivisible. It subsists for the whole in all and each of the things affected by it and on every part of them; and it follows the mortgaged property into whatever hands it may pass.

CN 1804, Art. 2114.

The mortgage is a real right on the immovables bound for the discharge of the obligation.

It is, in its nature, indivisible, and prevails over all the immovables subjected to it, and over each and over every portion of these immovables.

Par. 3 same as CC 1825, Art. 3249, par. 3, above.

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

**Note error in English translation of French text; “legal” should be “real.”

ART. 3283. The mortgage only takes place in such instances* as are authorized by law.


RCC 1870, Art. 3283.

Same as above.

CC 1825, Art. 3250. (Projet, p. 382. Amendment adopted; no comment)

L’hypothèque n’a lieu que dans les cas et suivant les formes* autorisés par la loi.

CC 1808. No corresponding article.

1800
ART. 3284. The mortgage is accessory to a principal obligation which it is designed to strengthen, and of which it is to secure the execution.

RCC—1771, 2645, 3035, 3133, 3136, 3290 et seq., 3294, 3299, 3309.

RCC 1870, Art. 3284.

Same as above.

ART. 3285. Consequently, it is essentially necessary to the existence of a mortgage, that there shall be a principal debt to serve as a foundation for it.

Hence it happens, that in all cases where the principal debt is extinguished, the mortgage disappears with it.

Hence also it happens that, when the principal obligation is void, the mortgage is likewise so; this, however, is to be understood with certain restrictions which are established hereafter.

RCC—1771, 1779, 2130, 2217, 3036, 3138, 3139, 3299, 3411.

RCC 1870, Art. 3285.

Same as above.

ART. 3286. Mortgage is conventional, legal or judicial.

RCC—3278, 3287, 3288, 3290 et seq., 3311 et seq., 3321 et seq., 3329, 3342, 3345.

RCC 1870, Art. 3286.

Same as above.
CC 1808, p. 452, Art. 4.

There are three sorts of mortgages, we call conventional mortgages (mortgage) that which results from the agreement of the parties.

Judicial mortgage is that which the law attributes to judgments.

And legal or tacit mortgage that which exists by virtue of law alone.

CC 1804, Art. 2116.

It is legal, judicial or conventional.

ART. 3287. Conventional mortgage is that which depends on covenants.

Legal mortgage is that which is created by operation of law.

Judicial mortgage is that which results from judgments.

RCC—2012, 3286, 3290 et seq., 3311 et seq., 3321 et seq., 3329, 3342. RS—3287.

RCC 1870, Art. 3287.

Same as above.

CC 1825, Art. 3254. (Projet, p. 382. Amendment adopted; comment by redactors)

Same as above.

L'hypothèque conventionnelle est celle qui dépend des conventions.

L'hypothèque légale est celle qui résulte de la loi.

L'hypothèque judiciaire est celle qui résulte des jugemens.

CC 1808, pp. 452, 453, Art. 4.

Quoted under RCC 1870, Art. 3286, above.

CN 1804, Art. 2117.

Legal mortgage is that which is created by operation of law.

Judicial mortgage is that which results from judgments or judicial acts.

Conventional mortgage is that which depends on covenants, and on the outward form of acts and contracts.

ART. 3288. Mortgage, with respect to the manner in which it binds property, is divided into general mortgage and special mortgage.

General mortgage is that which binds all the property, present and future, of the debtor.

Special mortgage is that which binds only certain specified property.

RCC—3286, 3290, 3307, 3308, 3310, 3320, 3328, 3333, 3338, 3348, 3404.

RCC 1870, Art. 3288.

Same as above.
ART. 3289.* The following objects alone are susceptible of mortgage:

1. Immovables subject to alienation, and their accessories considered likewise as immovables.

2. The usufruct of the same description property with its accessories, during the time of its duration.

3. Ships and other vessels.

RCC—462 et seq., 468, 471, 533 et seq., 544, 555, 2792, 3283, 3290, 3305, 3310, 3320, 3328. Acts 1874, No. 66 (as am. by 1922, No. 93); 1898, No. 23; 1904, No. 30 (as am. by 1904, No. 187); 1910, No. 232; 1914, No. 236; 1921, E.S., No. 80, §5 (as am. by 1935, E.S., No. 12, §2); 1926, No. 186; 1928, No. 249, §10; 1932, No. 67, §7; 1934, No. 199; 1938, No. 96; 1938, No. 205; 1938, No. 376. RS—2427, 3670.

CC 1825, Art. 3255. (Projet, p. 382. Amendment adopted; comment by redactors)

Same as above.

L’hypothèque, relativement à la manière dont elle affecte les biens, se divise en hypothèque générale et en hypothèque spéciale.

L’hypothèque générale est celle qui affecte tous les biens présents et à venir du débiteur.

L’hypothèque spéciale est celle qui n’affecte que de certains biens nommément.

CC 1808, p. 456, Art. 30.

Mortgage is further divided into general and special mortgage.

The general mortgage is that which includes all the property present and to come of the debtor.

And the special mortage on the contrary, is limited (limited) to certain property as to the property present or restricted nominally to a certain specified property.

CN 1804. No corresponding article.

ART. 3289.* The following objects alone are susceptible of mortgage:

1. Immovables subject to alienation, and their accessories considered likewise as immovables.

2. The usufruct of the same description property with its accessories, during the time of its duration.

3. Ships and other vessels.

RCC—462 et seq., 468, 471, 533 et seq., 544, 555, 2792, 3283, 3290, 3305, 3310, 3320, 3328. Acts 1874, No. 66 (as am. by 1922, No. 93); 1898, No. 23; 1904, No. 30 (as am. by 1904, No. 187); 1910, No. 232; 1914, No. 236; 1921, E.S., No. 80, §5 (as am. by 1935, E.S., No. 12, §2); 1926, No. 186; 1928, No. 249, §10; 1932, No. 67, §7; 1934, No. 199; 1938, No. 96; 1938, No. 205; 1938, No. 376. RS—2427, 3670.

CC 1825, Art. 3255. (Projet, p. 382. Amendment adopted; comment by redactors)

Par. 1 and subds. 1, 2 same as par. 1 and subds. 1, 2, above; but semicolon (;) after “duration.”

3. Slaves;
Subd. 4 same as subd. 3, above.

CC 1808, p. 456, Art. 36.

The only property capable of being mortgaged are [is]:

1st. The immovable which are in commerce and their accessories which are deemed immovable;

3. Slaves;
Subd. 4 same as subd. 3, above.

CC 1808, p. 458, Art. 36.

The only property capable of being mortgaged are [is]:

1st. The immoveables which are in commerce and their accessories which are deemed immoveable;

3. Slaves;
Subd. 4 same as subd. 3, above.
Art. 3290  COMPILED EDITION

2d. Slaves in general;
3d. The usufruct of the said property and its accessories for the time it lasts.

-p. 458, Art. 38.

The present disposition no way alters or affects the dispositions of the maritime or trade laws, respecting ships and sea vessels.

CN 1804, Art. 2118.
The following objects alone are susceptible of mortgage,
1. Immovable property in commerce and its accessories considered likewise as immovables;
   Subd. 2 same as CC 1808, p. 458, Art. 36, subd. 3, above.

-Art. 2120.
The present Code in no way alters or affects the dispositions of the maritime laws respecting ships and sea vessels.

*In connection with this article see Acts 1908, No. 254; 1910, No. 232; 1918, No. 198 (as am. by 1922, No. 81; 1924, No. 232; 1932, No. 189; and 1936, No. 178); 1934, No. 67; 1938, No. 96.
***Description of** has no counterpart in French text.

Section 1—OF CONVENTIONAL MORTGAGES

ART. 3290. The conventional mortgage is a contract, by which a person binds the whole of his property, or a portion of it only, in favor of another, to secure the execution of some engagement, but without divesting himself of the possession.

RCC—1761 et seq., 3041, 3280 et seq., 3286 et seq., 3291 et seq., 3306, 3342, 3345. Acts 1914, No. 72; 1914, No. 169; 1918, No. 198 (as am. by 1922, No. 81; 1924, No. 232; 1932, No. 189; and 1936, No. 178).

RCC 1870, Art. 3290.
Same as above.

CC 1825, Art. 3257.
Same as above.

(CC 1808, p. 452, Art. 1.)
The mortgage is a contract by which a person affects the whole of his property or only some part of it, in favor of another, for security of an engagement, but without divesting himself of the possession thereof.

CN 1804. No corresponding article.
ART. 3291. A mortgage may be stipulated for the fulfillment of any obligation whatever, even for the performance of an act.

RCC—1764, 1885 et seq., 1893 et seq., 3140, 3279, 3290, 3292 et seq., 3309.

RCC 1870, Art. 3291. (Same as Art. 3291 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3258. (Projet, p. 383. Addition adopted; no comment)
A mortgage may be stipulated for the fulfillment of any obligation whatever, even for the completion of a deed.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3292. A mortgage may be given for an obligation which has not yet risen into existence; as when a man grants a mortgage by way of security for indorsements, which another promises to make for him.


RCC 1870, Art. 3292.
Same as above.

CC 1825, Art. 3259. (Projet, p. 383. Addition adopted; no comment)
A mortgage may be given for an obligation which has not yet risen into existence, as when a man grants a mortgage by way of security for indorsements, which another promises to make for him.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3293. But the right of mortgage, in this case, shall only be realized in so far as the promise shall be carried into effect by the person making it. The fulfillment of the promise, however, shall impart to the mortgage a retrospective effect to the time of the contract.

RCC—2013, 2021 et seq., 2043, 3292.

RCC 1870, Art. 3293.
Same as above.

CC 1825, Art. 3260. (Projet, p. 383. Addition adopted; no comment)
But the right of mortgage, in this case, shall only be realized in so far as the promise shall be carried into effect by the person making it. The fulfillment of the promise, however, shall impart to the mortgage a retrospective effect to the time of the contract.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3294. A mortgage may be given for a part only of the principal obligation.

RCC—2108 et seq., 3037, 3284, 3290, 3307, 3309.
ART. 3295. It is not necessary that the mortgage should be given by the person contracting the principal obligation; it may be given for the contract of a third person.

RCC—1890, 1902, 3035, 3041, 3141, 3296 et seq.

ART. 3296. When a person has given a mortgage on his property* for the obligation of a third party, it is necessary to inquire whether he only gave the mortgage, or whether he bound himself personally for the fulfillment of the obligation.

RCC—1890, 1902, 1945 et seq., 2012, 2019, 2278, 3141, 3282, 3295, 3297, 3298, 3397, 3398, 3399 et seq.

ART. 3297. In the former case, that is, if he has only mortgaged his property, to secure the fulfillment of an obligation by a third person, no right of action exists against him personally, but merely an action of mortgage against the thing, to have it seized and sold, so that if it perishes, he who mortgaged it shall be released from every species of obligation.

ART. 3299. Although the nullity of the principal obligation includes that of the mortgage, this is to be understood, with respect to a person giving a mortgage for another, only in so far as the principal obligation is rescinded by an absolute nullity; for if the principal debtor has only obtained a rescission by a plea merely personal, such as minority or coverture, the mortgage given for him by a third person is not less valid* and shall have its full and entire effect.

RCC—1771, 2221 et seq., 3036, 3060, 3138, 3284, 3285, 3295.

RCC 1870, Art. 3299.
Same as above.

CC 1825, Art. 3266.  
(Projet, p. 383. Addition adopted; comment by redactors)
Same as above; but comma (,) after "valid."
ART. 3300. Conventional mortgages can only be agreed to by those who have the power of alienating the property which they subject to them.

RCC—25, 31 et seq., 50, 65, 69, 122 et seq., 222, 339, 373, 376, 382, 389, 415, 432 et seq., 555, 605, 638, 971, 1051, 1782 et seq., 2015, 2357, 2360, 2362, 2390, 2402, 2404, 2436, 2445, 2967, 2970, 2996, 2997, 3262, 3301 et seq. Acts 1910, No. 148, §1; 1914, No. 72; 1914, No. 176, §1; 1921, E.S., No. 80, §5 (as am. by 1935, E.S., No. 12, §2); 1928, No. 250, §12; 1928, No. 283; 1928, E.S., No. 7, §17; 1932, No. 75; 1934, No. 222, §14; 1936, No. 275, §15; 1938, No. 81, §48; 1938, No. 376. RS—2427.

RCC 1870, Art. 3300.
Same as above.

CC 1825, Art. 3267. (Projet, p. 384. Amendment adopted; no comment)
Same as above.

CC 1808, p. 458, Art. 32.
As the mortgage is intended to secure to the creditor, the payment of what is due to him, and as this payment can be obtained against the will of the debtor, only by the sale of the mortgaged property, it follows that a mortgage tends to an alienation and that therefore those alone who are capable of contracting and selling,* may mortgage their property.

CN 1804, Art. 2124.
Conventional mortgages can only be agreed to by those who have the power of alienating the immovables which they cause to be mortgaged.

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

ART. 3301. Such as only have a right, that is suspended by a condition and* may be extinguished in certain cases,** can only
agree to a mortgage, subject to the same conditions and* liable to the same extinction.


RCC 1870, Art. 3301.
Same as above.

CC 1825, Art. 3268. (Projet, p. 384. Amendment amended in English text and adopted; no comment)

Ceux qui n'ont sur ces biens qu'un droit suspendu par une condition, ou résoluble dans certains cas, ou sujet à rescission,** ne peuvent consentir qu'une hypothèque soumise aux mêmes conditions ou* à la même rescission.

CC 1808, p. 452, Art. 7.

They who have on the property which may be duly mortgaged only a right either depending on a condition or subject to be annulled or rescinded in certain cases, can only consent to a mortgage subject to the same conditions or to the same rescission.

CC 1804, Art. 2125.

Those who only have on the immovable a right that is suspended by a condition, or may be extinguished in certain cases, or subject to rescission, can only agree to a mortgage subject to the same conditions or liable to the same extinction.

*Note error in English translation of French text; "and" should be "or."
**English translation of French text incomplete; should include "or subject to rescission."

ART. 3302.* The property of minors, of persons under interdiction, of absentees and corporations, can not be mortgaged by contract, in any other form and manner than that directed by law.

RCC—50, 69, 122, 222, 339 et seq., 373, 382, 384, 386, 415, 438, 439, 1785, 1868, 3148, 3556(â). Acts 1880, No. 125 (as am. by 1882, No. 102; 1890, No. 50; 1894, No. 93; 1900, No. 100; 1902, No. 30; 1908, No. 50); 1898, No. 61 (as am. by 1940, No. 221); 1902, No. 121, §1; 1908, No. 254; 1910, No. 148, §1; 1920, No. 110 (as am. by 1926, No. 319); 1928, No. 250, §12; 1928, No. 283, §2. RS—692, 693.

RCC 1870, Art. 3302.
Same as above.

CC 1825, Art. 3269. (Projet, p. 384. Amendment adopted; no comment)

Les biens des mineurs, des interdits, des absents, et ceux des corporations, ne peuvent être hypothéqués par contrat, que dans la forme et de la manière prescrites par la loi.

CC 1808, p. 458, Art. 34.

The property of persons under age, interdicted or absent, as long as the possession thereof is made over only

*p. 459, Art. 34.

Les biens des mineurs, des interdits et des absents, tant que la possession n'en est déférée que provisoirement, ne
Art. 3303

compiled edition

An attorney can only hypothecate the property of his principal, so far as he has a special power for that purpose.

Nevertheless, if the attorney on effecting a loan for his principal, had granted a mortgage, and the latter had received the money for the loan, or if it had been usefully employed for his benefit, the principal would be bound to ratify the mortgage, and might be compelled to execute it.


RCC 1870, Art. 3303.

Same as above.

CC 1825, Art. 3270.

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

Art. 3304. If a person contracting an obligation towards another, grants a mortgage on property of which he is not then owner, this mortgage shall be valid if the debtor should ever after acquire the ownership of the property, by whatever right.

RCC—1887, 3144, 3301, 3306 et seq., 3320, 3328. Acts 1940, No. 266, §22.

RCC 1870, Art. 3304.

Same as above.

CC 1825, Art. 3271.

Same as above; but comma (,) after "valid."
ART. 3305. A conventional mortgage can only be contracted by act passed in presence of a Notary and two witnesses, or by act under private signature. No proof can be admitted of a verbal mortgage. Hypothecation of ships and other vessels are made according to the laws and usages of commerce; Provided that powerboats, sailing vessels, pull boats, dredges, barges and all other kinds of watercraft plying wholly within the navigable waters of this State provided that such vessels do not come within any of the provisions of the laws of the United States on the same subject matter may be mortgaged and hypothecated in the same manner, to the same extent and with the same legal effect as mortgages and hypothecations are executed upon lands and other immovables susceptible of mortgage, and when the act contains the "Pact de non aliendo [alienando]" such mortgage or hypothecation, in case of any sale or other alienation, shall follow the ship, steamboat, power-boat and other vessels so mortgaged or hypothecated in the hands of third persons, and may be seized and sold by executory or other process in the same way, manner and extent as lands and other immovables are now sold under conventional mortgages containing said Pact. All such mortgages or hypothecations must be recorded in the Parish where the owner resides and shall prescribe in ten years from the date of registry. (As amended by Acts 1916, No. 105)
Art. 3306. To render a conventional mortgage valid, it is necessary that the act establishing it shall state precisely the nature and situation of each of the immovables on which the mortgage is granted.

RCC—1897, 1903, 2259, 3223, 3290 et seq., 3307, 3310, 3328, 3342, 3348, 3394. Acts 1914, No. 169; 1914, No. 176 §2, 3, 12, 13; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178).

RCC 1870, Art. 3306.

Same as above.

CC 1825, Art. 3273. (Projet, p. 384. Addition adopted; no comment) Il n'y a d'hypothèque conventionnelle valable, que celle dont le titre constitutif déclare spécialement la nature et la situation de chacun des immeubles sur lesquels l'hypothèque est consentie. (In conformity with Acts 1817, p. 119, §9)

CC 1808. No corresponding article.

CN 1804, Art. 2129, par. 1. To render a conventional mortgage valid, it is necessary that either the authentic act constituting the debt, or a subsequent authentic act, state precisely the nature and the location of each of the immovables belonging at the time to the debtor, on which he grants the mortgage for the debt. Each piece of property he then owns may be subjected by name to the mortgage.

Il n'y a d'hypothèque conventionnelle valable que celle qui, soit dans le titre authentique constitutif de la créance, soit dans un acte authentique postérieur, déclare spécialement la nature et la situation de chacun des immeubles actuellement appartenant au débiteur, sur lesquels il consent l'hypothèque de la créance. Chacun de tous ses biens présens peut être nominativement soumis à l'hypothèque.

Art. 3307. A debtor may mortgage his whole present property or only a specific part; but in either case it ought to be expressly enumerated, as is said in the preceding article.

RCC—1903, 3288, 3289, 3290, 3294, 3301, 3304, 3306, 3308, 3310. RS—3675.
ART. 3308. Future property can never be the subject of conventional mortgage.

RCC—1870, 1879, 1898, 2450, 2456, 3288, 3304, 3307, 3310, 3320, 3328. Acts 1908, No. 50; 1910, No. 232; 1914, No. 169; 1914, No. 176, §§ 12, 13; 1940, No. 266, §22.

RCC 1870, Art. 3308.
Same as above.

CC 1825, Art. 3276. (Projet, p. 384. Addition adopted; no comment)
Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3309. To render a conventional mortgage valid, it is necessary that the exact sum for which it is given, shall be declared in the act.


RCC 1870, Art. 3309.
Same as above.

CC 1825, Art. 3277. (Projet, p. 385. Addition adopted; no comment)
Same as above; but comma (,) after "sum." (In conformity with Acts 1817, p. 118, §9)

CC 1808. No corresponding article.

CN 1804, Art. 2132, clause 1.
Same as CC 1825, Art. 3277, above. Same as CC 1825, Art. 3277, above; but no punctuation after "sommé"; colon (:) after "l'acte."

ART. 3310. The conventional mortgage, when once established on an immovable, includes all the improvements* which it may afterwards receive.

RCC—504, 505 et seq., 520 et seq., 1903, 3288, 3289, 3306 et seq., 3320, 3328. Acts 1914, No. 176, §§ 12, 13; 1932, No. 166; 1934, No. 67; 1940, No. 266, §22.
Art. 3311

COMPILED EDITION

RCC 1870, Art. 3310.
Same as above.

CC 1825, Art. 3278.
Same as above.

(Projet, p. 385. Addition adopted; no comment)
L'hypothèque conventionnelle une fois acquise sur un immeuble, s'étend sur
toutes les améliorations qu'on pourrait
y faire, ou* qui y seraient survenues.

CC 1808. No corresponding article.

CN 1804, Art. 2133.
The mortgage, when once established,
includes all the improvements received
by the mortgaged immovable.

*English translation of French text incomplete; should include "which may
have been made upon it, or."

Section 2—OF LEGAL MORTGAGES

ART. 3311.* The law alone in certain cases gives to the creditor
a mortgage on the property of his debtor, without it being requisite
that the parties should stipulate it; this is called legal mortgage.
It is called also tacit mortgage, because it is established by the
law without the aid of any agreement.

RCC—1395, 1633, 2791 et seq., 3182 et seq., 3283, 3286 et seq., 3312, 3314
et seq., 3320, 3329, 3342, 3345, 3556(30). Acts 1869, No. 95; 1870, No. 25: 1898,
No. 170. Const. 1921, XIX, 19 (as am. by Acts 1938, No. 35).

RCC 1870, Art. 3311.
Same as above.

CC 1825, Art. 3279.
Same as above; but comma (,) after
"alone", after "cases", and after "by
the law"; colon (:) after "stipulate it."

La loi seule donne, en certains cas,
eine hypothèque au créancier sur les
biens de son débiteur, sans qu'elle ait
besoin d'être stipulée entre les parties,
c'est ce qu'on appelle l'hypothèque lé-
gale.
On appelle aussi cette hypothèque,
tacite, parce qu'elle a son fondement
dans la loi, sans le secours d'aucune
convention.

CC 1808, p. 454, Art. 15, par. 1.
The legal mortgage is that which pro-
ceds from the law, without any ex-
press covenant of the parties, but which
is notwithstanding grounded on a tacit
consent which the law presumes to have
been given by him on whose property
it grants this mortgage; therefore it is
also called in law a tacit mortgage.

CN 1804. No corresponding article.

*In connection with this article see Const. 1921, XIX, 19 (as am. by Acts 1938,
No. 35).
ART. 3312. No legal mortgage shall exist, except in the cases determined by the present Code.

RCC—1131, 2791, 3185, 3283, 3311, 3313 et seq. Acts 1869, No. 59; 1870, No. 75; 1898, No. 158, §22 (as am. by 1906, No. 192, §1); 1928, No. 48, §1. RS—351, 356, 2367, 2424, 2490.

RCC 1870, Art. 3312.
Same as above.

CC 1825, Art. 3280. (Projet, p. 385. Amendment adopted; no comment)
Same as above.
Il n'y a d'hypothèque légale que dans les cas déterminés par le présent Code.

CC 1808, p. 454, Art. 16. Il n'y a d'hypothèque légale, que dans les cas déterminés par la loi.

CN 1804. No corresponding article.

ART. 3313. The rights and credits on which legal mortgage is founded, are those enumerated in the following articles.

RCC—3312, 3314 et seq., 3348. Acts 1898, No. 158, §22 (as am. by 1906, No. 192, §1; 1928, No. 48, §1); 1898, No. 170. RS—351, 356, 2367, 2424, 2960.

RCC 1870, Art. 3313.
Same as above.

CC 1825, Art. 3281. (Projet, p. 385. Addition adopted; no comment)
Les droits et créances auxquels l'hypothèque légale est attribuée, sont ceux qui sont décrits dans les articles suivants.

CC 1808, p. 454, Art. 15, par. 2. Telle est l'hypothèque que le mineur a sur les biens de son tuteur, du jour de la nomination de celui-ci; telle est celle que la loi donne à la femme, pour sa dot, sur les biens de son mari.

CN 1804, Art. 2121.
The rights and credits on which a legal mortgage is founded, are:
Those of married women, on the property of their husbands;
Those of minors and interdicts, on the property of their tutors;
Those of the nation, of communes, and of public establishments, on the property of collectors and administrators who are accountable.

Les droits et créances auxquels l'hypothèque légale est attribuée, sont,
Ceux des femmes mariées, sur les biens de leur mari;
Ceux des mineurs et interdits, sur les biens de leur tuteur;
Ceux de la nation, des communes et des établissements publics, sur les biens des receveurs et administrateurs comptables.

ART. 3314. Minors, persons interdicted and absentees, have a legal mortgage on the property of their tutors and curators, as a security for their administration, from the day of their appointment, until the liquidation and settlement of their final account.

And the tutors and curators of such persons have a like mortgage on their property, as a security for the advances which they may have made.

RCC—50, 55, 249, 251, 271, 278, 318 et seq., 325 et seq., 337, 357, 359 et seq., 413, 415, 3095, 3311 et seq., 3329 et seq., 3342 et seq., 3350 et seq., 3369, 3541. Acts 1920, No. 223 (as am. by 1924, No. 8, and 1926, No. 283); 1922, No. 31. RS—1100, 2360.
Minors or persons interdicted or absent, have a legal mortgage on their tutors' or curator's property, for surety of their administration, from the day of the appointment of said tutors or curators, and until the final settlement and closing of their accounts, and the tutors and curators of said persons have a like mortgage on their property for the security of the advances which they may have made to them.

Les mineurs, les interdits et les absents, ont une hypothèque légale sur les biens de leurs tuteurs et curateurs, pour sûreté de leur administration, du jour de la nomination de ces tuteurs ou curateurs, jusqu'à celui de l'appurement et de la clôture de leur compte définitif.

Et les tuteurs et curateurs de ces personnes ont une semblable hypothèque sur leurs biens, pour sûreté des avances qu'ils peuvent leur avoir faites.

There is a legal mortgage on the property of persons, who, without having been appointed tutors of minors or curators of interdicted or absent persons, interfere in the administration of their property, reckoning from the day on which the first act of interference was done.

Il y a hypothèque légale sur les biens de ceux qui, sans avoir été nommés tuteurs ou curateurs des mineurs, interdits ou absents, se sont immiscés dans l'administration des biens de ces personnes, à compter du jour où ils ont fait le premier acte de cette administration.
ART. 3316. The children of a previous marriage, where the mother has married again without convoking a family meeting to determine whether or not they shall remain under her tutelage, have a legal mortgage on the property of the new husband for the acts of tutorship thus unlawfully kept by the mother, reckoning from the day on which the new marriage took place.

RCC—254, 255, 3329, 3330, 3342, 3350 et seg. Acts 1920, No. 110 (as am. by 1926, No. 319); 1921, E.S., No. 34; 1934, No. 47 (as am. by 1935, E.S., No. 18). RS—2362.

RCC 1870, Art. 3316. (Same as Art. 3316 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3284. (Projet, p. 385. Amendment adopted; comment by redactors)

The children of a previous marriage, where the mother has married again, without convoking an assembly of the family, to determine whether or not they shall remain under her tutelage, have a legal mortgage on the property of the last* husband, for the acts of the tutorship thus unlawfully kept by the mother, reckoning from the day on which the new marriage took place.

CC 1808, p. 456, Art. 21.

The children of a preceding marriage, whose mother has married again, without calling on a meeting of the family, to decide whether the tutorship of said children shall be preserved to her or not, have a legal mortgage on the new husband's property, for the acts of the tutorship so unlawfully kept by their mother, from the day of celebrating the new marriage.

CN 1804. No corresponding article.

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

ART. 3317. When either of the parents of a minor shall cause to be adjudicated to him the property which he possessed in common with the minor, the property thus adjudged remains specially mortgaged in the minor's favor* for the payment of the price of adjudication and interest, reckoning from the day on which it was adjudged.

RCC—343, 344, 3329, 3330, 3342, 3353. Acts 1916, No. 23; 1920, No. 110 (as am. by 1926, No. 319); 1928, No. 17; 1932, No. 209. RS—2363.

RCC 1870, Art. 3317. (Same as Art. 3317 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3285. (Projet, p. 385. Addition adopted; no comment)

When either of the parents of a minor shall cause to be adjudicated to him the property which he possessed in common with the minor, the property thus adjudged remains tacitly and specially mortgaged in the minor's fa-
Art. 3318

There is legal mortgage, reckoning from the closing of the inventory, on the property of the surviving husband or wife, or heirs, who have been invested by the inventory with the care of the property of the community or succession, until they are relieved from their care or a partition has been made.

RCC—916, 1035 et seq., 1041 et seq., 1121, 1135, 1289 et seq., 2413, 3329, 3330, 3356. RS—2364, 2424.

RCC 1870, Art. 3318.
Same as above.

CC 1825, Art. 3286. (Projet, p. 386. Amendment adopted; comment by redactors) Il y a hypothèque légale, à compter du jour de la clôture de l'inventaire, sur les biens du survivant des époux, ou des héritiers qui ont été chargés par l'inventaire des biens de la communauté ou de la succession, jusqu'à ce qu'ils aient été déchargés de leur garde, ou qu'il y ait eu partage.

CC 1808, p. 456, Art. 22. Il y a hypothèque légale, à compter du jour de la clôture de l'inventaire, contre le survivant des époux, ou les héritiers qui ont été chargés, par l'inventaire, des biens de la communauté ou de la succession.*

CN 1804. No corresponding article.

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

Art. 3319. The wife has a legal mortgage on the property of her husband in the following cases:

1. For the restitution of her dowry, and for the reinvestment of the dotal property sold by her husband, and which she brought in marriage, reckoning from the celebration of the marriage.

2. For the restitution or reinvestment of dotal property, which came to her after the marriage, either by succession or donation from the day the succession was opened, or the donation perfected.

3. For the restitution or reimbursement of her paraphernal property.

RCC—1790, 2265, 2335, 2337 et seq., 2347, 2350, 2353, 2355 et seq., 2360, 2376 et seq., 2383 et seq., 2388, 2390, 2391, 2392 et seq., 2404, 2425 et seq., 3252, 3254, 3329, 3330, 3332, 3333, 3338, 3349, 3523, 3555. CP—105. RS—1706 et seq., 2429 et seq., 3988.
CIVIL CODES OF LOUISIANA  Art. 3320

RCC 1870, Art. 3319.  (Same as Art. 3319 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3287.  (Projet, p. 386.  Addition adopted; no comment)

Same as par. 1 and subs. 1, 2, above; but semicolon (;) after "of the marriage"; comma (,) after "or donation."

CC 1808, p. 454, Art. 17.

The wife has a legal mortgage on her husband’s property to wit:

1st, For the restitution of her dowry as well as for the replacing of her dotal effects alienated by her husband and which she brought in marriage, from the day of celebrating said marriage.

2d, For the restitution and the replacing of the dotal effects accrued to her during the marriage, either by succession or donation, from the day when said succession devolved or said donation took effect.

3d, To indemnify her against the debts to which she has made herself liable jointly with her husband and for the replacing of her hereditary effects alienated, from the time of her contracting said liability or from the day of the sale.

CN 1804, Art. 2121, par. 2.

Quoted under RCC 1870, Art. 3313, above.

ART. 3320.  The creditor who has a legal mortgage, except in the case where certain specific property is subjected to it, may exercise his right on all the immovables belonging to his debtor, and on such as may subsequently belong to him.

RCC—3182, 3288, 3289, 3304, 3306, 3308, 3310, 3311, 3328, 3329, 3335, 3342, 3369, 3398, 3411.

RCC 1870, Art. 3320.  (Same as Art. 3320 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3288.  (Projet, p. 386.  Addition adopted; no comment)

The creditor, who has a legal mortgage, except in the case where certain specific property is subjected to it, may exercise his right on all the immovable and slaves belonging to his debtor, and on such as may subsequently belong to him.

CC 1808.  No corresponding article.

La femme a une hypothèque légale sur les biens de son mari:

1. Pour la restitution de sa dot, et pour le remploi des biens dotaux vendus par le mari, et qu’elle a apportés en mariage, à compter du jour de la célébration du mariage;

2. Pour la restitution ou le remploi des biens dotaux qui lui sont advenus pendant le mariage, par succession ou donation, du jour que la succession s’est ouverte, ou que la donation a eu son effet.

La femme a une hypothèque légale sur les biens de son mari, savoir:

1. Pour la restitution de sa dot, et pour le remploi des biens dotaux vendus par le mari, et qu’elle a apportés en mariage, et ce, à compter du jour de la célébration du mariage;

2. Pour la restitution ou le remploi des biens dotaux qui lui sont advenus pendant le mariage, soit par succession ou donation, du jour que la succession s’est ouverte, ou que la donation a eu son effet;

3. Pour l’indemnité des dettes auxquelles elle s’est obligée, conjointement avec lui, et pour le remploi de ses propres aliénés, du jour de l’obligation ou de la vente.

Le créancier, qui a une hypothèque légale, à l’exception du cas où de certains biens y sont spécialement affectés, peut exercer son droit sur tous les immeubles et les esclaves appartenant à son débiteur, et sur ceux qui pourront lui appartenir par la suite.

1819
The creditor who has a legal mortgage, may exercise his right on all the immovables belonging to his debtor and on such as may subsequently belong to him, subject to the modifications hereinafter explained.

Section 3—OF JUDICIAL MORTGAGES*

*In connection with this section see Acts 1916, No. 133; 1918, No. 190.

ART. 3321. The judicial mortgage is that resulting from judgment (whether these be rendered on contested cases or by default, or whether they be final or provisional), in favor of the person obtaining them.


RCC 1870, Art. 3321. Same as above.

CC 1825, Art. 3289. (Projet, p. 386. Substitution † adopted; no comment)

Same as above; but “judgment” correctly spelled “judgments”; comma (,) after “judgments”, and after “provisional.”

CC 1808, p. 452, Art. 8.

The judicial mortgage is that which proceeds from every judgment: it is of the same nature as the conventional mortgage; it leaves the debtor in possession of all his property but it affects or makes them liable in the same manner as the conventional mortgage, to the payment of the amount for which judgment is obtained against the debtor.

CN 1804, Art. 2123, par. 1.

The judicial mortgage results from judgments whether these be rendered on contested cases or by default, or whether they be final or provisional, in favor of the person obtaining them. It results also from acknowledgments or verifications contained in the judgment, of signatures affixed to an act under private signature creating an obligation.

ART. 3322. The Judicial Mortgage takes effect from the day the Judgment is recorded in the manner hereinafter directed. (As amended by Acts 1900, No. 78)

RCC—2264 et seq., 3321, 3323 et seq., 3329, 3342 et seq., 3348, 3361, 3366 et seq., 3547. CP—545. Acts 1869, No. 95; 1870, No. 75; 1908, No. 202; 1916, No. 133; 1918, No. 190.
Art. 3322.
The judicial mortgage takes effect from the day on which the judgment is recorded in the manner hereinafter directed; provided, that judgments, the parish of Orleans excepted, rendered at any term of court shall have no effect to create a judicial mortgage between judgment creditors until from the day of adjournment of the term at which the same was rendered, although recorded prior to the adjournment of said term. (As amended by Acts 1888, No. 143)

RCC 1870, Art. 3322. (Same as Art. 3322 of Proposed Revision of 1869)
The judicial mortgage takes effect from the day on which the judgment is recorded in the manner hereinafter directed.

CC 1825, Art. 3290. (Projet, p. 386. Amendment t adopted; comment by redactors)
The judicial mortgage takes effect from the day on which the judgment is pronounced, if it has been recorded in the manner hereafter directed.

CC 1808, p. 454, Art. 9. L'hypothèque judiciaire a lieu du jour où le jugement qui la produit a été rendu, s'il est dûment inscrit, ainsi qu'il est dit ci-après.

The judicial mortgage takes place from the day when the judgment either on a hearing of the parties or by default, final or subject to an appeal, has been rendered in favor of him who obtained said judgment. If an appeal be brought from any judgment not final and the judgment be confirmed above, the mortgage shall reascend to the day when the original judgment was rendered.

CN 1804. No corresponding article.

ART. 3323. If there be an appeal from the judgment and it is confirmed, the mortgage relates back to the day when the judgment was recorded.

RCC—2265 et seq., 3322, 3324, 3329, 3342, 3366 et seq., 3371, 3381. CP—545, 564 et seq. Const. 1921, VII, 25.

RCC 1870, Art. 3323. (Same as Art. 3323 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3291. (Projet, p. 386. Amendment t adopted; comment by redactors)
If there be an appeal from the judgment, and it is confirmed, the mortgage relates back to the day when the judgment was rendered.

CC 1808, pp. 454, 455, Art. 9. S'il y a appel de ce jugement, et qu'il soit confirmé, l'hypothèque remonte au jour où le jugement a été rendu.

Quoted under RCC 1870, Art. 3322, above.

CN 1804. No corresponding article.

ART. 3324. When on the appeal the judgment has only been reversed in part, the mortgage still exists for that part which has not been altered or reversed.

RCC—2265 et seq., 3322, 3323, 3329, 3342 et seq., 3366 et seq., 3371, 3381. CP—564 et seq. Const. 1921, VII, 25.

RCC 1870, Art. 3324. Same as above.
Art. 3325

The awards of arbitrators give rise to a mortgage only from the day that the homologation has been recorded.

RCC—2265, 3099 et seq., 3129 et seq., 3329, 3342 et seq., 3361, 3366 et seq.

RCC 1870, Art. 3325.

(Same as Art. 3325 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3293.

The awards of arbitrators give rise to a mortgage, only from the day of their homologation.

CC 1808, p. 454, Art. 11.

The awards of arbitrators give a mortgage only from the day when their execution is ordered by the judge.

CN 1804, Art. 2123, par. 3.

The awards of arbitrators give rise to a mortgage only when their execution is ordered by the judge.

ART. 3326.* Mortgages result from the judgment rendered in other States of the Union or in foreign countries, only in so far as the execution has been ordered by a tribunal of this State, in the manner prescribed by law.

RCC—2265 et seq., 3322, 3329, 3342 et seq., 3366 et seq., 3547. CP—746, 752, 753. Acts 1916, No. 133; 1924, No. 7.

RCC 1870, Art. 3326.

(Same as Art. 3326 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3294.

A mortgage results from judgments rendered in other States of the Union or in foreign countries, only in so far as the executions have been ordered by a tribunal of this State, in the manner prescribed by law.

L'hypothèque ne peut résulter des jugements rendus dans les autres États de l'Union, ou dans les pays étrangers, only in so far as the executions have been ordered by a tribunal of this State, in the manner prescribed by law.
as their execution has been ordered by a tribunal of this State, in the manner prescribed by the law.

**CC 1808, p. 454, Art. 12.**

In like manner judgments rendered in the other states or territories of the United States, give a mortgage only from the day when their execution has been ordered by one of the judges of this territory.

**CN 1804, Art. 2123, par. 4.**

In like manner a mortgage results from judgments rendered in a foreign country, only when they have been made executory by a French court; without prejudice to contrary provisions which may exist in political laws or in treaties.

**RCC 1870, Art. 3327.**

Judgments obtained against a person deceased only bear a mortgage on the property personally belonging to his heir, only from the day of the judgment which ordered that they should be executed against said heir.

**CC 1808, p. 454, Art. 13.**

Judgment obtained against a person deceased, gives a mortgage on the property personally belonging to his heir, only from the day of the judgment which ordered that they should be executed against said heir.

**CN 1804.** No corresponding article.

*In connection with this article see Acts 1916, No. 133.

**Art. 3327.** Judgments obtained against a person deceased only bear a mortgage on the personal property of the heir from the day on which execution shall have issued against the heir by virtue of such judgments.

**RCC—1013, 1421, 1422 et seq., 1444 et seq. CP—21, 120 et seq.**

**RCC 1870, Art. 3327.**

Same as above.

**CC 1825, Art. 3295.**

Same as above; but comma (,) after "deceased", after "of the heir", and after "against the heir."

**CC 1808, p. 454, Art. 13.**

Judgment obtained against a person deceased, gives a mortgage on the property personally belonging to his heir, only from the day of the judgment which ordered that they should be executed against said heir.

**CN 1804. No corresponding article.**

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

**Art. 3328.** The judicial mortgage may be enforced against all the immovable which the debtor actually owns or may subsequently acquire.

**RCC—3182, 3288, 3289, 3304, 3306, 3308, 3310, 3320, 3329, 3342, 3369, 3398, 3411, 3547. Acts 1908, No. 202.**

**RCC 1870, Art. 3328.**

Same as above.

**CC 1825, Art. 3296.**

The judicial mortgage may be enforced against all the immovable and

**1823**
slaves which the debtor actually owns, or may subsequently acquire.

CC 1804. No corresponding article.

CN 1804, Art. 2123, par. 2.

It may be enforced against the immovables which the debtor actually owns or may acquire, saving the modifications hereinafter explained.

Elle peut s'exercer sur les immeubles actuels du débiteur et sur ceux qu'il pourra acquérir par la suite.

Section 4—OF THE RANK IN WHICH MORTGAGES STAND WITH RESPECT TO EACH OTHER

Art. 3329.* Among creditors, the mortgage, whether conventional, legal or judicial, has force only from the time of recording it** in the manner hereafter directed.

RCC—2251 et seq., 2377, 3269, 3273, 3286 et seq., 3300 et seq., 3311, 3319, 3321, 3323 et seq., 3342 et seq., 3346, 3347, 3357, 3358, 3361, 3364, 3365, 3368, 3369, 3370, 3386, 3388, 3397, 3399, 3403. CP—678, 706 et seq. Acts 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 27, §§ 7, 8; 1910, No. 215; 1914, No. 159; 1914, No. 176, §§ 7, 1916, No. 33; 1916, No. 255; 1918, No. 190; 1918, No. 198, §§ 7, 1918, No. 198, §§ 4 (as am. by 1936, No. 178); 1924, No. 7; 1926, No. 186; 1926, No. 236, 18; 1928, No. 249, §§ 7, 11; 1934, No. 199; 1936, No. 255. RS—2362, 2428, 2513, 3988. Const. 1921, XIX, 19.

RCC 1870, Art. 3329. (Same as Art. 3329 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3297. (Projet, p. 387. Amendment adopted; no comment)

Among creditors, the mortgage, whether conventional, legal or judicial, has force only from the time of recording it**, in the manner hereafter directed, except in the cases mentioned below.

CC 1808, p. 470, Art. 78.

Both the conventional and judicial mortgagee creditors have their rank settled among themselves, from the day of the recording of their mortgages in the office of the register of mortgages, in the form and manner directed by law.

CN 1804, Art. 2134.

Among creditors, the mortgage, whether legal, judicial or conventional, has force only from the time of the recordation made by the creditor on the register of the recorder, in the form and in the manner prescribed by law, except in the cases provided for in the following article.

*In connection with this article see Acts 1910, No. 215.

**Note error in English translation of French text; "recording it" should be "the recordation made by the creditor on the register of the recorder, in the form and."

1824
ART. 3330. The tutors of minors, and the curators of interdicted and absent persons, as well as husbands, are bound to render public the legal mortgages with which their property is burdened, and for this purpose to require that the acts, on which these mortgages are founded, shall be recorded without delay in the office provided for that purpose.

RCC—50, 55, 249, 251, 254 et seq., 271, 278, 304, 318 et seq., 325, 335, 337, 357, 359 et seq., 413, 415, 2376, 3314, 3315 et seq., 3329, 3331 et seq., 3341, 3342 et seq., 3346 et seq., 3354, 3355, 3366 et seq., 3370, 3386 et seq., 3556(3).

Acts 1922, No. 31. RS—1100, 2360, 3988.

RCC 1870, Art. 3330. (Same as Art. 3330 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3299. (Projet, p. 387. Addition adopted; no comment)

The tutors and curators of minors, interdicted or absent persons, as well as husbands, are bound to render public the legal mortgages with which their property is burdened, and for this purpose, to require that the acts, on which these mortgages are founded, shall be recorded without delay, in the office provided for that purpose.

CC 1808. No corresponding article.

CN 1804, Art. 2136, par. 1.

Nevertheless, husbands and tutors are bound to render public the mortgages with which their property is burdened, and, for this purpose, to require their recor dation without delay, against the immovables belonging to them and against those which they may subsequently acquire, at the offices established for that purpose.

ART. 3331. The undertutors of minors shall be bound personally and under the penalty of damages, to see that the records are made without delay, of the mortgages incurred by the tutors of those minors for the fidelity of their administration.*

RCC—273 et seq., 278, 324, 3314, 3330, 3332, 3335, 3337, 3348, 3351.
RS—2360, 2513.

RCC 1870, Art. 3331. (Same as Art. 3331 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3301. (Projet, p. 387. Addition adopted; no comment)
The subrogated tutors and curators for the causes of minors, shall be bound personally, and under the penalty of damages, to see that the records are made, without delay, of the mortgages incurred by the tutors and curators of those minors, for the fidelity of their administration.*

CC 1808. No corresponding article.

CN 1804, Art. 2137.

Undertutors shall be bound personally, and under the penalty of damages, to...
Art. 3332. In case of neglect on the part of husbands, tutors, undertutors and curators,* in causing to be made the recording ordained herein, it may be demanded by the relations of the husband or of the wife, and by the relations of the minor, interdicted or absent persons, or in default of relations, by their friends.

It may even be demanded by minors and married women, without any need on the part of the latter, of authority from husbands or judges.

RCC—278, 415, 2376, 3314 et seq., 3319, 3330 et seq., 3348, 3349, 3351, 3354, 3369, 3370. Acts 1921, No. 84; 1928, No. 283. RS—2360, 3984.

RCC 1870, Art. 3332. (Same as Art. 3332 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3304. (Projet, p. 388. Addition 1 adopted; no comment)

In case of neglect on the part of husbands, tutors, undertutors and curators,* in causing to be made the recording ordained by the preceding articles, it may be demanded by the relations of the husband, or of the wife, and by the relations of the minor, interdicted or absent persons, or in default of relations, by their friends.

Par. 2 same as par. 2, above; but comma (,) after "need."

CC 1808. No corresponding article.

CN 1804, Art. 2138.

In case of neglect on the part of husbands, tutors, or undertutors in causing to be made the recording ordained by the preceding articles, it shall be demanded by the commissaire du Gouvernement of the civil court of the domicile of the husbands and tutors, or of the place where the property is situated.

-Art. 2139.

The relations, of either the husband or wife, and those of the minor, or in default of relations, his friends, may require said recording; it may also be demanded by the married women and by minors.

*English translation of French text incomplete; should include "of minors, interdicted or absent persons."

Art. 3333. When by the marriage contract, the parties, being of age, shall agree that the recording shall exist only on one or more immovables belonging to the husband, the immovables and other prop-

1826
ART. 3334. The case shall be the same with respect to the immoveable property of the tutor or curator of the minor, or that of the curator of the interdicted or absent person, when the judge shall have authorized them in the manner prescribed by law, to hypothecate a specific portion of their property by way of security for their administration, as is provided in the title: Of Minors, their Tutorship, and Emancipation.

RCC—50, 251, 318, 320 et seq., 325 et seq. Acts 1920, No. 110 (as am. by 1926, No. 319); 1920, No. 223 (as am. by 1924, No. 68, and 1926, No. 283); 1922, No. 31; 1934, No. 47 (as am. by 1935, 2E.S., No. 18). RS—1100, 2360.

RCC 1870, Art. 3334. (Same as Art. 3334 of Proposed Revision of 1869)
Art. 3335

In the cases specified in the two preceding articles, the husband, tutor, curator, and undertutor need only demand that the inscription on record shall be made for the immovables specially mortgaged.

RCC—50, 278, 324, 331, 335, 415, 3288, 3320, 3329 et seq., 3333, 3334, 3336, 3342 et seq., 3366, 3370. Acts 1908, No. 202; 1916, No. 106; 1920, No. 223, 15. RS—359 (as am. by Acts 1873, No. 68; 1877, No. 15; 1888, No. 75; 2402.

RCC 1870, Art. 3335. (Same as Art. 3335 of Proposed Revision of 1869)

Same as above.

CC 1808. No corresponding article.

CN 1804, Art. 2141.

The case shall be the same with respect to the immovable property of the tutor when the relations, in family meeting, are of opinion that recording shall take place only upon certain immovables.

ART. 3336. If the mortgage has not been restricted at the time of appointing the tutor or curator, and if it be notorious that it exceeds the amount in which it is necessary for him to give security, it shall, at his request, be restricted to certain immovables which he shall point out, provided they are thought sufficient to afford a complete guarantee.

RCC—50, 278, 318, 320 et seq., 331, 415, 3335, 3337, 3338.

RCC 1870, Art. 3336.

Same as above.

CC 1825, Art. 3308. (Projet, p. 388. Addition adopted; no comment)

Lorsque l'hypothèque n'aura pas été restreinte lors de la nomination du tuteur ou curateur, il pourra, dans le cas où l'hypothèque générale sur ses
CC 1808. No corresponding article.

CN 1804, Art. 2143, par. 1.
If the mortgage has not been restricted by the act appointing the tutor, and if it be notorious that it exceeds the amount in which it is necessary for him to give security, it shall, at his request, be restricted to immovables sufficient to afford a complete guarantee in favor of the minor.

Lorsque l'hypothèque n'aura pas été restreinte par l'acte de nomination du tuteur, celui-ci pourra, dans le cas où l'hypothèque générale sur ses immeubles excéderait notoirement les sûretés suffisantes pour sa gestion, demander que cette hypothèque soit restreinte aux immeubles suffisants pour opérer une pleine garantie en faveur du mineur.

ART. 3337. This request shall be made as in opposition to the undertutor of a minor, the undercurator of an interdicted person, or curator ad hoc appointed by the court for the absent person, and the judge shall receive the special mortgage offered if he thinks it sufficient, and with the advice of the family meeting in the case of a minor or person under interdiction.

RCC—50, 275 et seq., 281 et seq., 324, 331, 406 et seq., 415, 3331, 3336, 3370. CP—116, 963, 964. Acts 1926, No. 110 (as am. by 1926, No. 319); 1934, No. 47 (as am. by 1935, E.S., No. 18).

RCC 1870, Art. 3337. (Same as Art. 3337 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3309. (Projet, p. 389. Addition § adopted; no comment)
This request shall be made as in opposition to the subrogated tutor, or the curator ad lites of a minor, or against a curator ad hoc appointed by the court for an interdicted or absent person, and the judge shall receive the special mortgage offered, if he thinks it sufficient, and with the advice of the family meeting, in the case of a minor or person under interdiction.

CC 1808. No corresponding article.

CN 1804, Art. 2143, par. 2.
The request shall be made as in opposition to the undertutor, and it ought be preceded by the assent of a family meeting.

La demande sera formée contre le subrogé tuteur, et elle devra être précédée d’un avis de famille.

ART. 3338. The husband, also, with the consent of his wife, if she be of age, may demand that the general mortgage on all his immovables on account of the dowry and other claims enjoying the same right, shall be restricted to the immovables which he shall indicate and which he shall offer to mortgage specially for the preservation of his wife's right.

RCC—281 et seq., 1790, 2376 et seq., 2390, 3258, 3319, 3333, 3336, 3339, 3340, 3370. RS—1707, 2430.

1829
ART. 3339. The judge to whom this demand is made may authorize the husband to give this special mortgage, if he thinks it sufficient, with the assent of five of the nearest relations of the wife, assembled in family meeting.

RCC—281 et seq., 2378 et seq., 3338, 3340, 3370. Acts 1921, No. 34; 1922, No. 31; 1928, No. 283; 1934, No. 47 (as am. by 1935, 2E.S., No. 18). RS—1100, 1707, 2430.

ART. 3340. If the wife be a minor, the judge may still grant the authority, provided it be with the assent of a family meeting composed as in the preceding article, and of a curator ad hoc appointed to the wife.

RCC—281 et seq., 2378 et seq., 3338, 3339, 3370. RS—1708, 2431.

1830
ART. 3341. In all cases where the judge restricts the mortgage to certain immovables, the records or inscriptions made on the other property shall be erased.


RCC 1870, Art. 3341.
Same as above.

CC 1825, Art. 3313. (Projet, p. 389. Addition adopted; no comment) Dans tous les cas où le juge prononcera la réduction de l'hypothèque à certains immeubles, les inscriptions prises sur tous les autres biens seront rayées.

CC 1808. No corresponding article.

CN 1804, Art. 2145, par. 2.
In the case where the court restricts the mortgage to certain immovables, the records or inscriptions made on all others shall be erased.

Dans le cas où le tribunal prononcera la réduction de l'hypothèque à certains immeubles, les inscriptions prises sur tous les autres seront rayées.

Chapter 2—Of Inscription of Mortgages

Section 1—Of the Mode and Effect of Recording Mortgages

ART. 3342.* Conventional mortgage is acquired only by consent of the parties, and judicial and legal mortgages only by the effect of a judgment or by operation of law.

But these mortgages are only allowed to prejudice third persons** when they have been publicly inscribed on records kept for that purpose and in the manner hereafter directed.

RCC—1766, 1779, 2242, 2251 et seq., 3283, 3286 et seq., 3290, 3301, 3311, 3321, 3322, 3323, 3325, 3326, 3329, 3343 et seq., 3348 et seq., 3357 et seq., 3361, 3364 et seq., 3370, 3386, 3388, 3397, 3399. Acts 1869, No. 95; 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 27, §§7, 8; 1914, No. 169; 1914, No. 176, §§; 1916, No. 133; 1917, No. 13; 1918, No. 190; 1918, No. 198, §§ (as am. by 1922, No. 189, and 1936, No. 178); 1918, No. 198, §§; 1924, No. 7; 1926, No. 186; 1926, No. 236, §§; 1928, No. 249, §§7, 11; 1934, No. 114; 1934, No. 199; 1936, No. 255. RS—2362, 2428, 2513, 3080, 3082, 3083, 3988. Const. 1898, Art. 188; 1921, XIX, 19.

RCC 1870, Art. 3342.
Same as above.
Art. 3343

Compiled Edition

CC 1825, Art. 3314. (Projet, p. 389. Amendment † adopted; comment by redactors)

Same as above; but semicolon (;) after “parties”; comma (,) after “legal mortgages”; after “judgment”; after “persons”; and after “purpose.”

L’hypothèque conventionnelle est acquise par le seul consentement des parties, et la judiciaire et la légale par le seul effet du jugement ou de la loi. Néanmoins ces hypothèques ne peuvent préjudicier aux tiers qui les ont ignorées,** qu’autant qu’elles ont été rendues publiques par leur inscription dans les registres tenus à cet effet, et de la manière qui est ci-après prescrite.


Conventional or judicial mortgages cannot operate against a third person, except from the day of their being entered in the office of the register of mortgages, in the manner and form hereafter directed.


Though it is a rule that the conventional mortgage is acquired by the sole consent of the parties, and the judicial and legal mortgages by the judgment or law which grants it, nevertheless, in order to protect the good faith of third persons who may be ignorant of such covenants and to prevent fraud, law directs that the conventional and judicial mortgages, shall be recorded or entered in a public folio book kept for that purpose in the city of New-Orleans for the whole territory.***

-p. 465, Art. 52.

Quoi qu’il soit de principe, que l’hypothèque conventionnelle est acquise par le seul consentement des parties, et la judiciaire et la légale par le jugement ou la loi qui l’accordent, néanmoins, afin de protéger la bonne foi des tiers, qui pourraient ignorer de pareilles conventions, et éviter les fraudes, la loi veut, que les hypothèques conventionnelles et judiciaires soient inscrites dans un registre public, tenu à cet effet dans la ville de la Nouvelle-Orléans, ainsi qu’il sera ci-après prescrit.***

CN 1804. No corresponding article.

*In connection with this article see Acts 1910, No. 215; Const. 1921, XIX, 19 (as am. by Acts 1938, No. 35).

**English translation of French text incomplete; should include “who are ignorant of them.”

***Note error in English translation of French text; “for the whole territory” should be “as is hereafter directed.”

Art. 3343. By the words third persons used in the foregoing article, are to be understood all persons who are not parties to the act or to the judgment on which the mortgage is founded.

RCC—879 et seq., 977, 1557, 2234, 2251 et seq., 2255 et seq., 3269, 3305, 3342, 3344, 3370, 3556(23, 28, 31, 32).

RCC 1870, Art. 3343. (Same as Art. 3343 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3315. (Projet, p. 389. Addition † adopted; no comment)

By the words third persons used in the foregoing article, are to be understood all persons who are not parties to the act or to the judgment on which the mortgage is founded, and who have dealt with the debtor either in ignorance or before the existence of this right.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 3344. Consequently, neither the contracting parties nor their heirs, nor those who were witnesses to the act by which the mortgage was stipulated, can take advantage of the non-inscription of the mortgage.

RCC—879 et seq., 977, 1557, 2234, 2251 et seq., 2255 et seq., 3305, 3342, 3343, 3369, 3370, 3556 (23, 28, 31, 32).

RCC 1870, Art. 3344.
Same as above.

CC 1825, Art. 3316.
Same as above.

(Proit, p. 390. Addition adopted; no comment)

En conséquence, ni les parties contractantes ni leurs héritiers, ni ceux qui ont été témoins à l'acte par lequel l'hypothèque a été stipulée, ne peuvent se prévaloir du défaut d'inscription de cette hypothèque.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3345. All mortgages, whether conventional, legal or judicial, are required to be recorded in the manner hereafter provided.

RCC—2251 et seq., 2255 et seq., 2264 et seq., 3283, 3286 et seq., 3290, 3311, 3321, 3329, 3342, 3346 et seq., 3366, 3370, 3388, 3397, 3399. CP—545. Acts 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 27, §7; 1914, No. 169; 1914, No. 176, §7; 1916, No. 133; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1934, No. 114.

RCC 1870, Art. 3345.
Same as above.

CC 1825, Art. 3317.
Same as above.

(Proit, p. 390. Addition adopted; no comment)

Toutes les hypothèques, soit conventionnelles, soit légales, soit judiciaires, sont sujettes à inscription, de la manière qui est ci-après prescrite.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3346. The inscription of mortgages only binds the property of the debtor, when it has been made in the office of mortgages for the parish where the property lies.

If the debtor has immovable property lying in more than one parish, the inscription ought to be made in the office of mortgages for each of them.

RCC—50, 219, 323, 324, 334, 415, 2264 et seq., 2305, 3292 et seq., 3342, 3345, 3347, 3348, 3350, 3351, 3355, 3358. Acts 1904, No. 30 (as am. by 1904, No. 187); 1908, No. 254; 1910, No. 27, §7; 1914, No. 169; 1914, No. 176, §7; 1916, No. 133; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §3; 1924, No. 7; 1926, No. 236, §2; 1934, No. 114; 1934, No. 199. RS—2428. Const. 1921, XIX, 19.

RCC 1870, Art. 3346.
(Same as Art. 3346 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3318.
(Proit, p. 390. Addition adopted; no comment)

Les inscriptions des hypothèques ne peuvent affecter les biens du débiteur, qu'autant qu'elles ont été faites, savoir:
Art. 3347

Any person entitled to a mortgage or privilege on
the property of another person, must cause the evidence of such mort·
gage or privilege to be recorded in the mortgage book of the parish
where the property is situated.

If the instrument on which the mortgage or privilege is based be
an authentic act, a copy thereof shall be recorded; if it be an act
under private signature, promissory note or other written instrument,
it must be proved up and recorded in the manner required for acts
under private signature.

If there be no written instrument, the person claiming the mort·
gage or privilege, his agent, or some person having knowledge of the
facts, must make affidavit of all the facts on which such mortgage or
privilege is based, including the amount of the debt secured by the
mortgage or privilege; and this affidavit must be recorded in the mort·
gage book.

1834
In all cases of special privileges the property subject to such privileges must also be described.

RCC—2234 et seq., 2240 et seq., 2251 et seq., 2255 et seq., 2264 et seq., 2267 et seq., 3182 et seq., 3186, 3271 et seq., 3288, 3305, 3306, 3309, 3313 et seq., 3322, 3331, 3332, 3342, 3346, 3347, 3349 et seq., 3370, 3373, 3386, 3388 et seq. Acts 1869, No. 95; 1898, No. 164; 1908, No. 254; 1910, No. 215; 1914, No. 176, §2, 3; 1916, No. 255; 1916, No. 256; 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, 13; 1928, E.S., No. 7, §17; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285); 1934, No. 114. RS—597, 2388, 2517, 3080, 3093, 3146.

RCC 1870, Art. 3348. (Same as Art. 3348 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §8 [RS §2388, 2517, 3093])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3349. To preserve the legal mortgage or privilege existing in favor of a married woman, it shall be the duty of such married woman, or any person for her, to cause to be recorded in the mortgage book of the parish where the property is situated the evidence of her mortgage or privilege. If such evidence be in writing, it shall be recorded in the manner required by law; if it be not in writing, then a written statement, under oath, made by the married woman, her husband, or any other person having knowledge of the facts, setting forth the amount due to the wife, and detailing all the facts and circumstances on which her claim is based, shall be recorded.


RCC 1870, Art. 3349. (Same as Art. 3349 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §11 [RS §2381, 3086])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3350. Before fathers and mothers, who by law are entitled to the usufruct of property belonging to their minor children, shall be allowed to take possession of such property and enjoy the fruits and revenues thereof, they shall cause an inventory and appraisement to be made of such property, and cause the same to be recorded in the mortgage book of every parish in the State where they or either of them have immovable property.

RCC—223 et seq., 251, 560, 916, 3329, 3342 et seq., 3346 et seq., 3357. Acts 1869, No. 95; 1920, No. 223 (as am. by 1924, No. 65); 1924, No. 106, §5. RS—2367, 2392, 3097, 3873.

RCC 1870, Art. 3350. (Same as Art. 3350 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §12 [RS §2392, 3097])

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 3351.* Whenever any person shall apply to be recognized, confirmed or appointed as tutor, or shall have been recommended by a family meeting, the judge shall order, and it shall be the duty of such applicant to cause a true and faithful inventory to be made of the movable and immovable property, credits, deeds and papers belonging to the minor, and to cause the said property to be valued by two appraisers, appointed by the judge, and duly sworn.

This inventory shall include the property situated out of the parish, as well as that within the parish where the appointment is to be made.

After the inventory has been completed, the judge shall fix the amount of the bond which the tutor is bound to give.

This bond must be recorded in the mortgage book of the parish in which the tutor resides, and a certificate to that effect, signed by the recorder of mortgages, must be presented to the judge before he can make the appointment, or authorize letters of tutorship to be issued.

In the several cases in which the tutor is not required by law to give bond, it shall be the duty of the clerk of the district court of the parish in which the appointment is to be made to furnish a certificate of the amount of the minor’s property, according to the inventory on file in his office. This certificate must be recorded in the mortgage book of the parish in which the tutor resides; and a certificate to that effect, signed by the recorder of mortgages, must be presented to the judge before he can make the appointment, or authorize letters of tutorship to be issued.

The recording of the bond, or certificate of the clerk, as herein provided, shall operate as a legal mortgage in favor of the minor for the amount therein stated, on all the immovable property of the tutor.

The tutor shall, within thirty days after his appointment, cause such bond or certificate to be inscribed in the mortgage book of every other parish in the State in which he owns immovable property.

It shall be the duty of the undertutor to see that these inscriptions are made according to law.

RCC—249, 251, 271, 275, 304, 316 et seq., 3311 et seq., 3314, 3330 et seq., 3342 et seq., 3346 et seq., 3352, 3354, 3357, 3370. Acts 1869, No. 95, $2; 1920, No. 223 (as am. by 1924, No. 68, and 1926, No. 283); 1922, No. 31; 1924, No. 106, §5. RS—1100, 2360, 2382, 3867.

RCC 1870, Art. 3351. (Same as Art. 3351 of Proposed Revision of 1869; similar to Acts 1869, No. 95, $2 (RS 112282, 3087, 3867))

CC 1825. No corresponding article.*

CC 1808. No corresponding article.*

CN 1804. No corresponding article.*

*RCC 1870, Art. 3351, pars. 1 and 2, same as RCC 1870, Art. 316, pars. 1 and 2; par. 3, same as RCC 1870, Art. 317; par. 4, same as RCC 1870, Art. 319; par. 5, same as RCC 1870, Art. 321; par. 6, same as RCC 1870, Art. 322; par. 7, same as RCC 1870, Art. 323; par. 8, same as RCC 1870, Art. 324.
ART. 3352. The tutor's bond, or the clerk's certificate, as the case may be, recorded as provided in the preceding article, to preserve the mortgage against the natural tutrix, shall operate as a mortgage on the property, present and future, of the new husband in favor of the minor children of a previous marriage, when his wife has not been continued in the tutorship.


RCC 1870, Art. 3352. (Same as Art. 3352 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §5 (RS §§2385, 3090))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3353. When immovable property has been adjudicated to the father or mother of a minor, the act of adjudication must be recorded in the mortgage book of the parish where the property is situated.


RCC 1870, Art. 3353. (Same as Art. 3353 of Proposed Revision of 1869; similar to Acts 1869, No. 55, §6 (RS §§2396, 3091))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3354. Before any person shall be appointed curator of a person interdicted or absent, the bond required to be given in order to obtain the appointment must be recorded in the manner required for tutor's bonds in article 3351, and a relation or friend of such person may cause such bond to be recorded.


RCC 1870, Art. 3354. (Same as Art. 3354 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §3 (RS §§2383, 3088))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3355. To preserve the legal mortgage against a person who, without having been appointed tutor of a minor, or curator of an interdicted or absent person, interferes in the administration of the property of such minor, interdicted or absent person, it shall be lawful for any person to record in the mortgage book of the parish where such intermeddler resides, and also in any parish where he has immovable property, the inventory, if there be any, of the property belonging to such minor, interdicted or absent person, or other writ-
ten evidence of such property; and if there be no written evidence thereof, a statement under oath of its value. In all cases, the person making the above record must state on oath the name of the intermeddler, and that he has actually interfered in the administration of the property belonging to such minor, interdicted or absent person. All expenses incurred shall be paid by such minor, interdicted or absent person.

RCC—2315, 3330 et seq., 3342, 3346, 3347, 3357. Acts 1869, No. 95; 1924, No. 106, §5. RS—1101, 2361, 2384, 3089, 3868.

RCC 1870, Art. 3355. (Same as Art. 3355 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §4 (RS §§2384, 3089))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3356. To preserve the legal mortgage against the surviving husband or wife, or heirs, who have been invested by the inventory with the care of the property belonging to the community or succession, a certificate from the clerk of the court having jurisdiction, setting forth the amount of the inventory, shall be recorded in the mortgage book of the parish in which such party invested with the care of the property is domiciled. The clerk who grants the certificate must have it recorded. Any person may legally cause such record to be made.

RCC—916, 1105 et seq., 1121, 1135, 2265, 3318, 3357. Acts 1869, No. 95, §7; 1924, No. 106, §5. RS—2364, 2387, 3092, 3871.

RCC 1870, Art. 3356. (Same as Art. 3356 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §7 (RS §§2381, 3092))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3357. The recording of the instruments mentioned in the nine preceding articles, shall have the effect of preserving the mortgage or privilege; but they shall in no manner be evidence of the validity of the debt or claim, other than the law may award to acts of the kind when unrecorded.

RCC—1035 et seq., 2275 et seq., 2413, 3329, 3342 et seq., 3348 et seq., 3353, 3359, 3376. Acts 1869, No. 95, §10. RS—2365, 2390, 3095.

RCC 1870, Art. 3357. (Same as Art. 3357 of Proposed Revision of 1869; similar to Acts 1869, No. 95, §10 (RS §§2390, 3095))

CC 1825. No corresponding article.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3358.* The creditors, whose inscriptions have been made on the same day, possess a concurrent mortgage, and no distinction
is made between the inscription made in the morning and that made in the evening, even although the recording officer may have noted the difference.


RCC 1870, Art. 3358.
Same as above.

CC 1825, Art. 3321. (Projet, p. 390. Amendment † adopted; no comment)
Tous les créanciers inscrits le même jour exercent en concurrence une hypothèque de la même date, sans distinction entre l'hypothèque [l'inscription] du matin et celle du soir, quand même cette différence serait marquée par l'officier qui tient le registre.

CC 1808, p. 470, Art. 79.
The creditors who have caused their titles to be recorded on the same day, have in concurrence a mortgage of one and the same date; no distinction being made between those recorded in the morning, and such as were recorded in the evening of the same day, even should the register have marked this difference.

CN 1804, Art. 2147.
Same as above; but no punctuation after "jour", after "exercent", or after "concurrence."

*In connection with this article see Acts 1910, No. 215.

ART. 3359. Mortgages given and inscribed within three months previous to the failure of the debtor, shall be declared null, as presumed to be given in fraud of other creditors, unless the person in whose favor the mortgage was granted shall prove that he paid, in obtaining it, a real and effective value at the moment of the contract.


RCC 1870, Art. 3359.
Same as above.

CC 1825, Art. 3323. (Projet, p. 391. Addition amended and adopted; comment by redactors)
Les hypothèques, données et inscrites dans les trois mois avant l'ouverture de la faillite du débiteur, seront déclarées nulles, comme présumées faites en fraude des autres créanciers de ce débiteur, à moins que celui, en faveur duquel l'hypothèque a été consentie, ne prouve qu'il a donné pour l'obtenir une valeur réelle et effective au moment du contrat. (Analogous to Acts 1817, p. 126, §24)

CC 1808. No corresponding article.

CN 1804. No corresponding article.
ART. 3360. The word "fraud" used in the foregoing article means any unfair preference which the debtor may give to one of his creditors over the others, by selling or mortgaging to him a portion of his property for a debt* existing before the contract.


RCC 1870, Art. 3360.
Same as above.

CC 1825, Art. 3324. (Projet, p. 391. Addition † adopted; no comment)
On entend par le mot "fraude," employé dans l'article précédent, toute injure préférence que le débiteur aurait voulu donner à l'un des (de) ses créanciers sur les autres, en lui vendant, engageant ou hypothéquant quelques-uns de ses biens pour une dette ou obligation* antérieure au contrat.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

ART. 3361. The inscription of a judgment obtained against a debtor within ten days preceding his failure, shall have no effect against the other creditors of the debtor, if it appears, from the time at which the suit was commenced, and the manner in which it was conducted, that the debtor intended to favor the plaintiff, either by consenting that judgment should be rendered against him without the usual delays, or by not making a defense, or by confessing judgment when the cause admitted of contest.


RCC 1870, Art. 3361.
Same as above.

CC 1825, Art. 3325. (Projet, p. 391. Addition † adopted; no comment)
L'inscription d'un jugement, qui aurait été obtenu contre un débiteur, dans les dix jours qui ont précédé sa faillite, ne produira aucun effet contre les autres créanciers du débiteur, s'il paraît, par l'époque où le procès a été intenté et la manière dont la procédure a été conduite, que ce débiteur a eu l'intention de favoriser le demandeur, soit en consentant que jugement fût rendu contre lui avant l'expiration des délais ordinaires, soit en ne faisant (faisant) point de défenses, ou en confessant jugement, lorsque la cause était susceptible de discussion.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3362. An inscription made after the failure or on the day preceding it, shall have no effect whatever against other creditors.

RCC—1779, 1873 et seq., 2262, 2266, 3093, 3329, 3342, 3359, 3361 3556(11).
CIVIL CODES OF LOUISIANA

Art. 3364

RCC 1870, Art. 3362.
Same as above.

CC 1825, Art. 3326. (Projet, p. 391. Addition adopted; no comment)
L’inscription qui sera prise la veille même de la faillite ou depuis, ne produira aucun effet contre le autres créanciers.

CC 1808. No corresponding article.

CN 1804, Art. 2146, par. 1, sentence 2.
Il en est de même entre les créanciers d’une succession, si l’inscription n’a été faite par l’un d’eux que depuis l’ouverture, et dans le cas où la succession n’est acceptée que par bénéfice d’inventaire.

Art. 3363. If a succession, which is administered by a curator or beneficiary heir, is not sufficient to satisfy the creditors, an inscription made by one of them after it is opened shall have no effect against the others.

RCC—872 et seq., 881, 883, 934 et seq., 1113 et seq.

RCC 1870, Art. 3363.
Same as above.

CC 1825, Art. 3327. (Projet, p. 391. Addition adopted; no comment)
Si une succession, qui est gérée par un curateur ou par un héritier bénéficiaire, se trouve n’avoir pas assez de biens pour payer ses créanciers, l’inscription prise par l’un d’eux depuis l’ouverture de la succession, n’aura pas d’effet contre les autres.

CC 1808. No corresponding article.

CN 1804, Art. 2146, par. 2.
The same result obtains among the creditors of a succession, if the inscription has been made by one of them only since the opening of the succession, and in the case when the succession is accepted only under benefit of inventory.

Art. 3364. Every notary who shall pass an act of sale, mortgage or donation of an immovable, shall be bound to obtain from the office of mortgages of the place where the immovable is situated, a certificate declaring the privileges or mortgages which may be inscribed on the object of the contract, and to mention them in his act, under penalty of damages towards the party who may suffer by his neglect in that respect.

RCC—2257, 3182 et seq., 3186, 3278, 3329, 3342, 3346 et seq., 3369, 3393 et seq., CP—678. Acts 1888, No. 88; 1898, No. 170, §74, 75; 1916, No. 256, §1; 1920, No. 142, §4. RS—449, 2394, 2404, 2424, 2513, 2514, 2519, 2528, 2529, 3160, 3161, 3180, 3395, 3615.

RCC 1870, Art. 3364. (Same as Art. 3364 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3328. (Projet, p. 391. Addition adopted; no comment)
Tout notaire, qui passera un acte de vente, d’hypothèque ou de donation d’un immovable, qui n’a pas été précédé d’une inscription de l’héritier, de l’hypothèque ou de la donation, sera tenu, se prononçant pour son acte, de s’assurer de l’existence d’une telle inscription ou de sa nullité, auquel cas s’il a ignoré de son existence, il sera tenue de les mentionner dans son acte, sous pénalité de dommages versés à l’individu pénalisé par son négligence dans cette matière.

1841
Art. 3365

COMPiled EDITION

immoveable or slave, shall be bound to obtain from the office of mortgages of the place where the immoveable is situated, or where the seller, debtor, or donor has his domicile, if it be of a slave, a certificate declaring the privileges or mortgages which may be inscribed on the object of the contract, and to mention them in his act, under penalty of damages towards the party who may suffer by his neglect in that respect.

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

Art. 3365. If a person who has given a mortgage on his property, takes advantage of the neglect to register the mortgage, and engages the same property afterwards to another person without informing him of the first mortgage, he shall be considered guilty of fraud, and shall be subject to such damages towards the party suffering thereby as the nature of the case may require.

RCC 1870, Art. 3365.
Same as above.

CC 1825, Art. 3329. (Projet, p. 391. Addition accepted; no comment) Si quelqu'un, qui a donné une hypothèque sur ses biens, profite du défaut d'inscription de cette hypothèque pour les affecter à une autre personne, sans la prévenir de l'existence de cette hypothèque, il sera censé coupable de fraude, et comme tel, sujet à tels dommages-intérêts envers la partie qui souffrira de son dol, que la nature du cas pourra requérir.

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

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

Art. 3366. To obtain an inscription of a public act or judgment, the creditor, either in person, or by an agent, shall present an authentic copy of the act or judgment to be recorded, to the register of mortgages of the place where the inscription is to be made.

RCC 1870, Art. 3366.
Same as above.

CC 1825, Art. 3330. (Projet, p. 392. Amendment accepted; no comment) Pour opérer l'inscription, s'il s'agit d'un acte public ou d'un jugement, le créancier, soit par lui-même, soit par un tiers, doit présenter au conserva-
The creditor who wishes to have any act recorded, shall present either by himself or by a third person, to the register of mortgages, an authentic copy of the judgment or act from which the mortgage originates, or of the donation to be recorded.

The creditor who wishes to have any act recorded, shall present, either by himself, or by a third person, to the register of mortgages, the original or an authentic copy of the judgment or act from which the privilege or mortgage originates.

ART. 3367. If it be an act under private signature bearing a mortgage, the creditor can only have it registered when it has been acknowledged by the mortgagor, or proved by the oath of one of the subscribing witnesses, unless the register be acquainted with the signature of the parties, and shall agree, on his own responsibility, to make the inscription, on the original act being presented to him.

ART. 3368. The inscription of acts on which privileges are founded, when they are subjected to this formality, as also donations, shall be made in the same manner as that of mortgages.
ART. 3369. The registry preserves the evidence of mortgages and privileges during 10 years, reckoning from the day of its date. In all cases where the mortgages and privileges secure the payment of notes, bonds or other obligations, the whole or any part of which matures more than nine years from date of the obligation, the registry preserves the evidence of such mortgages and privileges until six years after the date of the maturity of the last maturing note, bond or other obligation as fixed by the original instruments from which they sprung or with which they are identified. Provided, however, that the recordation in the mortgage records in which the original instrument is recorded of a written agreement by authentic act, or by private act duly acknowledged between the owner or owners of the indebtedness and the owner or owners of the property, extending the maturity of the last maturing note, bond or other obligation, as fixed by the original instrument, shall have the effect of preserving the evidence of such original mortgage until six years after the maturity of the last maturing note, bond or other obligation as fixed by the supplemental written agreement. On the recordation of such a written agreement, the recorder of mortgages shall make marginal note on the inscription of the original instrument stating that the maturity has been extended and giving the book and folio number in which the supplemental agreement, extending the said maturity has been recorded.

The effect of the registry ceases in all cases, even against the contracting parties if the inscriptions have not been renewed within the periods of time above provided in the manner in which they were first made; and in all cases the reinscription of the mortgages and privileges shall preserve their effect for 10 years from the date of the timely renewal as above provided. The effect of the registry of mortgages to which husbands are subject for the dowry and other claims of wives ceases in all cases even against the husband or his heirs, if the inscriptions have not been renewed within 10 years after the dissolution of the marriage.

The effect of the registry with regard to the mortgages of tutors and curators in favor of minors, interdicted and absent persons whose estates they administer, ceases in all cases, even against the tutor and curator, as follows; in cases of minors, four years after the majority of the minor, in cases of interdicted persons, four years after the
death of the interdict or the termination of the interdiction, and in cases of absent persons, ten years after the termination of the curatorship.

The reinscription of the mortgages is dispensed with in certain cases provided for by special laws. (As amended by Acts 1940, No. 247)

RCC—3273, 3314 et seq., 3320, 3328, 3330 et seq., 3342 et seq., 3368, 3411, 3544, 3457. Acts 1842, No. 96; 1843, No. 87; 1914, No. 176, §5; 1917, E.S., No. 23; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1918, No. 227; 1924, No. 50; 1932, No. 140, §50; 1938, No. 322, §1; 1938, No. 337, §8; 1940, No. 95, §51; 1940, No. 247, §1. RS—450, 2376, 2399, 2400, 2428, 3140.

Art. 3369.
The registry preserves the evidence of* mortgages and privileges during ten years, reckoning from the day of its date. In all cases where the mortgages and privileges secure the payment of notes, bonds or other obligations, the whole or any part of which matures more than nine years from date of the obligation, the registry preserves the evidence of such mortgages and privileges until one year after the date of the maturity of the last maturing note, bond or other obligation as fixed by the original instruments from which they sprung or with which they are identified.

The effect of the registry ceases in all cases, even against the contracting parties if the inscriptions have not been renewed within the respective periods of time above provided, in the manner in which they were first made; and in all cases the reinscription of the mortgages and privileges shall preserve their effect for ten years from the date of the timely renewal as above provided.

Par. 3 same as par. 2, sentence 2, above; but comma (,) after "cases."
Par. 4 same as par. 3, above; but colon (:) after "follows."

The reinscription of mortgages is dispensed with in certain cases provided for by special laws. (As amended by Acts 1938, No. 322)

Art. 3369.
The registry preserves the evidence of* mortgages and privileges during ten years, reckoning from the day of its date. In all cases where the mortgages and privileges secure the payment of notes, bonds or other obligations, the whole or any part of which matures more than nine years from date of the obligation, the registry preserves the evidence of such mortgages and privileges until one year after the date of maturity of the last maturing note, bond or other obligation as fixed by the original instruments from which they sprung or with which they are identified; and the Recorder of Mortgages in each Parish shall record all such mortgages and privileges in a special book and shall provide a special index therefor.

Par. 2 same as par. 2, above; but comma (,) after "parties", and after "and in all cases."

None of the foregoing provisions of this article shall obtain with regard to the mortgages to which husbands are subject for the dowry and other claims of wives and tutors and curators towards minors, interdicted and absent persons whose estates they administer.

The reinscription of mortgages is also dispensed with in certain cases provided for by special laws. (As amended by Acts 1924, No. 50)

Art. 3369.
The registry preserves the evidence of* mortgages and privileges during ten years, reckoning from the day of its date; its effect ceases, even against the contracting parties, if the inscriptions have not been renewed before the expiration of this time, in the manner in which they were first made; provided, that in all cases where the mortgages and privileges secure the payment of notes, bonds or other obligations maturing after ten years, this renewal of the original inscription shall be made within three months from the expiration of the last maturing notes, bonds or other obligations, as fixed in the original instruments from which they sprung or with which they are identified. In all cases the reinscription of the mortgages and privileges shall preserve their effect for ten years from the date of the timely renewal as above provided.

1845
Art. 3370  

But the provisions of the above paragraph shall not obtain with regard to the mortgages to which husbands are subject for the dowry and other claims of wives and tutors and curators towards minors, interdicted and absent persons whose estates they administer.

Par. 3 same as par. 4, above. (As amended by Acts 1918, No. 227)

RCC 1870, Art. 3369.

The registry preserves the evidence of mortgages and privileges during ten years, reckoning from the day of its date; its effect ceases, even against the contracting parties, if the inscriptions have not been renewed before the expiration of this time, in the manner in which they were first made.

But this rule does not obtain with regard to the mortgages to which husbands are subjected for the dowry and other claims of wives, and tutors and curators towards minors, interdicted and absent persons, whose estates they administer.

Par. 3 same as par. 3, above.

CC 1825, Art. 3333. (Projet, p. 392. Addition adopted; no comment)

The registry preserves the evidence of mortgages and privileges, during ten years, reckoning from the day of their date: their effect ceases, even against the contracting parties, if the inscriptions have not been renewed before the expiration of this time, in the manner in which they were first made.

But this rule does not take place with regard to the mortgages to which husbands are subjected for the dowry and other claims of wives, and tutors and curators towards minors, interdicted and absent persons, whose estates they administer.

CC 1808. No corresponding article.

CN 1804, Art. 2154.

The registry preserves the mortgages and privileges during ten years, reckoning from the day of their date; their effect ceases, if the inscriptions have not been renewed before the expiration of this time.

"The evidence of" has no counterpart in French text.

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

ART. 3370. It shall be the duty of notaries, and other public officers acting as such, to cause to be recorded without delay all acts creating mortgages, which shall be executed by them, whether such mortgages be conventional or legal.

It shall also be the duty of judges to cause to be recorded all legal mortgages resulting from appointments made by them of tutors of minors or of curators of interdicted persons or absentees; and in default thereof such notaries or judges shall be liable to an action in damages, and even to be removed from office, as the case may be.


RCC 1870, Art. 3370. (Same as Art. 3370 of Proposed Revision of 1869)

Same as above.
Section 2—OF THE ERASURE OF MORTGAGES

ART. 3371. Inscriptions of mortgages and privileges are erased by the consent of the parties interested and having capacity for that purpose; this consent to be evidenced by a release, or by a receipt given on the records of the court rendering the judgment on which the mortgage is founded.

RCC—1766, 1782 et seq., 1819, 3324, 3341, 3372 et seq., 3386 et seq., 3411.
CP—708. Acts 1855, No. 253; 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1932, No. 140, §52; 1934, No. 41. RS—359 (as am. by 1873, No. 68; 1877, No. 15; 1888, No. 75).

RCC 1870, Art. 3371.
Same as above.

CC 1825, Art. 3335. (Projet, p. 392. Amendment adopted; no comment)
Same as above.

CC 1808, p. 466, Art. 64.
The acts recorded may be erased either by and with the consent of the parties concerned and having the necessary capacity for that purpose, or by virtue of a judgment either final or having acquired the force of a matter finally adjusted.*

CN 1804, Art. 2157.
The acts recorded may be erased either by and with the consent of the parties concerned and having the nec-
Art. 3372

Inscriptions of mortgages and privileges may be also erased by virtue of a judgment ordering such erasure, in one of the cases hereafter enumerated.

RCC—3324, 3341, 3371, 3373, 3376, 3379 et seq., 3411. CP—708. Acts 1855, No. 253; 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1920, No. 223, §5; 1922, No. 31, §§3, 5; 1924, No. 106, §5; 1932, No. 140, §§2. RS—359 (as am. by Acts 1873, No. 68; 1877, No. 15; 1888, No. 75).

RCC 1870, Art. 3372.

Same as above.

CC 1825, Art. 3336. (Projet, p. 392. Amendment amended in English text and adopted; no comment) Les inscriptions des hypothèques et privilèges peuvent être également rayées, en vertu d'un jugement qui or­done cette radiation, dans l'un des cas ci-après prescrits.

CC 1808, pp. 466, 467, Art. 64.

Quoted under RCC 1870, Art. 3371, above.

CC 1804, Art. 2157.

Quoted under RCC 1870, Art. 3371, above.

Art. 3373.

This erasure shall be made on a presentation of the acts, receipts and judgments which operate a release of the mortgages and privileges to be erased, in the same manner as directed for their inscription.

RCC—2251 et seq., 2255 et seq., 2264 et seq., 3329, 3342, 3348 et seq., 3366 et seq., 3370, 3371, 3372, 3374 et seq., 3381, 3386 et seq. CP—708. Acts 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1920, No. 223, §5; 1922, No. 31, §§3, 5; 1924, No. 106, §5; 1932, No. 140, §§3. RS—359 (as am. by Acts 1873, No. 68; 1877, No. 15; 1888, No. 75).

RCC 1870, Art. 3373.

Same as above.

CC 1825, Art. 3337. (Projet, p. 392. Addition adopted; no comment) Cette radiation aura lieu sur la représ­entation de copies authentiques des actes, quittances et jugemens qui o­pèrent la main-levée des hypothèques et privilèges qu'il s'agit de rayer, de la même manière qu'il est requis pour leur inscription.

CC 1808. No corresponding article.

CC 1804, Art. 2158.

In both cases, those who require the erasure, shall deposit in the office of the recorder an executory copy of the authentic act showing consent, or of the judgment of court.

Dans l'un et l'autre cas, ceux qui re­quèrent la radiation déposent au bu­reau du conservateur l'expédition de l'acte authentique portant consentement, ou celle du jugement.
ART. 3374. The recorder of mortgages for the parish of Orleans, and the parish recorders of the several parishes of the State, are authorized and required to cancel from their records any mortgage for which a release may have been granted by an authentic act, upon the mere presentation of the certificate of the notary public before whom such act was executed, or of his successor in office, stating by said act a release was granted and the erasure allowed; this certificate shall be filed in the office of the recorder of mortgages where such cancelling is asked for.


RCC 1870, Art. 3374. (Same as Art. 3374 of Proposed Revision of 1869; similar to Acts 1843, No. 164; same as Acts 1855, No. 253, §2 (RS §§2401, 31451))

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

ART. 3375. If the release has been given by an act under private signature, the erasure shall only take place when it has been acknowledged by the mortgagor, or proved by the oath of one of the subscribing witnesses, unless the register be acquainted with the signature of the party who has subscribed the act, and shall agree, on his own responsibility, to make the erasure on the presentation of the original.


RCC 1870, Art. 3375. (Same as Art. 3375 of Proposed Revision of 1869)

CC 1825, Art. 3338. (Projet, p. 392. Addition † adopted; no comment)

Si la main-levée a été donnée par un acte sous signature privée, la radiation ne se fera que sur la représentation d'une copie authentique de l'enregistrement qui en aura été fait en l'étude d'un notaire public, à moins que le conservateur ne connaisse la signature de la partie qui a souscrit l'acte, et ne consente, sous sa responsabilité, à faire cette radiation, sur la représentation de l'original de cet acte.

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

ART. 3376. He who shall have subscribed in favor of another, an act bearing a mortgage or privilege, to secure the payment of a debt or the execution of an obligation, may, on the payment of the debt or performance of the obligation, require of the creditor a release of the mortgage or privilege, provided he will defray the expense of the act which it may be necessary to prepare for this purpose; and if the
creditor refuse to grant this release, the other party shall have an
action to compel him to grant it, and he shall be condemned to pay
the costs.

RCC—3291, 3369, 3372, 3377 et seq., 3396, 3411(4). CP—72, 74, 549,
551. Acts 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1932,
No. 140, §53.

RCC 1870, Art. 3376.
Same as above.

CC 1825, Art. 3339. (Projet, p. 393. Addition adopted; no comment)
He who shall have subscribed in fa-
vour of another, an act bearing a mort-
gage or privilege, to secure the payment
da debt or the execution of an obli-
gation, may, on payment of the debt,
or performance of the obligation, re-
quire of the creditor a release of the
mortgage or privilege, provided he will
defray the expense of the act which
it may be necessary to prepare for this
purpose; and if the creditor refuse to
grant this release, the other party shall
have an action to compel him to grant it,
and he shall be condemned to pay the
costs.

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

ART. 3377. If the debt for which a mortgage has been granted,
or for which there exists a privilege, is payable at several terms, the
debtor may, on the payment of each installment, require a release
from the creditor of the mortgage or privilege, in relation to the in-
stallments thus paid, on the terms prescribed in the foregoing article.

RCC—1996, 2048, 2065, 2108 et seq., 3291, 3376, 3378, 3382, 3383, 3385.

RCC 1870, Art. 3377.
Same as above.

CC 1825, Art. 3340. (Projet, p. 393. Addition adopted; no comment)
Si la dette, pour laquelle l'hypo-
thèque a été donnée, ou pour laquelle
il existe un privilège, est payable à
divers termes, le débiteur pourra, lors
du paiement de chacun de ces termes,
exiger du créancier qu'il lui donne main-
levée de l'hypothèque ou du privilège
relativement au terme ou aux termes
qui ont été ainsi payés, de la même
manière qu'il est dit dans l'article pré-
cédent.

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

ART. 3378. But in the case supposed in the preceding article,
and in all others where partial releases are given, the mortgage or
privilege shall only be finally erased on payment of the last install-
ART. 3379. If a debtor who had given a mortgage to his creditor on a certain portion of his property, or who had subscribed in his favor an act importing a privilege, has neglected, on paying the debt, which gave rise to the privilege or mortgage, to obtain the release of it, and if the creditor should afterwards absent himself from the State, leaving behind no representative or attorney, he may obtain a decree for his release from any competent judge of the creditor’s last place of residence, by proving to the judge, either by testimony in writing or by sufficient oral testimony, according to the nature and amount of the debt, that it has been fully discharged.


RCC 1870, Art. 3379.
Same as above.

CC 1825, Art. 3341. (Projet, p. 393. Addition adopted; no comment)
Same as above; but comma (,) after “discharge of the debt.”

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Si un débiteur, qui avait donné à son créancier une hypothèque sur quelques uns de ses biens, ou qui avait souscrit en sa faveur un acte portant privilège, a négligé, en payant la dette qui donne lieu à ce privilège ou à cette hypothèque, d’en obtenir la main-levée, et que le créancier vienne ensuite à s’absenter de l’Etat sans y laisser aucun représentant ou fondé de pouvoir, il pourra faire ordonner cette main-levée par tout juge compétent du dernier domicile de son créancier, en prouvant à ce juge, soit par une preuve littérale, soit par une preuve testimoniale suffisante, suivant la nature de l’obligation ou son
of the debt, that it has been fully discharged. (Similar to Acts 1817, p. 60, §1)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

**ART. 3380.** When such a demand shall be made before a judge of the last place of residence of the absent creditor, he shall direct that such creditor be cited by notices posted up at the usual places, and shall appoint a person to represent the absent creditor in the case.


RCC 1870, Art. 3380. (Same as Art. 3380 of Proposed Revision of 1869)

Same as above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

**ART. 3381.** When a person, who has obtained a judgment on which an appeal lies, has had it recorded, if this judgment is afterwards reversed or confirmed in part only, the party against whom the inscription had been made, may, on motion before the judge who rendered the judgment, after due notice to the other party, obtain an order for the erasure or reduction of the inscription, as the case may require; and if it be a case for erasure, it shall be made at the expense of the party making the inscription.

RCC—3321 et seq., 3372, 3373. CP—564 et seq.

RCC 1870, Art. 3381.

Same as above.

CC 1825, Art. 3344. (Projet, p. 394. Addition adopted; no comment)

"the party."
ART. 3382. If a debtor, who has granted a mortgage, or signed an act from which there results a privilege, has given notes payable to order and duly paraphed as hereafter directed, each holder of such notes may, on their being paid, raise the mortgage or release the privilege, to the amount of the note or notes thus paid, of which he was the bearer.


RCC 1870, Art. 3382.
Same as above.

CC 1825, Art. 3345. (Projet, p. 394. Addition adopted; no comment)
If a debtor, who has granted a mortgage, or signed an act from which there results a privilege, has given notes payable to order and duly marked, as hereafter directed, each holder of such notes may, on their being paid, raise the mortgage, or release the privilege, to the amount of the note or notes thus paid, of which he was the bearer. (Similar to Acts 1817, p. 60, §3)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 3383. Even the drawer of these notes may, if he has paid any of them in bank or in the holder’s hands, obtain from the notary who paraphed them as hereafter directed, a certificate by which the said notary shall declare that the note or notes were secured by an act importing a mortgage or privilege, which was passed before him, mentioning the date of the act, the name of the contracting parties, and the objects which were subjected to the mortgage or privilege; and the register of mortgages shall, on the presentation of this certificate, raise the mortgages, according to the amount of the notes mentioned in the certificate, either partially, or entirely, as hereafter directed.

RCC—2251 et seq., 2255 et seq., 3306, 3377, 3377 et seq., 3382, 3384, 3385, 3386 et seq. Acts 1914, No. 176, §18; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232).

RCC 1870, Art. 3383. (Same as Art. 3383 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3346. (Projet, p. 394. Addition adopted; no comment)
Even the drawer of these notes may, if he has paid any of them in bank, or in the holder’s hands, obtain from the notary who affixed his mark to them, as hereafter directed, a certificate by which the said notary shall declare that the note or notes were secured by an act importing a mortgage or privilege, which was passed before him, mentioning the date of the act, the name of the contracting parties, and the objects which were subjected to the mortgage or privilege; and the register of mortgages shall, on the presen-
Art. 3384. Every notary before whom an act shall have been passed, by which notes to order have been given for the payment of a debt bearing a privilege or mortgage, shall attest each of the notes by putting his name on them, mentioning the date of the act from which the privilege or mortgage is derived, under the penalty of damages.

RCC—3364, 3382, 3383. Acts 1886, No. 40; 1914, No. 72 (as am. by 1940, No. 291); 1934, No. 118. RS—2503.

RCC 1870, Art. 3384. (Same as Art. 3384 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3347. (Projet, p. 394. Addition adopted; no comment)
Every notary, before whom an act shall have been made, by which notes to order have been given for the payment of a debt bearing a privilege or mortgage, shall attest each of the notes by putting his name on them, mentioning the date of the act from which the privilege or mortgage is derived, under the penalty of damages. (In conformity with Acts 1817, p. 60, §4)

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

Art. 3385. The recorder, to whom partial releases shall be presented resulting from payments made on a debt bearing a privilege or mortgage, shall make mention of these partial releases on the margin of the record of the act by which the privilege or mortgage is secured, but he shall not erase it entirely, until the whole debt, for which it was given, shall have been discharged.

RCC—3282, 3377, 3378, 3382, 3383, 3388 et seq., 3411.

RCC 1870, Art. 3385.
Same as above.

CC 1825, Art. 3348. (Projet, p. 394. Addition adopted; no comment)
Le conservateur, auquel il sera présenté des mains-levées partielles, résultant de payements faits sur une dette portant privilège ou hypothèque, devra faire mention de ces mains-levées partielles en marge de l'inscription de l'acte d'où dérive ce privilège ou cette hypothèque; mais il ne devra rayer définitivement ce privilège ou cette hypothèque, qu'autant que la dette entière, pour laquelle cet acte a été souscrit, aura été acquittée.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 3386. There is established in each parish an office for the recording of mortgages, privileges and donations.

RCC—1554, 2251 et seq., 3271 et seq., 3329, 3342 et seq., 3348, 3387 et seq.

RCC 1870, Art. 3386.
Same as above.

CC 1825, Art. 3349. (Projet, p. 395. Amendment adopted; no comment)
Same as above.

CN 1808, p. 464, Art. 55.
The recording of the mortgages which are by law subject to that formality, shall be made in an office kept for that purpose in the city of New-Orleans for the whole territory, by a public officer whose title shall be the register of mortgages of the Territory of Orleans.

CN 1804. No corresponding article.

ART. 3387.* This office is kept in the parish of Orleans by a particular officer, called the recorder of mortgages.
Out of the parish of Orleans, the duties of this recorder are performed by the different parish recorders, within the limits of their respective parishes.


RCC 1870, Art. 3387. (Same as Art. 3387 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3350. (Projet, p. 395. Amendment adopted; no comment)
Par. 1 same as par. 1, above.

Out of the parish of Orleans, the duties of this recorder are performed by the different parish judges, within the limits of their respective jurisdictions.

Quoted under RCC 1870, Art. 3386, above.

CN 1804. No corresponding article.

*In connection with this article see Const. 1921, VII, 66.

ART. 3388. The recorder of mortgages for the parish of Orleans has his office in the city of New Orleans, and must keep two registers:

1855
Art. 3389. These registers shall be numbered at each page and signed *ne varietur* on the first and last page, by one of the judges or a justice of the peace for the parish of Orleans.

RCC—2258, 3388, 3390. Acts 1886, No. 57, §3 (as am. by 1900, No. 30); 1890, No. 51; 1908, No. 76; 1910, No. 215; 1914, No. 233, §1; 1917, E.S., No. 23, §2; 1918, No. 198, §6; 1920, No. 100. RS—2389, 3080, 3082, 3083, 3161, 3164, 3175, 3176, 3177.

RCC 1870, Art. 3389. (Same as Art. 3389 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3352. (Projet, p. 395. Amendment adopted; comment by redactors)

These registers shall be numbered at each page, and signed *ne varietur*, on the first and last page, by the judge of the parish of Orleans.
ART. 3390. The parish recorders must keep the same number of registers as the recorder of mortgages for the parish of Orleans, and shall number their pages, and have them signed ne varietur on the first and last page by the parish judge of their parish or two justices of the peace for their parish.

RCC—2258, 3387 et seq., 3391 et seq. Acts 1886, No. 57, §3 (as am. by 1900, No. 30); 1890, No. 51; 1908, No. 76; 1910, No. 233; 1914, No. 175, §11; 1917, E.S., No. 23, §2; 1918, No. 198, §6; 1920, No. 100. RS—2389, 3082, 3083, 3175, 3176, 3177.

RCC 1870, Art. 3390. (Same as Art. 3390 of Proposed Revision of 1869) Same as above.

CC 1825, Art. 3353. (Projet, p. 395. Addition ‡ adopted; no comment) Les juges de paroisse devront tenir le même nombre de registres que le conservateur des hypothèques de la paroisse d’Orléans, et ils devront en faire numéroter les pages, et les faire parapher ne varietur, à la première et dernière page,* par le juge de leur district ou par deux juges de paix de leur paroisse. (In conformity with Acts 1810, Chap. XXV, §2)

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include “on the first and last page.”

ART. 3391.* Besides the registers above mentioned, the recorder of mortgages, and the parish recorders performing the same duties in the different parishes, shall keep a separate register, in which they shall set down from day to day, and according to their date, the title of the different acts transmitted to them to be recorded, for the purpose of establishing with exactness the time of such transmission.
This register shall be open to the inspection of all persons who may wish to examine it, during the hours at which the office is kept open, but it cannot be removed.

RCC—2254, 2256 et seq., 2262, 2264, 2266, 3273, 3258, 3288 et seq., 3390, 3392 et seq. Acts 1826, p. 162; 1855, p. 406; 1886, No. 57, § 3 (as am. by 1900, No. 30); 1908, No. 76; 1910, No. 215; 1910, No. 233; 1920, No. 100; 1921, E.S. No. 56, § 1; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285). RS—451, 3080 et seq., 3175, 3176, 3177.

RCC 1870, Art. 3391. (Same as Art. 3391 of Proposed Revision of 1869; same as CC 1825, Art. 3354, as amended by Acts 1826, p. 162, § 1 (RS 451))

CC 1825, Art. 3354. (Projet, p. 395. Amendment adopted; comment by redactors)

Besides the registers above mentioned, the recorder of mortgages, and the judges performing the same duties in the different parishes, shall keep:

1. A separate register, in which they shall set down from day to day, and according to their date, the title of the different acts transmitted to them to be recorded, for the purpose of establishing with exactness the time of such transmission;

2. A book numbered and signed in the same manner as their registers, in which they shall insert, in regular order, a summary of all the acts which they have recorded.

This book shall be open to the inspection of all persons who may wish to examine it, during the hours at which the office is kept open, but it cannot be removed.

CC 1808, p. 466, Art. 62.

The register shall have a docket on which he shall enter day by day successively and in a numerical order, the delivery made to him of any acts of sale, donations, judgments, or other titles of mortgages, in order to be recorded, and he shall give to each party, if required, a receipt mentioning the number of the docket on which said delivery had been entered, and it shall not be lawful for him, to record any of the said acts or judgments in the books kept for that purpose, out of the date and order of their being delivered to him.

CN 1804, Art. 2200.

Nevertheless recorders are bound to keep a register on which they shall enter, day by day and in numerical order, the delivery made to them of any acts of transfer to be transcribed, or of abstracts to be recorded; they shall give to the applicant a receipt on stamped paper, bearing the number of the register on which the delivery had been

CC 1825, Art. 3354.

En outre des registres d'inscriptions ci-dessus mentionnés, le conservateur des hypothèques, et les juges qui en remplissent les fonctions dans les diverses paroisses, devront tenir:

1. Un registre particulier où ils porteront en note, jour par jour et par ordre de date, les titres divers actes qui leur sont remis pour être inscrits, à l'effet de constater l'époque de cette remise;

2. Un répertoire numéroté et paraphé de la même manière que leurs registres d'inscription, dans lequel ils inséreront par ordre un extrait de tous les actes qu'ils auront inscrits. Ce répertoire sera soumis à l'inspection de tous ceux qui voudront l'examiner, aux heures où le bureau des hypothèques sera ouvert, mais ne pourra être déplacé.

CN 1804, Art. 2200.

Néanmoins les conservateurs seront tenus d'avoir un registre sur lequel ils inscriront, jour par jour et par ordre numérique, les remises qui leur seront faites, d'actes de ventes ou de donations, jugemens ou autres titres hypothécaires, pour être inscrits; ils donneront au requérant, s'il l'exige, une reconnaissance qui rappellera le numéro du registre sur lequel la remise aura été inscrite, et il ne pourra inscrire aucun des sujets actes ou jugemens, sur les registres à ce destinés, qu'à la date et dans l'ordre des remises qui lui auront été faites.

1858
entered, and they shall not transcribe acts of transfer or record abstracts in the books kept for this purpose, out of the date and order they have been delivered to them.

*In connection with this article see Acts 1908, No. 76.

**ART. 3392.** In no case can the recorder of mortgages and the parish recorders fulfilling the same duties, refuse or delay the recording of the acts which are presented to them for that purpose, or the delivery of the certificates which are required of them, as hereafter stated.


RCC 1870, Art. 3392. (Same as Art. 3392 of Proposed Revision of 1869)

In no case can the recorder of mortgages and the judges fulfilling the same duties, refuse or delay* the recording of the acts which are presented to them for that purpose, or the delivery of the certificates which are required of them, as hereafter stated.

CC 1825, Art. 3355. (Projet, p. 396. Amendment adopted; comment by redactors)

In no case can the recorder of mortgages and the judges fulfilling the same duties, refuse or delay* the recording of the acts which are presented to them for that purpose, or the delivery of the certificates which are required of them, as hereafter stated.

CC 1808, p. 466, Art. 61.

In no case may the register of mortgages refuse or delay either the recording the acts which are presented to him for that purpose; or the delivery of the certificates which are required of him, under penalty of damages towards the parties.

CN 1804, Art. 2199.

In no case may recorders refuse or delay the transcription of acts of transfer, the recording of hypothecary rights, or the delivery of the certificates which are required of them, under penalty of damages towards the parties; to effect such purpose, a procès-verbal of the refusal or delay shall forthwith be drawn up, at the instance of the applicants, either by a justice of the peace, or by a clerk of court or any other deputy, or by a notary assisted by two witnesses.

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

**ART. 3393.** These officers shall record on their register the acts which are presented to them, in the order of their date, and without leaving any intervals or blank space between them; and they are bound also to deliver to all persons who may demand them, a certificate
of the mortgages, privileges or donations, which they may have thus recorded; if there be none, their certificate shall declare that fact.

RCC—1544, 2257, 3273, 3358, 3364, 3388, 3392, 3394. CP—678. Acts 1910, No. 69; 1910, No. 215; 1920, No. 142, §4; 1920, No. 204; 1921, E.S., No. 56, §1; 1928, No. 157; 1932, No. 165 (as am. by 1936, No. 289; 1938, No. 307; 1940, No. 285); 1938, No. 119, §1. RS—171, 2424, 3180, 3392.

RCC 1870, Art. 3393.
Same as above.

CC 1825, Art. 3356. (Projet, p. 396. Substitution adopted; comment by redactors)
Same as above; but comma (,) after "persons." (In conformity with Acts 1810, Chap. XXV, §2)

Quoted under RCC 1870, Art. 3389, above.

-p. 466, Art. 58.
And it shall be the duty of the registrar of mortgages, to deliver to any person who shall require it, a certificate of the mortgages and donations recorded in his book; and if no such thing exists, his certificate shall contain a declaration of it.

CN 1804, Art. 2196.
It is the duty of recorders of mortgages to deliver to any person who requires it a copy of the acts transcribed on their registers and of the existing recordations, or a certificate that none exists.

-p. 467, Art. 58.
Le conservateur des hypothèques sera tenu de délivrer, à tous ceux qui le requerront, certificat des hypothèques, ou donations transcrêtes sur ses registres, ou s'il n'en existe point, son certificat devra en contenir la déclaration.

Art. 2203.
Entries relating to deposits, recordations and transcriptions shall be made in the registers following each other without blanks or interlineations, under penalty against the recorder, of a fine of from one thousand to two thousand francs, and of damages suffered by the parties, also payable by preference over the fine.

*In connection with this article see Acts 1910, No. 215; 1928, No. 157.

Art. 3394.* The register of mortgages and the parish recorders performing the same duty, are answerable for injury resulting:

1. From omitting to record such acts as are directed to be recorded in their office.
2. From omitting to mention in their certificates one or several acts existing on their registers, unless in this latter case the error
proceeds from a want of exactness in the description, which can not be imputed to them.


RCC 1870, Art. 3394. (Same as Art. 3394 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3357. (Projet, p. 396. Amendment adopted; no comment)
The register of mortgages, and the parish judges performing the same duty, are answerable for injury resulting:
Subds. 1, 2 same as subds. 1, 2, above; but colon (:) after "office."

CC 1808, p. 466, Art. 59.
He is answerable for the prejudice resulting:
1st. When the recording of any act has been omitted in his books;
2dly. When he fails to mention in his certificate one or several acts recorded in his office, unless in this case, his error proceeds from some incorrect information which cannot be imputed to him.

CN 1804, Art. 2197.
They are answerable for the prejudice resulting.
1. From omitting to record such acts of transfer and of inscription as are directed to be recorded in their offices.
Subd. 2 same as CC 1825, Art. 3357, subd. 2, above.

*In connection with this article see Acts 1908, No. 76.

ART. 3395. The register of mortgages for the parish of Orleans shall furnish to the Governor of the State one or more sureties to the amount of forty thousand dollars, for the faithful execution of the duties required of him by law, and for the payment of such damages as may be sustained by his failure to discharge such duties.

Const. 1898, Art. 149; 1913, Art. 149; 1921, VII, 89.

RCC 1870, Art. 3395.
Same as above.

1861.
ART. 3396. The fees, to which the register of mortgages and the parish recorders performing the same duty are entitled for recording acts delivered to them and giving certificates, are regulated by special laws.

RCC—2848, 3376. Acts 1870, No. 101, §10 (as am. by 1935, 4E.S., No. 22); 1880, No. 136, §§17, 18; 1898, No. 203, §6 (as am. by 1936, No. 334, and 1938, No. 228); 1918, No. 198, §2 (as am. by 1932, No. 189, and 1936, No. 178); 1918, No. 198, §§5, 6; 1918, No. 198, §7 (as am. by 1922, No. 81, and 1924, No. 232); 1918, No. 200; 1924, No. 183; 1928, No. 157.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Chapter 3—Of the Effects of Mortgages and Privileges

Section 1—Of the Effects of Mortgages and Privileges with regard to the Debtor

ART. 3397. The mortgage has the following effects:

1. That the debtor can not sell, engage or mortgage the same property to other persons, to the prejudice of the mortgage which is already made to another creditor.
2. That if the mortgaged thing goes out of the debtor's hands, the creditor may follow it in whatever hands it may have passed, in so much that the third possessor of it is obliged, either to pay the debt for which the thing is mortgaged or to relinquish it to be sold, that the creditor may be paid out of the proceeds thereof.

3. That the mortgagee has the benefit of being preferred to the mere chirographic or personal* creditors, and even to the other mortgagees who are posterior to him in the date of the registry of their mortgages.

RCC—1433 et seq., 1997, 2254, 2262, 2453, 3186, 3251, 3269, 3271, 3273, 3274, 3282, 3305, 3306, 3328, 3329, 3342, 3358, 3365, 3399 et seq. CP—61 et seq., 732 et seq. Acts 1877, No. 38, §5 (as am. by 1918, No. 111, §5); 1900, No. 111, §8; 1914, No. 72 (as am. by 1940, No. 291); 1918, No. 198, §4 (as am. by 1936, No. 178); 1922, No. 52 (as am. by 1928, No. 216); 1928, No. 249, §§7, 10, 11; 1932, No. 140, §§43, 46, 47, 50, 51; 1932, No. 166; 1934, No. 169. RS—1491.

RCC 1870, Art. 3397. (Same as Art. 3397 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3360. (No reference in Projet)

The mortgage has the following effects:

1. That the debtor cannot sell, engage or mortgage the same property to other persons, to the prejudice of the mortgage which is already acquired to another creditor;

2. That if the mortgaged thing goes out of the debtor's hands, the creditor may claim it in whatever hands it may have passed, in so much that the third possessor of it is obliged, either to pay the debt for which the thing is mortgaged, or to leave it to be sold, that the creditor may be paid out of the proceeds thereof;

3. That the mortgagee has the benefit of being preferred to the mere chirographers or personal* creditors, and even to the other mortgagees who are posterior to him in the date of their mortgage or of its registry.

CC 1808, p. 460, Art. 39.

Same as above; but colon (:) after "another creditor"; no punctuation after "obliged", or after "creditors"; period (.) after "thereof."


Same as above; but "si le bien hypothéqué" spelled "si le bien hypothéqué"; comma (,) after "et le créancier", and after "date."

CN 1804. No corresponding article.

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

ART. 3398. The mode of proceeding when the thing mortgaged is in the debtor's possession, and also when it is in the hands of a third person, is prescribed in the Code of Practice.

RCC—1433 et seq., 2618 et seq., 2622 et seq., 3269, 3278, 3305, 3320, 3328, 3399 et seq., 3543. CP—61 et seq., 732 et seq. Acts 1894, No. 15; 1902, No. 25; 1906, No. 113; 1910, No. 69; 1910, No. 148, §1; 1914, No. 72 (as am. by 1940, No. 291); 1914, No. 176; 1918, No. 198, §9; 1920, No. 204; 1926, No. 57; 1932, No. 44, §§14, 15; 1932, No. 140, §§146, 47; 1934, No. 28; 1938, No. 126. RS—171, 3395.
ART. 3399

COMPILED EDITION

RCC 1870, Art. 3398.

(Same as Art. 3398 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3361.

(No reference in Projet)

When the things mortgaged are in the debtor's possession, the creditor may, in case of failure of payment, proceed against him in the usual manner, by citing him to obtain judgment against him, if the original title does not amount to confession of judgment, and causing afterwards the thing mortgaged to be seized and sold; and if the title amounts to a confession of judgment, he may, on his oath that the debt is due, obtain from the judge an order for an immediate seizure of the thing; but if the thing mortgaged is out of the debtor's possession, but in the hands of a third possessor, he must then proceed against this third possessor by what is called the action of mortgage, as is directed in the following section.

CC 1808, p. 460, Art. 40.

When the things mortgaged are in the debtor's possession, the creditor may, in case of failure of payment, proceed against him in the usual manner, by citing him to obtain judgment against him, if the original title does not amount to confession of judgment, and causing afterwards the thing mortgaged to be seized and sold; and if the title amounts to a confession of judgment, he may, on his oath that the debt is due, obtain from the judge an order for an immediate seizure of said thing; but if the thing mortgaged is out of the debtor's possession, but in the hands of a third possessor, he must then proceed against this third possessor by what is called the action of mortgage, as is directed in the following section.

CN 1804. No corresponding article.

Section 2—OF THE EFFECT OF MORTGAGES AGAINST THIRD POSSESSORS, AND OF THE HYPOTHECARY ACTION*

ART. 3399. The creditors who have either a privilege or mortgage on immovables, may pursue their claims on them into whatever hands they may happen to pass, to be paid out of their proceeds according to their rank, provided that their titles have been registered according to law.

CIVIL CODES OF LOUISIANA

Art. 3400

RCC 1870, Art. 3399. (Same as Art. 3399 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3362. (No reference in Projet)
The creditors who have either a privilege or mortgage on immovable property or on slaves, may pursue their claim on them in whatever hands they may happen to pass, to be paid out of their proceeds according to their rank, provided that their titles have been registered according to law.

CC 1808, p. 460, Art. 41.
The creditors who have either a privilege or a mortgage on immovable property or on slaves, may pursue their claim on them in whatever hands they may happen to pass, to be paid out of their proceeds in the order of collocation, agreeably to their privileges or mortgages, provided that their titles have been registered in the cases and in the manner directed by law.

CN 1804, Art. 2166.
The creditors having either a privilege or a mortgage recorded against an immovable, may pursue their claim on it in whatever hands it may happen to pass, to be ranked and paid according to the order of their claims or recordings.

*In connection with this section see CP, Arts. 61 et seq., 732 et seq.

Art. 3400.* The third possessor of the immovable property mortgaged, is bound either to discharge the principal, together with all interest of the debt for which the property was mortgaged, to whatever sum they may amount, or to relinquish the property without any reservation.

RCC—1438 et seq., 1938, 2321, 3397, 3398, 3399, 3401 et seq., 3405, 3406, 3410, 3426 et seq. CP—68 et seq.

RCC 1870, Art. 3400. (Same as Art. 3400 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3363. (No reference in Projet)
The third possessor of the immovable property or slaves mortgaged, is bound either to discharge the principal together with all interest of the debt for which the property was mortgaged, to whatever sum they may amount, or to relinquish the property, without any reservation.

CC 1808, p. 460, Art. 42.
The third possessor of the immovable property or slaves mortgaged, is bound either to discharge the principal together with all interest of the debt for

-p. 461, Art. 42.
Le tiers-detenteur d'immeuble, ou des esclaves hypotheces, est tenu, ou de payer tous les interess et capitaux exigibles, pour lesquels ces biens ont ete hypotheces, a quelque somme qu'ils puissent s'elever, ou de delaiaser ces memes biens, sans aucune reserve.
which the said property was mortgaged, to whatever sum they may amount, or to relinquish the property, without any reservation.

CN 1804, Art. 2168.

The third possessor is bound, in the same case, either to discharge the principal together with all interest due, to whatever sum they may amount, or to relinquish the mortgaged immovable, without any reservation.

*In connection with this article see CP, Art. 68.

ART. 3401.* In case the third possessor fails to comply with either of these obligations, every mortgage or privileged creditor is entitled to cause the immovable mortgaged or subject to privilege to be sold, if, thirty days after amicable demand of payment from the debtor, the debt has not been discharged.

RCC—1433, 3397, 3398, 3400, 3402 et seq. CP—68 et seq., 744.

RCC 1870, Art. 3401. (Same as Art. 3401 of Proposed Revision of 1869) 

Same as above.

CC 1825, Art. 3364. (Projet, p. 397. Amendment ‡ adopted; no comment)

In case the third possessor fails to comply with either of these obligations, every mortgagee or privileged creditor is entitled to cause the immovable mortgaged or subject to privilege to be sold, if thirty days after amicable demand of payment from the debtor, the debt has not been discharged.

Faute par le tiers détenteur de satisfaire pleinement à l'une de ces obligations, chaque créancier hypothécaire ou privilégié a droit de faire vendre sur lui l'immeuble hypothéqué ou sujet au privilège, si trente jours après la demande à l'amiable qui aura été faite au débiteur, du payement de la dette, cette dette n'a pas été pleinement acquittée.

CC 1808, p. 460, Art. 43, par. 1. 

In case the third possessor fails to comply with either of these obligations, every mortgagee creditor is entitled to cause the immovable or the slaves mortgaged to be sold, after having previously obtained against the principal debtor a judgment for the debt for which the mortgage had been given.

Faute, par le tiers détenteur, de satisfaire pleinement à l'une de ces obligations, chaque créancier hypothécaire a droit de faire vendre, sur lui, l'immeuble ou les esclaves hypothéqués, après avoir préalablement obtenu, contre le débiteur originaire, un jugement de condamnation de la dette pour laquelle l'hypothèque a été accordée.

CN 1804, Art. 2169.

In case the third possessor fails to comply with either of these obligations, every mortgage creditor is entitled to cause the immovable mortgaged to be sold, thirty days after demand has been made on the original debtor, and summons given to the third possessor to pay the debt due or to relinquish the property.

*In connection with this article see CP, Art. 69.

ART. 3402.* The creditor who shall institute this action against a third possessor, must make oath, at the foot of his petition, that the debt for which he prays the seizure of the thing on which he has a
mortgage or privilege is really due to him, and that he has demanded payment of it without success, thirty days before he presents his petition.

RCC—1433 et seq., 3398, 3401. CP—69, 70.

RCC 1870, Art. 3402.
Same as above.

CC 1825, Art. 3365. (Projet, p. 397. Substitution † adopted; no comment)
Same as above; but comma (,) after "privilege."

CC 1808, p. 460, Art. 43, par. 2.
The seizure of the property mortgaged shall be ordered by a judgment, on the producing of a copy in due form of the act of mortgage, as well as of the judgment obtained against the principal debtor, supported by the oath of the mortgagee creditor stating that the amount of said judgment is actually due to him and that the property mortgaged has been sold to a third person named in the petition; but the order of seizure obtained on said petition shall be served on the third possessor ten days before its execution, in order to know whether he will not rather choose to discharge the debt, than to let the property mortgaged be seized and sold. (Suppressed on recommendation of redactors; Projet, p. 397)

CN 1804. No corresponding article.

*In connection with this article see CP, Art. 70.

ART. 3403.* The third possessor who is not personally liable for the debt, may, notwithstanding,** within ten days from his being served with an order of seizure, oppose the sale of the property mortgaged which is in his possession, if he has good cause to show in support of such opposition, as that the mortgage has not been registered, or other plea, or if there is other property mortgaged for the same debt within the possession of the principal debtor or debtors, in which last case the possessor may demand that his property be previously discussed, in the form directed under the title: *Of Suretyship,* and during the discussion the sale of the property mortgaged [mortgaged], and in the possession of the third person,*** shall be suspended.

RCC—1433, 2574, 3045 et seq., 3296, 3329, 3401, 3404 et seq. CP—71 et seq., 715.

RCC 1870, Art. 3403. (Same as Art. 3403 of Proposed Revision of 1869)
Art. 3404. The plea of discussion can not be opposed to the creditors, who have either a privilege or a special mortgage on the property found in the possession of a third person.

RCC-2574, 2772, 3045 et seq., 3186, 3249, 3271, 3288, 3296, 3306, 3403.
CP-73. Const. 1921, XIV, 16.

1868
ART. 3405.* The third possessor who wishes to avoid the action of mortgage, may, before or after the order of seizure, declare that he relinquishes the property affected by the mortgage, and of which he has possession.

This relinquishment may be made by all third possessors, who are not personally bound for the debt and who are capable of alienating; and it does not deprive them, before the sale, of the right of retaking the property mortgaged, which was in their possession, on discharging the debt, together with the interest and costs.


RCC 1870, Art. 3405. (Same as Art. 3405 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3368. (No reference in Projet)

The third possessor, who wishes to avoid the action of mortgage, may, before or after the order of seizure, declare that he relinquishes the property affected to the mortgage, of which he has possession.

Par. 2 same as par. 2, above; but comma (,) after “for the debt”; and after “alienating.”

CC 1808, p. 462, Art. 46. Par. 1 same as par. 1, above; but no punctuation after “possessor,” after “may,” or after “the mortgage.”

This relinquishment may be made by all the third possessors who are not

- p. 463, Art. 46. Same as above; but no punctuation after “à l’hypothèque”; comma (,) after “d’aliéner.”

*In connection with this article see CP, Art. 73.

***“Opposed to” is used here in the sense of “set up against” or “asserted against.”
personally bound for the debt,** nor does it bar them before the sale in execution of the right of retaking the property mortgaged which was in their possession, on discharging the debt together with the interest and costs.

CN 1804, Art. 2172.
With regard to the relinquishment of the mortgaged property, it may be made by all third possessors who are not personally bound for the debt, and who are capable of alienating.

-Art. 2173.
It may even be made after the third possessor has acknowledged the obligation or has been cast in judgment in this capacity only; the relinquishment does not deprive him, before the sale, of the right of retaking the immovable on discharging the debt, together with the interest and costs.

*In connection with this article see CP, Art. 74.
**English translation of French text incomplete; should include “and who are capable of alienating.”

ART. 3406. The act of relinquishment shall be executed before a notary public in the presence of two witnesses, and notified to the creditor or creditors who have brought the hypothecary action.

On the petition of the first of the interested persons who sues, a curator is appointed to the property relinquished, and under him the sale of the property is conducted in the manner prescribed by law.

RCC—1167 et seq., 1432, 2234, 2242, 3305, 3399 et seq. CP—116, 194, 195.

RCC 1870, Art. 3406.
Same as above.

CC 1825, Art. 3369. (No reference in Projet)
Same as above.

CC 1808, p. 462, Art. 47.
Said act of relinquishment shall be executed before a notary public in the presence of two witnesses and notified to the creditor or creditors who have brought the hypothecary action.
Par. 2 same as par. 2, above.

CN 1804, Art. 2174.
The act of relinquishment shall be executed before the clerk of court of

Le délaissement par hypothèque se fait au greffe du tribunal de la situa-
the place where the property is situated, and an official certificate thereof shall be given by the court.

On the petition of the first of the interested persons who sues, a curator is appointed to the property relinquished, and under him the sale of the property is conducted in the manner prescribed for expropriations.

**ART. 3407.** The deteriorations, which proceed from the deed or neglect of the third possessor to the prejudice of the creditors who have a privilege or a mortgage, give rise against the former to an action of indemnification; but he can claim for his expenses and improvements only to the amount of the increased value which is the result of the improvements made.

**ART. 3408.** The fruits or income* of the property mortgaged are due by the third possessor, only from the time when the notification of the order of seizure was served on him: and in case of the discontinuance of the suit during one year, only from the day when a new notification of the order of seizure shall be served on him.

---

*Les détériorations qui procèdent du fait ou de la négligence du tiers détenteur, au préjudice des créanciers hypothécaires ou privilégiés, donnent lieu contre lui à une action en indemnité; mais il ne peut répéter ses dépenses et améliorations, que jusqu’à concurrence de la plus value, résultant de l’amélioration.

*Les détériorations qui procèdent du fait ou de la négligence du tiers détenteur, au préjudice des créanciers hypothécaires ou privilégiés, donnent lieu contre lui à une action en indemnité; mais il ne peut répéter ses dépenses et améliorations, que jusqu’à concurrence de la plus value, résultant de l’amélioration.

Same as above; but no punctuation after “détenteur”, after “améliorations”, or after “value”; semicolon (;) after “indemnité.”
Art. 3409 The servitudes and incorporeal* rights which the third possessor held on the property before his possession of it, are renewed after his relinquishment, or after the sale under execution made upon him. His own creditors, after those who held their titles under the preceding proprietors, exercise their rights of mortgage in their order on the property relinquished or sold at auction.

RCC—470, 533, 626, 627, 646, 652, 783, 805 et seq., 1433 et seq., 2261, 2266, 2269 et seq., 3329, 3342, 3399 et seq., 3405, 3411.

RCC 1870, Art. 3409. (Same as Art. 3409 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3372. (No reference in Projet)
The services and incorporeal* rights that the third possessor holds on the property before its possession, are renewed after his relinquishment, or after the sale in execution made upon him. His own creditors, after those who held their titles under the preceding proprietors, exercise their rights of mortgage in their order, on the property relinquished or sold at auction.

Les servitudes et les droits réels, que le tiers détenteur avait sur l'immeuble avant sa possession, renaissent après le délaissement, ou après la vente sur saisie faite sur lui. Ses créanciers personnels, après tous ceux qui tiennent leurs titres des précédents propriétaires, exercent leur hypothèque à leur rang, sur le bien délaissé ou adjugé.

-p. 463, Art. 50.
Same as above; but comma (,) after "vente."

CC 1808, p. 462, Art. 50.
The services and incorporeal rights* that the third possessor holds (held) on the property before its possession, are renewed after his relinquishment or after the sale in execution made upon him. His own creditors, after all those who held their titles under the preceding proprietors, exercise their rights of mortgage in their order, in the property relinquished or sold at auction.

1872
The servitudes and real rights which the third possessor held on the property before his possession of it, are renewed after his relinquishment or after the adjudication made against him.

His own creditors, after those having recordations against preceding proprietors, exercise their rights of mortgage in their order, on the property relinquished or sold at auction.

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

**ART. 3410.** The third possessor who has either discharged the mortgage debt, or relinquished the property mortgaged or suffered it to be sold under execution, has, according to law, an action of warranty against the principal debtor.

RCC—581, 1433 et seq., 1441, 1638, 2476, 3400 et seq. CP—378 et seq.

**RCC 1870, Art. 3410.** (Same as Art. 3410 of Proposed Revision of 1869)

**Same as above.**

**CC 1825, Art. 3373.** (No reference in Projet)

The third possessor, who has either discharged the mortgage debt, or relinquished the property mortgaged, or suffered it to be sold in execution, has, according to law, an action of warranty against the principal debtor.

**CC 1808, p. 464, Art. 51.**

The third possessor who has either discharged the mortgaged debt or relinquished the property mortgaged or suffered them to be sold in execution, has, according to law, an action of warranty against the principal debtor.

**CN 1804, Art. 2178.**

The third possessor who has either discharged the mortgage debt, or relinquished the immovable mortgaged, or suffered it to be expropriated, has, according to law, an action of warranty against the principal debtor.

**Chapter 4—How Mortgages Expire or are Extinguished**

**ART. 3411.** Mortgages are extinguished:

1. By the extinction of the thing mortgaged.
2. By the creditor acquiring the ownership of the thing mortgaged.
3. By the extinction of the mortgagor’s right.
4. By the extinction of the debt, for which the mortgage was given.
5. By the creditor renouncing the mortgage.
6. By prescription.

RCC 1870, Art. 3411. (Same as Art. 3411 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3374. (Projet, p. 398. Substitution adopted; no comment)
Mortgages are extinguished:
1. By the extinction of the thing mortgaged;
2. By the creditor acquiring the property of the thing mortgaged;
3. By the extinction of the mortgager's right;
4. By the extinction of the debt, for which the mortgage was given;
5. By the creditor renouncing the mortgage;
6. By prescription.

CC 1808, pp. 472, 473, Art. 81, par. 1 and subds. 1-3.
Quoted under RCC 1870, Art. 3277, above.

CN 1804, Art. 2180, par. 1; subds. 1, 2; par. 1 under subd. 4.
Quoted under RCC 1870, Art. 3277, above.

TITLE XXIII—OF OCCUPANCY, POSSESSION AND PRESCRIPTION

Chapter 1—Of Occupancy

ART. 3412. Occupancy is a mode of acquiring property by which a thing which belongs to nobody,* becomes the property of the person who took possession of it, with the intention of acquiring a right of ownership upon it.

RCC—448 et seq., 481 et seq., 488 et seq., 496, 870, 3413 et seq., 3426 et seq., 3430, 3436 et seq., 3457 et seq., 3472 et seq.

RCC 1870, Art. 3412.
Same as above.

CC 1825, Art. 3375. (No reference in Projet)
Same as above; but comma (,) after "thing."

CC 1808, p. 472, Art. 1.
Same as above.

CN 1804. No corresponding article.

1874