

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

Louisiana

Recommended Citation

Louisiana, "Title IV. Of Predial Servitudes or Servitudes of Land (Art. 646 - 822)" (1940). *Book II*. 3.
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But if he receives only a part of the fruits of the estate, or if he occupies only a part of the house, he contributes his share of said expenses in proportion to what he enjoys.

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

RCC 1870, Art. 645.

Same as above.

CC 1825, Art. 641.

(No reference in *Projet*)

Same as above; but colon (:) after "work"; comma (,) after "said expenses."

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

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

CC 1808, p. 126, Art. 80.

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

Par. 2 same as par. 2, above.

-p. 127, Art. 80.

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

Par. 2 same as par. 2, above.

CN 1804, Art. 635.

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

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

Si l'usager absorbe tous les fruits du fonds, ou s'il occupe la totalité de la maison, il est assujetti aux frais de culture, aux réparations d'entretien, et au paiement des contributions, comme l'usufruitier.

S'il ne prend qu'une partie des fruits, ou s'il n'occupe qu'une partie de la maison, il contribue au prorata de ce dont il jouit.

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

TITLE IV—OF PREDIAL SERVITUDES OR SERVITUDES OF LAND

Chapter 1—GENERAL PRINCIPLES

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

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

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

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

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

RCC—471, 487, 505, 533 *et seq.*, 626 *et seq.*, 647, 659, 719, 720, 729 *et seq.*, 754 *et seq.*, 2011. Acts 1938, No. 205.

RCC 1870, Art. 646.

Same as above.

CC 1825, Art. 642.

(Projet, p. 68. Addition † adopted; comment by redactors)

Same as above; but comma (,) after "sorts"; colon (:) after "habitation"; no punctuation after "because."

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

Les servitudes personnelles, sont celles qui sont attachées à la personne pour l'utilité de laquelle elles ont été constituées, et qui finissent avec elle. Ce genre de servitude se divise en trois sortes: l'usufruit, l'usage et l'habitation.

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

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC 1870, Art. 647.

(Same as Art. 647 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 643.

(Projet, p. 68. Amendment † adopted; comment by redactors)

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

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

CC 1808, p. 126, Art. 1.

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

-p. 127, Art. 1.

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

CN 1804, Art. 637.

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

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

ART. 648. From the definition contained in the preceding article, it follows that to establish a predial or real servitude there must first be two different estates, one of which owes the servitude to the other.

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

RCC—647, 650, 651, 653, 699, 709, 718, 745 *et seq.*, 755.

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

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

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

Il résulte de la définition contenue en l'article précédent, qu'il faut d'abord, pour l'établissement d'une servitude réelle ou foncière, deux fonds différents, dont l'un doive [doit] un service à l'autre.

Par. 2 same as par. 2, above.

Si donc on stipulait une servitude en faveur des personnes et non pas en faveur de leurs propriétés, l'obligation ne serait pas nulle en cela; mais elle n'aurait pas le caractère d'une servitude réelle.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—650, 767 *et seq.*, 805.

RCC 1870, Art. 649.

Same as above.

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

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

But it is not necessary that this benefit exist at the time of the contract; a mere possible convenience or** remote advantage is sufficient to support a servitude.

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

RCC—648, 649.

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

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

Pars. 1, 2 same as pars. 1, 2, above;
but comma (,) after "estate."

Il faut, en troisième lieu, que la servitude ait pour objet l'usage et* l'utilité de l'héritage en faveur duquel elle est constituée.

Mais il n'est pas nécessaire que cette utilité soit existante au moment du contrat; le seul agrément, l'avantage prochain ou** éloigné suffisent pour la validité de la servitude.

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

Il faudrait donc que l'inutilité fût évidente, pour que la servitude fût nulle; et celui qui l'aurait constituée, ne pourrait s'y soustraire, si l'inutilité n'était qu'apparente.***

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

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

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

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

RCC—648, 660, 699, 719.

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

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

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

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

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

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

Il n'est pas nécessaire non plus que le fonds qui doit la servitude et celui auquel** elle est due, soient contigus; il suffit qu'ils soient à portée de retirer de l'utilité ou de l'agrément de la servitude stipulée.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

RCC—783, 2219.

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

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

Same as above; but "incorporated" correctly spelled "incorporeal." La servitude est un droit incorporel qui ne peut subsister sans le bien-fonds auquel elle est attachée, et dont elle est l'accessoire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—565, 647, 2011.

RCC 1870, Art. 653.

Same as above.

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

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—754, 2011, 2449, 2461.

RCC 1870, Art. 654.

Same as above.

CC 1825, Art. 650.

(Projet, p. 69. Addition † adopted; comment by redactors)

Same as above.

La servitude est un droit tellement inhérent à l'héritage auquel elle est due, que la faculté d'en user, considérée seule et séparée de ce fonds, ne peut être vendue, louée, donnée ou hypothéquée sans le fonds auquel elle est attachée, parceque c'est un service qui ne passe à la personne qu'à cause du fonds.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—1926 *et seq.*

RCC 1870, Art. 655.

Same as above.

CC 1825, Art. 651.

(Projet, p. 70. Addition adopted; comment by redactors)

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

RCC—657, 763, 2109.

RCC 1870, Art. 656.

(Same as Art. 656 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 652.

(Projet, p. 70. Addition † adopted; comment by redactors)

The rights of servitudes, considered in themselves, are not susceptible of division, neither real nor imaginary. It is impossible that an estate should have upon another estate part of a right of

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

way, or of view, or any other right of servitude, and also that an estate be charged with part of a servitude.

Pars. 2, 3 same as pars. 2, 3, above; but no punctuation after "thus limited."

l'héritage voisin, un droit de passage, un droit de vue ou quelque autre droit de servitude, et il répugne pareillement qu'un héritage en soit chargé pour partie.

L'usage d'un droit de servitude peut bien être limité à certain jour (certains jours), à certaines heures; mais ce droit, ainsi limité, est un droit entier de servitude, et non pas une partie de droit.

De là vient que la servitude qui est due à un fonds de terre, est due à l'intégralité du fonds au profit duquel elle est établie, et à chacune des parties de ce fonds, de manière que si ce fonds est vendu par portions, chaque acquéreur aura le droit de dire que la servitude lui est due,* et de l'exercer en son entier.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "of saying that the servitude is due to him, and."

ART. 657. Though the right of servitude be indivisible, and must be established for the whole, and not for a part, nothing prevents the advantage resulting from it from being divided, if it be susceptible of division; as, for example, the right of taking a certain number of loads of earth from the land of another, or of sending to pasture a certain number of animals on the land of another.

RCC—656, 2108, 2111.

RCC 1870, Art. 657.

Same as above.

CC 1825, Art. 653.

(Projet, p. 70. Addition † adopted; comment by redactors)

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

Quoique le droit de servitude soit indivisible, et doive être établi en entier et non point par partie, rien n'empêche que l'utilité qui en résulte ne puisse être divisée, si elle est susceptible de partage, tel que serait le droit d'aller prendre dans le fonds d'autrui, une quantité déterminée de charretées de terre, ou d'y mener paître un certain nombre d'animaux.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—453, 482, 707.

RCC 1870, Art. 658.

Same as above.

(Same as Art. 658 of Proposed Revision of 1869)

CC 1825, Art. 654.

(Projet, p. 70. Addition † adopted; comment by redactors)

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

La partie du fonds, sur lequel s'exerce la servitude, ne cesse pas d'appartenir au propriétaire de ce fonds: celui à qui elle sert, n'y a aucun droit de propriété; il a seulement le droit d'en user.

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

En conséquence, le sol des chemins publics ne laisse pas d'appartenir aux propriétaires qui les ont fournis respectivement, quoique le public en ait l'usage: mais ces propriétaires ne peuvent changer la situation de ces chemins que conformément aux règlements de police faits à cet égard.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 659. Servitudes arise either from the natural situation of the places, from the obligations imposed by law, or from contract between the respective owners.

RCC—660 *et seq.*, 664 *et seq.*, 709 *et seq.*, 729 *et seq.*

RCC 1870, Art. 659.

(Same as Art. 659 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 655.

(No reference in Projet)

Servitudes arise either from the natural situation of the place, from the obligations imposed by law, or from contract between the respective owners.

Les servitudes dérivent, ou de la situation naturelle des lieux, ou des obligations imposées par la loi, ou des conventions entre les propriétaires.

CC 1808, p. 126, Art. 3.

Services originate either with the natural situation of the place, or with the obligations imposed by law, or with the agreement between several proprietors.

-p. 127, Art. 3.

Same as above; but "propriétaires" spelled "prodriétaires"; no punctuation after "dérivent."

CN 1804, Art. 639.

It arises either from the natural situation of the place, from the obligations imposed by law, or from contract between the respective owners.

Elle dérive ou de la situation naturelle des lieux, ou des obligations imposées par la loi, ou des conventions entre les propriétaires.

Projet du Gouvernement (1800), Book II, Title IV, Art. 1.

Servitudes arise either from the natural situation of the place, from the obligations imposed by law, or from contract between persons.

Les servitudes dérivent ou de la situation naturelle des lieux, ou des obligations imposées par la loi, ou des conventions des hommes.

Chapter 2—OF SERVITUDES WHICH ORIGINATE FROM THE NATURAL SITUATION OF THE PLACES

ART. 660. It is a servitude due by the estate situated below to receive the waters which run naturally from the estate situated above, provided the industry of man has not been used to create that servitude.*

The proprietor below is not at liberty to raise any dam, or to make any other work, to prevent this running of the water.

The proprietor above can do nothing whereby the natural servitude due by the estate below may be rendered more burdensome.

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

RCC 1870, Art. 660.

Same as above.

CC 1825, Art. 656.

Same as above.

(No reference in Projet)

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

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

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

CC 1808, p. 128, Art. 4.

It is a service due by the estate situated below to receive the waters which run naturally from the estate situated above, *provided* the industry of man has not been used to create that service.*

Par. 2 same as par. 2, above; but no punctuation after "dam", or after "work."

The proprietor above can do nothing whereby the natural services due by the estate below may be rendered more burthensome.

p. 129, Art. 4.

Same as above.

CN 1804, Art. 640.

It is a servitude due by the estate situated below to receive the waters which run naturally from the estate situated above, provided the industry of man has not contributed to the flow.

The proprietor below is not at liberty to raise any dam to prevent this running of the water.

The proprietor above can do nothing whereby the servitude due by the estate below may be rendered more burdensome.

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

Le propriétaire inférieur ne peut point élever de digue qui empêche cet écoulement.

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

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

Par. 1 same as CC 1808, p. 128, Art. 4, par. 1, above.

Par. 2 same as par. 2, above.

Par. 3 same as CC 1808, p. 128, Art. 4, par. 3, above.

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

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

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

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

ART. 661. He whose estate borders on running water, may use it as it runs, for the purpose of watering his estate, or for other purposes.

He through whose estate water runs, whether it originates there or passes from lands above, may make use of it, while it runs over his lands; but he can not stop or give it another direction, and is bound to return it to its ordinary channel, where it leaves his estate.

RCC—660, 777, 778. Acts 1906, No. 108; 1906, No. 213.

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

CC 1825, Art. 657. (Projet, p. 71. Amendment adopted; comment by redactors)

Par. 1 same as par. 1, above.

Celui dont la propriété borne [bordel] une eau courante, peut s'en servir à son passage pour l'irrigation de ses propriétés, ou pour d'autres usages.

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

Celui dont cette eau traverse l'héritage, soit qu'elle y prenne sa source, soit qu'elle vienne de fonds supérieurs, peut en user dans l'intervalle qu'elle y parcourt; mais il ne peut la supprimer ou la détourner, et il est tenu de la rendre, à la sortie de son fonds, à son cours ordinaire.

CC 1808, p. 128, Art. 8.

He whose estate borders on running water, may use it as it runs, for the purpose of watering his estate.

-p. 129, Art. 8.

Celui dont la propriété borde une eau courante, peut s'en servir à son passage pour l'irrigation de ses propriétés.

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

Celui dont cette eau traverse l'héritage, peut même en user dans l'intervalle qu'elle y parcourt, mais à la charge de la rendre, à la sortie de son fonds, à son cours ordinaire.

CN 1804, Art. 644.

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

Celui dont la propriété borde une eau courante, autre que celle qui est déclarée dépendance du domaine public par l'art. 538, au titre de *la Distinction des biens*, peut s'en servir à son passage pour l'irrigation de ses propriétés.

Par. 2 same as par. 2, above.

Celui dont cette eau traverse l'héritage, peut même en user dans l'intervalle qu'elle y parcourt, mais à la charge de la rendre, à la sortie de ses fonds, à son cours ordinaire.

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

RCC—491, 675, 677, 686 *et seq.*, 699.

RCC 1870, Art. 662.

Same as above.

CC 1825, Art. 658.

Same as above.

(No reference in Projet)

Tout propriétaire a le droit de clore son héritage.

CC 1808, p. 128, Art. 10.

Every proprietor has a right to run a fence around his estate.

-p. 129, Art. 10.

Same as above.

CN 1804, Art. 647.

Every proprietor may make an inclosure around his estate, except as provided in article 682.

Tout propriétaire peut clore (closer) son héritage, sauf l'exception portée en l'article 682.

Projet du Gouvernement (1800), Book II, Title IV, Art. 6.

Same as CC 1808, p. 128, Art. 10, above.

Same as CC 1808, p. 129, Art. 10, above.

ART. 663. He may compel his neighbors to fix and mark the limits of their estates which are contiguous to his.

The limits are established, and boundary stones or posts placed at their joint expense.

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

RCC 1870, Art. 663.

Same as above.

CC 1825, Art. 659.

Same as above.

(No reference in Projet)

Il peut obliger son voisin au bornage de leurs propriétés contiguës. Le bornage se fait à frais communs.

CC 1808, p. 128, Art. 11.

He may compel his neighbors to fix and mark the limits of their contiguous estates.

Said limits are run and stones or posts placed at a joint expence.

-p. 129, Art. 11.

Same as above.

CN 1804, Art. 646.

Every owner may compel his neighbors to fix and mark the limits of their contiguous estates. Said limits are run and stones or posts placed at a joint expense.

Tout propriétaire peut obliger son voisin au bornage de leurs propriétés contiguës. Le bornage se fait à frais communs.

Projet du Gouvernement (1800), Book II, Title IV, Art. 7.

Same as CC 1808, p. 128, Art. 11, above.

Same as CC 1808, p. 129, Art. 11, above.

Chapter 3—OF SERVITUDES IMPOSED BY LAW

ART. 664. Servitudes imposed by law are established either for the public or common utility, or the utility of individuals.

RCC—659, 666, 752.

RCC 1870, Art. 664.

Same as above.

(Same as Art. 664 of Proposed Revision of 1869)

CC 1825, Art. 660.

Servitudes imposed by law are established either for the public or common utility, or for the utility of individuals.

(No reference in Projet)

Les servitudes établies par la loi, ont pour objet l'utilité publique ou communale, ou celle des particuliers.

CC 1808, p. 128, Art. 12.

Services imposed by law are established either for the public or common utility or for the utility of individuals.

-p. 129, Art. 12.

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

CN 1804, Art. 649.

Same as above; RCC 1870 preferred.

Les servitudes établies par la loi ont pour objet l'utilité publique ou communale, ou l'utilité des particuliers.

ART. 665. Servitudes imposed for the public or common utility, relate to the space which is to be left for the public use by the adjacent proprietors on the shores of navigable rivers, and for the making and repairing of levees, roads and other public or common works.

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

RCC—455, 458, 509, 707.

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

CC 1825, Art. 661. (No reference in Projet)

Services imposed for the public or common utility, relate to the space which is to be left for public use by the adjacent proprietors on the shores of navigable rivers, and for the making or repairing of levees, roads and other public or common works.

Par. 2 same as par. 2, above.

Celles établies pour l'utilité publique ou communale, ont pour objet l'espace qui doit être laissé par les riverains, pour l'usage public, sur le bord des rivières navigables, et la construction et réparation des levées, chemins et autres ouvrages publics et communaux.

Tout ce qui concerne cette espèce de servitude, est l'objet de lois ou de réglemens particuliers.

CC 1808, p. 128, Art. 13.

Par. 1 same as par. 1, above; but no punctuation after "utility", or after "rivers."

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

-p. 129, Art. 13.

Same as above; but "publics" spelled "pablics"; no punctuation after "riverains", or after "navigables."

CN 1804, Art. 650.

Servitudes imposed for the public or common utility relate to the foot-path along navigable or floatable rivers, and the making or repairing of roads, and other public or common works.

Par. 2 same as par. 2, above.

Celles établies pour l'utilité publique ou communale ont pour objet le marchepied le long des rivières navigables ou flottables, la construction ou réparation des chemins et autres ouvrages publics ou communaux.

Tout ce qui concerne cette espèce de servitude, est déterminé par des lois ou des réglemens particuliers.

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

RCC—491, 659, 667 *et seq.*, 699.

RCC 1870, Art. 666.

Same as above.

CC 1825, Art. 662. (No reference in Projet)

Same as above.

La loi assujettit les propriétaires à différentes obligations, l'un à l'égard de l'autre, indépendamment de toute convention; ce sont celles qui sont prescrites dans les articles suivans.

CC 1808, p. 130, Art. 14.

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

-p. 131, Art. 14.

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

CN 1804, Art. 651.

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

La loi assujettit les propriétaires à différentes obligations l'un à l'égard de l'autre, indépendamment de toute convention.

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

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

RCC 1870, Art. 667.

Same as above.

CC 1825, Art. 663.

Same as above.

(No reference in Projet)

Quoiqu'un propriétaire puisse faire dans son fonds tout ce que bon lui semble, il ne peut cependant y faire d'ouvrage qui ôte à son voisin la liberté de jouir du sien, ou qui lui cause quelque dommage.

CC 1808, p. 130, Art. 15.

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

-p. 131, Art. 15.

Same as above; but comma (,) after "fonds", and after "voisin."

CN 1804. No corresponding article.

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

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

RCC—484, 491, 666, 667, 669, 716 *et seq.*

RCC 1870, Art. 668.

Same as above.

(Same as Art. 668 of Proposed Revision of 1869)

CC 1825, Art. 664.

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

(No reference in Projet)

Quoiqu'on ne puisse faire d'ouvrages dont le bâtiment voisin soit endommagé, chacun a la liberté de faire dans son fonds ce que bon lui semble, quand il en arriverait quelque'autre sorte d'incommodité.

Par. 2 same as par 2, above; but "neighbors's" correctly spelled "neighbor's."

Ainsi celui qui n'est assujetti à aucune servitude conventionnelle à cet égard, peut élever sa maison aussi haut

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

CC 1808, p. 130, Art. 16.

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

Thus he who is not subject to any service originating from a particular agreement in that respect, may raise his house as high as he please, altho' by the said elevation he should darken the lights of his neighbor's house; because there results from this act only an inconvenience, but not a real damage.

CN 1804. No corresponding article.

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

RCC—484, 668.

RCC 1870, Art. 669.

Same as above.

CC 1825, Art. 665.

(No reference in Projet)

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

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

CC 1808, p. 130, Art. 17.

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

-p. 131, Art. 17.

Same as above; but no punctuation after "soi", or after "teinturiers."

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

CN 1804. No corresponding article.

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

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

RCC—177, 671 *et seq.*, 2322, 2695.

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

CC 1825, Art. 666. (No reference in Projet)

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

Chacun doit entretenir ses bâtimens de manière que leur chute, ou les matériaux qui s'en détachent, ne puissent pas nuire aux voisins ou aux passans,* à peine de tous dommages-intérêts, résultant de la négligence du propriétaire à cet égard.

CC 1808, p. 130, Art. 18.

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

-p. 131, Art. 18.

Same as above; but no punctuation after "chute", or after "dommages-intérêts."

CN 1804. No corresponding article.

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

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

RCC—670, 672, 2322.

RCC 1870, Art. 671. (Same as Art. 671 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 667.

(No reference in Projet)

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

Lorsqu'un bâtiment menace ruine, le voisin a une action, pour obliger le propriétaire à le faire démolir ou à le faire étayer; en attendant, s'il peut recevoir quelque dommage par sa chute, il peut se faire autoriser en justice à y faire les étayemens* nécessaires, dont il aura le remboursement sur la chose,** après que le danger*** aura été constaté par experts.

CC 1808, p. 130, Art. 19.

When a building threatens ruin, the neighbor has a right of action against the proprietor to compel him to cause said building [building] to be demolished or propped up. In the mean time if he be likewise [likely] to receive any damage by its fall, he may petition to be authorised to make the necessary proppings for which he shall be reimbursed out of the thing, after the danger shall have been ascertained by persons of the art.

-p. 131, Art. 19.

Same as above, but comma (,) after "justice."

CN 1804. No corresponding article.

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

**English translation of French text incomplete; should include "out of the thing."

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

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

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

RCC—497. Acts 1904, No. 68; 1908, No. 234. Const. 1921, I, 2; XIX, 18.

RCC 1870, Art. 672.

(Same as Art. 672 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 668.

(Projet, p. 71. Amendment † adopted; comment by redactors)

The councils and other municipal bodies of cities and other incorporated places of this state, are authorized to Les conseils et autres corps municipaux des villes et autres lieux incorporés de cet Etat, pourront faire tels

make such regulations as they may think proper, to determine the mode of proceeding in case of fire, when it becomes necessary in order to arrest its progress, to pull down* houses which have taken fire, or even those which the fire has not reached.

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

CC 1808, p. 130, Art. 20.

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

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

CN 1804. No corresponding article.

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

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

RCC—505, 506.

RCC 1870, Art. 673.

Same as above.

CC 1825, Art. 669.

Same as above.

(No reference in Projet)

Celui qui édifie, soit dessus, soit dessous son sol, contre un voisin, doit bâtir à plomb et sans saillie.*

règlements qu'ils jugeront convenables, pour fixer la manière dont on procédera en cas d'incendie, lorsqu'il sera nécessaire, pour en arrêter les progrès, de faire abattre la maison ou* les maisons où le feu aura pris, et même celles où le feu ne s'est pas encore communiqué.

Mais dans ce cas, les propriétaires dont les maisons auront été ainsi abattues, sans que le feu y eût encore pris, auront droit à une indemnité proportionnée à leur perte, laquelle devra être payée par la corporation de la ville ou du lieu où l'incendie sera arrivé, au moyen d'une taxe extraordinaire et proportionnée qui sera imposée à cet effet sur tous les propriétaires de maisons du lieu, ou de toute autre manière, sur les fonds de cette corporation.

-p. 131, Art. 20.

S'il arrive quelque incendie dans les villes, bourgs et faubourgs de ce territoire, le maire ou le premier juge de paix du lieu, après avoir pris l'avis de six propriétaires de maisons situées dans lesdites villes, bourgs et faubourgs, pourra ordonner d'abattre la maison ou les maisons où le feu aura pris et même la maison ou les maisons voisines où le feu n'est [n'a] pas encore pris, si la majorité desdits propriétaires est d'opinion que cette mesure est nécessaire pour arrêter les progrès de l'incendie.

En ce cas, les propriétaires dont les maisons auront été ainsi abattues sans que le feu y eût encore pris, auront droit à une indemnité proportionnée à leur perte, laquelle sera payée par la corporation de la ville ou du bourg où l'incendie sera arrivée [arrivé], d'après une taxe proportionnée qui sera imposée pour cet effet, sur tous les propriétaires de maisons du lieu.

CC 1808, p. 130, Art. 21.

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

-p. 131, Art. 21.

Celui qui édifie soit dessus ou dessous son sol contre un voisin, doit bâtir à plomb et sans saillie.*

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "and without projection."

ART. 674. The other particular servitudes imposed by law relate to the following objects:

1. To boundary walls, inclosures and ditches;
2. To cases where it is necessary to have double or counter walls;
3. To the right of lights and of view on the property of a neighbor;
4. To carrying off water from roofs.
5. To the right of passage and of way.

RCC—675 *et seq.*, 692 *et seq.*, 696, 698, 699.

RCC 1870, Art. 674.

(Same as Art. 674 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 670.

(No reference in Projet)

The other particular services imposed by law, relate to the following objects:

Pars. 2, 3 same as subs. 1, 2, above; but period (.) after "ditches", and after "counter walls"; comma (,) after "cases."

To the right of lights on the property of a neighbor;

To carrying off water from roofs;
And to the right of passages.

Les autres servitudes particulières imposées par la loi, sont relatives aux objets suivans:

Aux murs, entourages et fossés mitoyens;

Au cas où il y a lieu à contre-mur;

Aux vues sur la propriété de son voisin;

A l'égout des toits;
Et au droit de passage.

CC 1808, p. 132, Art. 22.

The other particular services imposed by law relate to the following objects:

To walls, fences and ditches in common.

Pars. 3-5 same as pars. 3-6, above; but no punctuation after "cases"; comma (,) after "walls", after "neighbor", and after "roofs."

-p. 133, Art. 22.

Same as above.

CN 1804, Art. 652, par. 2.

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

Les autres sont relatives au mur et au fossé mitoyens, au cas où il y a lieu à contre-mur, aux vues sur la propriété du voisin, à l'égout des toits, au droit de passage.

Projet du Gouvernement (1800), Book II, Title IV, Art. 11, pars. 2-6.

The others relate to boundary walls and ditches;

Pars. 3-6 same as CC 1825, Art. 670, pars. 3-6, above.

Les autres sont relatives, au mur et au fossé mitoyens;

Pars. 3-5 same as CC 1808, p. 133, Art. 22, pars. 3-5, above.

Au droit de passage.

Section 1—OF WALLS, FENCES, AND DITCHES IN COMMON

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

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

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

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

CC 1825, Art. 671. (No reference in *Projet*)

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

Par. 2 same as par. 2, above.

Celui qui bâtit le premier dans les villes, bourgs et faubourgs de l'Etat, en place non enclose de murs, peut faire porter la moitié de son mur sur la terre de son voisin, pourvu qu'il bâtit en pierres ou en briques, au moins jusqu'à la hauteur du premier étage; et non en colombage ou autrement, et pourvu aussi que l'épaisseur entière de ce mur, n'excède pas dix-huit pouces, sans y comprendre l'empattement* qui ne doit pas avoir plus de trois pouces.

Mais il ne peut forcer le voisin à contribuer à l'élévation de ce mur.

CC 1808, p. 132, Art. 23.

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

Par. 2 same as par. 2, above.

-p. 133, Art. 23.

Same as above; but "du territoire" instead of "de l'Etat"; no punctuation after "étage", or after "entière de ce mur"; comma (,) after "colombage."

CN 1804. No corresponding article.

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

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

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

RCC—675, 683, 684.

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

CC 1825, Art. 672. (No reference in Projet)

Par. 1 same as par. 1, above.

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

CC 1808, p. 132, Art. 24.

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

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

CN 1804. No corresponding article.

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

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

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

CC 1825, Art. 673. (No reference in Projet)

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

CC 1808, p. 132, Art. 25.

Same as above; but "territory" instead of "state."

CN 1804, Art. 653.

In the cities and in the country, every wall which is a separation between

Si le voisin veut contribuer par moitié à l'édification du mur ainsi construit, ce mur est alors un mur mitoyen entre les deux propriétaires.

Le voisin qui a même refusé de contribuer à l'élévation de ce mur, conserve toujours le droit de le rendre mitoyen, en payant à celui qui en fait l'avance, la moitié de ce qu'il lui en a coûté pour la [le] faire bâtir, suivant les règles ci-après établies.

-p. 133, Art. 24.

Par. 1 same as par. 1, above.

Le voisin qui a même refusé de contribuer à l'élévation de ce mur, conserve toujours le droit de le rendre mitoyen, en payant à celui qui en fait l'avance, la moitié de ce qu'il lui en a coûté pour le faire bâtir, suivant les règles ci-après établies.

-p. 133, Art. 25.

Tout mur servant de séparation entre bâtimens jusqu'à l'héberge,* ou entre cours et jardins dans les villes, bourgs et faubourgs de ce territoire [cet Etat], même entre enclos dans les champs, sera présumé mitoyen, s'il n'y a preuve, titre ou marque au contraire.

Dans les villes et les campagnes, tout mur servant de séparation entre bâti-

buildings up to the point of disjunction, or betwixt the yard and garden, and even any other inclosure in the fields, is presumed to be in common, if there be no title or mark to the contrary.

mens jusqu'à l'héberge, ou entre cours et jardins, et même entre enclos dans les champs, est présumé mitoyen, s'il n'y a titre ou marque du contraire.

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

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

RCC—679, 683, 684, 686.

RCC 1870, Art. 678.

Same as above.

CC 1825, Art. 674.

Same as above.

(No reference in Projet)

La réparation et reconstruction* du mur mitoyen sont à la charge de tous ceux qui y ont droit, et proportionnellement au droit de chacun.

CC 1808, p. 132, Art. 26.

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

-p. 133, Art. 26.

Same as above; but comma (,) after "mitoyen"; no punctuation after "droit."

CN 1804, Art. 655.

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

La réparation et la reconstruction du mur mitoyen sont à la charge de tous ceux qui y ont droit, et proportionnellement au droit de chacun.

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

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

RCC—678, 686, 815.

RCC 1870, Art. 679.

Same as above.

CC 1825, Art. 675.

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

(No reference in Projet)

Cependant, tout co-proprétaire d'un mur mitoyen, peut se dispenser de contribuer aux réparations et reconstructions, en abandonnant le droit de mitoyenneté; pourvu que le mur mitoyen ne soutienne pas un bâtiment qui lui appartienne.

CC 1808, p. 132, Art. 27.

Same as above.

-p. 133, Art. 27.

Same as above; but no punctuation after "Cependant"; comma (,) after "mitoyenneté."

CN 1804, Art. 656.

Same as above.

Same as above; but no punctuation after "d'un mur mitoyen", or after "reconstructions."

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

RCC—684, 685, 692 *et seq.*

RCC 1870, Art. 680.

Same as above.

CC 1825, Art. 676.

Same as above.

(No reference in Projet)

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

CC 1808, p. 132, Art. 28.

Same as above; but comma (,) after "beam"; no punctuation after "place."

-p. 133, Art. 28.

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

CN 1804, Art. 657.

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

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

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

RCC—682 *et seq.*, 718.

RCC 1870, Art. 681.

Same as above.

CC 1825, Art. 677.

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

(No reference in Projet)

Tout co-proprétaire peut faire exhausser le mur mitoyen, mais il doit supporter seul la dépense de l'exhaussement, et les réparations d'entretien, à partir au dessus de la hauteur de la clôture commune, et en outre l'indemnité de la charge, en raison de l'exhaussement et suivant la valeur.*

CC 1808, p. 132, Art. 29.

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

CN 1804, Art. 658.

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

-p. 133, Art. 29.

Same as above; but no punctuation after "dépense de l'exhaussement."

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

ART. 682. If the wall held in common can not support the additional weight of raising it, he who wishes to have it made higher is bound to rebuild it anew entirely, at his own expense, and the additional thickness must be taken from his property.

RCC—675, 681.

RCC 1870, Art. 682.

Same as above.

CC 1825, Art. 678.

(No reference in Projet)

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

Si le mur mitoyen n'est pas en état de supporter l'exhaussement, celui qui veut le faire exhausser, doit le faire reconstruire en entier à ses frais, et l'excédent d'épaisseur doit se prendre de son côté.

CC 1808, p. 132, Art. 30.

Same as above.

-p. 133, Art. 30.

Same as above.

CN 1804, Art. 659.

Same as above.

Si le mur mitoyen n'est pas en état de supporter l'exhaussement, celui qui veut l'exhausser doit le faire reconstruire en entier à ses frais, et l'excédant [l'excédent] d'épaisseur doit se prendre de son côté.

ART. 683. The neighbor who did not contribute to the raising of the wall held in common, may cause the raised part to become common, by paying one-half the expense of such raising, and the value of the half of the soil employed for the additional thickness, if there is any.

RCC—675, 676, 678, 682, 684, 687.

RCC 1870, Art. 683.

Same as above.

CC 1825, Art. 679.

Same as above.

(No reference in Projet)

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

CC 1808, p. 134, Art. 31.

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

-p. 135, Art. 31.

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

CN 1804, Art. 660.

Same as above.

Same as above; but l'excédent" spelled "l'excédant"; no punctuation after "mitoyenneté"; comma (,) after "coûté."

ART. 684. Every proprietor adjoining a wall has, in like manner, the right of making it a wall in common, in whole or in part, by reimbursing to the owner of the wall one-half of its value, or the half of the part which he wishes to hold in common, and one-half of the value of the soil upon which the wall is built, if the person who has built the wall has laid the foundation entirely upon his own estate.

RCC—497, 675, 676 *et seq.*, 696.

RCC 1870, Art. 684.

Same as above.

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

CC 1825, Art. 680.

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

(No reference in Projet)

Tout propriétaire joignant [joignant] un mur, a de même la faculté de le rendre mitoyen, en tout ou en partie, en remboursant au maître du mur la moitié de sa valeur, ou la moitié de la portion qu'il veut rendre mitoyenne, et moitié de la valeur du sol sur lequel le mur est bâti, si celui qui a fait le mur l'a fait porter entièrement sur son héritage.

CC 1808, p. 134, Art. 32.

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

-p. 135, Art. 32.

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

CN 1804, Art. 661.

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

Tout propriétaire joignant un mur, a de même la faculté de le rendre mitoyen en tout ou en partie, en remboursant au maître du mur la moitié de sa valeur, ou la moitié de la valeur de la portion qu'il veut rendre mitoyenne, et moitié de la valeur du sol sur lequel le mur est bâti.

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

RCC—680, 692 *et seq.*

RCC 1870, Art. 685.

Same as above.

CC 1825, Art. 681.

Same as above.

(No reference in *Projet*)

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

CC 1808, p. 134, Art. 33.

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

-p. 135, Art. 33.

Same as above; but "régler" misspelled "régle"; comma (,) after "mitoyen"; no punctuation after "avoir."

CN 1804, Art. 662.

Same as above.

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

Projet du Gouvernement (1800), Book II, Title IV, Art. 21.

Same as above.

Same as CC 1808, p. 135, Art. 33, above; but "régle" correctly spelled "régler"; comma (,) after "avoir", and after "régler."

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

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

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

RCC 1870, Art. 686.

Same as above.

(Same as Art. 686 of Proposed Revision of 1869)

CC 1825, Art. 682. (Projet, p. 72. Amendment † adopted; no comment)

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

Par. 2 same as par. 2, above.

Chacun peut contraindre son voisin, dans les villes, bourgs ou faubourgs de cet Etat, à contribuer à la construction et réparation de la clôture mitoyenne, servant de séparation entre leurs maisons, cours et jardins, laquelle clôture sera faite de la manière qui est ou sera prescrite par les réglemens de police relatifs à cet objet.

Et si l'un des co-propriétaires avait fait seul la dépense de la construction de l'entourage mitoyen,* il pourra contraindre l'autre à la faire à son tour, et l'on présumera que la clôture aura été faite par celui du côté duquel elle se trouve clouée, s'il n'y a titre ou preuve contraire.

CC 1808, p. 134, Art. 34.

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

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

-p. 135, Art. 34.

Chacun peut contraindre son voisin dans les villes, bourgs et faubourgs de ce territoire, à contribuer à la construction et réparation de la clôture mitoyenne faisant séparation de leurs maisons, cours et jardins, laquelle clôture sera faite avec des pieux de dix pieds de haut, de la manière qui est en usage dans ce territoire, ou qui est ou sera prescrite par les réglemens de police faits à cet égard.

Et si l'un des propriétaires avait fait seul la dépense de la construction de l'entourage mitoyen,* il pourra contraindre l'autre à la faire à son tour, et l'on présumera que la clôture aura été faite par celui du côté duquel elle se trouve clouée, s'il n'y a titre ou preuve au contraire.

CN 1804, Art. 663.

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

Chacun peut contraindre son voisin, dans les villes et faubourgs, à contribuer aux constructions et réparations de la clôture faisant séparation de leurs maisons, cours et jardins assis esdites villes et faubourgs: la hauteur de la clôture sera fixée suivant les réglemens particuliers ou les usages constans et reconnus; et, à défaut d'usages et de réglemens, tout mur de séparation entre voisins, qui sera construit ou rétabli à l'avenir, doit avoir au moins trente-deux décimètres (dix pieds) de hauteur, compris le chaperon, dans les villes de cinquante mille âmes et au-dessus, et vingt-six décimètres (huit pieds) dans les autres.

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

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

if the estates are inclosed; otherwise, the estate which is not inclosed is not bound to contribute to it.

RCC—675 *et seq.*, 683, 686.

RCC 1870, Art. 687.

Same as above.

CC 1825, Art. 683. (Projet, p. 72. Amendment † adopted; no comment)

Same as above; but “inclosures” misspelled “inclosure”; comma (,) after “not inclosed.”

Dans les campagnes, les clôtures mitoyennes se font à frais communs, si les deux héritages sont en état de clôture, autrement, celui dont l'héritage n'est pas en état de clôture, n'est point obligé d'y contribuer.

CC 1808, p. 134, Art. 35.

In the country the inclosures held in common are made in the manner which is or shall be prescribed by particular regulations in this respect.

-p. 135, Art. 35.

Dans les campagnes, les clôtures mitoyennes se font de la manière qui est ou sera prescrite par les réglemens particuliers à cet égard.

CN 1804. No corresponding article.

ART. 688. Every fence, which separates rural estates, is considered as a boundary inclosure, unless there be but one of the estates inclosed, or unless there be some title or proof to the contrary.

RCC—677, 689, 823 *et seq.*

RCC 1870, Art. 688.

Same as above.

CC 1825, Art. 684. (Projet, p. 73. Addition adopted; no comment)

Same as above; but “separates” misspelled “separate.”

Toute clôture qui sépare deux biens ruraux, est censée mitoyenne, à moins qu'il n'y ait qu'un seul de ces héritages en état de clôture, ou à moins de titre ou preuve contraire.

CC 1808. No corresponding article.

CN 1804, Art. 670.

Every hedge which separates estates is deemed a boundary hedge, unless there be but one of the estates inclosed, or if there be no title or sufficient possession to the contrary.

Toute haie qui sépare des héritages est réputée mitoyenne, à moins qu'il n'y ait qu'un seul des héritages en état de clôture, ou s'il n'y a titre ou possession suffisante au contraire.

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

RCC—677, 688, 690.

RCC 1870, Art. 689.

Same as above.

CC 1825, Art. 685.

Same as above.

(No reference in Projet)

Tous fossés entre deux héritages seront présumés mitoyens, s'il n'y a titre ou preuve contraire.

CC 1808, p. 134, Art. 36.

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

-p. 135, Art. 36.

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

CN 1804, Art. 666.

Every ditch between two estates is supposed held in common, unless there be a voucher or mark to the contrary.

Tous fossés entre deux héritages sont présumés mitoyens s'il n'y a titre ou marque du contraire.

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

RCC—689.

RCC 1870, Art. 690.

Same as above.

CC 1825, Art. 686.

Same as above.

(No reference in Projet)

Le fossé mitoyen doit être entretenu à frais communs.

CC 1808, p. 134, Art. 37.

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

-p. 135, Art. 37.

Same as above.

CN 1804, Art. 669.

Same as above.

Same as above.

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

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

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

RCC—505, 506, 667, 2011.

RCC 1870, Art. 691.

Same as above.

CC 1825, Art. 687.

Same as above.

(Projet, p. 73. Addition † adopted; no comment)

Il est interdit à tout propriétaire, dans les villes et faubourgs de cet Etat, de planter sur la limite qui le sépare d'avec son voisin, des arbres qui puissent lui nuire en aucune manière quelconque.

Si le voisin en reçoit quelque dommage, il peut faire condamner le propriétaire à les arracher, ou à couper les branches qui s'étendent sur son héritage.

Si ce sont des racines qui s'avancent sur son héritage, le voisin a le droit de les couper lui-même.

CC 1808. No corresponding article.

CN 1804, Art. 671.

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

Il n'est permis de planter des arbres de haute tige qu'à la distance prescrite par les réglemens particuliers actuellement existans, ou par les usages constants et reconnus; et, à défaut de régle-

usages, only at a distance of two meters from the boundary line between the two estates for trees with tall trunks, and at a distance of a half-meter for other trees and quickset hedges.

-Art. 672.

A neighbor may demand that trees and hedges planted at a lesser distance be torn up.

He, on whose property hang the branches of his neighbor's trees, may compel the latter to cut off such branches.

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

mens et usages, qu'à la distance de deux mètres de la ligne séparative des deux héritages pour les arbres à haute tige, et à la distance d'un demi-mètre pour les autres arbres et haies vives.

Le voisin peut exiger que les arbres et haies plantés à une moindre distance soient arrachés.

Celui sur la propriété duquel avancent les branches des arbres du voisin, peut contraindre celui-ci à couper ces branches.

Si ce sont les racines qui avancent sur son héritage, il a droit de les y couper lui-même.

**Section 2—OF CASES WHERE IT IS NECESSARY TO HAVE DOUBLE
OR COUNTER WALLS**

ART. 692. He who wishes to dig a well or a necessary, to build a chimney or hearth, a forge, an oven, a furnace or stable, to put up shelves to store salt or other corrosive substances near a wall, whether held in common or not, is bound to leave the distance, and to cause to be made the works prescribed by the regulations of the police, in order that his neighbor be not injured thereby.

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

RCC—505, 667, 675, 680, 685.

RCC 1870, Art. 692.

(Same as Art. 692 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 688.

(No reference in Projet)

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

Par. 2 same as par. 2, above.

Celui qui fait creuser un puits ou une fosse d'aisance près d'un mur mitoyen ou non, celui qui veut y construire cheminée ou âtre, forge, four ou fourneau, y adosser un [une] étable ou établir contre ce mur un magasin de sel, ou amas de matières corrosives, est obligé à laisser la distance et à faire les ouvrages prescrits par les réglemens de police à cet égard, pour éviter de nuire à son voisin.

Et s'il n'y a pas de réglemens de police sur tous ou quelques-uns de ces objets, il se conformera aux dispositions suivantes dans les cas non prévus.

CC 1808, p. 134, Art. 38.

He who wishes to dig a well or a necessary near a wall whether held in common or not,

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

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

-p. 135, Art. 38.

Same as above; but "fosse" spelled "fausse"; "étable" spelled "établi"; comma (,) after "établi"; no punctuation after "sel."

Is bound to leave the distance, and to cause to be made the works prescribed by the regulations of the police, in order that his neighbor be not injured thereby.

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

CN 1804, Art. 674.

Par. 1 same as par. 1, above.

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

Or build against it a stable,

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

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

Celui qui fait creuser un puits ou une fosse d'aisance près d'un mur mitoyen ou non;

Celui qui veut y construire cheminée ou âtre, forge, four ou fourneau,

Y adosser une étable,

Ou établir contre ce mur un magasin de sel ou amas de matières corrosives,

Est obligé à laisser la distance prescrite par les règlements et usages particuliers sur ces objets, ou à faire les ouvrages prescrits par les mêmes règlements et usages, pour éviter de nuire au voisin.

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

RCC—675, 685.

RCC 1870, Art. 693.

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

Same as above.

CC 1825, Art. 689.

(No reference in Projet)

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

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

CC 1808, p. 134, Art. 39.

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

-p. 135, Art. 39.

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

CN 1804. No corresponding article.

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

RCC—675, 685.

RCC 1870, Art. 694.

Same as above.

CC 1825, Art. 690.

(No reference in Projet)

Same as above.

Celui qui veut faire un four, une forge ou un fourneau, contre le mur mitoyen, doit laisser un demi pied de

vide et intervalle contre [entre] ce mur et celui de son four, forge ou fourneau, et ce dernier mur doit être d'un pied d'épaisseur.

CC 1808, p. 134, Art. 40.

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

-p. 135, Art. 40.

Celui qui veut faire un four, une forge, ou un fourneau contre le mur mitoyen, doit laisser un demi-pied de vide et intervalle entre ledit mur et celui de son four, forge ou fourneau et ce dernier mur doit être d'un pied d'épaisseur.

CN 1804. No corresponding article.

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

RCC—505, 675, 685.

RCC 1870, Art. 695.

Same as above.

CC 1825, Art. 691.

Same as above.

(No reference in Projet)

Celui qui veut faire des lieux d'aisance ou un puits contre un mur mitoyen ou non mitoyen, doit faire un contre-mur d'un pied d'épaisseur, et lorsqu'il y aura un puits d'un côté et des lieux d'aisance de l'autre, il faudra qu'il y ait quatre pieds de maçonnerie d'épaisseur entre [les] deux, en comprenant les épaisseurs d'une part et d'autre; mais entre deux puits, trois pieds suffisent.

CC 1808, p. 136, Art. 41.

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

-p. 137, Art. 41.

Same as above; but "ou un puits" spelled "ou un puit"; "aura un puits" spelled "aura un puit"; no punctuation after "d'épaisseur entre deux."

CN 1804. No corresponding article.

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

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

RCC—684, 685, 728, 782, 856.

RCC 1870, Art. 696. (Same as Art. 696 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 692. (No reference in Projet)
Same as above; but "matter" correctly spelled "manner."
L'un des voisins ne peut, sans le consentement de l'autre, pratiquer dans le mur mitoyen, aucune fenêtre ni ouverture en quelque manière que ce soit, même à verre dormant.

CC 1808, p. 136, Art. 42.
One of the neighbors cannot, without the consent of the other, open through the wall held in common, any window or aperture, in any manner whatever, nor even with the obligation on his part of confining himself to lights, the frames of which shall be [sol fixed within the wall that they cannot be opened.

-p. 137, Art. 42.
Same as above.

CN 1804, Art. 675.
Same as above.
L'un des voisins ne peut, sans le consentement de l'autre, pratiquer dans le mur mitoyen aucune fenêtre ou ouverture, en quelque manière que ce soit, même à verre dormant.

ART. 697. No one shall build galleries, balconies or other* projections on the border of an estate, so that they extend beyond the boundary line which separates it from the adjoining estate.

RCC—505.

RCC 1870, Art. 697.
Same as above.

CC 1825, Art. 693. (Projet, p. 73. Addition † adopted; comment by redactors)

Same as above; but comma (,) after "line."
Nul ne peut construire des galeries, balcons ou autres semblables* saillies, sur la limite entre deux héritages, de manière que ces ouvrages se prolongent au delà de la ligne de cette limite, sur l'héritage du voisin.

CC 1808. No corresponding article.

CN 1804, Art. 678.

One cannot have straight views or prospect windows, nor any balconies or other similar projections over the estate of a neighbor, whether inclosed or not, unless there be nineteen decimeters (six feet) of distance between the wall in which they are made and said estate.
On ne peut avoir des vues droites ou fenêtres d'aspect, ni balcons ou autres semblables saillies sur l'héritage clos ou non clos de son voisin, s'il n'y a dix-neuf décimètres (six pieds) de distance entre le mur où on les pratique et ledit héritage.

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

Section 4—OF THE MANNER OF CARRYING OFF
WATER FROM THE ROOF

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

RCC—505, 660, 674, 711, 714, 727.

RCC 1870, Art. 698.

Same as above.

CC 1825, Art. 694.

Same as above.

(No reference in *Projet*)

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

CC 1808, p. 136, Art. 45.

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

-p. 137, Art. 45.

Same as above.

CN 1804, Art. 681.

Same as above.

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

Projet du Gouvernement (1800), Book II, Title IV, Art. 34.

Every proprietor is bound to fix his roof so that rain water fall upon his own ground, or on the public road.

Tout propriétaire doit établir ses toits de manière que les eaux pluviales s'écoulent sur son terrain ou sur la voie publique.

Section 5—OF THE RIGHT OF PASSAGE AND OF WAY

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

RCC—497, 554, 662, 666, 674, 700 *et seq.*, 719, 722, 727, 729, 771, 777, 789, 795. Acts 1896, No. 54.

RCC 1870, Art. 699.

(Same as Art. 699 of Proposed Revision of 1869)

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

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

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

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

CC 1808, p. 136, Art. 46.

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

-p. 137, Art. 46.

Same as above; but "vue" correctly spelled "voie."

CN 1804, Art. 682.

Same as above.

Le propriétaire dont les fonds sont enclavés et qui n'a aucune issue sur la voie publique, peut réclamer un passage sur les fonds de ses voisins pour l'exploitation de son héritage, à la charge d'une indemnité proportionnée au dommage qu'il peut occasionner.

*In connection with this article see Acts 1896, No. 54.

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

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

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

RCC—699, 701, 777 *et seq.*

RCC 1870, Art. 700.

Same as above.

CC 1825, Art. 696.

(Projet, p. 73. Amendment adopted; no comment)

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

Le propriétaire du fonds enclavé n'est pas le maître d'exiger le passage de celui de ses voisins qu'il veut choisir.

Le passage doit être ordinairement pris du côté où le trajet est le plus court, du fonds enclavé à la voie publique.

Néanmoins, il doit être fixé dans l'endroit le moins dommageable à celui sur le fonds duquel il est accordé.

CC 1808, p. 136, Art. 47.

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

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

-p. 137, Art. 47.

Le passage doit être régulièrement pris du côté où le trajet est le plus court du fonds enclavé à la voie publique.

Par. 2 same as par. 3, above; but no punctuation after "Néanmoins."

CN 1804, Art. 683.

Same as par. 1, above.

Le passage doit régulièrement être pris du côté où le trajet est le plus court du fonds enclavé à la voie publique.

-Art. 684.

Same as CC 1808, p. 136, Art. 47, par. 2, above.

Same as CC 1808, p. 137, Art. 47, par. 2, above.

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

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

RCC—699, 700, 777.

RCC 1870, Art. 701. (Same as Art. 701 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 697. (Projet, p. 74. Addition † adopted; comment by redactors)

It is not always the owner of the land which affords the shortest passage, who is obliged to suffer the right of passage; for if the estate, for which the right of passage is claimed, has become inclosed by means of sale, exchange or partition, the vendor, coparcener or other proprietor of the land reserved, and upon which the right of passage was before exercised, is bound to furnish the purchaser or owner of the land inclosed, with a passage gratuitously, and even when it has not been sold or transferred with the rights of servitude.

Ce n'est pas toujours au propriétaire du fonds qui offre le trajet le plus court, à fournir le passage; car si l'héritage de celui qui demande le passage, n'est devenu enclavé que par l'effet d'une vente, d'un échange ou d'un partage, c'est au vendeur, co-partageant ou autre propriétaire des fonds réservés, sur lesquels s'exerçait auparavant le passage, à le fournir, à l'acquéreur ou propriétaire du fonds enclavé et gratuitement, quand même le fonds n'aurait pas été vendu ou transporté, avec des droits de servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—699, 703.

RCC 1870, Art. 702. (Same as Art. 702 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 698. (Projet, p. 74. Addition adopted; no comment)

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

Le passage doit être fourni au propriétaire du fonds enclavé, non seulement pour lui et ses esclaves et ouvriers, mais encore pour ses animaux, voitures, instrumens aratoires, et pour tout ce qui est nécessaire à l'usage et à l'exploitation de son héritage.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—554, 699, 702, 777, 779.

RCC 1870, Art. 703. (Same as Art. 703 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 699. (Projet, p. 74. Addition † adopted; comment by redactors)

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC 1870, Art. 704.

Same as above.

CC 1825, Art. 700. (Projet, p. 74. Addition adopted; no comment)

Same as above.

Les chemins sont de deux espèces, savoir: les chemins publics et les chemins particuliers.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—458. Acts 1902, No. 119; 1914, No. 240.

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

Same as above.

CC 1825, Art. 701. (Projet, p. 74. Addition adopted; no comment)

Public roads are those which are made use of as high roads, which are generally furnished and kept up by the proprietors of estates adjacent to them.

Les chemins publics sont ceux qui servent de grandes routes et qui sont dus généralement et entretenus par les propriétaires dont ils sont limitrophes.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—459.

RCC 1870, Art. 706.

Same as above.

CC 1825, Art. 702. (Projet, p. 74. Addition amended in English text and adopted; no comment)

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

Les chemins particuliers sont ceux qui ne sont ouverts que pour l'utilité de quelques individus, pour aller et venir à leur maison, ou pour le service de leurs terres, ou* pour l'usage de quelques héritages exclusivement.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

ART. 707. He who from his title as owner is bound to give a public road on the border of a river or stream, must furnish another without any compensation, if the first be destroyed or carried away.*

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

RCC—455, 497, 518, 658, 665.

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

CC 1825, Art. 703. (Projet, p. 74. Addition † adopted; comment by redactors)

Par. 1 same as par. 1, above.

Celui qui, d'après son titre de propriété, doit un chemin public sur le bord d'un fleuve ou d'une rivière, est obligé d'en fournir un autre, sans indemnité si celui qu'il avait déjà fourni vient à être détruit ou emporté par la rivière.*

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

S'il arrive que ce chemin, sans être emporté, soit tellement gâté ou inondé par la rivière, qu'on ne puisse pas y passer, le propriétaire est tenu de donner au public un passage sur ses terres, le plus près possible du chemin inondé, sans pouvoir exiger aucune indemnité à cet égard.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—729, 765, 3544.

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

CC 1825, Art. 704. (No reference in Projet)

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

L'action en indemnité accordée contre celui qui réclame le passage, est prescriptible, et le passage doit être continué, quoique l'action en indemnité ne soit plus recevable.

CC 1808, p. 136, Art. 48.

Same as above; but no punctuation after "of indemnification."

p. 137, Art. 48.

Same as above; but no punctuation after "réclame le passage."

CN 1804, Art. 685.

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

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

Chapter 4—OF CONVENTIONAL OR VOLUNTARY SERVITUDES

Section 1—OF THE DIFFERENT KINDS OF CONVENTIONAL OR VOLUNTARY SERVITUDES

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

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

RCC—11, 646 *et seq.*, 659, 729, 751, 754, 755, 772, 2011, 2266.

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

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

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

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

Il est permis aux propriétaires d'établir sur leurs propriétés, ou en faveur de leurs propriétés telles servitudes que bon leur semble, pourvu néanmoins que ces servitudes ne soient imposées ni à la personne, ni en faveur de la personne, mais seulement à un fonds ou pour un fonds, et pourvu que ces servitudes n'aient d'ailleurs rien de contraire à l'ordre public.

L'usage et l'étendue des servitudes ainsi établies, se règlent par le titre qui les constitue, et à défaut de titre, par les règles ci-après.

CC 1808, p. 138, Art. 49.

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

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

-p. 139, Art. 49.

Il est permis aux propriétaires d'établir sur leurs propriétés ou en faveur de leurs propriétés, telles servitudes que bon leur semble *pourvu* néanmoins que ces servitudes ne soient imposées ni à la personne, ni en faveur de la personne, mais seulement à un fonds ou pour un fonds, et *pourvu* que ces services n'ayent d'ailleurs rien de contraire à l'ordre public.

Par. 2 same as par. 2, above; but "ci-après" spelled "si-après."

CN 1804, Art. 686.

Same as above; RCC 1870 preferred.

Il est permis aux propriétaires d'établir sur leurs propriétés ou en faveur de leurs propriétés telles servitudes que bon leur semble, pourvu néanmoins que les services établis ne soient imposés ni à la personne, ni en faveur de la personne, mais seulement à un fonds et

pour un fonds, et pourvu que ces services n'aient d'ailleurs rien de contraire à l'ordre public.

L'usage et l'étendue des servitudes ainsi établies se règlent par le titre qui les constitue; à défaut de titre par les règles ci-après.

ART. 710. All servitudes are established either for the use of houses or for the use of lands.

Those of the first kind are called urban servitudes, whether the buildings to which they are due be situated in the city or in the country.

Those of the second kind are called rural servitudes.

RCC—711 *et seq.*, 721 *et seq.*

RCC 1870, Art. 710.

Same as above.

CC 1825, Art. 706.

Same as above.

(No reference in Projet)

Toutes les servitudes sont établies, ou pour l'usage des bâtimens, ou pour celui des fonds de terres.

Celles de la première espèce s'appellent *urbaines*, soit que les bâtimens auxquels elles sont dues, soient situés à la ville ou à la campagne.

Celles de la seconde espèce s'appellent *rurales*.

CC 1808, p. 138, Art. 50.

All services are established either for the use of houses or for the use of lands.

Those of the first kind are called urban services whether the buildings to which they are due be situated in the city or in the country.

Those of the second kind are called rural services.

-p. 139, Art. 50.

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

CN 1804, Art. 687.

Same as above.

Les servitudes sont établies ou pour l'usage des bâtimens, ou pour celui des fonds de terre.

Par. 2 same as par 2, above; but no punctuation after "dues"; semicolon (;) after "campagne."

Celles de la seconde espèce se nomment *rurales*.

ART. 711. The principal kinds of urban servitudes are the following:

The right of support; that of drip; that of drain or of preventing the drain; that of view or of lights, or of preventing the view or lights from being obstructed; that of raising buildings or walls, or of preventing them from being raised; that of passage, and that of drawing water.

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

RCC 1870, Art. 711.

Same as above.

CC 1825, Art. 707. (Projet, p. 75. Addition † adopted; comment by redactors)

Same as above.

Les principales espèces de servitudes *urbaines*, sont les suivantes:

Le droit d'appui; celui d'égout; celui d'écoulement ou celui d'empêcher cet écoulement; celui de vues ou de jours, ou celui d'empêcher qu'on n'y nuise; celui d'élever, ou d'empêcher l'élévation; celui de passage; et celui de puisage.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

RCC—673, 675, 2011.

RCC 1870, Art. 712. (Same as Art. 712 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 708. (Projet, p. 75. Addition † adopted; comment by redactors)

Par. 1 same as par. 1, above.

Le droit d'appui est une servitude d'après laquelle un propriétaire stipule que le voisin sera tenu de souffrir qu'il appuie sa maison ou ses poutres sur son mur.

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

Par. 3 same as par. 3, above; but comma (,) after "servitude", and after "neighbor."

Dans l'une et l'autre de ces servitudes, c'est au propriétaire du bâtiment asservi à tenir le mur en état de supporter la servitude, s'il n'en a été autrement convenu; mais il peut se délivrer de cette charge en abandonnant son mur.

Une servitude du même genre est celle par laquelle il est stipulé que le propriétaire pourra avoir des saillies sur l'héritage de son voisin.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

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

RCC 1870, Art. 713. (Same as Art. 713 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 709. (Projet, p. 75. Addition † adopted; comment by redactors)

Every proprietor is bound so to construct his roofs that the rain falling on them should not fall on the land of his neighbour, but on his own or the public way.

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

D'après la loi, tout propriétaire doit construire ses toits de manière que les eaux pluviales qui en découlent, ne versent pas sur le fonds du voisin, mais bien sur le sien, ou sur la voie publique.

Cet écoulement est ce qui donne lieu à la servitude d'égout.

La servitude d'égout est celle par laquelle quelqu'un s'engage à souffrir que les eaux du toit du voisin s'écoulent sur son héritage, ou par laquelle il s'oblige à laisser couler les eaux de son propre toit sur l'héritage du voisin.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 714. The right of drain consists in the servitude of passing water collected in pipes or canals through the estate of one's neighbor.

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

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

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

RCC 1870, Art. 714.

Same as above.

CC 1825, Art. 710. (Projet, p. 76. Addition † adopted; comment by redactors)

Same as above.

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

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

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

RCC—568, 716, 717.

RCC 1870, Art. 715.

Same as above.

CC 1825, Art. 711.

(Projet, p. 76. Addition adopted; comment by redactors)

Same as above; but comma (,) after "openings", and after "light."

On entend en général par *vues* toute espèce d'ouvertures qui peuvent, plus ou moins directement, faciliter les moyens de regarder hors de l'édifice pour lequel on les a faites.

On donne le nom de *jours* à des ouvertures moins considérables, ou disposées* de manière qu'elles servent plutôt à éclairer un lieu, qu'à procurer les moyens de voir à l'extérieur.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "those openings which are made" should be "lesser openings, or those arranged."

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

RCC—668, 715, 782.

RCC 1870, Art. 716.

(Same as Art. 716 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 712.

(Projet, p. 76. Addition † adopted; comment by redactors)

Servitudes of view are of two kinds; one which confers the right of full view with the power of preventing one's neighbour from raising any buildings which obstruct it, and the other which gives a proprietor the right of preventing his neighbour from having any view or lights on the side on which their estates unite, or that he exercise these servitudes according to his title.

Les servitudes de vues sont de deux sortes: l'une qui donne le droit d'une vue libre, avec pouvoir d'empêcher que le bâtiment voisin ne soit élevé et n'ôte la vue; et l'autre qui donne à un propriétaire le droit d'empêcher que son voisin n'ait ni vue, ni jour du côté où ils se joignent, ou qu'il ne l'ait que conformément au titre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—668, 715, 782.

RCC 1870, Art. 717.

(Same as Art. 717 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 713.

(Projet, p. 76. Addition † adopted; comment by redactors)

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—648, 668, 681.

RCC 1870, Art. 718.

Same as above.

CC 1825, Art. 714.

(Projet, p. 76. Addition adopted; comment by redactors)

Same as above.

Le droit d'élever est une servitude par laquelle un propriétaire impose au voisin l'obligation d'élever son mur jusqu'à une certaine hauteur.

La servitude contraire est celle qui a pour but d'empêcher le voisin d'élever sa maison au delà d'une certaine hauteur.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—646, 651, 699, 721, 722, 729, 754 *et seq.*, 781, 783.

RCC 1870, Art. 719.

(Same as Art. 719 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 715.

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

The right of passage in cities is a servitude by which a proprietor permits his neighbour to pass through his house or lot* to arrive at his own.

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

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

RCC—646.

RCC 1870, Art. 720.

Same as above.

CC 1825, Art. 716.

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

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—699, 710, 719, 722.

RCC 1870, Art. 721.

Same as above.

CC 1825, Art. 717.

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

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

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

RCC—674, 699, 719, 771, 781, 2630.

RCC 1870, Art. 722.

Same as above.

CC 1825, Art. 718.

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

Same as above; but no punctuation after "passage", or after "way"; comma (,) after "using it."

Le droit de passage ou de chemin est une servitude qui est imposée par la loi ou par la convention, et en vertu de laquelle quelqu'un a le droit de passer à pied, à cheval ou même en voiture, de conduire des bêtes de somme ou des charrettes par l'héritage d'autrui.

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—771.

RCC 1870, Art. 723.

Same as above.

CC 1825, Art. 719.

(Projet, p. 78. Addition adopted; comment by redactors)

Same as above.

La prise d'eau est le droit de puiser de l'eau dans la fontaine d'un autre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC 1870, Art. 724.

Same as above.

CC 1825, Art. 720.

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

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

La conduite d'eau ou l'aqueduc est le droit en vertu duquel quelqu'un conduit l'eau dans* son fonds, à travers celui de son voisin, par le moyen d'un aqueduc ou d'un fossé.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

ART. 725. The right of watering one's animals at the pond or spring of another, is also a servitude.

RCC 1870, Art. 725.

Same as above.

CC 1825, Art. 721.

Same as above.

(Projet, p. 78. Addition adopted; comment by redactors)

L'abreuvoir est le droit de faire abreuver ses bestiaux dans la marre [mare], l'étang ou la source d'autrui.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—727.

RCC 1870, Art. 726.

Same as above.

(Same as Art. 726 of Proposed Revision of 1869)

CC 1825, Art. 722.

Pasturage is the right of feeding one's cattle on the estate of another.

(Projet, p. 78. Addition adopted; comment by redactors)

Le pâturage, ou le pacage, est le droit de faire paître ses bestiaux dans l'héritage du voisin.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 727. Servitudes are either continuous or discontinuous. Continuous servitudes are those whose use is or may be continual without the act of man.

Such are aqueducts, drain, view and the like.

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

Such are the rights of passage, of drawing water, pasture and the like.

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

RCC 1870, Art. 727.

Same as above.

(Same as Art. 727 of Proposed Revision of 1869)

CC 1825, Art. 723.

Par. 1-3 same as pars. 1-3, above.

(No reference in Projet)

Toutes les servitudes sont continues ou discontinues.

Les servitudes *continues* sont celles dont l'usage est ou peut-être [peut être] continu sans avoir besoin du fait actuel de l'homme.

Telles [Tels] sont les conduites d'eau, les égouts, les vues, et autres de cette espèce.

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

Les servitudes *discontinues* sont celles qui ont besoin du fait actuel de l'homme pour être exercées.

Par. 5 same as par. 5, above.

Tels sont les droits de passage, puisage, pacage, et autres semblables.

CC 1808, p. 138, Art. 51.

All services are either perpetual or interrupted.

Perpetual services are those whose use is or may be continual without the act of man.

Such are aqueducts, common sewers, prospects and the like.

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

Such are the rights of passage, well, pasture and the like.

CN 1804, Art. 688.

Same as RCC 1870, Art. 727, above.

-p. 139, Art. 51.

Same as above; but "peut-être" correctly spelled "peut être"; no punctuation after "vues", or after "pacage"; comma (,) after "servitudes *discontinues*."

ART. 728. Again, servitudes are either visible and* apparent or non-apparent.

Apparent servitudes are such as are to be perceivable by exterior works; such as a door, a window, an aqueduct.

Non-apparent servitudes are such as have no exterior sign of their existence; such, for instance, as the prohibition of building on an estate, or of building above a particular height.

RCC—727, 765, 766, 769, 789 *et seq.*, 2215, 3504.

RCC 1870, Art. 728.

Same as above.

CC 1825, Art. 724.

(No reference in Projet)

Same as above; but comma (,) after "works", and after "existence"; no punctuation after "existence, such."

Les servitudes sont encore ou visibles ou* apparentes ou non apparentes.

Les servitudes *apparentes*, sont celles qui s'annoncent par des ouvrages extérieurs, tels qu'une porte, une fenêtre, un aqueduc.

Les servitudes *non-apparentes*, sont celles qui n'ont pas de signes extérieurs de leur existence; comme, par exemple, la prohibition de bâtir sur un fonds, ou de ne bâtir qu'à une hauteur déterminée.

CC 1808, p. 138, Art. 52.

Again, services are either visible and* apparent or non apparent.

Apparent services are such as are to be perceivable by exterior [exterior] works, such as a door, a window, an aqueduct.

Non-apparent services are such as have no exterior sign of their existence, such for instance as the prohibition of building on an estate, or of building above a particular height.

-p. 139, Art. 52.

Same as above; but no punctuation after "servitudes apparentes", after "servitudes non-apparentes", or after "comme."

CN 1804, Art. 689.

Servitudes are apparent or non-apparent.
 Pars. 2, 3 same as pars. 2, 3, above.

Les servitudes sont apparentes, ou non apparentes.

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

Projet du Gouvernement (1800), Book II, Title IV, Art. 41, par. 1.

Same as CC 1808, p. 138, Art. 52, par. 1, above.

Les servitudes sont encore ou visibles et apparentes, ou non apparentes.

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

Section 2—HOW SERVITUDES ARE ESTABLISHED

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

RCC—647, 659, 709, 719, 758.

RCC 1870, Art. 729.

Same as above.

CC 1825, Art. 725.

(Projet, p. 78. Addition adopted; comment by redactors)

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

Le droit d'imposer une servitude sur un héritage, d'une manière permanente n'appartient qu'au véritable propriétaire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—600, 602.

RCC 1870, Art. 730.

(Same as Art. 730 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 726.

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

He who has the naked property of an estate cannot subject it to a servitude without the consent of the usufructuary, unless it be to take effect at the termination of the usufruct.

Celui qui n'a que la nue propriété d'un héritage, ne peut y imposer de servitudes, sans le consentement de l'usufruitier, si ce n'est pour commencer à la fin de l'usufruit.

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

Il faut en excepter les servitudes qui ne portent aucune atteinte aux droits de l'usufruitier, telle que celle de ne pas élever sa maison plus haut qu'elle n'est.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

RCC—471, 759, 1780 *et seq.*, 1785. Acts 1918, No. 244; 1920, No. 116; 1928, No. 283.

CC 1825, Art. 727.

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

Same as above.

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—2350, 2357.

RCC 1870, Art. 732.

Same as above.

CC 1825, Art. 728.

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

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—2297.

RCC 1870, Art. 733.

Same as above.

CC 1825, Art. 729.

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

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—433.

RCC 1870, Art. 734.

Same as above.

CC 1825, Art. 730.

Same as above.

(Projet, p. 79. Addition adopted; no comment)

Les corporations ne peuvent établir de servitudes sur leurs biens, que dans les mêmes cas et sous les mêmes formes qu'elles peuvent les aliéner.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—2567 *et seq.*, 2588.

RCC 1870, Art. 735.

Same as above.

CC 1825, Art. 731.

Same as above.

(Projet, p. 79. Addition adopted; comment by redactors)

L'acquéreur, sous la faculté de rachat, peut imposer des servitudes sur le fonds par lui acquis, mais elles cessent si la clause a son effet.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—737 *et seq.*

RCC 1870, Art. 736.

Same as above.

(Same as Art. 736 of Proposed Revision of 1869)

CC 1825, Art. 732.

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

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

Ceux qui n'ont qu'une propriété résoluble, tels que le grevé de restitution, l'héritier d'un fonds légué sous une condition non accomplie,* peuvent établir des servitudes; mais elles s'évanouissent avec leurs droits, sans que ceux en faveur de qui elles étaient établies, puissent invoquer la prescription, parce qu'avant cette époque il n'y a pas d'action ouverte entr'eux [contr'eux].

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

ART. 737. The usufructuary can not establish on the estate of which he has the usufruct, any charges in the nature of servitudes because they of necessity cease with the usufruct.

RCC—555, 736.

RCC 1870, Art. 737. (Same as Art. 737 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 733. (Projet, p. 79. Addition † adopted; comment by redactors)

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

L'usufruitier ne peut accorder sur le fonds dont il a l'usufruit aucuns droits qui quissent [puissent] être qualifiés de servitudes, attendu que ces droits s'éteindraient nécessairement avec l'usufruit, et ne pourraient durer plus longtemps que lui.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 738. The coproprietor of an undivided estate can not impose a servitude thereon, without the consent of his coproprietor.

The contract of servitude, however, is not null; its execution is suspended until the consent of the coproprietor* is given.

RCC—736, 739 *et seq.*, 763.

RCC 1870, Art. 738.
Same as above.

CC 1825, Art. 734. (Projet, p. 80. Addition † adopted; comment by redactors)

Same as above.

Le co-propriétaire par indivis ne peut imposer de servitudes sur le fonds commun, sans le consentement de ses copropriétaires.

Mais l'établissement n'est pas nul; l'exercice de la servitude est seulement suspendu jusqu'à ce que les autres copropriétaires ou leurs héritiers* y aient consenti.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

ART. 739. The coproprietor who has consented to the establishment of a servitude on property held in common, can not prevent the exercise of the servitude by objecting that the consent of his coproprietor has not been given.

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

RCC—736, 738, 763, 801, 818.

RCC 1870, Art. 739.
Same as above.

CC 1825, Art. 735. (Projet, p. 80. Addition † adopted; comment by redactors)

Same as above; but comma (,) after "The co-proprietor."

Le co-propriétaire qui a consenti à l'établissement d'une servitude sur le

fonds commun, ne peut pas, pour en empêcher l'exercice, opposer le défaut de consentement de ses co-propriétaires.

S'il devient seul propriétaire du fonds, par quelque moyen que ce soit,* il est obligé de laisser exercer la servitude qu'il avait seul établie auparavant.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "by any means whatever."

ART. 740. If the coproprietor has established the servitude for his part of the estate only, the consent of the other owners is not necessary, but the exercise of the servitude must be suspended, until his part be ascertained by a partition. In this case, he to whom the servitude has been granted, may compel the coproprietor from whom he received it, to sue for a partition, or may sue for it himself.

RCC—736 *et seq.*, 748, 763.

RCC 1870, Art. 740.

Same as above.

CC 1825, Art. 736.

(Projet, p. 80. Addition ‡ adopted; comment by redactors)

Same as above.

Si le co-propriétaire n'a établi la servitude que sur sa part seulement, le consentement des autres co-propriétaires n'est pas nécessaire; mais l'exercice de la servitude demeure suspendu, jusqu'à ce que la portion de celui qui l'a accordée, soit reconnue par un partage.

Cependant dans ce cas, celui à qui la servitude a été accordée, peut contraindre le co-propriétaire qui s'y est obligé, à provoquer le partage, ou le provoquer lui-même contre les autres co-propriétaires.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—742, 776, 803, 805.

RCC 1870, Art. 741.

(Same as Art. 741 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 737.

(Projet, p. 80. Addition ‡ adopted; comment by redactors)

If in the suit for a partition it be determined that the estate be disposed of by licitation, and he who has granted the servitude becomes proprietor of the

Si, sur cette demande en partage, les autres co-propriétaires font juger que le fonds doit être licité et que celui qui a accordé la servitude sur sa portion,

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

Par. 2 same as par. 2, above.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—741.

RCC 1870, Art. 742.

Same as above.

CC 1825, Art. 738.

(Projet, p. 81. Addition adopted; comment by redactors)

Same as above.

devienne adjudicataire de l'héritage entier, alors la servitude aura lieu pour le tout, comme s'il en eût toujours été seul propriétaire.

Mais si par l'effet de la licitation, l'héritage est adjugé à tout autre* qu'à celui qui avait concédé la servitude, en ce cas, la servitude s'évanouit, et le cédant n'est tenu qu'à rendre le prix qu'il a reçu pour l'accorder.

Si le co-proprétaire, qui a établi la servitude, vend sa portion indivise à un tiers qui devient propriétaire des autres portions par l'effet de la licitation, ce tiers est, comme son vendeur, obligé de souffrir l'exercice de la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—766, 767, 2275, 2440, 2479.

RCC 1870, Art. 743.

Same as above.

CC 1825, Art. 739.

(Projet, p. 81. Addition adopted; comment by redactors)

Same as above.

Les servitudes se constituent par toute espèce d'actes translatifs de propriété, et comme elles ne sont point susceptibles de tradition réelle, l'usage que le propriétaire de l'héritage, à qui la servitude est accordée, fait de ce droit, tient lieu de tradition.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—766.

RCC 1870, Art. 744.

Same as above.

CC 1825, Art. 740.

(Projet, p. 81. Addition adopted; comment by redactors)

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—648.

RCC 1870, Art. 745.

Same as above.

CC 1825, Art. 741.

(Projet, p. 81. Addition adopted; comment by redactors)

Same as above.

Il n'est pas contraire à la nature des servitudes que la même servitude soit établie sur plusieurs fonds différens au profit d'un seul, comme aussi que le même fonds soit assujetti à une servitude envers divers héritages.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—648.

RCC 1870, Art. 746.

(Same as Art. 746 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 742.

(Projet, p. 81. Addition † adopted; comment by redactors)

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

Rien n'empêche non plus que dans le titre portant établissement d'une servitude en faveur d'un héritage, une autre servitude soit imposée à ce même héritage, pour l'utilité de celui par lequel la première est due.

Par. 2 same as par. 2, above.

Dans le cas où il existe des servitudes réciproques, toutes les règles relatives aux servitudes simples leur sont applicables.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 747. A servitude may be established or acquired in favor of an estate which does not exist, or of which one is not yet the owner; but if the hope of becoming the owner be not realized, the servitude falls.

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

RCC—740.

RCC 1870, Art. 747.

Same as above.

CC 1825, Art. 743.

(Projet, p. 81. Addition † adopted; comment by redactors)

Same as above.

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—740.

RCC 1870, Art. 748.

Same as above.

CC 1825, Art. 744.

(Projet, p. 81. Addition adopted; comment by redactors)

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC 1870, Art. 749.

Same as above.

CC 1825, Art. 745.

(Projet, p. 82. Addition adopted; comment by redactors)

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—617, 3397.

RCC 1870, Art. 750.

Same as above.

CC 1825, Art. 746.

(Projet, p. 82. Addition adopted; comment by redactors)

Same as above.

L'hypothèque dont un héritage est grevé, n'empêche point le propriétaire d'y établir des servitudes, sauf au créancier à provoquer son remboursement, si l'établissement de la servitude dépréciait, notablement la valeur du fonds hypothéqué, ou même à faire vendre l'héritage comme libre de toute servitude, sauf l'action en indemnité de l'acquéreur contre le propriétaire qui lui a accordé la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—709, 781, 803.

RCC 1870, Art. 751.

Same as above.

CC 1825, Art. 747.

(Projet, p. 82. Addition adopted; comment by redactors)

Same as above.

L'exercice des servitudes peut être limité à certains tems.

Ainsi, en accordant un droit de puisage, on peut dire qu'il ne sera exercé qu'à de certaines heures, ou que le droit de passage n'aura lieu que pendant une partie du jour.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—660 *et seq.*, 664 *et seq.*

RCC 1870, Art. 752.

Same as above.

CC 1825, Art. 748.

(Projet, p. 82. Addition adopted; comment by redactors)

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

On peut déroger par la convention aux servitudes légales, et même à celles

qui résultent de la situation des lieux, pourvu qu'on ne blesse point l'intérêt public.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 753. Servitudes which tend to affect the free use of property, in case of doubt as to their extent or the manner of using them, are always interpreted in favor of the owner of the property to be affected.

RCC—779, 780, 789, 1948.

RCC 1870, Art. 753.

Same as above.

CC 1825, Art. 749.

(Projet, p. 82. Addition ‡ adopted; comment by redactors)

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—646 et seq., 654, 709, 719, 2011.

RCC 1870, Art. 754.

Same as above.

CC 1825, Art. 750.

(Projet, p. 82. Addition adopted; comment by redactors)

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—646 et seq., 709.

RCC 1870, Art. 755.

Same as above.

CC 1825, Art. 751.

(Projet, p. 82. Addition † adopted; comment by redactors)

Same as above.

Si au contraire l'acte constitutif de la servitude n'énonce pas que le droit est accordé pour l'utilité de l'héritage, mais en faveur de telle personne qui en est propriétaire, il faut considérer si, par sa nature* le droit concédé procure une utilité réelle à l'héritage, ou seulement un agrément personnel à l'individu qui en est propriétaire.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "from its nature."

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

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

RCC—646 *et seq.*

RCC 1870, Art. 756.

Same as above.

CC 1825, Art. 752.

(Projet, p. 83. Addition † adopted; comment by redactors)

Same as above.

Si le droit concédé est de nature à procurer une utilité réelle à l'héritage, on doit présumer que le droit concédé est une servitude réelle, quoiqu'on ne lui en ait pas donné le nom.

Ainsi, par exemple, si quelqu'un possédant une maison contiguë à des terres limitrophes d'une grande route, a stipulé le droit de passer sur ces terres,* sans exprimer que le passage est pour le service de sa maison, ce n'en est pas moins une servitude réelle; car il est évident que cette maison retirera une utilité réelle de ce passage.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

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

RCC—646 *et seq.*, 758, 2011.

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

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

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

Au contraire, si par sa nature, la concession du droit ne paraît procurer qu'un agrément personnel à l'individu, elle ne peut être considérée que comme stipulée en faveur de la personne, et ne peut être rendue réelle que par une énonciation expresse.

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

Ainsi, par exemple, si le propriétaire d'une maison voisine d'un parc ou d'un jardin, stipule le droit de s'y promener, d'y cueillir des fruits, des fleurs, la concession est considérée comme un droit personnel à l'individu, et non comme une servitude en faveur de la maison ou de ses propriétaires.

Mais le droit peut être rendu réel, et devient une servitude foncière, si celui qui stipule la servitude, l'acquiert expressément comme propriétaire de la maison, et tant pour lui que pour ses successeurs ou ayant-cause.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 758. When the right granted is merely personal to the individual, it expires with him, unless the contrary has been expressly stipulated.*

RCC—597, 606, 646, 729, 2011.

RCC 1870, Art. 758.
Same as above.

CC 1825, Art. 754. (Projet, p. 83. Addition adopted; comment by redactors)
Same as above.

Lorsque le droit concédé n'est qu'une faculté personnelle à l'individu, il est de sa nature de s'éteindre à la mort de cet individu à moins que le contraire n'ait été expressément stipulé par le titre.*

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

Section 3—HOW SERVITUDES ARE ACQUIRED

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

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

their rights, minors, women not authorized, administrators, tutors, husbands; for the acquisition of a servitude augments the value and convenience of an estate.

RCC—731.

RCC 1870, Art. 759.

Same as above.

CC 1825, Art. 755.

Same as above.

(Projet, p. 83. Addition † adopted; comment by redactors)

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC 1870, Art. 760.

Same as above.

CC 1825, Art. 756.

Same as above; but "revoke" spelled "work."

(Projet, p. 84. Addition adopted; comment by redactors)

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—763, 1780 *et seq.*

RCC 1870, Art. 761.

Same as above.

CC 1825, Art. 757.

Same as above.

(Projet, p. 84. Addition † adopted; comment by redactors)

Néanmoins, dans tous les cas mentionnés aux articles précédens, si les mineurs, les femmes non autorisées, les propriétaires dont on a géré les affaires,* trouvent la convention onéreuse, ils peuvent la faire annuler, ou refuser de l'exécuter, en renonçant à la servitude.

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

*English translation of French text incomplete; should include "whose affairs have been administered."

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

RCC—764, 794, 1890 *et seq.***RCC 1870, Art. 762.**

Same as above.

CC 1825, Art. 758.

Same as above.

(Projet, p. 84. Addition adopted; comment by redactors)

Ceux mêmes qui ne sont ni propriétaires, ni représentans du propriétaire, et qui n'ont pas pris expressément la qualité d'agissant en son nom, peuvent acquérir une servitude au profit du fonds qu'ils possèdent, lorsque telle est la condition d'une stipulation qu'ils font pour eux-mêmes.

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

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

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

RCC—656, 738 *et seq.*, 761.**RCC 1870, Art. 763.**

Same as above.

(Same as Art. 763 of Proposed Revision of 1869)

CC 1825, Art. 759.

Par, 1 same as par. 1, above.

(Projet, p. 84. Addition amended in French text and adopted; comment by redactors)

L'un des co-propriétaires d'un fonds indivis peut stipuler une servitude au

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

profit du fonds commun; car la communauté qui existe entre lui et ses copropriétaires, lui donne le droit et lui fait même une loi de rendre la chose commune meilleure.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—590, 606, 646, 762.

RCC 1870, Art. 764.

Same as above.

CC 1825, Art. 760.

(Projet, p. 85. Addition adopted; comment by redactors)

Same as above; but comma (,) after "claim a servitude."

L'usufruitier peut acquérir une servitude en faveur du fonds dont il a l'usufruit, en déclarant agir pour le propriétaire, ou en stipulant que la servitude est établie en faveur de tous ceux qui posséderont le fonds après lui, mais si dans l'acte d'acquisition il ne prend que la qualité d'usufruitier, sans exprimer en même tems qu'il stipule pour tous ses successeurs dans la possession de l'héritage, le droit s'éteint avec l'usufruit, et le propriétaire ne serait pas fondé à réclamer une servitude qui n'aurait pas été acquise au fonds grevé d'usufruit, ou qui ne l'aurait été que pour le temps de l'usufruit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 765. Continuous and apparent servitudes may be acquired by title, or by a possession of ten years. The public, represented by the various parishes in this State, may also in like manner acquire a

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

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

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

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

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

Les servitudes continues et apparentes s'acquièrent par titre ou par la possession de dix ans entre présents, et de vingt ans entre absents.

CC 1808, p. 138, Art. 53.

Perpetual and apparent services may be acquired by title or by a possession of thirty years.

-p. 139, Art. 53.

Les servitudes continues et apparentes s'acquièrent par titre ou par la possession de trente ans.

CN 1804, Art. 690.

Same as above.

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

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

Immemorial possession itself is not sufficient to acquire them.

Immemorial possession is that of which no man living has seen the beginning, and the existence of which he has learned from his elders.

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

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

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

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

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

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

La possession immémoriale est celle dont aucun homme vivant n'a vu le commencement, et dont il a appris l'existence de ses anciens.

CC 1808, p. 138, Art. 54.

Perpetual non apparent services and interrupted services, whether apparent or not, can be established only by a title.

Par. 2 same as par. 2, above.

-p. 139, Art. 54.

Les servitudes continues non apparentes et les servitudes discontinues apparentes, ou non apparentes ne peuvent s'établir que par titre.

La possession même immémoriale ne suffit pas pour les acquérir.

CN 1804, Art. 691, par. 1 and par. 2, clause 1.

Same as above.

Les servitudes continues non apparentes, et les servitudes discontinues,

apparentes ou non apparentes, ne peuvent s'établir que par titres.

La possession même immémoriale ne suffit pas pour les établir;

*The phrase "ou non apparentes" was not continued in the 1825 French, but in the English the counterpart has been continued.

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

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

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

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

Same as above.

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

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

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

La destination du père de famille vaut titre à l'égard des servitudes continues et apparentes.

On appelle destination du père de famille la disposition que le propriétaire de deux ou plusieurs fonds, a faite pour leur usage respectif.

CC 1808, p. 138, Art. 55.

The intention of the father of the family is equal to a title, with respect to perpetual and apparent services.

-p. 139, Art. 55.

Same as par. 1, above.

CN 1804, Art. 692.

Same as above.

Same as above.

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

RCC—767, 769, 785, 805.

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

Same as above.

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

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

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

CC 1808, p. 138, Art. 56.

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

-p. 139, Art. 56.

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

CN 1804, Art. 693.

Same as above.

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

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

RCC—649, 728, 766 *et seq.*, 776, 805.**RCC 1870, Art. 769.**

(Same as Art. 769 of Proposed Revision of 1869)

Same as above.

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

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

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

CC 1808, p. 140, Art. 57.

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

-p. 141, Art. 57.

Same as above; but no punctuation after "deux héritages."

CN 1804, Art. 694.

Same as above.

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

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

RCC—766.

RCC 1870, Art. 770.

Same as above.

CC 1825, Art. 766.

(Projet, p. 85. Amendment adopted; comment by redactors)

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

Le titre constitutif de la servitude, à l'égard de celles qui ne peuvent s'acquérir par la prescription, ne peut être remplacé que par un titre récongnitif de la servitude, et émané du propriétaire du fonds asservi, ou par un jugement définitif, par lequel ce propriétaire aurait été condamné à souffrir l'exercice de cette servitude.

CC 1808, p. 140, Art. 58.

The title by which such services are established as cannot be acquired by prescription, can be replaced only by a title by which said service is acknowledged by the owner of the estate which owes the service.

-p. 141, Art. 58.

Le titre constitutif de la servitude, à l'égard de celles qui ne peuvent s'acquérir par la prescription, ne peut être remplacé que par un titre reconnaissant de la servitude et émané du propriétaire du fonds asservi.

CN 1804, Art. 695.

Same as above.

Same as above; but comma (,) after "récognitif de la servitude."

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

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

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

RCC—480, 699, 722, 723, 772, 796, 799, 1903, 2461.

RCC 1870, Art. 771.

(Same as Art. 771 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 767.

(Projet, p. 86. Amendment adopted; comment by redactors)

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

Quand on établit une servitude, on est censé accorder tout ce qui est nécessaire pour en user.

Ainsi la servitude de puiser de l'eau à la fontaine d'autrui, emporte nécessairement le droit de passage.

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

Mais le passage, dans ce cas, et dans tous les autres où il est accordé comme un accessoire nécessaire d'une autre servitude doit être exercé par la voie la plus directe, la plus courte et la moins incommode pour l'héritage asservi.

CC 1808, p. 140, Art. 59.

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

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

-p. 141, Art. 59.

Same as pars. 1, 2, above.

CN 1804, Art. 696.

Same as above.

Same as above.

Section 4—OF THE RIGHTS OF THE PROPRIETOR OF THE ESTATE TO WHICH THE SERVITUDE IS DUE

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

RCC—709, 756, 771, 773 *et seq.*, 778, 1903.

RCC 1870, Art. 772.

Same as above.

CC 1825, Art. 768.

Same as above.

(No reference in Projet)

Celui auquel est du [due] une servitude, a droit de faire tous les ouvrages nécessaires pour en user et pour la conserver.

CC 1808, p. 140, Art. 60.

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

-p. 141, Art. 60.

Same as above.

CN 1804, Art. 697.

Same as above.

Same as above; but "du" correctly spelled "due."

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

RCC—772, 774 *et seq.*

RCC 1870, Art. 773.

Same as above.

CC 1825, Art. 769.

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

(No reference in Projet)

Ces ouvrages sont à ses frais et non à ceux du propriétaire du fonds assujetti, à moins que le titre d'établissement de la servitude ne dise le contraire.

CC 1808, p. 140, Art. 61.

Said works are at his expense, and not at the expense of the owner of the estate which owes the service, unless the title by which the service is established shows the contrary.

-p. 141, Art. 61.

Same as above.

CN 1804, Art. 698.

Same as above.

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

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

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

RCC—772, 773, 775 *et seq.*

RCC 1870, Art. 774.

Same as above.

CC 1825, Art. 770.

Same as above.

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

Le propriétaire de l'héritage auquel la servitude est due, a le droit d'aller

sur l'héritage qui la doit, avec des ouvriers, dans l'endroit où il a besoin de construire ou réparer les ouvrages qui sont nécessaires à l'exercice de la servitude, d'y déposer les matériaux qu'il veut employer à ces ouvrages, et les décombres qu'il peut en retirer, à la charge par lui de causer le moins de dommage qu'il pourra, et de débarrasser [débarrasser] les lieux le plutôt [plus tôt] possible.

Néanmoins, si par l'acte constitutif de la servitude, il est dit que le propriétaire à qui elle est accordée, ne pourra faire des ouvrages pour l'exercer, ou ne pourra les faire que d'une certaine manière, la convention devra être observée.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 775. Even in the cases where the owner of the estate, which owes the servitude, is bound by the title to make the necessary works for the use and preservation of the servitudes, at his own expense, he may always exonerate himself by giving up the estate which owes the servitude to the owner of the estate to which it is due.

RCC—575, 679, 772 *et seq.*, 783.

RCC 1870, Art. 775.

Same as above.

CC 1825, Art. 771.

(No reference in Projet)

Same as above; but no punctuation after "of the estate."

Dans les cas même où le propriétaire du fonds assujetti est chargé par le titre, de faire à ses frais les ouvrages nécessaires pour l'usage et la conservation de la servitude, il peut toujours s'affranchir de la charge, en abandonnant le fonds assujetti au propriétaire du fonds auquel la servitude est due.

CC 1808, p. 140, Art. 62.

Even in cases where the owner of the estate which owes the service, is bound by the title to make at his own expense the necessary works for the use and preservation of the services he may always exonerate himself by giving up the estate which owes the service to the owner of the estate to which the service is due.

-p. 141, Art. 62.

Same as above; but comma (,) after "du fonds assujetti", after "de faire", and after "frais"; no punctuation after "titre."

CN 1804, Art. 699.

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

Dans le cas même où le propriétaire du fonds assujetti est chargé par le titre de faire à ses frais les ouvrages nécessaires pour l'usage ou la conservation de la servitude, il peut toujours s'affranchir de la charge, en abandonnant le fonds assujetti au propriétaire du fonds auquel la servitude est due.

ART. 776. If the estate for which the servitude has been established, comes to be divided, the servitude remains due for each portion,

provided that no additional burden accrue thereby to the estate which is subject to the servitude.

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

RCC—741, 769, 774, 2108.

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

CC 1825, Art. 772. (No reference in Projet)
Par. 1 same as par. 1, above.

Si l'héritage pour lequel la servitude a été établie, vient à être divisé, la servitude reste due pour chaque portion, sans néanmoins que la condition du fonds assujetti soit aggravée.

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

Ainsi par exemple, s'il s'agit d'un droit de passage, tous les copropriétaires sont obligés de l'exercer par le même endroit.

CC 1808, p. 140, Art. 63.

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

-p. 141, Art. 63.

Same as above.

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

CN 1804, Art. 700.

Same as above.

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

Ainsi, par exemple, s'il s'agit d'un droit de passage, tous les copropriétaires seront obligés de l'exercer par le même endroit.

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

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

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

RCC—660, 700, 701, 703.

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

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

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

Le propriétaire du fonds débiteur de la servitude, ne peut rien faire qui tende à en diminuer l'usage, ou à le rendre plus incommode.

Par. 2 same as par. 2, above.

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

CC 1808, p. 140, Art. 64.

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

Thus he cannot change the estate [state] of the premises, nor transfer the exercise of the services to a place different from that on which it was assigned in the first instance.

Yet if this primitive assignation has become more burthensome to the proprietor of the estate which owes the service, or if he is thereby prevented from making on his estate, some advantageous repairs, he may offer to the proprietor of the other estate, a place equally convenient, for the exercise of his rights, and the owner of the estate to which the service is due cannot refuse it.

CN 1804, Art. 701.

Same as CC 1825, Art. 773, above.

Ainsi, il ne peut changer l'état des lieux, ni transporter l'exercice de la servitude dans un endroit différent de celui où elle a été primitivement assignée.

Mais cependant, si cette assignation primitive était devenue plus onéreuse au propriétaire du fonds assujetti, ou si elle empêchait d'y faire des réparations avantageuses, il pourrait offrir au propriétaire de l'autre fonds un endroit aussi commode pour l'exercice de ses droits, et celui-ci ne pourrait pas le refuser.

-p. 141, Art. 64.

Le propriétaire du fonds débiteur de la servitude, ne peut rien faire qui tende à en diminuer l'usage, ou à la rendre plus incommode.

Pars. 2, 3 same as pars. 2, 3, above; but no punctuation after "Ainsi", or after "cependant"; comma (,) after "de l'autre fonds."

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

RCC—660, 700 *et seq.*

RCC 1870, Art. 778.

Same as above.

CC 1825, Art. 774.

(No reference in Projet)

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

De son côté, celui qui a un droit de servitude, ne peut en user que suivant son titre, sans pouvoir faire, ni dans le fonds qui doit la servitude, ni dans le fonds à qui elle est due, des changemens qui aggravent la condition du premier.

CC 1808, p. 140, Art. 65.

On the other hand, he who has a right of service, can use it only according to his title, without being at lib-

-p. 141, Art. 65.

Same as above.

erty to make either on the estate which owes the service or on the estate to which the service is due, any alteration by which the condition of the first may be made worse.

CN 1804, Art. 702.

Same as above.

De son côté, celui qui a un droit de servitude, ne peut en user que suivant son titre, sans pouvoir faire ni dans le fonds qui doit la servitude, ni dans le fonds à qui elle est due, de changement qui aggrave la condition du premier.

ART. 779. If the manner in which the servitude is to be used is uncertain, as if the place necessary for the exercise of the right of passage is not designated in the title, the owner of the estate which owes the servitude is bound to fix the place where he wishes it to be exercised.

RCC—700 *et seq.*, 753, 1945 *et seq.*

RCC 1870, Art. 779.

Same as above.

CC 1825, Art. 775.

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

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 780. If the title by which a passage is granted does not designate its breadth, nor the manner in which it is to be used, whether on foot, or horseback, or with carriages, the use which the person to whom the servitude is granted previously made of it will serve to interpret the title.

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

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

RCC—700 *et seq.*, 753, 1945 *et seq.*

RCC 1870, Art. 780.

Same as above.

CC 1825, Art. 776.

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

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

Si le titre qui accorde un passage, n'en désigne [désigne] ni la largeur, ni la manière d'en user, à pied, à cheval ou avec des voitures, l'usage qu'en a

fait jusqu'alors celui à qui la servitude est accordée, sert à interpréter le titre.

S'il n'existe pas de semblable usage, on doit examiner quelle a été l'intention vraisemblable des parties, et la fin pour laquelle le chemin est stipulé et promis.

Si ces circonstances ne donnent pas assez de lumières, on prononcera en faveur du fonds qui doit la servitude, et l'on n'accordera qu'un* passage pour aller à pied, de huit pieds de large en ligne directe, et de dix pieds dans les endroits où le chemin tourne.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—700, 722, 751.

RCC 1870, Art. 781.

Same as above.

CC 1825, Art. 777.

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

Same as above; but no punctuation after "any hour"; semicolon (;) after "in the night", and after "convenient hours."

Si le passage est stipulé et consenti, sans en fixer l'heure ni le tems, il faut distinguer: s'il s'agit d'un passage par un lieu non clos, il peut être exercé à toute heure, et même pendant la nuit, parcequ'on peut avoir besoin de passer à toute heure.

Mais s'il s'agit de passer par un lieu destiné à être clos pour la sureté du propriétaire, le passage ne peut être exercé qu'à des heures convenables; n'étant pas juste qu'une cour ou une maison reste ouverte à toutes les heures de la nuit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 782. The right of opening lights or of view, granted indefinitely to him who is about building, gives him the privilege of opening all the windows which may be necessary to light or embellish his house and the building, attached to it, to give to the windows the form and size he may think proper to adopt, because such is presumed to have been the intention of the parties.

But after the buildings are all finished, the possession and situation of the ground determine the extent of the servitude; and the owner can neither multiply nor enlarge his windows.

RCC—668, 696, 697, 716, 717.

RCC 1870, Art. 782.

Same as above.

CC 1825, Art. 778.

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

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

Le droit d'ouvrir des jours ou des vues, accordé indéfiniment à celui qui projète [projetel] de faire bâtir, lui confère la faculté d'ouvrir toutes les fenêtres nécessaires pour éclairer ou embellir sa maison et les édifices qui en dépendent, de donner à ces fenêtres la forme et la grandeur qu'il juge convenables, parce qu'on présume que telle a été vraisemblablement l'intention des parties.

Mais après les édifices achevés, la possession, l'état des lieux déterminent l'étendue de la servitude; et le propriétaire ne peut plus multiplier les fenêtres ni même les agrandir.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

Section 5—HOW SERVITUDES ARE EXTINGUISHED

ART. 783. Servitudes are extinguished:

1. By the destruction of the estate which owes the servitude, or of that to which the servitude is due, or by such a change taking place that the thing subject to the servitude can not be used.

2. By prescription resulting from non-usage of the servitude during the time required to produce its extinction.

3. By confusion.

4. By the abandonment of that part of the estate which owes the servitude.

5. By the renunciation of the servitude on the part of him to whom it is due, or by the express or tacit remission of his right.

6. By the expiration of the time for which the servitude was granted, or by the happening of the dissolving condition attached to the servitude.

7. By the dissolution of the right of him who established the servitude.

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

RCC 1870, Art. 783.

Same as above.

CC 1825, Art. 779. (Projet, p. 88. Addition † adopted; comment by redactors)

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

Les servitudes s'éteignent:

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—613, 628, 783, 785, 2219.

RCC 1870, Art. 784.

Same as above.

CC 1825, Art. 780.

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

Same as above.

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

CC 1808, p. 142, Art. 66.

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

-p. 143, Art. 66.

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

CN 1804, Art. 703.

Same as above.

Same as above.

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

RCC—789, 3546.

RCC 1870, Art. 785.

Same as above.

CC 1825, Art. 781.

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

Same as above.

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

n'auront été que suspendues dans leur exercice, et elles reprendront leur effet, à moins qu'à l'époque où l'on a cessé d'en faire usage, il ne se fût déjà écoulé un espace de temps suffisant pour en opérer la prescription.

CC 1808, p. 142, Art. 67.

Services revive if the things are re-established in such a manner that they may be used, unless a sufficient time be elapsed already to give reason to suppose the extinction of the service, as is said in the following articles.

-p. 143, Art. 67.

Elles revivent, si les choses sont rétablies de manière qu'on puisse en user, à moins qu'il ne se soit déjà écoulé un espace suffisant pour faire présumer l'extinction de la servitude, ainsi qu'il est dit dans les articles suivans.

CN 1804, Art. 704.

Servitudes revive if the things are re-established in such a manner that they may be used; unless a sufficient time be elapsed already to give reason to suppose the extinction of the servitude, as is said in Art. 707.

Elles revivent si les choses sont rétablies de manière qu'on puisse en user; à moins qu'il ne se soit déjà écoulé un espace de temps suffisant pour faire présumer l'extinction de la servitude, ainsi qu'il est dit à l'art. 707.

ART. 786. If a wall in common, or a house subject to a servitude, or to which a servitude is due, be rebuilt after having been destroyed, demolished or thrown down, all the servitudes, active and passive, which existed on this wall or house, continue to exist on the new wall or house, but they can not be augmented; provided always, that they be rebuilt within such a time that prescription has not operated against them, as is mentioned in the following articles.

RCC—788, 789, 3546.

RCC 1870, Art. 786.

Same as above.

CC 1825, Art. 782.

Same as above.

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

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

CC 1808. No corresponding article.

CN 1804, Art. 665.

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

Lorsqu'on reconstruit un mur mitoyen ou une maison, les servitudes actives et passives se continuent à l'égard du nouveau mur ou de la nouvelle maison, sans toutefois qu'elles puissent être aggravées, et pourvu que la reconstruction se fasse avant que la prescription soit acquise.

ART. 787. If the house or edifice which has been destroyed, demolished or thrown down by any accident, belonged to the owner to whom the servitude is due, the servitude will be extinguished if he does not rebuild the house or edifice within the time required for prescription, because it depended on him alone, by rebuilding his house to revive the servitude it enjoyed.

RCC—789, 3546.

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

CC 1825, Art. 783. (Projet, p. 89. Addition amended in English text and adopted; comment by redactors)

If the house or edifice which has been destroyed, demolished or thrown down by any accident, belonged to the proprietor to whom the servitude is due, the servitude will be extinguished, if he does not rebuild the house or edifice within the time required for prescription, because it depended on him alone, by rebuilding his house to revive the servitude it enjoyed.

Si la maison ou l'édifice qui a été détruit, démoli ou renversé par un événement de force majeure ou autrement, appartenait au propriétaire à qui la servitude est due, cette servitude sera éteinte, si ce propriétaire ne reconstruit cette maison ou cet édifice, qu'après le laps de tems requis pour opérer la prescription parcequ'il dépendait de lui, en reconstruisant sa maison, de faire revivre la servitude dont elle joussait.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—786, 789, 3546.

RCC 1870, Art. 788.
Same as above.

CC 1825, Art. 784. (Projet, p. 89. Addition † adopted; comment by redactors)

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—590, 618, 628, 639, 727, 753, 765, 783, 790, 792, 793, 795, 796 *et seq.*, 800 *et seq.*, 3529, 3546.

Art. 790

COMPILED EDITION

RCC 1870, Art. 789. (Same as Art. 789 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 785. (Projet, p. 89. Amendment † adopted; comment by redactors)

A right to servitude is extinguished* by the non-usage of the same during ten years, if the parties be present, and twenty years, if absent.

La servitude est éteinte ou prescrite* par le non usage, pendant dix ans entre présents, et vingt ans entre absents.

CC 1808, p. 142, Art. 68. -p. 143, Art. 68.
A right to service is extinguished by the non enjoyment of the same during thirty years.

La servitude est éteinte par le non usage pendant trente ans.

CN 1804, Art. 706.
Same as above. Same as above.

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

ART. 790. The time of prescription for non-usage begins for discontinuous servitudes, from the day they ceased to be used; for continuous servitudes, from the day any act contrary to the servitude has been committed.

RCC—727, 728, 789, 791 *et seq.*, 3546.

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

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

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

Le tems de la prescription par le non usage, commence à courir, pour les servitudes discontinues, du jour où on a cessé d'en jouir, et pour les servitudes continues, du jour où il a été fait un acte contraire à leur exercice.

CC 1808, p. 142, Art. 69. -p. 143, Art. 69.
The thirty years begin according to the various kinds of services, either from the day when the enjoyment of said service has ceased, in the case of an interrupted service, or from the day when an act contrary to the service has been done, in the case of a perpetual service.

Les trente ans commencent à courir, selon les diverses espèces de servitude, ou du jour où l'on a cessé de jouir, lorsqu'il s'agit de servitudes discontinues, ou du jour où il a été fait un acte contraire à la servitude, lorsqu'il s'agit de servitudes continues.

CN 1804, Art. 707.
Same as above.

Les trente ans commencent à courir selon les diverses espèces de servitudes, ou du jour où l'on a cessé d'en jouir, lorsqu'il s'agit de servitudes discontinues, ou du jour où il a été fait un acte contraire à la servitude, lorsqu'il s'agit de servitudes continues.

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

RCC—790.

RCC 1870, Art. 791.
Same as above.

CC 1825, Art. 787. (Projet, p. 90. Addition adopted; no comment)
 Same as above; but comma (,) after "its exercise."
 On appelle acte contraire à la servitude, la destruction des ouvrages qui sont nécessaires à son exercice, tels que la suppression des gouttières [gouttières] qui servent à un droit d'égout, ou des fenêtres ou ouvertures qui servent à exercer un droit de vue.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—789, 819, 820, 3546.

RCC 1870, Art. 792.

Same as above.

CC 1825, Art. 788.

(Projet, p. 90. Addition adopted; comment by redactors)

Same as above.

Si le propriétaire du fonds auquel la servitude est due, est empêché d'en user par un obstacle qu'il n'a pu ni prévenir ni faire cesser, la prescription de non usage ne court point contre lui, tant que cet obstacle dure.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—789 *et seq.*, 794 *et seq.*

RCC 1870, Art. 793.

(Same as Art. 793 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 789.

(Projet, p. 90. Addition adopted; comment by redactors)

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

Il n'est pas nécessaire, pour conserver la servitude et empêcher la prescription, que cette servitude soit exercée exclusivement par le propriétaire à qui elle est due, ou par ceux qui usent de ses droits, ou qui ont qualité pour le représenter dans cette jouissance, tels que l'usufruitier, le fermier ou locataire, le fondé de pouvoir ou le gérant.

Il suffit que cette servitude ait été exercée par les ouvriers employés par le propriétaire, par ses esclaves, ses amis ou ceux qui viennent le voir.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 794. The servitude is preserved to the owner of the estate to which it is due, by the use which any one, even a stranger, makes of it, provided it be used as appertaining to the estate.

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

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

RCC—565, 760, 762, 793.

RCC 1870, Art. 794.

Same as above.

CC 1825, Art. 790.

(Projet, p. 90. Addition † adopted; comment by redactors)

Same as above; but comma (,) after “due, by the use”; no punctuation after “of another.”

La servitude est conservée au propriétaire du fonds auquel elle est due, par l'usage qu'une personne, même étrangère, fait de cette servitude, pourvu qu'elle le fasse à l'occasion de ce fonds.

Ainsi la servitude est conservée au propriétaire par l'usage qu'en fait le possesseur, même de mauvaise foi, qui jouit du fonds auquel elle est due.

Mais si quelqu'un passe sur le fonds d'autrui, parce qu'il regarde le chemin comme public, ou comme appartenant à un autre fonds, le propriétaire de l'héritage auquel ce passage est dû, ne peut se servir de l'usage qui en a été fait par cet individu, pour se garantir de la prescription qui aurait été acquise contre lui.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—505, 660, 699, 789, 3546.

RCC 1870, Art. 795.

Same as above.

CC 1825, Art. 791.

(Projet, p. 91. Addition adopted; comment by redactors)

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—771, 789, 3546.

RCC 1870, Art. 796.

Same as above.

CC 1825, Art. 792.

Same as above.

(Projet, p. 91. Amendment † adopted; no comment)

Le mode de la servitude peut se prescrire comme la servitude elle-même, et de la même manière.

On entend par mode, en ce cas, la manière d'user de la servitude, telle qu'elle est prescrite par le titre.

CC 1808, p. 142, Art. 70.

The mode of service is subject to prescription as well as the service itself.

-p. 143, Art. 70.

Le mode de la servitude peut se prescrire comme la servitude elle-même.

CN 1804, Art. 708.

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

Le mode de la servitude peut se prescrire comme la servitude même, et de la même manière.

Projet du Gouvernement (1800), Book II, Title IV, Art. 59.

Same as CC 1808, p. 142, Art. 70, above.

Le mode de la servitude peut se prescrire comme la servitude même.

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

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

RCC—765, 798, 799, 3504.

RCC 1870, Art. 797.

Same as above.

(Same as Art. 797 of Proposed Revision of 1869)

CC 1825, Art. 793.

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

(Projet, p. 91. Addition † adopted; comment by redactors)

Si celui à qui une servitude est due, jouit d'un droit plus étendu que celui qui lui est accordé par son titre, il sera censé avoir conservé son droit, parceque le moins est compris dans le plus.

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

Mais il n'aura pas prescrit le surplus, et il pourra être forcé de réduire l'usage de la servitude à ce qui lui est accordé par son titre, à moins qu'il ne s'agisse d'une servitude continue et* apparente qu'il ait acquise par l'effet de la prescription.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—797.

RCC 1870, Art. 798.

Same as above.

CC 1825, Art. 794.

(Projet, p. 91. Addition adopted; comment by redactors)

Same as above; but "this" correctly spelled "his"; comma (,) after "possession."

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—771, 797.

RCC 1870, Art. 799.

(Same as Art. 799 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 795.

(Projet, p. 91. Addition † adopted; comment by redactors)

Par. 1 same as par. 1, above.

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

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 800. If the owner has used another servitude than that granted to him, without using the latter, he may lose this last for non-

usage during the time required for prescription, without acquiring that which he has used, if it be a discontinuous or non-apparent servitude.

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

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

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

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—739 *et seq.*, 802.

RCC 1870, Art. 801.
Same as above.

CC 1825, Art. 797. (No reference in Projet)
Same as above; but comma (,) after "established", and after "several."

Si l'héritage en faveur duquel la servitude est établie, appartient à plusieurs par *indivis*, la jouissance de l'un empêche la prescription à l'égard de tous.

CC 1808, p. 142, Art. 71.
Same as above.

-p. 143, Art. 71.
Same as above; but no punctuation after "établie."

CN 1804, Art. 709.
Same as above.

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

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

RCC—801, 3522.

RCC 1870, Art. 802.
Same as above.

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

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

CC 1808, p. 142, Art. 72.
Same as above.

-p. 143, Art. 72.
Same as above; but no punctuation after "si."

CN 1804, Art. 710.
Same as above.

Same as above; but no punctuation after "co-propriétaires."

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

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

RCC—741, 751, 789, 3546.

RCC 1870, Art. 803.

Same as above.

CC 1825, Art. 799.

(Projet, p. 92. Addition adopted; comment by redactors)

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

Lorsque l'héritage auquel la servitude est due, cesse d'être indivis par un partage, chacun de ceux qui en étaient co-proprétaires, ne conserve la servitude que pour lui, par l'usage qu'il en fait, et les autres la perdent par le défaut de cet exercice, pendant le tems requis pour la prescription.

Pareillement, si une servitude est due à plusieurs, mais à des jours différens, comme une prise d'eau, celui qui n'exerce pas son droit, le perd, et le fonds asservi est libéré à son égard.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—793, 794, 2232.

RCC 1870, Art. 804.

Same as above.

CC 1825, Art. 800.

(Projet, p. 92. Addition adopted; comment by redactors)

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

Lorsque la prescription de non-usage est opposée au propriétaire du fonds auquel la servitude est due, c'est à lui à prouver que lui ou quelqu'un en son nom, ou à l'occasion de ce fonds, a fait usage de cette servitude pendant le tems utile pour en empêcher la prescription.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

But if it necessary that the whole of the two estates should belong to the same owner; for if the owner of one estate only acquires

the other [in] part or in common with another person, confusion does not take effect.

RCC—649, 767, 806, 807, 811, 2217.

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

CC 1825, Art. 801. (Projet, p. 92. Addition † adopted; comment by redactors)

Par. 1 same as par. 1, above.

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

Toute servitude est éteinte lorsque le fonds auquel elle est due, et celui qui la doit, sont réunis dans la même main.

Mais il faut, pour opérer cet effet, que les deux héritages appartiennent, pour le total [total], au même propriétaire; car si le propriétaire de l'un des héritages n'acquiert l'autre qu'en partie, ou en commun avec une autre personne, la confusion ne s'opérerait [s'opérerait] pas.

CC 1808. No corresponding article.

CN 1804, Art. 705.

Same as CC 1825, Art. 801, par. 1, above.

Toute servitude est éteinte lorsque le fonds à qui elle est due, et celui qui la doit, sont réunis dans la même main.

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

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

RCC—810, 2021, 2043, 2045.

RCC 1870, Art. 806.

Same as above.

CC 1825, Art. 802. (Projet, p. 92. Addition adopted; comment by redactors)

Same as above; but no punctuation after "revive", or after "servitudes."

Si la réunion des deux héritages ne s'était faite que sous une condition résolutoire,* ou si elle cessait par une éviction légale, la résolution du titre de réunion par l'une de ces deux causes, ferait revivre les servitudes qui étaient plutôt suspendues qu'éteintes.

Ainsi, l'exercice du réméré, ou l'événement d'une autre condition résolutoire,* l'éviction d'une succession par un héritier plus proche, l'abandon ou le délaissement pour cause d'hypothèque, ferait revivre les servitudes actives et passives.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

ART. 807. Confusion takes place by the simple acceptance of an inheritance, if there be but one heir.

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

RCC—805, 808, 809, 1013, 2217.

RCC 1870, Art. 807.

Same as above.

CC 1825, Art. 803.

(Projet, p. 93. Addition † adopted; comment by redactors)

Same as above; but no punctuation after "any estate", or after "succession."

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

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—807.

RCC 1870, Art. 808. (Same as Art. 808 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 804.

(Projet, p. 93. Addition adopted; comment by redactors)

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

Mais si l'héritier pur et simple, vend à un tiers l'universalité de ses droits dans la succession qu'il a recueillie, cette vente empêchera la confusion, et l'héritage qui se trouvera dans la succession, continuera à jouir du droit de servitude qui lui était accordé, ou à être assujetti à celui dont il était grevé, de la même manière que si ce fonds n'eût point passé entre les mains de l'héritier, parceque l'acquéreur, en ce cas, n'est pas présumé avoir entendu acheter plus ou moins que ce dont le défunt jouissait.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 809. Confusion does not take effect if the heir has only a temporary possession of the estate subject to the servitude, or enjoys it for* the purpose of delivering it to another person to whom it has been bequeathed, or when his right in it terminates at a certain fixed time.

RCC—807, 972, 976 *et seq.*

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

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

Confusion does not take effect if the heir has only a temporary possession of the estate subject to the servitude, or enjoying it for* the purpose of delivering it to another person to whom it has been bequeathed, or when his right in it terminates at a certain fixed time.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*Note error in English translation of French text; "subject to the servitude, or enjoys it for" should be "subject to or enjoying the servitude, for."

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

RCC—806, 1032 *et seq.*

RCC 1870, Art. 810.
Same as above.

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

Same as above.

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

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—805.

RCC 1870, Art. 811.
Same as above.

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

Same as above; but comma (,) after "exist." Les acquêts que les époux font pendant la durée de leur mariage, ne se

confondent point avec les biens qui appartiennent en propre à chacun d'eux; et si ces acquêts sont revendus pendant le mariage, les servitudes actives et passives existant antérieurement à l'acquisition, continuent de subsister, sans qu'il soit besoin de le stipuler.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 812. Except in the cases herein mentioned, and similar cases, servitudes extinguished by confusion do not revive, except by a new contract; with the exception of continuous and apparent servitudes, with respect to which the disposition made by the owner of both estates is equivalent to a title.

RCC—767, 805.

RCC 1870, Art. 812.

Same as above.

CC 1825, Art. 808.

(Projet, p. 94. Addition † adopted; comment by redactors)

Same as above.

Hors les cas mentionnés ci-dessus, et autres semblables, les servitudes éteintes par la confusion ne peuvent plus revivre que par une nouvelle constitution, à l'exception des servitudes continues et apparentes, à l'égard desquelles la destination du père de famille vaut titre.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—797, 814, 815 et seq.

RCC 1870, Art. 813.

Same as above.

CC 1825, Art. 809.

(Projet, p. 94. Addition adopted; comment by redactors)

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

L'abdication ou l'abandon du fonds asservi, éteint de plein droit la servitude, de quelque nature qu'elle soit, parceque le propriétaire du fonds auquel la servitude est due, est obligé d'accepter cet abandon qui opère en ses mains une confusion qui met fin à la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—813.

RCC 1870, Art. 814.

Same as above.

CC 1825, Art. 810.

(Projet, p. 94. Addition adopted; comment by redactors)

Same as above.

Il n'est pas nécessaire, pour opérer la décharge de la servitude, que le propriétaire du fonds qui la doit, abandonne ce fonds en entier; il suffit qu'il abandonne la partie de ce fonds, sur laquelle s'exerce la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—679, 813.

RCC 1870, Art. 815.

Same as above.

CC 1825, Art. 811.

(Projet, p. 94. Addition † adopted; comment by redactors)

Same as above.

Si un propriétaire s'est obligé de supporter l'édifice ou les poutres du voisin sur une partie de son mur, et de faire les réparations nécessaires pour l'entretien de ce mur, il peut se dégager de cette servitude, en abandonnant au propriétaire du fonds auquel elle est due, la portion du mur sur laquelle il exerce ce droit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

This renunciation or release may be express or tacit.

RCC—817 *et seq.***RCC 1870, Art. 816.**

Same as above.

CC 1825, Art. 812.

(Projet, p. 94. Addition adopted; comment by redactors)

Same as above.

Les servitudes s'éteignent aussi par la renonciation, ou par la remise volontaire qu'en fait le propriétaire du fonds auquel elles sont dues.

Cette renonciation ou remise peut être expresse ou tacite.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 817. The express release must be made in writing, and is confined to what is clearly expressed in the act containing it, because one is not easily presumed to have renounced his right.

Besides, the owner who makes the release must be capable of disposing of immovables; this release of a servitude being a real alienation.

RCC—2275.

RCC 1870, Art. 817.

Same as above.

CC 1825, Art. 813.

(Projet, p. 94. Addition adopted; comment by redactors)

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

La remise expresse doit être faite par écrit, et se borne à ce qui se trouve clairement énoncé dans l'acte qui la contient, car on n'est pas facilement présumé renoncer à son droit.

Il faut en outre que le propriétaire qui fait cette remise, soit capable de disposer de ses immeubles, la remise d'une servitude étant une véritable aliénation.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—739 *et seq.*, 816.

RCC 1870, Art. 818.

Same as above.

CC 1825, Art. 814.

(Projet, p. 94. Addition † adopted; comment by redactors)

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

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

Mais la remise qu'il en aurait faite, l'empêcherait de réclamer personnellement l'usage de la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

RCC—792, 820.

RCC 1870, Art. 819.

Same as above.

CC 1825, Art. 815. (Projet, p. 95. Addition † adopted; comment by redactors)

Same as above; but semicolon (;) after "the right"; comma (,) after "of it."

La remise de la servitude est tacite, lorsque le propriétaire du fonds auquel elle est due, permet au propriétaire du fonds asservi de faire sur ce dernier fonds, des ouvrages qui supposent l'anéantissement de ce droit, parce qu'ils en empêchent l'exercice, comme par exemple, s'il permet d'enclorre de murs le champ qui doit un passage.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

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

RCC—789, 792, 819, 3546.

RCC 1870, Art. 820.

Same as above.

CC 1825, Art. 816.

(Projet, p. 95. Addition † adopted; comment by redactors)

Same as above.

Pour que la remise tacite de la servitude puisse s'induire de la permission que le propriétaire du fonds auquel elle est due, a donné à l'érection des ouvrages qui en empêchent l'exercice, il faut:

1. Que la permission ou le consentement à l'érection de ces ouvrages, ait été donné d'une manière expresse, soit verbalement, soit par écrit. La seule tolérance des ouvrages contraires à la servitude, ne peuvent faire présumer la remise, qu'autant qu'elle a duré le tems nécessaire pour opérer la prescription;

2. Que les ouvrages ainsi construits, soient d'une nature solide et permanente, tels qu'un édifice ou des murs, et que l'existence de ces ouvrages mette un obstacle entier et absolu à toute espèce d'exercice de la servitude.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

ART. 821. Servitudes are also extinguished when they have been established for a certain time only, or under a condition that

in a certain event they shall cease; for when the time expires, or the event takes place, the servitude becomes extinguished of right.

RCC—608, 628.

RCC 1870, Art. 821.

Same as above.

CC 1825, Art. 817.

(Projet, p. 95. Addition † adopted; comment by redactors)

Same as above; but comma (,) after “also extinguished.”

Les servitudes s'éteignent encore, lorsqu'elles n'ont été constituées que pour un tems, ou sous la condition que dans tel cas ou tel événement, elles cesseraient d'avoir lieu. Car lorsque le temps déterminé pour la durée de la servitude est expiré, ou l'événement arrivé, la servitude s'éteint de plein droit.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

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

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

RCC—2015.

RCC 1870, Art. 822.

Same as above.

CC 1825, Art. 818.

(Projet, p. 95. Addition amended in English text and adopted; comment by redactors)

Same as above; but no punctuation after “are”, or after “fine”; colon (:) after “follows.”

Les servitudes s'éteignent enfin par la résolution du droit de celui qui les a constituées; car personne ne peut transmettre à autrui plus de droit qu'il n'en a lui-même: d'où il suit que si quelqu'un établit une servitude sur un héritage sur lequel il n'a qu'un droit suspendu par une condition, ou résoluble dans* de certains cas, ou sujet à rescision, la servitude s'éteint avec son droit.

Il en est de même, si son titre de propriété sur l'héritage asservi est annulé en raison d'un vice ancien** et inhérent à l'acte.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*“At a certain time or” has no counterpart in French text.

**English translation of French text incomplete; should include “pre-existing.”