

7a. A promise of sale with tradition and actual possession is equivalent to sale.

Kerr & Livingston, 1 *L. C. Reports*, p. 275.—Gosselin and G. T. Railway, 9 *L. C. Rep.*, p. 315.—Patton & Gosselin, 23rd May, 1856.

8. The expense of the title deed and other accessories to a sale is borne by the buyer, unless it be otherwise stipulated.

C. L. 2441.—C. C. Vaud, 1123.—C. N. 1593.

Sa. The articles of this title, in so far as they affect the rights of third persons, are subject to the special modifications and restrictions contained in the title *Of Registration of Real Rights*.

Sb. Tavern-keepers, or others, selling to persons other than travellers, intoxicating liquors to be drunk on the spot, have no action for the recovery of the price of such liquors.

Cout. de Paris, art. 128.—Guyot, *Rép. vo. Cabaretier*, p. 575.—Cout. d'Orl. art. 267.—N. Denisart, *vo. Cabaret*, no. 16 ; *vo. Aubergiste*, no. 4.

CHAPTER SECOND.

OF THE CAPACITY TO BUY OR SELL.

9. The capacity to buy or sell is governed by the general rules, relating to the capacity to contract, contained in chapter first, of the title *Of Obligations*.

C. N. 1594.

10. Husband and wife cannot enter into a contract of sale with each other.

Pothier, *Don. entre mari et femme*, no. 78.—Dumoulin, *sur l'art.* 156, C. P. no. 5.—12 Toullier, no. 41, p. 62.—6 Marcadé, *on art.* 1595, p. 185.—C. C. Vaud, 1125.—C. P. C. art. 282.—2 Pigeau, 197.—C. N. 1595.

11. The following persons cannot become buyers, either by themselves or by parties interposed, that is to say :

Tutors or curators, of the property of those over whom they are appointed, except in sales by judicial authority ;

Agents, of the property which they are charged with the sale of ;

Administrators or trustees, of the property in their charge, whether of public bodies or of private persons ;

Public officers, of national property, the sale of which is made through their ministry.

The incapacity declared in this article cannot be set up by the buyer ; it exists only in favor of the owner and others having an interest in the thing sold.

ff. L. 34, §. 7 ; L. 46, *De contr. empt.*—Cod. L. 5, *De contr. empt.*—Lamoignon, *arrét.*, tit. 4, art. 96 ; tit. 22, art. 27, p. 143.—Ord. 1524, art. 23.—Ord. Orl. art. 54.—Ord. 1629, art. 94.—Domat, *liv.* 1, tit. 2, sec. 8, *introduct.* § and nos. 1, 2.—Pothier, *Vente*, 13.—6 Marcadé, 190 to 193.—1 Troplong, *Vente*, nos. 187 and seq.—C. L. 2421, 2422.—C. C. Vaud, 1126, 1127.—C. N. 1596, 1597.

11a. Judges, advocates, attorneys, clerks, sheriffs, bailiffs and other officers connected with courts of justice, cannot become buyers of litigious rights which fall under the jurisdiction of the court in which they exercise their functions.

CHAPTER THIRD.

OF THINGS WHICH MAY BE SOLD.

12. Every thing may be sold which is not excluded from being an object of commerce by its nature or destination or by special provision of the law.

Title *Of Obligations*, ch. 5.—Pothier, *Vente*, 10, 11.—C. N. 1598.