

a mere extension in words of the meaning of the article of the Code.

Art. 5. Article 5 is not found in the Code Napoleon; it is taken from the code of Louisiana article 2969. It is obviously well founded and of daily practical application.

Art. 5a. Article 5a declares a rule derived from the Roman law, and although not found in the Code Napoleon undoubtedly expresses the law of ancient and modern France, as well as that of England and America.

Art. 6, 6a. Articles 6 and 6a, declaring well known rules, are taken from article 1990 of the Code Napoleon, with a difference in wording.

Chapter II.
Obligations of
the mandatary:
Section I.
Towards the
mandator.
Art. 7.

This section consists of six articles; article 7 corresponds with article 1991 of the Code Napoleon, differing from it only in form.

Art. 8. Article 8 is modified so as to coincide with article 65 of the title "Of Obligations," in other respects it follows article 1992 of the Code Napoleon. The Roman law was more rigorous on the subject of the liability of mandataries than the later civil law, as appears from Pothier and Domat. The same relaxation is found in the English and Scotch law.

Art. 9. The only formal difference between article 9 and article 1994 of the Code Napoleon is in giving the mandator the right of repudiating the acts of a substitute when he is injured by them. This addition is justified by the authority of Pothier and Troplong.

Art. 10. Article 10 expresses a rule from which the Code Napoleon, article 1995, has departed, in severing the liability of joint mandataries. There is no doubt that the rule as stated declares our law and also that of England and the United States, and the Commissioners are of opinion that it ought to be retained. The reasons of the change by the new code in France are explained and discussed by Troplong, as cited.

Art. 11. Article 11 extends the expressions of article 1993 of the Code Napoleon so as to save such right of retention of the mandatary as he may be entitled to. This addition is in conformity both with the ancient and modern law of France.

Art. 12. Article 12 coincides with article 1996 of the Code Napoleon.

Sec. II. Of the
obligations of
the mandatary
towards third
persons.
Arts. 13, 14, 16,
17.

This section consists of the articles numbered from 13 to 17; of these 13, 14, 16 and 17 have no corresponding articles in the Code Napoleon. They declare useful rules of undoubted authority in our law, which, it may be observed, differs from the Roman law. Under that system originally the mandatary was always personally liable, being obliged to contract in his own name. This rigor however was afterwards modified by the prætors in dealing with commercial mandataries known as *Institores*, *Exercitores*, and *Prepositi*.

ff. L. 14, Tit.
3, de *institoria
actione*.

Art. 15. Article 15 corresponds with article 1997 of the Code Napoleon; it requires no special remark.

Chap. III.
Obligations of
the mandator:
Sec. I. Towards
the mandatary.
Art. 18.

This section consists of 7 articles; the first of them, article 18, corresponds with article 1998 of the Code Napoleon, and requires no remark.

Art. 18a. Article 18a is not found in the Code Napoleon, it expresses a rule of our law as declared by Pothier.

Art. 19. Article 19 coincides with article 1999 of the Code Napoleon.

Art. 19a. Article 19a requires no special remark, it is not found in the Code Napoleon.

Art. 20. Article 20 follows article 2001 of the Code Napoleon.

Art. 21. Article 21 differs from article 2000 of the Code Napoleon in the use of the word "caused" instead of "occasioned." There is a good deal of discussion in the books upon the question