

Arts. 17 & 18.

The articles 17 and 18, not in the French code, have been added; the former relating to the effect of legal constraint, and the other to contracts for delivering persons constrained by third parties. They embody rules found in the Roman texts and also in Pothier, and are substantially in conformity with articles in the code of Louisiana.

Art. (23.)
P. C. 21.
C. N. 1305.

The article 21 (23) laying down the general rule with respect to the effect of lesion against minors, differs from the article 1305 of the French code, relating to that subject. The latter article has admitted of a variety of interpretations, under which widely conflicting opinions are maintained by the commentators. It is scarcely necessary to say that the Commissioners have endeavored to avoid the ambiguity of expression which has led to so much discussion, and they believe they have declared in unequivocal terms, the rule which prevails in our law.

6 Toullier, 106.
7 Toullier, 564,
575 & seq.
Troplong,
vente, 166.
10 Duranton,
278 to 286.
4 Marcadé, 685
& seq.

Art. (27.)
P. C. 25.

The article 25 (27) exposes the existing law by which minors may be relieved from the covenants contained in their marriage contracts; but the Commissioners recommend that the article 1309, of the French code, be adopted, instead of our rule. The change suggested in the law, renders the whole series of articles on this subject, consistent and reasonable.

C. N. 1309.

C. N. 1314.

The Commissioners also recommend that the rule established by the article 1314 of the French code in relation to the alienation of the real property of minors be adopted in preference to the rule of our law declared in the article 29 (31.) They think that even with reference to the interests of that class of persons and certainly on grounds of public policy, whenever the law has provided specific forms and solemnities in disposing of the rights of minors of whatever description, and these forms and solemnities have been observed, the minor ought to stand in the same position with respect to relief from his obligation as persons of the age of majority.

Art. (31.)
P. C. 29.

Art. (33.)
P. C. 31.

Upon the article 31 (33) which sets forth the cases in which persons of the age of majority may be relieved on the ground of lesion, the Commissioners propose an amendment taking away that right in all cases. This goes beyond the article of the French code, but may easily be shewn to be more consistent with the circumstances and the state of society in this country than the old rule. The wisdom of the article 1313 retaining the old rule in a modified form was greatly doubted and a long and earnest discussion arose upon it. After a careful reading of the discussion and an examination of the grounds assigned for the rule as well in the Roman texts as by the commentators, there seems to be no sound reason upon which in this country, where real property is transferred so easily and made an object of daily speculation, a person in the full exercise of his rights should be relieved from imprudence in this description of contract more than in any other. The rule violates that integrity of contracts upon which the Commissioners throughout the title have been anxious to insist and they have no hesitation in recommending the adoption of the article suggested by them in amendment of the present law.

C. N. 1313.

5 Confer. du
Code Civil par
un Juriscon-
sulte, p. 1
157.

Actions in a-
voidance of
contracts.
C. N. 1304.

The article corresponding with article 1304 of the French code is omitted in this title for the purpose of transferring it to the title of prescription.

Sec. 3.
Interpretation
of contracts,
Art. (43) to
(51).
P. C. 32 to 40.
C. N. 1156 to
1164.
6 Toullier, No.
305 and No. 33.
Favard, Vo.
Convention
Sec. 3, § 3.
Arrêt de Cour
de Cass 18
March, 1807.
Sirey, p. 241.

The articles numbered from 32 to 40 contain rules for the interpretation of contracts which might perhaps be better left as matter of doctrine to the courts. It is evident these rules are not imperative, but merely directory of the manner in which the judge shall seek out and determine the meaning of a contract. The only difference between the articles submitted and those of the French code consists in the wording, derived from Pothier or founded on the suggestions of the commentators.