

Pothier, *mandat nos. 26 et seq.*—Troplong, *Louage, nos. 790 and 802 to 811.*—6 Duvergier, 267 *et seq.*—3 Zachariae, p. 34.—6 Marcadé, pp. 518 to 521.—Championnière and Rigaud, no. 1187.—18 Duranton, *Louage, no. 196.*—Clamageran, *part. 1, tit. 2 ch. 2 et ch. 7 ; part 3, tit. 2, ch. 1.*

Jf. L. 1, § 4 ; L. 6, mand. vel. cont.—*Instit. tit. 3, tit. 25, § 13.*

consists. The uncertainty and extreme subtlety of the distinction between the one and the other of these contracts are exhibited in the variety of theories which are maintained by different jurists upon the subject ; but so little satisfactory do these theories appear, when applied to the contracts as existing in practice at the present day, that the Commissioners have felt much disposed to submit a system of rules, based upon the proposition that no sound distinction really exists between the two. They have however been deterred from doing so by the reflection that these contracts have been constantly regarded as separate, not only from an early period in the Roman law, but also in all countries whose laws are derived from that source ; and the distinction has become so completely interwoven with the systems and doctrine of the courts and jurists, that a disturbance of it might lead in practice to unforeseen difficulties and inconvenience.—The rules therefore which obtained under the ancient law, and have been reproduced by the Code Napoleon are adhered to.

Sec. 1. General provisions.
Art. 61.

The chapter is divided into four sections, of which the first contains but one article, 61, of a merely introductory character, corresponding with article 1779, C. N.

Sec. 2. Of the lease and hire of the personal service of workmen and others, art. 62.
Art. 63.

Article 62 coincides with article 1780, C. N., but the words “ it may be prolonged by tacit renewal ” are added.

Article 63 is not in the Code Napoleon, but as the termination of the contract by the death of one of the parties is an exception to a general rule, it ought to be declared.

Art. 64.

Article 64 has been taken from article 104 of the title *Of Prescription*. It has been transferred to this title as being its proper connection, with the intention of omitting it there.—It is a declaration of the existing law, and although different in the wording from article 1781, is also coincident with the rules of the modern law.

Arts. 65, 65a.

Articles 65 and 65a contain simply references to the statutes which regulate the hiring of servants, apprentices and journeymen—and the hiring of seamen and boatmen.—These statutes make special regulations which apply to services of the descriptions mentioned, but they are not of a nature to be incorporated in this code.

Sec. 3. Of carriers.
Arts. 66, 67,
67a.

Articles 66, 67 and 67a express the general rules which govern the liability of carriers, which are the same under the modern as under the ancient system of law. In addition to these articles three others have been prepared, which experience in that branch of trade has shewn to be necessary in this as in other countries. The first of these articles, 66a, is the same in principle with the rule contained in the statute in relation to railroads, which it extends to all carriers ;—67b fixes the rule with respect to the effect of notice given by carriers, a subject on which uncertainty has prevailed, and which in England is regulated by the statutes cited under the article ;—67c is intended to protect the carrier from unexpected risks, making him at the same time responsible to travellers, in a reasonable amount, for whatever can fairly be regarded as baggage. The rules in these articles have been recognized by the decisions of the courts and by our statute law. They are sustained in principle by the ancient and modern law of France, and coincide also with the law of England.—There can be no doubt of the expediency of their adoption.

Art. 66a.

Art. 67b.

Art. 67c.

Art. 68.

Art. 69

Article 68 is taken from article 104 of the *Code de Commerce*—and article 69 coincides in principle with the sixth paragraph of article 2102, C. N.—They both express our law, and the latter is sustained by the authority of the writers on the law of England.

Art. 70.

Article 70 is in part framed from article 105, *Code de Commerce*, but a modification has been added to regulate the cases in which the party receiving the thing is ignorant of its damaged condition.