

(Suggested amendment.)

The obligation of the seller to deliver is satisfied when he puts the buyer in actual possession of the thing, or consents to such possession being taken by him, and all hindrances thereto are removed.

6 Marcadé, pp. 221-2.—5 Boileux, 643.—1 Troplong, *Vente*, nos. 675-6-7-8.—C. L. 2455.—C. C. Vaud, 1136.

17. In the sale of moveables the obligation of the seller to deliver is satisfied, by the buyer having actual possession of the thing sold ;

Or in case there be no hindrance to such possession :

1. By delivering to him the keys of the building containing the thing ;

2. Or by the consent alone of the parties, if actual delivery cannot be made at the time of the sale ;

3. Or by delivery of the titles to the thing ;

4. Or by placing the mark of the buyer upon it ;

5. Or by weighing, counting or measuring it.

1 Troplong, *Vente*, nos. 279, 280-1-2-3-4.—6 Marcadé, 223.—Domat, *as cited under art. 16*.—Pothier, *Vente*, *as cited under art. 16*.—5 Boileux, pp. 644-5, note 1.—C. N. 1606.

(The Commissioners suggest the omission of this article if the amendment suggested to art. 16 be adopted.)

18. The delivery of incorporeal things is made by the delivery of the titles, or by the use which the buyer makes of such things with the consent of the seller.

Domat, *loc. cit. under art. 16*.—Pothier, *Vente*, no. 316.—C. L. 2547.—C. N. 1607.—Art. 78 of this Title.

19. The expenses of the delivery are at the charge of the seller, and those of removing the thing are at the charge of the buyer, unless it be otherwise stipulated.

Pothier, *Vente*, nos. 42 *et seq.*—C. L. 2459.—C. N. 1608.

20. The seller is not obliged to deliver the thing if the buyer do not pay the price, unless a term have been granted for the payment of it.

ff. L. 13, §. 8, De act. empti.—Domat, *liv. 1, tit. 2, sec. 2, no. 8*.—Pothier, *Vente*, 50, 63, 65.—C. L. 2463.—C. N. 1612.

21. Neither is the seller obliged to deliver the thing, when a delay for payment has been granted, if the buyer since the sale have become insolvent, so that the seller is in imminent danger of losing the price, unless the buyer gives security for the payment at the expiration of the term.

Pothier, *Vente*, 67.—Domat, *liv. 1, tit. 1, sec. 2, no. 22*.—C. L. 2464.—C. N. 1613.

22. The thing must be delivered in the state in which it was at the time of sale, subject to the rules relating to deterioration contained in the title *Of Obligations*.

From the time of sale all the profits of the thing belong to the buyer.

Authorities under Art. 169, title "Of Obligations".—Pothier, *Vente*, no. 47 ;—*Bail à rente*, no. 48.—C. L. 2465.—C. C. Vaud, 1145.—C. N. 1614.

23. The obligation to deliver the thing comprises its accessories and all that has been designed for its perpetual use.

ff. L. 17, §. 7, De act. empti.—Pothier, *Vente*, 47.—*Intr. générale aux Cout.* 47, 48.—See art. 43, Title "Of Obligations".—C. L. 2466.—C. N. 1615.

24. The seller is obliged to deliver the full quantity sold as it is specified in the contract, subject to modifications hereinafter specified.

ff. L. 51, De contr. empt. L. 7, § 1, De periculo et com. rei vend.—Pothier, *Vente*, 250-1-2.—C. N. 1616.