

It may be observed that there are several articles, nos. 1767, 1772, 1773, 1775, 1776, 1777, in the Code Napoleon, relating to the lease of farms, upon which no corresponding articles have been prepared, because either they contain rules not applicable to our condition or usages, or their provisions are substantially included in other articles.

Sec. 6. Of the termination of the lease or hire of things.

Arts. 50, 51, 52.

Articles 50 and 51 contain references to the rules contained in other articles of this code.—Article 52 is based partly upon article 1736, C. N., but goes beyond it in specifying the delay of the notice required to be given; these delays are not taken from any positive rules found in the ancient law but are founded upon local usages or considerations of their reasonableness.

Arts. 53, 54, 54a, 55.

Articles 53, 54, 54a, 55 contain rules which are the same under the old and new system in France.

Art. 55a.

Article 55a is a transcript from the statute by which the law *Æde* was abrogated.

An amendment is suggested by which the notice required to be given, instead of being of one month, as provided by the statute, is, for the sake of uniformity, subjected to the general rule established by article 52.

Art. 56.

Article 56 expresses the existing law.—The Commissioners recommend a change of the rule for that expressed in article 1743, C. N., by which the lessee cannot be expelled by a new proprietor unless it be so stipulated in the lease. The article in amendment has therefore been adopted. It differs from 1743 in the form of expression and in the omission of the words which restrict the rule to written leases and those with certain date. This restriction is thought unnecessary. The mode of ascertaining the true date is left to the disposition of the general rules of proof.

Art. 57.

Article 57 has been incorporated with the amendment to 56, and the number is therefore omitted.

Art. 58.

Article 58 expresses the existing law; but under the change involved in the amendment of article 56, the rule with respect to damages ought also to be changed; for it seems reasonably to follow, that the lessee, who takes the lease subject to the express condition that it shall be terminated by a sale of the property, should not be entitled to claim damages when the condition is enforced.—The Code Napoleon has preserved the old rule of liability, and contains several articles numbered from 1744 to 1750 on the subject. But the Commissioners, notwithstanding these articles, and the observations of the commentators upon them, think that the termination of the lease, in execution of the agreement of the parties, should give no right to damages, unless it be specially reserved, and they accordingly submit an article to that effect to replace article 58.

*Louage, nos. 512, 626.—6 Boileux, p. 101. —3 Duvergier, nos. 543 et seq. 5 Fenet, p. 620. Observations de la Cour de Toulouse.*

Art. 59.

Article 59, based upon articles 1745, 1746, 1747, C. N., has been omitted; although it is in conformity with the authority of Pothier, yet the specification, establishing an inflexible rule, might be found inconvenient and unjust in practice, and not in accordance with our usages, under which the measure of damages is left to the discretion of the courts.

Art. 59a.

Article 59a expresses, the Commissioners think, the rule of our law, but it is not without controversy, and is contrary to the rule established by article 1673, C. N., which they have not deemed advisable to adopt, because, in the case put in the article, it is easy for an intending lessee to ascertain the nature and extent of the title of the ostensible owner of the property, and if he fail to do so, there is no sufficient reason why he should be relieved against his negligence at the expense of the vendor.

Chap. 3. Of the lease and hire of work.

This division of the contract of lease and hire, in its application to certain descriptions of personal service, resembles the contract of mandate, and not unfrequently is so nearly identical with it that it is not easy to define wherein the difference