

Sec. 1. Of the
sale of debts
and rights of
action.

Arts. 87 to 95.

Art. 90.

Art. 92.

of the contract perfects the sale. Of the remaining articles of this section, numbered from 88 to 95, the articles 90 and 92 alone require remark. Of article 90 it is only necessary to say that it is inserted merely for the purpose of avoiding any pretence for the application of the rule to the description of transfers and securities mentioned in it.

Article 92 declares a rule upon which the Code Napoleon is silent and which is not sustained by the authority of the commentators on that code.

The writers on the ancient law are barren upon the subject of interest, which, under the old system was regarded with disfavor, but the rule with respect to arrears of natural fruits and profits, affords an analogy which justifies the article. The Commissioners therefore submit it as settling the law upon a question which frequently presents itself in practice and upon which they can find no reported decision--although a case is remembered in which the principle of the article was sustained.

It may be added that the articles of this section are coincident as well with the Code Napoleon as the ancient law, except in the cases specially noticed.

Sec. 2. Of the
sale of succes-
sions.

Art. 96.

Arts. 97, 98.

Of the three articles of this section 96 alone requires explanation;--it declares the rule of the existing law with respect to the extent of the warranty of the seller.--An amendment taken from the Code Napoleon, article 1696, is submitted which becomes necessary under the doctrine that the seller must be owner of the thing. The two other articles, 97 and 98, correspond with articles 1697, 1698, C. N.

Sec. 3. Of the
sale of litigious
rights.

Arts. 99, 100.

Art. 101.

Article 99 expresses both the ancient and the modern law; article 100, the ancient law, which goes beyond article 1700, C. N., in declaring a right to be litigious not only when a suit is pending with respect to it, but also when one is likely to become necessary.--Article 101 coincides with both systems of law, but the expression of article 1701, C. N. has been extended in it by the addition of the fourth paragraph.

Chap. 11. Of
forced sales and
transfers re-
sembling sales.

Art. 102.

Art. 103.

Arts. 104 to 109.

Arts. 110, 111,
112.

This chapter is not to be found in the Code Napoleon in its title *Of Sale*, but the articles 2204 and 2213 of that code contain provisions analogous to article 102.--All the articles of this chapter are founded either upon the statute law or upon the clear authority of the jurists. It must be noted, however, that a variety of opinion exists upon the rules declared in article 103, for a discussion of which, reference is made to the citations under it. The Commissioners are of opinion that the weight of authority and reasoning sustains the view they have adopted in the article.--No further observation appears to be necessary upon the other articles of this chapter numbered from 104 to 109.

Articles 110, 111 and 112 relate to the alienation of immoveable property for a rent, *Bail à rente*. This was, until recently, an important form of tenure, in extensive use in this country, and formerly in France, and governed by rules peculiar to itself; but the changes made by the statute law have, by necessary implication, abrogated most of the rules which gave to the *Bail à rente* its distinctive character, and it is now in almost all respects assimilated to sale. The rules relating to the nature and extinction of rents are to be found in the second book of this code and must be taken with articles 110, 111, 112 to complete the subject.--Reference is also made to the report of that book, pp. 7 and 8, for an explanation of the provisions which have been adopted in relation to these rents.

TITLE OF EXCHANGE.

The contract of exchange, the permutation of the Roman law, so nearly resembles sale that it has not been found necessary to prepare more than four articles in relation to it;--these