

The Civil Code, promulgated in 1804 and renamed the Code Napoleon in 1807, marked a domestic triumph of the French Revolution, uniting France under one code of law that above all guaranteed civic equality and property rights. In doing so, it swept away centuries of legal privileges for the aristocracy, clergy, and government. Accompanied by commercial, criminal, penal, and civil procedure codes (1806–10), the Civil Code quickly became a legal model for modern civil society; it was widely borrowed and adapted throughout continental Europe and other regions of the world. Dubbed the “bourgeois bible,” the code embodied the beliefs and values of the nineteenth-century middle classes, including their biases against women, children, and the unpropertied. The following section centers on the code’s definition of women’s legal status.

From *The Code Napoleon*, translated by Bryant Barrett (London: Reed, 1811), pp. 47–50, 57–58.

Title V Of Marriage

CHAPTER VI OF THE RIGHTS AND RESPECTIVE DUTIES OF HUSBAND AND WIFE

212. Husband and wife mutually owe to each other fidelity, succour, and assistance.

213. The husband owes protection to his wife, the wife obedience to her husband.

214. The wife is obliged to live with her husband, and to follow him wherever he may think proper to dwell: the husband is bound to receive her, and to furnish her with every thing necessary for the purposes of life, according to his means and condition.

215. The wife can do no act in law without the authority of her husband, even where she shall be a public trader, or not in community, or separate in property.

216. The authority of the husband is not necessary where a woman is prosecuted for criminal matters, or matters of police.

217. The wife, even not in community or separate in property, cannot give, alien, mortgage, or acquire, either gratuitously or subject to condition, without the concurrence of her husband in the acts, or his consent in writing.

218. If the husband refuses to authorize his wife to proceed at law, a judge may give authority.

219. If the husband refuse to authorize his wife to pass an act, the wife may cause her husband to be cited directly before the tribunal of first instance of the district of their common domicile, which may give or refuse the authority, after the husband shall have been heard or duly summoned to the council chamber.

220. The wife, if she is a public trader, may without the authority of her husband, bind herself in what concerns her business; and, in such case, she also binds her husband, if there is community between them. She is not reputed a public trader, if she merely retails the merchandize of her husband in his business, but only where she carries on a separate trade.

221. Where the husband has incurred a condemnation carrying afflictive or infamous punishment, although it shall only have been pronounced for contempt, the wife, even of full age, cannot, during

the continuance of the punishment, do any act in law, nor contract, until after being authorized by the judge, who may, in such case, give authority, without the husband being heard or summoned.

222. If the husband is interdicted or absent, the judge may, on cognizance of the matter, authorize the wife, either to do acts in law, or to contract.

223. No general authority, even though stipulated by a marriage contract, is valid but as to administration of the property of the wife.

224. If the husband is a minor, the authority of a judge is necessary to the wife, either to do acts in law, or to contract.

225. Nullity founded on want of authority can only be set up by the wife, by the husband, or by their heirs.

226. The wife may make a will without the authority of her husband.

CHAPTER VII OF DISSOLUTION OF MARRIAGE

227. Marriage is dissolved,

By the death of one of the parties;

By divorce legally pronounced;

By the condemnation, become definitive, of one of the parties, to a punishment carrying civil death.

CHAPTER VIII OF SECOND MARRIAGES

228. The wife cannot contract a new marriage until ten months have elapsed since the dissolution of the preceding marriage.

Title VI Of Divorce

CHAPTER THE FIRST OF CAUSES OF DIVORCE

229. The husband may demand divorce for cause of adultery on the part of his wife.

230. The wife may demand divorce for cause of adultery on the part of her husband, where he shall have kept his concubine in their common house.

231. The married parties may reciprocally demand divorce for cause of excess, cruelty, or grievous injuries, by the one of them towards the other.

232. Condemnation of one of the married parties to an infamous punishment, shall be to the other party a cause of divorce.

233. The mutual and persevering consent of the parties, expressed in the manner prescribed by the law, under the conditions and after the trials the law prescribes, shall sufficiently prove that living in common is insupportable to them, and that there exists, in respect to them, a peremptory cause of divorce.

CHAPTER II OF DIVORCE FOR CAUSE DEFINED

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Section II

Of the Provisional Measures to Which the Demand of Divorce for Cause Defined May Give Rise

267. The provisional administration of the children shall remain with the husband plaintiff or defendant in divorce, unless it shall be otherwise ordered by the tribunal, at the request either of the mother, or of the family, or of the imperial proctor, for the greater benefit of the children.

268. The wife plaintiff or defendant in divorce, may quit the domicile of her husband during the suit, and demand an alimentary pension proportioned to the means of the husband. The tribunal shall point out the house in which the wife shall be obliged to reside, and shall fix, if that is ground for it, the alimentary pension which the husband shall be obliged to pay her.

269. The wife shall be bound to prove her residence in the house pointed out for her, as often as she shall be required so to do: in default of such

proof, the husband may refuse the alimentary provision, and, if the wife is demandant in divorce, may cause her to be declared incapable to continue her suit.

270. The wife, plaintiff or defendant in divorce, being in community of property, may, in every state of the cause, commencing from the date of the order of which mention is made in article 238, require, for the preservation of her rights, the affixing of seals upon the moveable effects in community. These seals shall not be taken off without an inventory being made with a valuation, and at the charge on the part of the husband of producing the things inventoried, or making good their value as judiciary guardian.

271. Every obligation upon the community contracted by the husband, and every alienation made by him of the immoveables belonging to the com-

munity subsequently to the date of the order of which mention is made in article 238, shall be declared null, if proved to have been made or contracted in fraud of the rights of the wife.

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