

N O T E
FOR THE REVISING COMMITTEE

Section 782
Draft Civil and Commercial Code

Section 782 admits that a movable property may be pledged to different persons successively.

There is no provision of this kind in the French Law, or in the Japanese Law (since in the later successive pledges may be made for different obligations but to the same person only, section 355) or, as far as we know, in German and English Laws: the reason being that a contract of pledge entails as a fact the actual delivery of the thing to the pledgee, what becomes impossible to a second pledgee when the thing has been already delivered to a first one.

Section 782 is an exception to this legal feature (actual delivery) of the contract of pledge. This system has been found in the Swiss Law, wherefrom it comes directly (S. 217 C.C.). It is well known that the Codes of Switzerland are very practical ones; the idea has certainly been in that country that movables may have great value (such as diamonds, automobiles, etc.) and that it is useful, when they are pledged to a person for a part only of such value to allow pledge for the surplus to another person. The Commission of Codification thought of