

Liquidation  
thereafter.

“**5183d.** The liquidation is then proceeded with in the manner set forth in articles 4780 and following of these Revised Statutes.”

Coming into  
force.

**2.** This act shall come into force on the day of its sanction.

---

CAP. XXXVIII.

An Act respecting expropriations.

[Assented to 30th December, 1890.]

**H**ER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

Section added  
after R. S. Q.  
title 12, part  
first, chapter  
2nd.

**1.** The following section is added after section seventh of chapter second of the first part of title twelfth of the Revised Statutes of the Province of Quebec:

“SECTION VIII.

“PROVISIONS CONNECTED WITH TITLE EIGHT OF THE THIRD PART.

“*Arbitrations in general.*

“ (Article 1341 and following.)

“ OF EXPROPRIATIONS.

“ § 1.—*Declaratory.*

Name and ap-  
plication of  
section.

“**5754a.** This law, which may be cited as the “ Expropriation Act ”, applies to all cases in which any person, company or corporation, cannot agree with another respecting the value or the compensation to be paid for land, which he or it may expropriate, or for the exercise of a right which he or it may exercise in virtue of any provincial or federal act which does not regulate the manner of expropriation.

Who may con-  
tract respect-  
ing property  
to be expro-  
priated.

“**5754b.** In cases of substitution, the institute,—in cases of usufruct, the usufructuary,—in cases of interdiction, the curator,—in cases of tutorship, the tutor,—in cases of the private property of the wife common as to property, and in cases of separation as to property, the wife authorized by her husband, or, if he refuses or is absent, authorized by the judge, may voluntarily enter into a contract respecting, and sell and transfer the required property to the person, company or corporation expropriating.

2. The above named persons are also those against whom the expropriation proceedings may be taken, and who may receive the compensation granted by the award of the arbitrators. Against whom expropriation proceedings may be taken.

“ § 2.—*Of the proceedings previous to arbitration.*

“ **5754c.** In the case of differences between the parties respecting a right of expropriation or a power to be exercised, the questions raised are settled as follows: Proceedings in expropriation in case of difference.

1. A notice is served by the claimant upon the adverse party containing: Notice to be sent.
  - a. A description of the land to be taken or of the powers to be exercised respecting such land, stating what they are; Contents of notice; Description of land, &c., required;
  - b. A declaration to the effect that he is ready to pay a certain specified sum in money or as rent, as the case may be, as compensation or for damages, and Declaration of readiness to pay;
  - c. The name of his arbitrator in case the offer is not accepted. Name of arbitrator.

Such notice shall be accompanied by a certificate of a sworn land surveyor, not interested in the matter, and not the arbitrator named in the notice, establishing that the expropriation of the land, or the power required, is necessary for the claimant's undertaking, that he knows the land required or the damages which may result from the exercise of the required power, and that, in his opinion, the sum offered is a sufficient compensation. Certificate to accompany notice.

Such notice must be served by a bailiff of the Superior Court. Service of notice.

2. If the bailiff in his return states that the adverse party is absent from the district or county in which the land is situate, or is unknown, upon petition presented to a judge of the Superior Court residing in the district, or a judge thereof exercising his functions therein, or a judge of a neighbouring district, if the latter is an interested party, accompanied by an affidavit of the petitioner, or an affidavit of some officer of the company or corporation, if it is one of the latter that requires the expropriation, establishing that the adverse party is absent or unknown, the judge shall order that the notice (without the certificate) shall be inserted three times during one month, in English and in French, in a newspaper published in such district or county, or in a newspaper published in the adjoining district or county, if there be none published in the former. If party absent, &c., to be called in by advertisement upon order of judge.

3. If, within six weeks following the first publication of such notice in such newspaper, the adverse party does not appear, the petitioner may apply to the judge that a curator be appointed to the absent party, in the manner prescribed in similar circumstances by the Code of Civil Procedure. If absence does not appear, curator to be appointed.

Proceedings after appointment of curator.

4. After the appointment of the curator, the notice mentioned in the first paragraph of this article shall be served upon such curator.

If adverse party does not accept or name arbitrator, Attorney General to name sole arbitrator.

“5754*d*. If, within five days after the service of such notice to the adverse party, or to the curator of the absent party if absent or unknown as aforesaid, such adverse party or curator does not inform the claimant that his offers are accepted and does not give the name of his arbitrator, then, the Attorney General, upon application to that effect, names the sole arbitrator to determine the amount of the compensation.

If adverse party names arbitrator and amount he requires, application to appoint third.

“5754*e*. If the adverse party, within the prescribed delay, has made known the name of his arbitrator and the amount which he asks as compensation, then either party may apply to the Attorney General for the appointment of the third arbitrator.

Application to be in writing after notice.

Such application is made in writing, notice whereof of ten days is given to the adverse party.

Appointment of third arbitrator by Attorney General.

Upon the expiration of the delay of ten days, the Attorney General, upon proof that the formalities above prescribed have been complied with, appoints the third arbitrator, who, with the two arbitrators already named, proceed with the arbitration.

“ § 3.—*Of the arbitrators.*

Arbitrators to be sworn.

“5754*f*. Before proceeding, the arbitrators shall make oath, before a justice of the peace of the district or of the county in which the lands are situate, to fulfill the duties of their office well and faithfully.

Proviso if arbitrator dies, &c.

2. If one of the arbitrators dies before rendering the award or becomes incapacitated from acting, or if the refuses or neglects to act within a reasonable delay, the parties are bound to appoint some one in his place, and upon the application of either of the parties, previous notice of ten clear days having been given to the other, the Attorney General, if satisfied, by affidavit or otherwise, of the death, incapacity or refusal to act of such arbitrator, appoints another in his place, if it respects the one he appointed, or if either of the parties refuse to appoint one to replace the arbitrator named by himself.

Objections to arbitrator appointed by Attorney General must be made before appointment.

3. No cause of disqualification can be urged against an arbitrator appointed by the Attorney General after his appointment, the objections must be raised previously, and the validity or invalidity thereof is summarily decided by the Attorney General.

Objections to arbitrator of parties when to be made.

4. No cause of disqualification against an arbitrator named by the parties can be admitted after the appointment of the third arbitrator.

“ § 4.—*Of the proceedings before the arbitrators*

“ **5754g.** At their first meeting, the arbitrators, or the sole arbitrator, have power to appoint a secretary, whose duty it is to take down all the proceedings in writing, which shall be signed by the arbitrators after each sitting.

Secretary of arbitrators.

The remuneration of such secretary is fixed by the arbitrators and paid, as well as the articles and things necessary for the holding of such arbitration court, as forming part of the costs of arbitration.

Remuneration of secretary.

“ **5754h.** The arbitrators in proceeding, or a majority thereof, or the sole arbitrator, may examine the parties upon oath or solemn affirmation, and they examine the lands to be expropriated with a view of fixing the compensation to be granted.

Examination of parties and of land to be expropriated.

“ **5754i.** The arbitrators proceed at the time and place fixed by them, of which they have given special notice of at least five days to the parties interested.

When arbitrators proceed.

“ **5754j.** In deciding upon the value or the compensation to be paid, the arbitrators are authorized to take into consideration the increased value given to the lands from which the part expropriated is to be detached, and to compensate the increased value given to such lands by the inconveniences, losses or damages resulting from the expropriation.

What arbitrators to take into account in making award.

“ **5754k.** The arbitrators, after having examined and valued the land, or taken into consideration the power required, and having heard the parties and their witnesses under oath administered by them, give their decision by means of a certificate. Such decision is final.

Decision of arbitrators.

Decision final.

“ **5754l.** No defect of form renders the award null, if all the requirements of the law have been complied with, and if the award fixes, in a precise manner, the amount awarded, and the lands, rights or things for which such amount is the compensation.

Defects in form not to nullify award, if requirements of law fulfilled.

It is not necessary that the person to whom the money is to be paid be named in the award.

Person entitled to money need not be named in award.

“ **5754m.** The secretary of the arbitrators shall transmit to the office of the Superior Court the minutes of the proceedings, as well as the certificate comprising the award, and, if the land expropriated is situated in two districts, to the office of the Superior Court in one of such districts.

Secretary to transmit minutes and certificate to Superior Court.

“ **5754n.** The arbitrators may decide as to which party shall pay the costs of arbitration and the amount of fees to

Costs of arbitration.

be allowed each arbitrator ; such amount shall not exceed five dollars for each day on which they sat during at least seven hours.

“ § 5.—*Of taking possession after the award.*

Taking possession after payment or tender.

“ **5754o.** Upon payment or legal tender of the compensation or annual rent awarded to the party entitled thereto, or upon the deposit in court of the amount of such indemnity in the manner above mentioned, the award gives to the party, in whose favour it was rendered, the power of taking immediate possession of the land and of exercising the rights or doing the things for which the compensation or annual rent was granted.

Warrant may issue if opposition thereto.

If any resistance or opposition is made to the taking possession of such lands or to the exercising of such rights, the judge may, upon satisfactory proof of the award, direct his warrant to the sheriff of the district or to a bailiff, as he may deem convenient, to put the party entitled thereto in possession and cause all resistance or opposition to cease,—all which the sheriff or bailiff shall do, taking with him the necessary assistance.

Notice required.

The judge shall not grant such warrant, unless notice of the time and place where application is to be made to him has been served ten days previously upon the proprietor of the land,—upon the curator if he his an absentee,—or upon the person entitled to grant a title thereto, or having an interest in the land to be expropriated.

Security to be given.

“ **5754p.** Security must be given by a deposit, in an incorporated bank, named by the judge, of a sum sufficient in his discretion to pay the compensation awarded and all the costs of the proceedings upon the incident.

Documents to remain of record in Superior Court.

“ **5754q.** The petition, the warrant of possession, the certificate of the deposit above mentioned, and all other documents connected with such incidental proceedings, shall remain of record in the archives of the Superior Court of the district in which such proceedings were held, and a special register of such proceedings is kept by the prothonotary.

Order of judge required for payment out of deposit, &c.

No part of the deposit, or of the interest arising therefrom, shall be reimbursed or paid to the party, or paid to the proprietor of the land, without the order of the judge who is authorized to grant the same.

“ § 6.—*Of default to pay the compensation awarded.*

Suit by proprietor if compensation not paid.

“ **5754r.** Any proprietor, who is not paid in full, in capital, interest and costs, the amount to him awarded by the arbitrators, within two months after such award, may

exercise his recourse against such person, company or corporation, to recover the property and possession of his land or rights, by ordinary civil action, in which he may demand the damages to which he may be entitled.

“ § 7.—*Of ratification of title.*

“ 575-1s. If the party taking the expropriation proceedings has reason to fear any hypothecary claims, or has other reasons, he may deposit the amount of the compensation with the prothonotary of the district in which the lands are situated, with six months interest, together with a copy of the award. Deposit of compensation with interest.

2. The award is thereafter considered as a title to the lands therein mentioned, and proceedings are had to obtain the confirmation of the title in the same manner as for other confirmations of title. Effect of award thereafter and proceedings in confirmation of title.

3. The judgment in confirmation of title forever bars all claims against the lands, including dower not yet open as well as any mortgage or incumbrance upon the same. Effect of judgment of confirmation.

4. The court shall grant such order for the distribution, payment or investment of the amount of the compensation, and for securing the rights of the parties interested, which it deems expedient according to law and equity. Distribution of moneys.

5. The costs of the proceedings are paid by the party designated by the court. Costs.

6. If the judgment in ratification of title is obtained in less than six months after the deposit of the amount of the compensation with the prothonotary, the court orders that a proportionate part of the interest be reimbursed to the party who made the deposit. If judgment obtained within six months rebate of interest allowed.

If the judgment is not rendered until after the six months, the court shall order that such additional sum, as it may think right, be deposited to meet the amount of the interest. If afterwards, additional sum to be paid in.

C A P. X X X I X.

An Act to amend articles 1543 and 1998 of the Civil Code, as contained in articles 5811 and 5827 of the Revised Statutes of the Province of Quebec.

[Assented to 30th December, 1890.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. Article 1543 of the Civil Code, as it is contained in article 5811 of the Revised Statutes of the Province of Civil Code, art. 1543 amended