

CAP. XXVII.

An Act respecting the Petition of Right.

[Assented to 30th March, 1883.]

- Preamble.** WHEREAS it is expedient to make provision for the institution of suits against the Crown, in the Province of Quebec, by Petition of Right; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:
- Name of act.** 1. This act may be cited as "The Quebec Petition of Right Act."
- Recourse by petition of right, against the government.** 2. Any person, who seeks relief against the government of this Province, whether it be a revendication of moveable or immoveable property, or a claim for the payment of money on an alleged contract, or for damages, or otherwise, may address a Petition of Right to Her Majesty.
- Petition of right, to whom addressed and what to contain.** 3. The Petition of Right shall be addressed to Her Majesty, in the words or to the effect of Form No. 1 in the schedule of this act, and shall state the names, the occupation or quality, and the domicile of the suppliant and of the attorney, if any, by whom the same is presented, and shall set forth with convenient certainty the facts entitling the suppliant to relief, observing the provisions of article 52 of the Code of Civil Procedure; and it shall be signed by such suppliant or his attorney.
- Affidavit in support.** 4. The petition must be supported by an affidavit of the suppliant or of a competent person attesting the truth of the facts therein alleged.
- With whom deposited and for what purpose.** 5. The Petition shall be left with the Provincial Secretary for submission to the Lieutenant Governor, in order that he may consider it, and, if he think fit, grant his fiat that right be done.
- No fee payable thereon.** No fee is payable on leaving or upon receiving back the petition.
- Proceedings after fiat is obtained.** 6. Upon the Lieutenant Governor's fiat being obtained, the petition and fiat is filed in the office of the Prothonotary for the District of Quebec, of the Superior Court for the Province of Quebec, which Court, sitting in the District of Quebec, has exclusive original jurisdiction in matters of Petition of Right.
- Jurisdiction of court in such matter.**

7. The suppliant must, at the time he files his petition in the Prothonotary's Office, produce and file the written proofs which he has alleged in support of his claim, together with an inventory of such exhibits, and he must also deposit a sum of two hundred dollars.

Written proofs to be produced with petition and deposit of certain sum made.

The amount thus deposited is intended to pay the costs of the government if the Court should grant any; if not, it is returned to the suppliant.

Object of deposit.

8. A copy of the petition and Lieutenant Governor's fiat, certified by the Prothonotary, with an endorsement thereon that the deposit has been made, shall be left at the office of the Attorney General of the Province, with a notice, in the words or to the effect of Form No. 2 of the Schedule of this act, requiring the production of a contestation within thirty days after the date of service.

Copy of petition and fiat to be left with Attorney General, with demand of contestation.

9. If, within the delay of thirty days, to be established by the production of a certificate of service of the petition, fiat, and notice, a contestation is not filed, the suppliant proceeds as in a suit in which the defendant fails to appear.

Proceedings, if contestation is not filed.

If a contestation is filed, the subsequent proceedings are the same as in an ordinary suit in which the defendant has pleaded.

Proceedings, if filed.

10. In case any Petition of Right is presented for the recovery of any moveable or immoveable property, which has been granted away or disposed of, by or on behalf of Her Majesty or her predecessors, a writ of summons shall be issued by the Prothonotary, upon the written requisition of the Attorney General or of the suppliant, and shall be served, with a copy of such petition and of the Lieutenant Governor's fiat, certified by the Prothonotary, upon the person in the possession or enjoyment of such property, commanding him to appear before the Court on the day therein mentioned, and to plead to or answer the claim.

Proceedings, if property has been alienated by Crown.

11. An appeal lies to the Court of Queen's Bench, sitting in appeal, from the final judgment rendered by the Superior Court on any such petition; but such appeal must be brought within thirty days from the date of the judgment.

Appeal to Queen's Bench. Delay within which to be brought.

12. The ordinary delays and rules of the Code of Civil Procedure apply, in so far as not incompatible, to suits by Petition of Right, in the Superior Court and in Appeal; but all suits by Petition of Right shall be tried by a Judge without a jury, notwithstanding article 348 of the Code of Civil Procedure.

Ordinary delays and rules of Code of Procedure to apply. Suits to be tried without a jury.

Costs may be awarded.

13. The suppliant may be awarded costs or may be condemned to pay costs as in an ordinary suit.

To and by whom paid.

All costs adjudged shall be paid by or to the Provincial Treasurer, as the case may be.

Moveable property may be revendicated, if government is condemned to restore.

14. When the government is adjudged to surrender or restore moveable property, the suppliant may, after the expiry of the delay to appeal, or, in case of appeal, fifteen days after the rendering of the judgment in appeal, obtain a writ of attachment in revendication, under which the property is seized and delivered to the suppliant.

Writ of possession may issue, if government is condemned to restore immoveable property.

15. When the government is adjudged to surrender or restore immoveable property, the suppliant may, after the expiry of the delay to appeal, or, in case of appeal, fifteen days after the rendering of the judgment in appeal, obtain a writ of possession, under which the suppliant is placed in possession.

Proceedings, if government is condemned to pay a sum of money.

16. When the government is adjudged to pay costs or a sum of money with or without costs to the suppliant, after the expiry of the delay to appeal, or, in case of appeal, after the rendering of the judgment in appeal, a certified copy of the final judgment, entitling the suppliant to such costs, or to such sum of money with or without costs, may be left at the office of the Provincial Treasurer; and the Provincial Treasurer shall pay out of any moneys, in his hands for the time being legally applicable thereto, or which may be thereafter voted by the Legislature for that purpose, the amount of any moneys or costs which have been awarded to the suppliant by the judgment.

Payment of such sum.

Act not to affect:

Her Majesty's rights, &c.;

17. Nothing in this act contained shall :—

1. Prejudice or limit, otherwise than is herein provided, the rights, privileges or prerogatives of Her Majesty or Her Successors; or

Nor prevent proceedings heretofore allowed.

2. Prevent any suppliant from proceeding as before the passing of this act.

Act in force.

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

SCHEDULE.

FORM No. 1.

Petition.

In the Superior Court of Quebec, District of Quebec.

To the Queen's Most Excellent Majesty :

The humble petition of A. B., of (*residence and calling*)
by his attorney C. D. of (*residence*) sheweth.

That (*state the facts*).

Conclusion :

Your suppliant therefore humbly prays that (*state the relief claimed*).

Dated at this day of A. D.

FORM No. 2.

Notice to Attorney-General.

To the Honorable the Attorney General of the Province of
Quebec.

The suppliant prays for a statement in defence or contestation on behalf of Her Majesty, within thirty days after the date of service of the above Petition of Right, or otherwise the suppliant will proceed as in a case in which the defendant fails to appear.

Dated at this day of A. D.

CAP. XXVIII.

An Act to further amend the Municipal Code.

Assented to
[Assented to 30th March, 1883.]

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