Title V. Of Fixing the Limits, and of Surveying of Lands (Art. 823 - 855)

Louisiana
TITLE V—OF FIXING THE LIMITS, AND OF SURVEYING OF LANDS*

*See general comment by redactors, Projet, p. 96.

ART. 823. When two estates or lands contiguous, in cities or in the country, have never been separated, or have never had their boundaries determined, or if the bounds, which have been formerly fixed, are no longer to be seen, each of the owners of the contiguous estates has a right to compel the other to fix the limits of their respective properties.

RCC-516, 663, 688, 824 et seq. RS—3740 et seq.

RCC 1870, Art. 823. (Same as Art. 823 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 819. (Projet, p. 96. Addition adopted; comment by redactors)
When two estates or lands contiguous, in cities or in the country, have never been separated, or have never had their boundaries determined, or if the bounds, which have been formerly fixed, are no longer to be seen, each of the proprietors of the contiguous estates has a right to compel the other to fix the limits of their respective properties.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 824. The action of boundary is derived from the same source as the action of partition. No one being bound to hold an estate in common, no one is bound to leave undecided the boundary lines, which separate his estate from that of his neighbor.

RCC—823, 828, 840, 1289 et seq., 1304, 1308.

RCC 1870, Art. 824. Same as above.

CC 1825, Art. 820. (Projet, p. 96. Addition adopted; comment by redactors)
Same as above.

L'action de bornage dérive du même principe que l'action de partage. Personne n'étant obligé de rester dans l'indivision, personne aussi n'est obligé de laisser indécise la ligne qui doit séparer son héritage de l'héritage de son voisin.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 825. The action of boundary, like that of partition, cannot be prescribed against; as every one is at liberty, at all times, to separate his part from an estate in common, so it is permitted to each
proprietor to have ascertained the limits of contiguous estates, to have them fixed, as* each has enjoyed his estate separately without having acquired any part of his neighbor's estate by prescription.

RCC—852, 853, 1304, 1305.

RCC 1870, Art. 825.
Same as above.

CC 1825, Art. 821. (Projet, p. 96. Addition adopted; comment by redactors)
Same as above.

CC 1825, Art. 822. (Projet, p. 96. Addition adopted; comment by redactors)
Same as above; but no punctuation after "separation."

CC 1808. No corresponding article.

CC 1804. No corresponding article.

*English translation of French text incomplete; should include "long as."

ART. 826. By boundary is understood, in general, every separation, natural or artificial, which marks the confines or line of division of two contiguous estates. Trees or hedges may be planted, ditches may be dug, walls or inclosures may be erected, to serve as boundaries.

But we most usually understand by boundaries, stones or pieces of wood* inserted in the earth on the confines of two estates.

RCC—663, 823 et seq., 828, 838.

RCC 1870, Art. 826.
Same as above.

CC 1825, Art. 822. (Projet, p. 96. Addition adopted; comment by redactors)
On entend par bornes, en général, toute séparation naturelle ou artificielle, qui marque les confins ou la ligne de division de deux héritages contigus. On peut planter des arbres ou une haie, creuser un fossé ou faire un mur ou entourage, pour servir de bornes.
Mais on entend plus ordinairement par bornes, des pierres ou des bois équarris plantés debout et* enfoncé (enfoncés) en terre, aux confins de deux héritages.

CC 1808. No corresponding article.

CN 1804. No corresponding article.

*English translation of French text incomplete; should include "set upright and."

ART. 827. The fixing the boundaries takes place not only between two neighboring proprietors, but between a proprietor and several others, when they have contiguous estates, or between several coproprietors, when a partition of the property in common takes place.

RCC 1870, Art. 827.
Same as above.
ART. 828. When two estates are separated by a public road or by a water course, which serves as a common limit, the action of boundary can not be sustained in relation to them, unless the road or water course has experienced some change in its situation.

RCC—517, 518, 824, 826.

ART. 829. The action of boundary may be instituted not only by the owner, but by any person who possesses as owner, and his neighbor can not require proof of his right of ownership.

RCC—830, 831, 3452 et seq.

ART. 830. It may be instituted by the usufructuary, but the determination of the limits will be only provisional, unless the owner has been made a party to the suit; and in this case the owner may require the limits to be fixed anew at the termination of the usufruct.
ART. 831. The lessee has no right to institute the action of boundary, but he may resort to his lessor, and oblige the latter to have* the limits of the leased estate ascertained and fixed.

RCC—2703, 2704, 2724.

ART. 832. The fixing new boundaries, or the investigation of old ones, may be made extra judicially and by mutual consent, if the parties are of full age.

But if one of the parties be a minor, or interdicted, it must be done judicially.

RCC—1323.

ART. 833. Whether the limits be fixed judicially or extra judicially, it must be done by a sworn surveyor of this State, who shall
be bound to make a *proces verbal* of his work in the presence of two witnesses, called for the purpose, who shall sign the *proces verbal* with him, or mention shall be made therein of the causes which prevented them from signing.


**RCC 1870, Art. 833.**

Same as above.

**CC 1825, Art. 829.**

Same as above. (In conformity with Acts 1818, p. 160, §6)

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

**Art. 834.** Whenever any surveyor is called on to fix the limits between adjacent estates, it is his duty to notify, in writing, the owners interested therein to be present at the work, if they think proper, and to inform them of the day and hour when he will proceed to fix the limits; and he is bound to make mention in his *proces verbal* of the notice he may thus have given, of the names of the parties notified, and of the date of notice; and the surveyor shall make a record of his proceeding, and of the plans drawn by him, in order that copies may be delivered to the parties who may require them.


**RCC 1870, Art. 834.**

Same as Art. 834 of Proposed Revision of 1869; analogous to Acts 1855, No. 328, §9 (RS §3748)

**CC 1825, Art. 830.**

Whenever any surveyor is called on to fix the limits between adjacent estates, it is his duty to notify in writing the proprietors interested therein to be present at the work, if they think proper, and to inform them of the day and hour when he will proceed to fix the limits; and he is bound to make mention in his *procès-verbal* of the notice he may thus have given, of the names of the parties notified, and of the date of the notice; and the surveyor shall make a record of his proceeding, and of the plans drawn by him, in order that copies may be delivered to the parties who may require them. (Analogous to Acts 1818, p. 160, §9)

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.
Art. 835

If the parties thus notified, their representatives or attorneys in fact, appear at the fixing the limits, the surveyor appointed for the purpose is bound to demand of them their respective title papers, which they are bound to deliver to him in good faith, if they have them in their possession, in order that the surveyor may determine, by examining them, in what place to fix the boundaries.

If the parties thus notified, or their representatives or attorneys in fact, refuse to deliver their title papers, the surveyor shall make mention of their refusal in his proces verbal, and of the causes they have alleged, if they have assigned any, for their refusal.

RCC—833, 834, 836 et seq.

RCC 1870, Art. 835.
Same as above.

CC 1825, Art. 831.
Same as above.

Art. 836. The surveyor shall not set up his boundaries, until he shall have finished the whole work, and until then he must mark his lines of separation by pickets stuck in the ground for that purpose.

RCC—833 et seq., 839.

RCC 1870, Art. 836.
Same as above.

CC 1825, Art. 832.
Same as above.

Art. 837. If, before the surveyor has finished the work, or set up the boundaries, the parties interested, or any of them, shall make opposition thereto, the surveyor must desist, and refer the
ART. 839. When the limits have been fixed after due notice to the parties, and no opposition being made, the parties do not thereby lose their right of resorting to a court of justice to rectify the operation if they think it for their interest; but the limits will remain provisionally as fixed, until otherwise determined.

RCC—836.

RCC 1870, Art. 839.
Same as above.

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Art. 840. The action of boundary must be brought before the court within the jurisdiction of which the land is situated, without regard to the domicile of the parties.

RCC—824, 1290.

RCC 1870, Art. 840. (Same as Art. 840 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 836. (Projet, p. 99. Addition adopted; comment by redactors)

The action of boundaries must be brought before the court, within the jurisdiction of which the land is situated, without regard to the domicile of the parties.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

Art. 841. It is the duty of the judge who has cognizance of suits on the subject of limits, to appoint surveyors to inspect the premises in question, and the court, on their report, ought to decide according to the titles of the parties, and the plans which shall be presented to the court.

RCC—833, 834.

RCC 1870, Art. 841. (Same as Art. 841 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 837. (Projet, p. 99. Addition adopted; comment by redactors)

It is the duty of the judge who has cognizance of suits on the subject of limits, to appoint surveyors to inspect the premises in question; the court, on their report, ought to decide according to the titles of the parties, and the plans which shall be presented to the court.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 842. The action of boundary, instituted against several coproprietors of land in common, continues, notwithstanding they have divided it among themselves, or alienated it, if the partition or alienation is made after the institution of the suit.

RCC 1870, Art. 842.
Same as above.

CC 1825, Art. 838. (Projet, p. 99. Addition adopted; comment by redactors)
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 843. In matters of limits, reference must be had to ancient titles, unless it be proved that the bounds have been since changed, or that the land has been increased or diminished by changes caused by successions, by the will of the owner or by other events.

RCC—850, 2251, 2252, 2267 et seq.

RCC 1870, Art. 843.
Same as above.

CC 1825, Art. 839. (Projet, p. 99. Addition adopted; comment by redactors)
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 844. When an owner has alienated one of two estates, which belonged to him, and the ownership of any part of it is contested, the limits assigned to it by the vendor at the time of the sale, must be consulted. The limits ancienly subsisting between the two estates, must not be regarded, because the designation, which the vendor makes of the metes and bounds, forms new limits between the two estates, or between the parts of them which he has sold.

RCC—853, 854, 2495.

RCC 1870, Art. 844. (Same as Art. 844 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 840. (Projet, p. 99. Addition ‡ adopted; comment by redactors)
When an owner has alienated one or [of] two estates, which belonged to him, and the property of any part of it is contested, the limits assigned to it by Lorsqu'un propriétaire a aliéné un des deux fonds qui lui appartenaient, et que la propriété de quelque portion est contestée, on doit consulter les bornes
the vendor at the time of the sale, must be consulted. The limits anciently subsisting between the two estates, must not be regarded, because the designation, which the vendor makes of the metes and bounds, forms new limits between the two estates, or between the parts of them which he has sold.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

**Art. 845**

The limits must be fixed according to the respective titles of the parties; in absence of title, on both sides, possession governs.

RCC 1870, Art. 845. (Same as above.)

CC 1825, Art. 841. (Projet, p. 99. Addition adopted; comment by redactors)

Le bornage doit se faire d'après les titres respectifs des parties, à défaut de titres de part et d'autres (d'autre), la seule possession doit servir de règle.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

**Art. 846**

When the parties claim under primitive concessions of their lands, or prove their dates and contents in case their concessions should be lost, if there be less land than is called for in the different titles, he who has the oldest concession, takes the quantity of land therein mentioned, the other parties having a right only to the rest.

But this article must be understood to except the case in which the person having a title of later date, may have acquired by prescription the quantity of land mentioned in this concession.

RCC 1870, Art. 846. (Same as Art. 846 of Proposed Revision of 1869)

CC 1825, Art. 842. (Projet, p. 100. Addition adopted; no comment)

Lorsque les parties au bornage représentent les concessions primitives de leurs terres, ou prouvent leur date et leur contenu, dans le cas où ces concessions seraient perdues, s'il se trouve moins de terre que la quantité énoncée dans ces divers titres, celui qui a la concession la plus ancienne en date, doit avoir la quantité de terre mentionnée en son titre, et les autres parties au bornage, n'ont droit qu'à l'excédent.

But this article must be understood to except the case in which the person having a title of later date, may have acquired by prescription the quantity of land mentioned in his concession.

CC 1808. No corresponding article.
CN 1804. No corresponding article.
ART. 847. If the parties claim under simple acts of sale or other acts which can transfer property, without being supported by any anterior concessions, and if they, or the persons from whom they acquired their estates, have acquired them from one common proprietor, the preference shall be given to him whose title is of the most ancient date, unless an adverse possession, for a time sufficient to establish prescription, has produced a difference in the situation of the parties.

RCC 1870, Art. 847.
Same as above.

CC 1825, Art. 843. (Projet, p. 100. Addition adopted; comment by redactors)
Same as above.

ART. 848. On the contrary, the parties, or those from whom they have acquired, hold titles from different proprietors, the priority of date of one title to another, unless it be accompanied by prescription, gives no right of preference to the person holding it, and the case must be determined according to the rules prescribed in the following articles.

RCC 1870, Art. 848.
Same as above.

CC 1825, Art. 844. (Projet, p. 100. Addition adopted; comment by redactors)
Same as above.

ART. 849. If the titles, exhibited by one of the parties, fix the extent of land which he ought to have, and those exhibited by the other make no mention of the extent, the first takes the quantity of
Art. 850. If the titles exhibited do not mention the quantity of land which each person ought to have, or unless it can be established in a legal manner, the limits must be so fixed as to divide the land equally between them.

RCC 843.

RCC 1870, Art. 850.
Same as above.

CC 1825, Art. 846.
Same as above.

Art. 851. If the titles exhibited call for a greater or less extent of land than the land which is to be bounded, contains, the limits must be so fixed as to divide proportionally among the parties interested the profit or loss resulting from this state of things.

It is understood that the rules prescribed in this and the preceding articles, only take effect in the absence of possession by one or more of the parties, sufficient to establish prescription.

RCC 852.

RCC 1870, Art. 851.
Same as above.

CC 1825, Art. 847.
Same as above; but comma (,) after "the land."
ART. 852. Whether the titles, exhibited by the parties, whose lands are to be limited, consist of primitive concessions or other acts by which property may be transferred, if it be proved that the person whose title is of the latest date, or those under whom he holds, have enjoyed, in good or bad faith, uninterrupted possession during thirty years, of any quantity of land beyond that mentioned in his title, he will be permitted to retain it, and his neighbor, though he have a more ancient title, will only have a right to the excess; for if one can not prescribe against his own title, he can prescribe beyond his title or for more than it calls for, provided it be by thirty years possession.

RCC—495, 825, 851, 853, 3437, 3493, 3494, 3495, 3499, 3503, 3515, 3548.

RCC 1870, Art. 852.
Same as above.

CC 1825, Art. 848. (Projet, p. 101. Addition † adopted; comment by redactors)

Soit que les titres représentés par les voisins, dont il s'agit de borner les héritages, consistent dans des concessions primitives, ou dans d'autres actes translatifs de propriété, s'il est prouvé que le porteur de celui de ces titres qui est le moins ancien en date, a eu de bonne ou de mauvaise foi, tant par lui que par ses auteurs, une possession non interrompue de trente ans, d'une quantité de terre au delà de celle mentionnée en son titre, il doit être rempli de cette quantité de terre, et son voisin, quoique porteur d'un titre plus ancien, n'a droit qu'à l'excédent; car si l'on ne peut prescrire contre son titre, on peut prescrire outre et au delà de son titre, pourvu que ce soit par trente ans.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

ART. 853. If the boundaries have been fixed according to a common title, or according to different titles, and the surveyor had committed an error in his measure, it can always be rectified, unless the part of the land on which the error was committed, be acquired by an adverse possession* of ten years, if the parties are present, and twenty years, if absent.

RCC—825, 844, 852, 1305, 3474, 3478. RS—2810.

RCC 1870, Art. 853.
Same as above.
Art. 854

If any one sells or alienates a piece of land, from one fixed boundary to another fixed boundary,* the purchaser takes all the land between such bounds,** although it give him a greater quantity of land than is called for in his title, and though the surplus exceed the twentieth part of the quantity mentioned in his title.

RCC-844, 2495.

RCC 1870, Art. 854.
Same as above.

CC 1825, Art. 850.
Same as above.

CC 1808. No corresponding article.
CN 1804. No corresponding article.

*Note error in English translation of French text; "the part of the land on which the error was committed, be acquired by an adverse possession" should be "the person, who has received by this fixing of the boundaries more than he should have received, can establish a prescription."

ART. 855. If any one removes or pulls up bounds, which have been fixed, either provisionally or definitively, without being authorized by a decree of the court, he is liable to an action of damages on the part of the owner whose bounds he has removed or torn up, and may be condemned to place them in the situation they were before.

RCC 1870, Art. 855.
Same as above.

CC 1825, Art. 851.
Same as above.

*English translation of French text incomplete; should include "designated in the act."

**English translation of French text incomplete; should include "or up to the designated boundary."

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Art. 857

Opposition may be made to every species of new work, from which injury is apprehended, whether the work be in a city or in the country, in places built up or not built up, public or private, conformably to the rules hereinafter prescribed.

RCC—860, 864, 866. CP—298.

RCC 1870, Art. 857.
Same as above.

CC 1825, Art. 853. (Projet, p. 102. Addition adopted; comment by redactors)
On peut s'opposer à toute espèce de nouvel ouvrage, dont on croit pouvoir recevoir un préjudice quelconque, soit que cet ouvrage se fasse à la ville ou à

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