Title XIX. Of Arbitration (Art. 3099 - 3132)

Louisiana
**ART. 3098.** When the creditors refuse a respite, the cession of property ensues, and the proceedings continue, as if the cession had been offered in the first instance.

RCC—2170 et seq., 3086. RS—1781 et seq.

**RCC 1870, Art. 3098.**

Same as above.

**CC 1825, Art. 3065.* (Projet, p. 359. Addition adopted; no comment)**

Same as above; but semicolon (;) after "ensues."

**CC 1808.** No corresponding article.

**CN 1804.** No corresponding article.

*Official edition reads “Art. 6065.”

**TITLE XIX—OF ARBITRATION***

*In connection with this title see Acts 1928, No. 262, as amended by Acts 1932, No. 218. See also general comment by redactors, Projet, p. 359.

**ART. 3099.* A submission is a covenant by which persons who have a lawsuit or difference with one another, name arbitrators to decide the matter and bind themselves reciprocally to perform what shall be arbitrated.

RCC—1761, 1765, 2465, 2672, 2998, 3071, 3100 et seq., 3110, 3325. CP—444 et seq. Acts 1928, No. 262 (as am. by 1932, No. 218); 1938, No. 266. Const. 1921, III, 36.

**RCC 1870, Art. 3099.**

Same as above.

**CC 1825, Art. 3066.** (No reference in Projet)

Same as above.

Le compromis est une convention par laquelle les personnes qui ont un procès ou un différend, nomment des arbitres pour le terminer, et s'obligerent réciproquement à exécuter ce qui sera arbitré.
A compromise is a covenant by which persons who have a law suit or difference with one another, name arbitrators to decide the matter and bind themselves reciprocally to perform what shall be arbitrated.

*In connection with this article see Acts 1928, No. 262, §1, as amended by Acts 1932, No. 218.

ART. 3100. A submission must be reduced to writing.

RCC—1797, 2275, 2277, 2834, 2845, 3071, 3099, 3176. Acts 1928, No. 262, §1 (as am. by 1932, No. 218, §1).

RCC 1870, Art. 3100.
Same as above.

CC 1825, Art. 3067.
(No reference in Projet)
Les compromis doivent être rédigés par écrit.

CC 1808, p. 440, Art. 2.
A compromise must be reduced to writing.

CN 1804. No corresponding article.

ART. 3101. They who can not bind themselves can not make a submission; such as a married woman, unless it be under her husband's authority.

An attorney in fact can not make a submission without a special power.

The tutors of minors and the curators of persons interdicted or absent, can not do it without being authorized by the judge.


RCC 1870, Art. 3101.
(Same as Art. 3101 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3068.
(No reference in Projet)
Ceux qui ne peuvent pas s'engager ne peuvent pas compromettre, telle qu'une femme sous puissance de mari, si ce n'est de son autorité.
Un fondé de procuration ne peut compromettre sans un pouvoir spécial.
Les tuteurs ou curateurs des mineurs, interdits ou absents, ne peuvent compromettre que sous autorité de justice.

The tutors or curators of minors, of persons interdicted or absent, cannot do it without being authorized by the judge.

CC 1808, p. 440, Art. 3.
They who can not bind themselves cannot compromise, such as a married woman, unless it be under her husband's authority.

An attorney in fact cannot compromise without a special power.
ART. 3102

The tutors or curators of minors, of persons interdicted or absent, cannot compromise without being authorised to do so by a judge.

CN 1804. No corresponding article.

ART. 3102.* Parties may submit either all their differences, or only some of them in particular; and likewise they may submit to arbitration a lawsuit already instituted or only in contemplation, and generally every thing which they are concerned in, or which they may dispose of.

RCC—1829, 2448, 2452, 3071, 3082, 3099, 3103. Acts 1928, No. 262, §12, 3 (as am. by 1932, No. 218, §1).

RCC 1870, Art. 3102.
Same as above.

CC 1825, Art. 3069. (No reference in Projet)
On peut compromettre sur les dommages de tous différends, ou seulement de quelques uns en particulier, comme aussi on peut compromettre sur un procès à mouvoir, de même que sur un procès déjà mû, et généralement de toutes choses qui concernent les parties, et dont elles peuvent disposer.

CC 1808, p. 440, Art. 4.
Parties may compromise either all their differences or only some of them in particular; and likewise they may compromise a lawsuit already instituted or only in contemplation, and generally every thing which they are concerned in or which they may dispose of.

CN 1804. No corresponding article.

*In connection with this article see Acts 1928, No. 262, §2, as amended by Acts 1932, No. 218.

ART. 3103. One may submit to arbitration the damages incurred for a public offense; but it is without any prejudice to the prosecution of it in behalf of the State.

RCC—2315, 3102.

RCC 1870, Art. 3103.
Same as above.

CC 1825, Art. 3070. (No reference in Projet)
On peut compromettre sur les dommages-intérêts resultant d’un délit; mais c'est sans préjudice aux poursuites du ministère public.

CC 1808, p. 440, Art. 5.
One may compromise the damages incurred by a public offence, but it is without any prejudice to the prosecution of it in behalf of the territory.

-CN 1804. No corresponding article.
ART. 3104.* The power of arbitrators is limited to what is explained in the submission.

RCC—3010, 3118, 3121, 3122.

RCC 1870, Art. 3104.
Same as above.

CC 1825, Art. 3071. (No reference in Projet)
Same as above.

The power of arbitrators is limited to what is explained in the compromise.

CN 1804. No corresponding article.

*In connection with this article see Acts 1928, No. 262, §4, as amended by Acts 1932, No. 218.

ART. 3105. If the submission does not limit any time, the power of the arbitrators may continue in force during three months from the date of the submission, unless the parties agree to revoke it.

RCC—3120, 3123 et seq., 3132. CP—452.

RCC 1870, Art. 3105.
Same as above.

CC 1825, Art. 3072. (No reference in Projet)
Si le compromis ne limite aucun temps, le pouvoir des arbitres durera pendant trois mois, de la date du compromis, si ce n'est que les parties ne s'accordent à le révoquer.

If the compromise does not limit any time, the power of the arbitrators may continue in force during three months from the date of the compromise unless the parties agree to revoke it.

CN 1804. No corresponding article.

ART. 3106. It is usual to undergo* a penalty of a certain sum of money in the submission, which the person who shall contravene the award, or bring appeal therefrom, shall be bound to pay to the other who is willing to abide by it; but this covenant is not essential, and the submission may subsist without the penalty.

RCC—1764, 1771, 1930, 2117 et seq., 3130.

RCC 1870, Art. 3106. (Same as Art. 3106 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3073. (No reference in Projet)
It is d'usage d'imposer* une peine pecuniaire par le compromis, que celui ou celle qui n'exécute pas le jugement des arbitres, et qui en appelle, est tenu de payer à l'autre partie qui veut
other who is willing to abide by it; but this covenant is not obligatory, and the submission may subsist without the penalty.

CC 1808, p. 442, Art. 8.

It is usual to impose* a penalty of a certain sum of money in the compromise which the person who shall contravene the award or bring appeal therefrom, shall be bound to pay to the other who is willing to stand to it, but this covenant is not obligatory and the compromise may subsist though no penalty [penalty] is stipulated against the person refusing to abide by it.

CN 1804. No corresponding article.

*Note error in English translation of French text; “undergo” should be “impose.”

ART. 3107. All persons may be arbitrators, except such as are under some incapacity or infirmity, which renders them unfit for that function.

Therefore, minors under the age of eighteen years, persons interdicted, those who are deaf and dumb, can not be arbitrators.

RCC—1782 et seq., 3101, 3108.

RCC 1870, Art. 3107. (Same as Art. 3107 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3074. (No reference in Projet)
Par. 1 same as par. 1, above.

Therefore minors under the age of eighteen years, persons interdicted, those who are deaf or dumb, can not be arbitrators.

CC 1808, p. 442, Art. 9.

Same as above; but no punctuation after “arbitrators”; after “infirmity”, or after “dumb.”

-p. 443, Art. 9.

Same as above; but comma (,) after “partie”, and after “subsister.”

CN 1804. No corresponding article.

ART. 3108.* Women who, on account of their sex, can not be judges, are likewise incapable of being named arbitrators.

RCC—25, 1782, 3101, 3107, 3110. Acts 1921, No. 34; 1928, No. 283.

RCC 1870, Art. 3108.
Same as above.

CC 1825, Art. 3075. (No reference in Projet)
Same as above.

Les femmes qui, à cause de leur sexe, ne peuvent être juges, ne peuvent aussi être nommées arbitres.
ART. 3110. There are two sorts of arbitrators:
The arbitrators properly so called;
And the amicable compounders.
RCC—3110. CP—444.

RCC 1870, Art. 3109.
Same as above.

ART. 3110. The arbitrators ought to determine as judges, agree­
ably to the strictness of the law.
Amicable compounders are authorized to abate something of the
strictness of the law in favor of natural equity.
Amicable compounders are, in other respects, subject to the same
rules which are provided for the arbitrators by the present title.
RCC—3099 et seq., 3108, 3109, 3112, 3121. CP—444.

RCC 1870, Art. 3110. (Same as Art. 3110 of Proposed Revision of 1869)
Same as above.

ART. 3110. The arbitrators ought to determine as judges agree­
ably to the strictness of the law.
Amicable compounders are authorized to abate something of the
strictness of the law, in favor of the natural equity.
Amicable compounders are moreover subject to the same rules which are
provided for the arbitrators by the present title.

CN 1804. No corresponding article.

1709
ART. 3111

Before examining the difference to them submitted, the arbitrators ought to take an oath before a judge or justice of the peace, to render their award with integrity and impartiality in the cause which is laid before them.

RCC—3119. CP—448.

RCC 1870, Art. 3111.

Same as above.

CC 1825, Art. 3078.

Same as above; but comma (,) after "judge."

CC 1808, p. 442, Art. 13.

Before examining the difference to them submitted, the arbitrators ought to take an oath before a judge, or justice of the peace, to render their award with integrity and impartiality, in the cause which is laid before them as arbitrators.

CN 1804. No corresponding article.

ART. 3112.

The parties, who have submitted their differences to arbitrators, must make known their claims, and prove them, in the same manner as in a court of justice, by producing written or verbal evidence in the order agreed on between them or fixed by the arbitrators.

RCC—3110. CP—450, 451.

RCC 1870, Art. 3112.

Same as above.

CC 1825, Art. 3079.

Same as above.


The parties who have submitted their differences to a compromise, must declare their pretentions and prove them in the same manner as in a court of justice, by producing writings and evidence, observing in this the rules agreed on by mutual consent or which are established by the arbitrators.

CN 1804. No corresponding article.

ART. 3113.

The arbitrators shall appoint a time and place for examining the matter to them submitted, and give notice thereof to the parties or to their attorneys.

RCC—3556(19). CP—450.
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Art. 3115

RCC 1870, Art. 3113.
Same as above.

CC 1825, Art. 3080.
Same as above.

CC 1808, p. 442, Art. 15.
The arbitrators ought to appoint a time and place for examining the matter to them submitted and to give notice of such appointment to the parties or to their attorneys.

CN 1804. No corresponding article.

Art. 3114. The parties must attend the arbitrators either in person, or by their attorney, with their witnesses and documents. If one or both of them should not appear, the arbitrators may proceed and inquire into the affair in their absence.

RCC—3115. CP—450, 451.

RCC 1870, Art. 3114.
Same as above.

CC 1825, Art. 3081.
Same as above; but comma (,) after "attend the arbitrators"; no punctuation after "person."

CC 1808, p. 442, Art. 16.
The parties must attend the arbitrators either in person or by their attorney, with their witnesses and documents, the arbitrators may also if they think it proper, examine the parties themselves or call for any other information.

-p. 442, Art. 18.
The law has secured each of the parties against the voluntary procrastination of the other, by permitting the arbitrators on due notice given, to proceed without his attendance. (Suppressed on recommendation of redactors; see comment, Projet, p. 360)

CN 1804. No corresponding article.

Art. 3115.* Arbitrators have no authority to compel witnesses to appear before them or to administer an oath; but, at the request of arbitrators, it will be the duty of justices of the peace to compel witnesses to appear and to administer the oath to them.

RCC—3114. CP—451.

1711
ART. 3116. If the arbitrators disagree another shall decide, and that other is called an umpire.

RCC—3117 et seq. CP—446.

ART. 3117. The nomination of the umpire is either made by the parties themselves at the time of the submission, or left to the discretion of the arbitrators.

RCC—3116, 3118. CP—446.
ART. 3118. Whenever the umpire has not been appointed by the submission, the arbitrators have the power to appoint him, though such power is not mentioned in the submission. But if the arbitrators can not agree on this election, the umpire shall be appointed ex officio by the judge.

RCC—3104, 3117. CP—446. Acts 1928, No. 262, §4 (as am. by 1932, No. 218, §1).

ART. 3119. The umpire shall take an oath similar to that taken by the arbitrators, before examining the matter or the point submitted to him.

RCC—3111. CP—448.
Art. 3120. The arbitrators who have consented to act as such, ought to determine the suit or the difference which is submitted to them, as soon as possible and within the time fixed by the submission.

RCC—3105, 3123, 3125.

RCC 1870, Art. 3120. (Same as Art. 3120 of Proposed Revision of 1869)

Same as above.

CC 1825, Art. 3087. (No reference in Projet)

Les arbitres, qui ont une fois accepté cette charge, doivent prononcer sur le procès ou sur le différend qui leur est soumis, le plus promptement possible, et dans les délais fixés par le compromis.

CC 1808, p. 444, Art. 23.

Les arbitres, qui ont une fois accepté cette charge, doivent prononcer sur le procès, ou sur le différend qui leur est soumis, le plus promptement possible, et dans les délais du compromis.

CN 1804. No corresponding article.

Art. 3121. Arbitrators can not exceed the power which is given to them; and if they exceed it, their award is null for so much.

RCC—3010, 3104, 3122.

RCC 1870, Art. 3121. Same as above.

CC 1825, Art. 3088. (Projet, p. 360. Amendment adopted; no comment)

Les arbitres ne peuvent excéder les bornes du pouvoir qui leur est donné, à peine de nullité de tout ce qu’ils feraien au-delà.


Les arbitres ne peuvent excéder les bornes du pouvoir qui leur est donné, à peine de nullité de leur sentence; cependant, si les parties les ont autorisés à prononcer, comme amiables compo- teurs, ou selon la bonne foi et suivant l’équité naturelle, sans les astreindre à la rigueur de la loi, alors ils ont la liberté de retrancher quelque chose du bon droit de l’une des parties, pour l’accorder à l’autre, et de prendre un milieu entre la bonne foi, et l’extrême rigueur de la loi.

CN 1804. No corresponding article.

Art. 3122. The authority of arbitrators extend [extends] only to the things contained in the submission, unless it has been stated that they shall have power to decide all disputes which may arise between the parties in the course of the arbitration.

RCC—3073, 3104, 3121.

1714
ART. 3123. The arbitrators ought to give their award within the time limited by the submission, and it would be null if it were given after the time is expired.

RCC—3105, 3120, 3124. CP—452.

RCC 1870, Art. 3123.
Same as above.

CC 1825, Art. 3090. (No reference in Projet)
Same as above; but comma (,) after "null."

The arbitrators ought to give their award within the time limited by the compromise, and it would be null if it were given after the said time is expired.

CN 1804. No corresponding article.

ART. 3124. Nevertheless the parties may give power to the arbitrators to prolong the time, and in this case their power lasts during the time of the prorogation.

RCC—3105, 3123, 3125. CP—452.

RCC 1870, Art. 3124.
Same as above.

CC 1825, Art. 3091. (No reference in Projet)
Same as above.

Néanmoins les parties peuvent donner pouvoir aux arbitres de proroger le temps, et en ce cas leur pouvoir dure pendant le temps de la prorogation.
Art. 3125

If the submission specifies a certain time for the examination of the cause which the arbitrators are to decide,* they can not give their award till that time is expired. (As amended by Acts 1871, No. 87)

RCC—3105, 3120, 3124.

RCC 1870, Art. 3125. (Same as Art. 3125 of Proposed Revision of 1869)
If the admission specifies a certain time for the examination of the cause which the arbitrators are to decide,* they can not give their award till that time is expired.

CC 1825, Art. 3092. (No reference in Projet)
Same as Art. 3125, as amended by Acts 1871, No. 87, above.

CC 1808, p. 444, Art. 28.
If the compromise specifies a certain time for drawing on the proceedings in the cause which the arbitrators are to decide,* they cannot give their award till the said time is expired.

CN 1804. No corresponding article.

—English translation of French text incomplete; should include "or for the return of documents."

Art. 3126.* If there are several arbitrators named by the submission, they can not give their award, unless they all see the proceedings and try the cause together; but it is not necessary that the award be signed by them all.

CP—453, 454.

RCC 1870, Art. 3126.
Same as above.

CC 1825, Art. 3093. (No reference in Projet)
Same as above.

CC 1808, p. 444, Art. 29.
If there are several arbitrators named by the compromise, they cannot give their award unless they all see the proceedings and give judgment on it together; but it is not necessary that the award be signed by them all.

CN 1804. No corresponding article.

*In connection with this article see Acts 1928, No. 262, §§6, 8.
ART. 3127. The arbitrators shall fix by their award the amount of the sum which they sentence one or several of the parties to pay to the other or others, though the omission of this does not annul the award.

RCC—3128.

RCC 1870, Art. 3127. Same as above.

CC 1825, Art. 3094. (No reference in Projet) Les arbitres doivent fixer par leur sentence le montant de la somme dont ils prononcent la condamnation contre l'une ou quelques-unes des parties, quoique cette omission ne rende pas leur sentence nulle.

CC 1808, p. 444, Art. 30. The arbitrators shall fix by their award the amount of the sum which they sentence one or several of the parties to pay to the other or others, though this omission does not annul the award.

CN 1804. No corresponding article.

ART. 3128. The arbitrators may likewise pronounce by their award on the interest and costs; but their silence on that subject is not a cause of nullity.

RCC—1935 et seq., 3127. CP—462, 551.

RCC 1870, Art. 3128. Same as above.

CC 1825, Art. 3095. (No reference in Projet) Les arbitres peuvent également prononcer par leur sentence sur les intérêts et dépens, mais leur silence à cet égard ne serait pas une nullité.

CC 1808, p. 444, Art. 31. Same as above; but no punctuation after “costs.”

CN 1804. No corresponding article.

ART. 3129.* The award in order to be put in execution, ought to be approved by the judge; but this formality is only intended to invest the award with a sufficient authority to ensure its execution and not to submit to the judge the examination of its merits, except in case an appeal is brought before him.


RCC 1870, Art. 3129. Same as above.
**Art. 3130**

**COMPILED EDITION**

CC 1825, Art. 3096.  
Same as above; but comma (,) after "The award", and after "its execution."

CC 1808, p. 444, Art. 32.  
The award in order to be put in execution, ought to be approved by the judge, but this formality is only intended to invest the award with a sufficient authority to insure its execution and not to submit to the judge the examination of its merits, except in case an appeal has been brought before him.

CN 1804. No corresponding article.

*In connection with this article see Acts 1928, No. 262, §§9, 12.*

**ART. 3130.** He who is not satisfied with the award, may appeal from it, though the parties had renounced such appeal by the submission; but the appellant before being heard on his appeal, ought to pay the penalty stipulated in the submission, if any has been stipulated; and this penalty shall ever be due, though the appellant afterwards renounces his appeal; but if he succeeds to have the award reversed, either in whole or in part, the court who shall pronounce on the appeal, shall order the re-payment of the penalty; but if the award is confirmed, the penalty which has been paid, shall operate no diminution on the amount of the award.


RCC 1870, Art. 3130.  
Same as above.

CC 1825, Art. 3097.  
Same as above; but comma (,) after "appellant", and after "confirmed, the penalty"; "succeeds" spelled "succeeds."

CC 1808, p. 444, Art. 33.  
He who is not satisfied with the award, may appeal from it to the superior court, though the parties had renounced such

*In connection with this article see Acts 1928, No. 262, §§9, 12.*

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**In connection with this article see Acts 1928, No. 262, §§9, 12.**

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**RCC 1930, 2117 et seq., 3106, 3129, 3131.** Acts 1928, No. 262, §§10-12, 15.

**RCC 1870, Art. 3130.**  
Same as above.

**CC 1825, Art. 3097.**  
Same as above; but comma (,) after "appellant", and after "confirmed, the penalty"; "succeeds" spelled "succeeds."

**CC 1808, p. 444, Art. 33.**  
He who is not satisfied with the award, may appeal from it to the superior court, though the parties had renounced such
appeal by the compromise, but the ap-
pellant before being heard on his ap-
peal, ought to pay the penalty or forfeit
stipulated in the compromise, if any
has been stipulated, and this penalty
shall ever be due though the appellant
afterwards renounces his appeal, but if
he succeeds to have the award reversed
either in whole or in part, the court
who shall pronounce on the appeal,
shall order the repayment of the pen-
alty; nay, if the award is confirmed
the penalty which has been paid shall
operate no diminution on the amount
of said award.

*In connection with this article see Acts 1928, No. 262, §§10, 11, 15.

ART. 3131. The arbitrators having once given their award, can
not retract it nor change any thing in it.
RCC—3130, 3132.

RCC 1870, Art. 3131.
Same as above.

CC 1825, Art. 3098. (No reference in Projet)
Same as above.

CC 1808, p. 446, Art. 34.
Same as above.

CN 1804. No corresponding article.

ART. 3132. The submission and power given to the arbitra-
tors are put at an end by one of the following causes:
1. By the expiration of the time limited, either by the submis-
sion or by law, though the award should not be yet rendered.
2. By the death of one of the parties or arbitrators.
3. By the final award rendered by the arbitrators.
4. When the parties happen to compromise touching the thing
in dispute, or when this thing ceases to exist.
RCC—1810, 2219, 3071, 3105, 3131. CP—21, 450.

RCC 1870, Art. 3132. (Same as Art. 3132 of Proposed Revision of 1869)
Same as above.

CC 1825, Art. 3099. (No reference in Projet)
Le compromis et le pouvoir donnés
aux arbitres finissent d'une des ma-
nières suivantes:
1. Par l'expiration du temps fixé
par le compromis ou par la loi, quoique
la sentence arbitrale ne soit pas encore
rendue;
2. Par la mort de l'une des parties
ou de l'un des arbitres;
3. Par la sentence définitive rendue
par les arbitres;
Art. 3133

The compromise and power given to the arbitrators, is [are] put at an end by any one of the following causes.
1st, By the expiration of the time limited either by the compromise or by law though the award should not be yet rendered;
Subds. 2, 3 same as subds. 2, 3, above.
4th, When the parties happen to transact touching the thing in difference, or when this thing ceases to exist.

CN 1804. No corresponding article.

CC 1808, p. 446, Art. 35.
The compromise and power given to the arbitrators, is [are] put at an end by any one of the following causes.
1st, By the expiration of the time limited either by the compromise or by law though the award should not be yet rendered;
Subds. 2, 3 same as subds. 2, 3, above.
4th, When the parties happen to transact touching the thing in difference, or when this thing ceases to exist.

TITLE XX—OF PLEDGE

Art. 3133. The pledge is a contract by which one debtor gives something to his creditor as a security for his debt.

RCC—1765, 1771, 1778, 1884, 1968, 2204, 2705 et seq., 2926, 3065, 3135, 3140 et seq., 3221, 3279 et seq., 3510.

RCC 1870, Art. 3133.
Same as above.

CC 1825, Art. 3100.
Same as above.

CC 1808, p. 446, Art. 1.
Same as above.

CN 1804, Art. 2071.
Same as above.

Art. 3134. There are two kinds of pledge:
The pawn.
The antichresis.

RCC—3135.

RCC 1870, Art. 3134.
Same as above.

CC 1825, Art. 3101.
Same as above; but semicolon (;) after "pawn."

CC 1808, p. 446, Art. 2.
Pars. 1, 2 same as pars. 1, 2, above; but semicolon (;) after "pledge."
And the antichresis.

-p. 447, Art. 35.
Par. 1 and subds. 1-3 same as par. 1 and subds. 1-3, above; but comma (,) after "pouvoir", after "aux arbitres", after "par le compromis", and after "parties."

Et 4. Lorsque les parties font une transaction touchant la chose contestée, ou lorsque cette chose cesse d’exister.

1720