



CHAPTER 41

An Act to amend the Code of Civil Procedure respecting writs of prohibition and *certiorari*

[Assented to, the 12th of November, 1936]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows :

1. Article 15 of the Code of Civil Procedure, as C. C. P., art. amended by the acts 62 Victoria, chapter 52, section 1; 15, am. 9 Edward VII, chapter 73, section 2; 1 George V (1910), chapter 42, section 1; 5 George V, chapter 51, section 2; 5 George V, chapter 81, section 1; 14 George V, chapter 42, section 2; 19 George V, chapter 85, section 6; 23 George V, chapter 112, section 1, and 24 George V, chapter 76, section 1, is again amended:

- a. By striking out paragraph 15 thereof;
- b. By replacing the figures: "16", in the first line of paragraph 16 thereof, by the figures: "15".

2. Article 43 of the said Code, as replaced by the Id., art. 43, act 10 George V, chapter 79, section 1, and amended am. by the act 19 George V, chapter 85, section 7, is again amended by striking out the words: "saving the proceedings contemplated by section 1295a", at the end of sub-paragraph a of paragraph 1 thereof.

3. Article 1003 of the said Code, as replaced by the Id., art. act 19 George V, chapter 85, section 1, is again replaced 1003, re- placed. by the following:

"1003. The writ of prohibition lies whenever a Writ of pro- court of inferior jurisdiction exceeds its jurisdiction. hibition.

Formalities. It is applied for, obtained, contested and executed in the same manner as *mandamus* and with the same formalities; and the writ of summons contains a summons to the court of inferior jurisdiction and to the party proceeding therein."

C. C. P., art. 1003a, repealed. **4.** Article 1003a of the said Code, as enacted by the act 19 George V, chapter 85, section 1, is repealed.

C. C. P., art. 1006, replaced. **5.** Article 1006 of the said Code, as replaced by the act 10 George V, chapter 79, section 12, and amended by the act 19 George V, chapter 85, section 2, is again replaced by the following:

Filing of inscription in appeal. "**1006.** The inscription in appeal from any judgment rendered under the provisions of this chapter can be filed only within thirty days from the rendering of such judgment.

Precedence. Where the case is one provided for by article 1003, the case in appeal has precedence over all other cases."

C. C. P., art. 1295, replaced. **6.** Article 1295 of the said Code, as replaced by the act 19 George V, chapter 85, section 3, is again replaced by the following:

Petition for writ of certiorari. "**1295.** A previous notice of time and place at which the petition will be presented must be served upon the functionary seized of the case, or who rendered the judgment, as well as upon the other parties in the case.

Term days. Notwithstanding the provisions of section 50 of chapter 145 of the Revised Statutes, 1925, all juridical days are term days in all districts. The case must be continued from day to day."

C. C. P., art. 1295a, repealed. **7.** Article 1295a of the said Code, as enacted by the act 19 George V, chapter 85, section 3, is repealed.

Id., art. 1296 replaced. **8.** Article 1296 of the said Code, as replaced by the act 19 George V, chapter 85, section 4, is again replaced by the following:

Effect of service. "**1296.** The service of such notice on the functionary seized of the case, or who rendered the judgment, has the effect of suspending all proceedings in the court below."

9. Article 1306 of the said Code, as replaced by the C. C. P., acts 10 George V, chapter 79, section 25, and 19 George V, chapter 85, section 5, is again replaced by the following: ^{art. 1306, re-}placed.

“1306. The case has precedence over all other cases.” ^{Precedence.}

10. This act shall come into force on the day of its sanction. ^{Coming into force.}

