

C H A P. 80

An Act to amend article 1143 of Code of Civil Procedure

[Assented to, the 29th of December, 1922]

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

C. C. P.,
art. 1143,
am.

1. Article 1143 of Code of Civil Procedure, as enacted by the act 10 George V, chapter 79, section 16. is amended by replacing the words: "under paragraph 11", in the fourth line thereof, by the following words: "under paragraphs 9, 10 and 11".

Coming into
force.

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

C H A P. 81

An Act respecting Habeas Corpus

[Assented to, the 29th of December, 1922]

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

Petition and
notice for
writ of
Habeas Cor-
pus served
upon Atty.-
General.
Service upon
certain
Crown pro-
secutors.

1. No issue of a writ of Habeas Corpus, requested under any law whatsoever, may be allowed, unless a copy of the petition requesting same, accompanied by a reasonable notice of the hour, date and place of its presentation, be previously served upon the Attorney-General.

In the districts where one or more Crown prosecutors are appointed in a permanent manner by the Attorney-General, such service may be made upon such Crown prosecutor or upon one of such Crown prosecutors.

Appeal to
the Court of
King's
Bench.

2. An appeal shall lie to the Court of King's Bench, sitting in appeal, from any final judgment, maintaining or dismissing a writ of Habeas Corpus, rendered by the Superior Court, or by one of the judges thereof, or by a judge of the Court of King's Bench.

When and
where ap-
peal to be
heard.

Whatever be the district where the case originated, such appeal shall be heard at the term of the Court of King's Bench, sitting in appeal, the nearest after the date of the

expiry of the delay of five days, mentioned in section 11 of this act, whether such term be held at Quebec or Montreal, and whether it be presided over by three or by five judges.

Nevertheless, if at the expiry of such delay of five days, Exception. a term of the Court of King's Bench, sitting in appeal, at Quebec or at Montreal, and presided over by three or by five judges, be in session, then the appeal shall be heard at such term.

3. The judgment maintaining a writ of Habeas Corpus Execution of judgment maintaining writ of Habeas Corpus. can only be executed three days after it has been rendered, unless, during such three days, the Attorney-General or the adverse party file in the office of the court, which rendered the judgment, a declaration to the effect that an appeal will not be taken, and, in such case, the judgment may be executed without delay.

Nevertheless, if the Attorney-General or the interested Idem. party has, before the rendering of the judgment, received a twenty-four hour notice of the day and hour when and place where the judgment will be rendered, then the judgment may be executed after the expiry of forty-eight hours from its rendering.

If an inscription in appeal from a judgment maintaining a writ of Habeas Corpus has not been served and filed at the expiry of the above-mentioned delays, the person held shall be immediately liberated. Every person refusing or neglecting to carry out any obligation imposed upon him by such judgment shall be punishable for contempt of court. If no inscription in appeal within delay, person to be liberated. Contempt of court.

4. In the case of a judgment dismissing a writ of Habeas Corpus, the inscription in appeal may be made within the ten days following the rendering of the judgment. Inscription in appeal from judgment dismissing writ.

5. Within the forty-eight hours, three days or ten days, as the case may be, the inscription in appeal must be served upon the adverse party or his attorney and filed in the office of the Superior Court or in the appeal office, according as the judgment was rendered by the Superior Court or one of the judges thereof or by a judge of the Court of King's Bench. Service of the inscription on the adverse party. Filing of same.

6. The person who has requested the issue of a writ of Habeas Corpus cannot be admitted to bail during the period of the appeal, unless same be permitted by the Court of King's Bench, composed of three or five judges, after reasonable notice of the request to one of the persons mentioned in section 1. No bail on appeal. Exception.

No security for costs by appellant. **7.** The appellant shall not be obliged to furnish security for the costs.

Transmission of record, etc., where judgment appealed from rendered by the Superior Court. **8.** If the judgment appealed from has been rendered by the Superior Court or by one of the judges thereof, the prothonotary shall, within two days from the entering of the inscription, transmit to clerk of appeals, at Quebec or at Montreal, according as the hearing is to take place in Quebec or in Montreal, a copy of the inscription, the record of the case with a list of the documents composing it, and a copy of the entries in the registers, the whole certified under his signature and the seal of the court.

Id., where rendered by judge of Ct. of King's Bench. **9.** If the judgment appealed from has been rendered by a judge of the Court of King's Bench and the appeal must, under section 2 of this act, be heard in a district other than that in which the judgment has been rendered, the clerk of appeals of the district where the judgment has been rendered shall, within two days from the entering of the inscription, transmit, to the clerk of appeals of the district where the appeal is to be heard, all the documents mentioned in section 8, duly certified in the manner indicated therein.

Appearance and ten typewriter copies of memorandum to be filed in appeal office. **10.** Within five days from the date of the entering of the inscription, the parties desiring to be heard shall file, in the appeal office of the district where the appeal is to be heard, an appearance and ten typewritten copies of a memorandum, submitting the questions of law and of fact upon which they rely.

Inscription on roll and privileged hearing. **11.** At the expiration of such delay of five days, the case shall be immediately inscribed upon the roll, to be heard by privilege.

Application of the provisions of the C. C. P. **12.** In other respects, the provisions of the Code of Civil Procedure respecting appeals to the Court of King's Bench shall apply, *mutatis mutandis*, to the appeals instituted under this act.

Coming into force. **13.** This act shall come into force on the day of its sanction.