

the townships of Low, Hincks, Northfield and Egan, from <sup>entries</sup> and including the 20th of January, 1902, are and shall <sup>validated.</sup> be as valid as if such indexes had been paged, paraphed and authenticated by the prothonotary of the Superior Court for the district of Hull before being used.

**2.** Nothing in this act shall affect any case now pending <sup>Pending</sup> before any court, in which the validity of any registration <sup>cases.</sup> is in question.

**3.** This act shall come into force on the day of its sanc- <sup>Coming</sup> tion. <sup>into force.</sup>

## CHAP. 79

An Act respecting the organization and competence of courts of civil jurisdiction, and the procedure in certain cases

[Assented to, 14th of February, 1920]

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

**1.** Sections second, third and fourth of chapter second of part first of the Code of Civil Procedure are replaced <sup>Sections of</sup> by the following: <sup>of C. C. P.,</sup> <sup>replaced.</sup>

### "SECTION II

#### *"Court of King's Bench, sitting in Appeal*

**"42.** The Court of King's Bench, sitting in appeal, <sup>Jurisdiction</sup> and the judges, thereof have an appellate civil jurisdiction <sup>of C. K. B.</sup> throughout the Province over all causes, matters or things appealed from all courts and jurisdictions wherefrom an appeal by law lies, unless such appeal is expressly directed to be to some other court.

**"43. 1.** Unless where otherwise provided by statute, an <sup>Matters</sup> appeal lies to the Court of King's Bench, sitting in appeal, <sup>susceptible</sup> from any final judgment rendered by the Superior Court, <sup>of appeal to</sup> except,— <sup>C. K. B.</sup>

*a.* in matters of *certiorari*;

*b.* in matters in which the sum claimed or value of the thing demanded is less than two hundred dollars.

2. Nevertheless, an appeal lies to the Court of King's Bench, sitting in appeal, from any final judgment of the Superior Court, whatever the amount in dispute,—

a. when the demand relates to fees of office, duties, rents, revenues, or sums of money payable to His Majesty;

b. when the demand relates to titles to lands or tenements, annual rents, or other matters in which the rights in future of the parties may be affected;

c. when there is a contestation of any title to lands or tenements;

d. in all actions in recognition of hypothecs.

Idem.      “**44.** An appeal also lies to the Court of King's Bench, sitting in appeal,—

1. from any judgment rendered or order given by a judge in any non-contentious proceeding under the provisions of the tenth part of this code;

2. From any judgment rendered on a motion or petition to set aside or quash a seizure before judgment or a *capias ad respondendum*.

Magdalen Islands.      “**45.** Special provisions regulate appeals from judgments rendered in the Magdalen Islands.

Appeals from interlocutory judgments.      “**46.** An appeal also lies from any interlocutory judgment in matters susceptible of appeal, in the following cases:

1. when it in part decides the issues;

2. when it orders the doing of anything which cannot be remedied by the final judgment;

3. when it unnecessarily delays the trial of the suit.

Where appeals are brought.      “**47.** Appeals from judgments rendered in the districts of Montreal, Hull, Pontiac, Terrebonne, Joliette, Montcalm, Richelieu, St. Francis, Bedford, St. Hyacinthe, Iberville and Beauharnois are brought, heard and determined in the city of Montreal; and appeals from judgments rendered in the districts of Quebec, Three Rivers, Saguenay, Chicoutimi, Roberval, Nicolet, Gaspé, Rimouski, Kamouraska, Montmagny, Beauce and Arthabaska are brought, heard and determined in the city of Quebec.

#### “SECTION III

#### “*Superior Court*

Jurisdiction      “**48.** The Superior Court has original jurisdiction in all

suits or actions which are not exclusively within the jurisdiction of the Circuit Court or of the Exchequer Court of Canada; and in the district of Quebec it has exclusive original jurisdiction in cases of petition of right.

**"49.** 1. The Superior Court has original jurisdiction by means of evocation in all suits and actions instituted in the Circuit Court sitting elsewhere than at the chief place of a district, in any of the matters enumerated in paragraph 2 of article 43.

2. The Superior Court has also original jurisdiction by means of evocation in all suits and actions instituted in the Circuit Court of the district, relating to,—

- a. fees of office;
- b. duties, rents, revenues or sums of money payable to His Majesty;
- c. titles to lands or tenements;
- d. annual rents or other matters by which rights in future may be affected.

**"50.** Excepting the Court of King's Bench, all courts, circuit judges and magistrates, and all other persons and bodies politic and corporate, within the Province, are subject to the superintending and reforming power, order and control of the Superior Court and of the judges thereof in such manner and form as by law provided.

#### "SECTION IV

#### "Circuit Court

**"51.** The Circuit Court has ultimate jurisdiction, to the exclusion of the Superior Court,—

1. in all suits wherein the sum claimed or the value of the thing demanded is less than one hundred dollars, saving the exceptions contained in article 55, such cases as fall exclusively within the jurisdiction of the Exchequer Court of Canada, and matters of petition of right;

2. in all suits for school-taxes or school-fees, and all suits concerning assessments for the building and repairing of churches, parsonages, and churchyards, whatever may be the amount of such suits.

**"55.** 1. The Circuit Court, sitting elsewhere than at the chief place of a district, has final jurisdiction, to the exclusion of the Superior Court, in all suits wherein the sum claimed or value of the thing demanded amounts to or exceeds one hundred dollars, but does not exceed two hundred dollars.

hundred dollars, saving the exception contained in paragraph 2 of article 54.

2. The same court has likewise jurisdiction, saving the right of evocation to the Superior Court, to take cognizance of and decide any of the matters enumerated in paragraph 2 of article 43, when the amount claimed or the value of the thing demanded is under two hundred dollars.

Evocation  
to Circuit  
Court.

**"56.** The Circuit Court has jurisdiction to take cognizance, upon evocation, of any suit brought before the Commissioners' Court for the summary trial of small cases enumerated in articles 1268 and 1269; but any case so transferred from the Commissioners' Court to the Circuit Court of the district, may be evoked to the Superior Court when it is susceptible of evocation under paragraph 2 of article 49.

Judgments  
of certain  
inferior  
courts.

**"57.** The Circuit Court has jurisdiction, in the same manner as the Superior Court, over judgments rendered within the limits of the district or circuit for which it is held, by the Commissioners' Court mentioned in article 56, or by Justices of the Peace, by means of *certiorari* wherever it lies."

C. C. P., art.  
69, repealed.

**2.** Article 69 of the said code is repealed.

Id., art. 72,  
replaced.

**3.** Article 72 of the said code, as amended by the act 1 George V (1st session), chapter 43, section 4, is replaced by the following:

Decisions  
by judge in  
chambers.

**"72.** Decisions rendered by the judge in chambers, or the prothonotary, upon matters within the jurisdiction assigned to him, have the same force and effect as judgments of the court, and are in like manner subject to appeal and other remedies against judgments."

Id., art. 345,  
replaced.

**4.** Article 345 of the said code is replaced by the following:

Evidence  
taken by  
stenogra-  
phy.

**"345.** In cases susceptible of appeal, the evidence is taken down by means of stenography, under the direction of the court, unless it orders otherwise."

Id., 347,  
replaced.

**5.** Article 347 of the said code is replaced by the following:

Transcrip-  
tion of notes.

**"347.** The stenographer's notes are transcribed only when the judge so orders, or in case of appeal. Each party then pays the cost of transcribing his evidence, which is nevertheless considered as forming part of the costs in the case."

**6.** Sections IX and X, up to article 497 inclusive, of chapter XXI of the third part of the said code are replaced by the following:

Sections IX and X of c. XXI, of third part, replaced.

"SECTION IX

*"Judgment after Verdict*

**"491.** After the jury has rendered its verdict, one of the parties may move for judgment according to the verdict. Motions may also be made by either party for a judgment different from the verdict, for a new trial, or alternatively for any of such remedies for any of the causes or reasons mentioned in articles 498 to 508 inclusive.

Motions that may be made after verdict.

**"492.** The trial judge (or, in case of his death or inability, another judge) shall hear the parties on the motions which may be made under article 491, and render judgment thereon.

Trial judge to hear motions.

"SECTION X

*"Appeals from Judgments*

**"§ 1.—GENERAL PROVISIONS**

**"493.** An appeal lies from the final judgment rendered by the trial judge, in the same manner as from any final judgment of the Superior Court.

Appeals in jury trials.

**"494.** The appellant may pray for a judgment different from the verdict, for a new trial, or alternatively for any of such remedies.

What remedy appellant may pray for.

**"495.** The Court of Appeal may apply any remedy by which it considers that the ends of justice will be attained, even if such remedy has not been specifically demanded by any of the parties.

Remedies the court may apply.

**"497.** Affidavits are not admissible for the purpose of showing the reasons and motives which influenced the jurors, or of establishing that the verdict rendered is not that which the jurors intended to give."

Affidavits not received for certain purpose.

**7.** Article 508 of the said code is replaced by the following:

Id., art. 508, replaced.

**"508.** A judgment different, in whole or in part, from that rendered by the trial judge, may be rendered in any of the following cases:

Different judgment.

1. when the facts as found by the jury require a judgment in favour of the appellant, or the judge has erred as to the real effect of the verdict;

2. when the allegations of the party in whose favour the judgment has been rendered, are not sufficient in law to maintain his pretensions;

3. when it is absolutely clear from all the evidence that no jury would be justified in finding any verdict other than one in favour of the appellant."

Id., arts.  
594, 595,  
596 and 597,  
replaced.  
Provisional  
execution in  
case of  
appeal.

**8.** Articles 594, 595, 596 and 597 of the said code are replaced by the following:

**"594.** Provisional execution may be ordered, upon application of the party, notwithstanding any appeal and with or without security being required, in any of the following matters:

1. actions based upon authentic acts or private writings;
2. possessory actions;
3. affixing and removing seals, or making inventories;
4. urgent repairs;
5. ejectment, when there is no lease or the lease has expired or has been cancelled or annulled;
6. appointments of tutors, curators, or other administrators, and rendering accounts;
7. alimentary pensions or allowances;
8. judgments of sequestration.

Not for  
costs.

**"595.** Provisional execution cannot be ordered for costs, even when they are awarded in lieu of damages.

Order for  
provisional  
execution.

**"596.** If the court omits to order provisional execution, it cannot thereafter be allowed except upon appeal.

Powers of  
C. K. B. or  
of two  
judges, *re*  
provisional  
execution.

**"597.** The Court of Appeal, whenever the application is made during term, or two judges of the Court of King's Bench, whenever the application is made out of term, is empowered:

1. to allow provisional execution, when it has not been allowed in any case wherein it lies;
2. to refuse provisional execution, when it has been allowed in any case wherein it does not lie by law; and, according to circumstances, to refuse or stay such execution in other cases;
3. to order that security be given by any party who was exempted from doing so by the court of original jurisdiction at the time when the judgment was rendered allowing provisional execution."

**9.** Article 890 of the said code is replaced by the following: Id., art. 890, replaced.

**"890.** Judgments and orders rendered in virtue of articles 866, 867, 868, 871, 874, 877, 878, 879, 882 and 883 are not subject to appeal." Certain judgments not subject to appeal.

**10.** Articles 923 and 924 of the said code are replaced by the following: Id., arts. 923 and 924, replaced.

**"923.** A defendant whose application to be released from confinement is rejected may appeal to the Court of King's Bench. Appeal from refusal to release from confinement.

**"924.** If the court or the judge quashes the *capias*, the plaintiff may obtain a suspension of the judgment by declaring immediately that he intends to take the decision to appeal. Suspension of *capias* in case of appeal.

In such case, he must serve the inscription before the expiry of the next juridical day after the rendering of judgment, and give security in the ordinary way. Procedure.

If the plaintiff fails to comply with these formalities, the defendant is released." Released.

**11.** Article 969 of the said code is replaced by the following: Id., art. 969, replaced.

**"969.** Any final judgment confirming an interlocutory injunction, remains in force notwithstanding appeal. Certain judgments remain in force notwithstanding appeal.

An interlocutory injunction remains in force, notwithstanding a final judgment dissolving it, whenever the petitioner, immediately upon the rendering of the judgment, declares his intention to take the case to appeal, and, within two days thereafter, serves his inscription in appeal.

The court before which the appeal is brought, whenever the application is made during term, or two judges of the Court of King's Bench whenever the application is made out of term, may provisionally suspend any injunction." Appeal Court may provisionally suspend injunction.

**12.** Article 1006 of the said code is replaced by the following: Id., art. 1006, replaced.

**"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." Delay for filing inscription in appeal.

**13.** Article 1010 of the said code is replaced by the following: Id., art. 1010, replaced.

**"1010.** The inscription in appeal from the judgment of the court of original jurisdiction, can be filed only within Delay for filing

inscription in appeal. thirty days from the rendering of the judgment appealed from."

Id., art. 1020. replaced. **14.** Article 1020 of the said code is replaced by the following:

Delay for filing inscription in appeal. **"1020.** The inscription in appeal from the judgment of the court of original jurisdiction cannot be filed except within thirty days from the rendering of the judgment appealed from."

Id., art. 1112. replaced. **15.** Article 1112 of the said code is replaced by the following:

Proceedings in appeal are summary. **"1112.** Whenever an appeal has been taken, the proceedings thereon are summary and have precedence."

Id., arts 1126 to 1149 replaced. **16.** The sixth part of the said code, being articles 1126 to 1149 inclusive, is replaced by the following:

## "SIXTH PART

### "CIRCUIT COURT

## "CHAPTER LII

### *"Proceedings in the Circuit Court*

Powers of the Circuit Court, etc., are the same as those of the Superior Court. **"1126.** All the powers conferred upon the Superior Court, or upon the judges and officers thereof, respectively, relatively to matters within their jurisdiction, are also conferred upon the Circuit Court, within the limits of its cognizance, upon the judges who hold such court and upon the officers of the said court respectively, with regard to the same matters and the other matters which form the subject of the present Part, or with regard to any other matter concerning the manner of conducting suits, actions or proceedings in the Circuit Court.

Clerk corresponds to prothonotary. **Whatever may or must be done by the prothonotary as regards proceedings in the Superior Court, may or must be done in like manner by the clerk of the Circuit Court, as regards proceedings before the latter court; however, the judicial powers conferred upon the prothonotary in the absence of the judge cannot be exercised by the clerk of the Circuit Court, except by the clerk of the circuit court of the district, or by the deputy-clerk appointed by him.**

Idem. **The powers granted to the prothonotary by article 70 may be exercised, in matters within his jurisdiction, by**



the clerk of the Circuit Court or, in his absence, by the deputy clerk appointed by him for that purpose, with the consent of the Attorney-General.

**"1127.** All commissioners and other persons authorized to receive affidavits to be used in the Superior Court, have also like powers with regard to the Circuit Court.

Powers of commissioners of Superior Court are same for C. C.

**"1128.** The Circuit Court for any district is held at the same place as the Superior Court, and its jurisdiction extends over the whole district by the name of which it is designated.

Sits at same place as S. C.

It cannot, however, grant more costs against a defendant than he would have had to pay if he had been sued before the Circuit Court in the county in which he resides and in which the cause of action originated.

Costs limited of C. C. in county of defendant's residence.

**"1129.** The Circuit Court for a county has jurisdiction over the whole extent of such county, even when more than one place therein is appointed for its sittings.

Jurisdiction of county C. C.

**"1130.** Saving the special provisions of this chapter, the rules governing proceedings up to judgment, judgments therein, remedies in the Circuit Court against such judgments, the execution of such judgments, oppositions to seizures and sales, attachments before judgment, attachments in revendication, attachments for rent, conservatory attachments, and judicial sequestration, except those relating to trial by jury and to abandonment of property, are the same as in like matters in cases in the Superior Court.

Proceedings, etc., before C. C.

**"1131.** When the writ of summons is addressed to the sheriff or a bailiff of a district other than that whence it is issued, it may be served by the sheriff or any bailiff of such district; but he is entitled to no more costs than if the service had been effected by the bailiff nearest to the residence of the defendant thus summoned.

Service of writs in other districts.

Any writ of summons, of subpœna or of execution, issued out of any Circuit Court in any county, may be served or executed by any bailiff residing in the district; but such bailiff is entitled to no more costs than if the service had been made or the execution had been effected by the bailiff residing nearest to the residence of the person summoned or against whom the execution is taken.

Service of proceedings in other districts.

Nevertheless, in any case in which it is established, to the satisfaction of the judge or of the clerk, that such writ should be addressed to and executed by the sheriff or some

Proviso.

other bailiff, it may be so addressed and executed; in which case the costs are taxed as from the office of the sheriff or from the residence of such bailiff, and for the distance actually travelled.

Evocation  
to Superior  
Court.

**"1132.** In the cases mentioned in article 49, the defendant sued before the Circuit Court may, before pleading to the merits, evoke the suit or action, and require it to be removed to the Superior Court in the same district for hearing and judgment.

Declara-  
tion of  
evocation to  
be filed in  
the record.  
Its effect.

The declaration of evocation is filed in the record, which is thereupon removed to the office of the prothonotary, and the Superior Court determines in a summary way whether the evocation is well-founded or not. In the former case the Superior Court tries the cause and renders judgment therein; in the latter case, the cause is sent back to the Circuit Court.

Plaintiff  
may evoke  
case.

If, in any cause susceptible of evocation, the defendant joins issue without evoking the cause, the plaintiff may himself file a declaration of evocation, and proceedings are then had as in cases of evocation by the defendant.

Do.

If the defendant in his defence, whatever the nature of the suit may be, disputes or calls in question the plaintiff's title to any immoveable, in such a manner as might impair or injuriously affect the rights of the plaintiff in the future, the latter may evoke the suit to the Superior Court.

Notice of  
inscription  
not neces-  
sary in  
default case.

**"1133.** If the defendant is in default to appear the plaintiff is not bound to give notice of the inscription for proof, when such proof is necessary, or of the inscription for judgment.

Delays for  
pleading.

**"1134.** The delay for pleading to the merits is four days from the appearance of the defendant.

There is a like delay of four days between each subsequent pleading allowed by law.

Inscription  
after issue  
joined.

**"1135.** Immediately after issue joined, the case may be inscribed by either party for proof and hearing.

Article 295 does not apply to any such inscription.

Notice of  
proof and  
hearing.

**"1136.** Notice must be given to the opposite party at least three days before that fixed for proof and hearing.

Proof oral.

**"1137.** The proof is made orally and in open court, without notes thereof being taken.

Witness

**"1138.** No person residing at a distance of more than

forty-five miles from the place where the proof is to be taken, or beyond the limits of the circuit, is bound to attend as a witness unless he is summoned in conformity with the provisions contained in articles 299 and 300.

**"1139.** Issues of law are raised by demurrer; and when-  
ever a demurrer or an answer in law has been filed, the case may, nevertheless, be inscribed for proof and hearing, reserving the argument upon the law issues until after the proof.

**"1140.** The judge may at any time order the proof to be had, or a witness or a party to be examined in another circuit, and may order that the record, or a part thereof, be transmitted for that purpose, according to the provisions contained in articles 357 and 358.

**"1141.** Whenever, in consequence of an opposition to the seizure or sale, an order to stay execution is necessary, it may be granted by the judge, either within or beyond the limits of the circuit, or by the clerk.

**"1142.** In default of moveable property, the judgment may be executed upon such immoveables of the debtor as are within the limits of the district in which the judgment was rendered, or in any other district.

Nevertheless, saving the cases mentioned in article 1148, judgments for sums not exceeding forty dollars can be executed only against the moveable property.

**"1143.** If, within seven days after the judgment, or at any time before the execution, the defendant deposits with the clerk of the court the portion of his salary or wages liable to seizure under paragraph 11 of article 599, and, at the same time, produces a declaration under oath setting forth the amount of such salary or wages, as well as the name, occupation and place of business of the person who pays the same and the time when the same are payable, and continues to deposit such portion so seizable at each term of payment until full payment of the judgment, no seizure by garnishment can be issued against such defendant to seize such salary or wages. A similar procedure shall be followed by the defendant whenever he changes his employer or the conditions of his engagement. This declaration may be contested in the same manner, and within the same delay as the declaration of a garnishee.

Eight days after any such deposit, the clerk of the court pays the amount thereof to the plaintiff if there are no other claims. The clerk of the court must keep an alpha-

betical list of the defendants who have made such declarations.

Other  
creditors  
may file  
claims.

The other creditors may, within eight days of such deposit, file their claims duly sworn to in the record of the case, and must give notice to the parties interested.

Collocation  
of creditors,  
and distri-  
bution of  
amount  
deposited.

The clerk of the court, after collocating the plaintiff for his costs in the suit, distributes rateably amongst the creditors the sum to be divided, and determines, in a summary manner and without cost, the amount coming to each, which he pays to them.

Writ of  
execution  
against  
immoveable,  
in certain  
case.

**"1144.** In the case of an immoveable which is declared by the judgment to be hypothecated, and has been surrendered, or in cases of arrears of rents constituted under the Seigniorial Act of 1854, whatever may be the amount thereof, a writ of execution may issue immediately against such immoveable.

Incidental  
proceedings.

**"1145.** All proceedings incidental to an execution against moveable property, whatever may be the amount or the value of the thing claimed, are within the jurisdiction of the court which issued the writ.

Writ of  
execution  
against im-  
moveable,  
where  
returnable.  
Proceedings  
incidental  
to seizure  
and sale of  
immoveable.

**"1146.** The writ of execution against an immoveable is returnable to the Superior Court of the district in which the judgment was rendered.

**"1147.** All proceedings incidental to the seizure or sale of immoveables seized are carried on before the Superior Court into which the writ of execution is returnable, in the same manner as if the judgment had been rendered by such court.

Transmis-  
sion of  
record to  
Superior  
Court.

**"1148.** Upon the return into the Superior Court of a writ of execution against immoveables, granted by the Circuit Court, the former court may order the clerk of the latter to transmit the original record in the case, that it may serve for all legal purposes.

Procedure  
to be  
summary.

**"1149.** All cases are determined in a summary manner; and, when the amount claimed does not exceed twenty-five dollars, they are decided according to equity and good conscience."

Id., chap.  
LX of Part  
Eighth,  
repealed.

**17.** Chapter LX of part eighth of the said code (Court of Review), being articles 1189 to 1208 inclusive, is repealed.

**18.** Article 1210 of the said code is repealed.

Id., art.  
1210,  
repealed.  
Id., art.  
1223,  
replaced.

**19.** Article 1223 of the said code is replaced by the following:

**"1223.** 1. Within fifteen days after the judgment upon an exception, if any there be, to the proceedings in appeal, or within fifteen days after the expiry of the delay for filing exceptions, the appellant must file a joint record, in which are printed the following documents, in the order of their present enumeration:

Record to be  
filed in  
Court of  
Appeal.  
Contents of  
record.

- a. the pleadings in the case;
- b. the documents produced in the court of first instance;
- c. the written admissions of the parties;
- d. the depositions of the witnesses heard in the case, both those for the appellant and those for the respondent;
- e. the judgment appealed from;
- f. the notes of the judge who rendered the judgment, if any exist, and if the parties are able to obtain them.

As soon as this record is printed, two copies thereof must be transmitted to the respondent, and fifty other copies filed in the office of the court.

Copies of  
printed  
record.

On the failure of the appellant to proceed in accordance with the foregoing provisions, the respondent may move for the dismissal of the appeal.

In default,  
motion for  
dismissal of  
appeal.

2. Within fifteen days after the filing in the office of the court of the joint record, each of the parties must file at the office fifty copies of a printed memorandum stating the questions of law and of fact upon which he relies.

Memoran-  
the court of the joint record, each of the parties must  
file at the office fifty copies of a printed memorandum stating  
the questions of law and of fact upon which he relies.

Such memorandum shall consist of propositions which must be stated as briefly as possible, with references to the authorities and to the pages of the evidence by which such propositions are supported.

Contents of  
memoran-  
dum.

On failure of either party to file his memorandum or factum within the proper delay, the appeal may be declared abandoned, with costs against the appellant, if he is in default, or may be heard *ex parte* if the respondent is in default.

Proceedings  
on failure to  
file memo-  
randum.

3. The parties may agree that certain documents or depositions shall not be printed, or a judge of the court from which the appeal is taken may dispense with them.

Printing of  
certain  
documents  
may be  
dispensed  
with.

4. The parties may likewise agree not to print the joint record, but to submit the appeal upon a mere statement of the facts, with or without a printed memorandum. In such case the statement of facts must be filed within the delay fixed for the filing at the office of the joint record.

Printing of  
record may  
be dispensed  
with.

Type-written memorandum in cases before three judges.

Type-written copies of record in same case.

Penalty for failure to file memorandum in proper delay.

Certain documents may be omitted from record.

Filing of record may be dispensed with.

Id., art. 1226, replaced.

Representatives of deceased party may bring appeal.

Who may bring appeal in certain cases.

**"1223a.** 1. Nevertheless, in cases which are heard before the court consisting of three judges, the memorandum or factum shall be merely type-written. Five copies of such memorandum shall be filed at the office of the court.

2. In the same cases, the appellant must file, instead of the printed record, five type-written copies of a record containing the documents enumerated in paragraph 1 of article 1223. A copy of such record must be furnished to the respondent within the delay above fixed for the transmission to the respondent of the printed record. On failure of the appellant to comply with these provisions, the respondent may move for the dismissal of the appeal.

3. In the same way the appeal may be declared abandoned, or may be heard *ex parte*, according as the appellant or the respondent is in default to file his memorandum or factum within the proper delay.

4. The parties may agree that certain documents or depositions shall not be included in the record mentioned in paragraph 2 of this article, or a judge of the court from which the appeal is taken may dispense with them.

5. The parties may likewise agree not to file the record hereinabove mentioned, but to submit the appeal upon a mere statement of the facts, with or without a memorandum or factum. In such case the statement of facts must be filed within fifteen days after the judgment upon an exception, if any there be, to the proceedings in appeal, or within fifteen days after the expiry of the delay for filing exceptions."

**20.** Article 1226 of the said code is replaced by the following:

**"1226.** Proceedings in appeal may be brought by the legal representatives of a party to a suit who has died.

**"1226a.** Proceedings in appeal from judgments rendered against a woman who has since married, may be brought by her husband jointly with her; or, in the case of a judgment rendered against a party represented by a tutor or curator or other person, but who has since attained full age or come into the exercise of his rights, by such party himself, without the assistance of the tutor or curator who represented him or other person who assisted him in the original suit; or, in the case of a judgment rendered against testamentary executors, some or all of whom have been replaced or have died, by the persons appointed in their stead or by the remaining executors.

Do.

**"1226b.** If some of several parties die after the in-

scription in appeal, such proceedings may be continued by and between the other surviving parties."

**21.** Article 1227 of the said code is replaced by the following:

Id., art.  
1227,  
replaced.

"**1227.** 1. The appeal shall be heard by five judges, save in the following cases, in which it shall be heard by three judges:

Appeals to  
be heard by  
judges or  
three in cer-  
tain cases.

a. in every possessory action, *action confessoire*, *action négatoire*, action for separation from bed and board, for separation as to property, for annulment of marriage or for an alimentary allowance;

b. in every action or proceeding respecting a municipal corporation, or municipal office, taken under chapter XL of this code;

c. in every proceeding or thing mentioned in article 44 and in articles 987 to 1005, inclusive, of this code, and in articles 5551, 5724a, 7569 and 7575 of the Revised Statutes, 1909;

d. in every action taken under articles 7321 to 7347, inclusive, of the Revised Statutes, 1909, and amendments thereto;

e. in every action for damages for slander;

f. in every non-contentious proceeding mentioned in the tenth Part of this code; and

g. in every case in which the sum claimed or the value of the thing demanded is less than two thousand dollars.

2. The court consisting of three judges may refer such questions or cases as they see fit to the court consisting of five or more judges.

Cases may  
be referred  
to five  
judges.

3. Whenever necessary for the dispatch of business, the Chief Justice may order that, on any day in term or any day of an adjourned term, the court shall hold several sittings at the same time and at the same place, at Quebec or Montreal, in separate rooms; and each division of the court so constituted by the Chief Justice has jurisdiction to hear and decide the cases and matters submitted thereto.

More than  
one sitting  
may be held  
at same  
time.

4. Any lesser number of judges may open and adjourn the court, receive returns and motions of course, call parties, record appearances and defaults, and do all acts which do not require the exercise of any judicial discretion."

Formal  
proceedings.

**22.** Article 1231 of the said code is replaced by the following:

Id., art.  
1231,  
replaced.

Judges of  
Superior  
Court may  
be called to  
sit in C.K.B.  
Court, in certain  
cases.

**"1231.** The Chief Justice, or, in his absence, the senior judge of the Court of King's Bench, may, by notice in writing addressed to the Chief Justice of the Superior Court, request the attendance of a judge of the latter court at the sittings of the court of appeal, in the following cases:

1. when one or more judges of the Court of King's Bench is disqualified or incompetent to sit in a case, or is absent from the Province or on leave, or is ill, or dies;
2. when the number of judges available to hear a case is insufficient."

Id., art.  
1241,  
replaced.

**23.** Article 1241 of the said code is replaced by the following:

Judgments  
in appeal.

**"1241.** 1. Judgment cannot be rendered in appeal unless the majority of the judges who have heard the case concur therein; and such judgment may be rendered even in the absence of one judge if two judges are present, when the court consists of three judges, or if three judges are present when the court consists of five judges.

Changes in  
composition  
of court not  
to make re-  
hearing  
necessary.

2. No change in the personal composition of the court, by the appointment of any assistant judge as puisne judge, or by the appointment of a puisne judge as chief justice, or by the resignation, death, or appointment to another court of any chief justice or of a puisne judge or of an assistant judge, can have alone the effect of rendering a rehearing of any case necessary, if a sufficient number of judges who heard the case remain to render a judgment, either interlocutory or final.

Judges who  
are removed  
may render  
judgment.

3. If a judge or an assistant judge, who has heard a case together with other judges, is removed to another court, or is appointed chief justice or a judge of the same court, or of another court, or obtains leave of absence, he may render judgment, whether interlocutory or final, together with the other judges, as if no such change had taken place.

Absent  
judge may  
send deci-  
sion in  
writing.

4. Whenever a case has been heard by the full court or by a quorum of judges, and at least two of the judges who heard it when the court consists of three judges, or at least three of the said judges who have heard it when the court consists of five judges, are present in court and ready to render judgment therein, then, if any judge who heard the case and would be competent to sit in judgment therein, be prevented by removal to another court, illness or other cause from being present, but has addressed a letter to the clerk of the court, containing his decision and signed by him, or has, in testimony of his



concurrence therein, signed a written decision to be delivered by any other judge, such judge shall be deemed to be present as regards such judgment; and the decision so transmitted and signed by him has the same effect as if delivered and concurred in by him in open court."

**24.** Article 1285 of the said code, as amended by the Id., art. act 6 George V, chapter 41, section 1, is replaced by the 1285, replaced. following:

**"1285.** Except in so far as they are inconsistent with the rules contained in this chapter, the provisions relating to cases in the Circuit Court apply to the District Magistrate's Court, to the Magistrate holding it, and to the officers thereof. Rules of Circuit Court apply to District Magistrates Court.

Nevertheless, in any action taken at the chief place of a district, every provision of this code respecting procedure in the Circuit Court shall apply."

**25.** Article 1306 of the said code is replaced by the Id., art. 1306, replaced. following:

**"1306.** No appeal lies from the judgment on the application for the writ of *certiorari* or from the judgment on the writ itself." No appeal re *certiorari*.

**26.** Article 443 of the Revised Statutes, 1909, is amended by replacing the words: "Court of Review", in the third line of the second paragraph thereof, by the words: "three judges of the Superior Court". R. S., 443, am.

**27.** Article 513 of the said statutes is amended by replacing the words: "Court of Review", in the fourth line of the first paragraph thereof, by the words: "three judges of the Superior Court". Id., 513, am.

**28.** Article 515 of the said statutes is replaced by the following: Id., 515, replaced.

**"515.** The court, consisting of three judges of the Superior Court, for the hearing of all cases to be heard under this chapter, shall, when practicable, include the judge who presided at the trial, with two other judges." Composition of the court.

**29.** Article 518 of the said statutes is amended by striking out the words: "in Review", in the second line thereof. Id., 518, am.

**30.** Article 519 of the said statutes is amended by striking out the words: "of Review", in the first line thereof. Id., 519, am.

Id., 520, am.      **31.** Article 520 of the said statutes is amended by striking out the words: "of Review", in the first line thereof.

Id., 526, am.      **32.** Article 526 of the said statutes, as amended by the act 1 George V (2nd session), chapter 13, section 5, is again amended by replacing the words: "Court of Review", in the second and third lines thereof, by the words: "Superior Court".

Id., 3054, am.      **33.** Article 3054 of the said statutes is amended by striking out all the words after the word: "Province", in the second line thereof, to the end of the article.

Id., 3056, replaced.      **34.** Article 3056 of the said statutes is replaced by the following:

Composition of the court.      **"3056.** The Court of King's Bench is composed of twelve judges,—one chief justice called "Chief Justice of the Province of Quebec," and eleven puisne judges."

Id., 3057, replaced.      **35.** Article 3057 of the said statutes is replaced by the following:

Residence of the judges.      **"3057.** Of the twelve judges of the Court of King's Bench four shall reside at or near the city of Quebec and eight at or near the city of Montreal.

Sittings.      Such twelve judges shall sit in turn in the cities of Quebec and Montreal, but the Chief Justice may temporarily vary the order for any reason he may deem advisable."

Id., 3062, repealed.      **36.** Article 3062 of the said statutes is repealed.

Id., 3070a, enacted.      **37.** The said statutes are amended by inserting therein, after article 3070 thereof, the following article:

Days in term of C. K. B.      **"3070a.** Nevertheless the last four juridical days of each of the months of September, October, November, January, February, March, April and May are declared to be days in term upon which, without the necessity of any proclamation, several divisions of the court of appeal may sit simultaneously."

Id., 3072, replaced.      **38.** Article 3072 of the said statutes, as amended by the acts 1 George V (1st session), chapter 8, section 1, and 4 George V, chapter 33, section 1, is replaced by the following:

Composition of the court.      **"3072.** The Superior Court, which is a court of record, consists of thirty-seven judges, that is to say of a chief justice and thirty-six puisne judges.

Such judges shall exercise their ordinary judicial functions in the districts and counties from time to time assigned to them." <sup>Where functions to be exercised.</sup>

**39.** Article 3073 of the said statutes is amended by replacing the words: "Court of Review", in the fourth and fifth lines thereof, by the words: "Court of King's Bench, sitting in appeal". <sup>Id., 3073, am.</sup>

**40.** Article 3074 of the said statutes is amended by replacing the words: "Court of Review," in the fourth line thereof, by the words: "Court of King's Bench, sitting in appeal". <sup>Id., 3074, am.</sup>

**41.** Article 3076 of the said statutes, as replaced by the act 7 George V, chapter 32, section 1, conditionally amended by the act 8 George V, chapter 45, section 1, and amended by the act 9 George V, chapter 43, section 1, is replaced by the following: <sup>Id., 3076, replaced.</sup>

**"3076.** The judges of the Superior Court shall be appointed for the several districts of the Province, as follows: <sup>Residence of the judges.</sup>

1. For the district of Montreal, with residence in the city of Montreal or in the immediate vicinity thereof, twenty-two judges, one of whom shall have special charge of the district of Terrebonne, another of the district of Beauharnois, another of the district of Richelieu, another of the district of St. Hyacinthe, another of the district of Pontiac, another of the district of Hull, another of the district of Montcalm, who shall also exercise his ordinary functions in the district of Hull, another of the district of Bedford, another of the district of Iberville, and another of the district of Joliette; <sup>Montreal.</sup>

2. For the district of Quebec, with residence in the city of Quebec or in the immediate vicinity thereof, eleven judges; one of whom shall have special charge of the district of Gaspé; another of the district of Beauce, another of the districts of Rimouski and Montmagny, another of the district of Arthabaska, another of the district of Kamouraska, another of the district of Saguenay, who shall also exercise his ordinary functions in the district of Chicoutimi, and another of the district of Roberval, who shall also exercise his ordinary functions in the district of Chicoutimi; <sup>Quebec.</sup>

3. For the district of St. Francis, with residence in the city of Sherbrooke or in the immediate vicinity thereof, two judges; <sup>St. Francis.</sup>

4. For the district of Three Rivers, with residence in Three

Rivers. the city of Three Rivers or in the immediate vicinity thereof, two judges, who shall exercise their ordinary functions also in the district of Nicolet; but if one of such judges is given special charge of the district of Nicolet, he may, at his option, have his residence in the city of Quebec.

Administra- Such judges, with the exception of those who before the  
tion of justice in date of the coming into force of the act 10 George V, chapter  
other 79, had special charge of the districts of Quebec, Montreal,  
districts. Three Rivers and St. Francis, must administer justice in turn in each of the other districts of the Province, as instructed by the Chief Justice."

Id., 3077, **42.** Article 3077 of the said statutes, as amended by  
am. the acts 3 George V, chapter 33, section 2, and 4 George V, chapter 33, section 3, is again amended by striking out the words: "and reviews", in the first and second lines of the second paragraph thereof.

Id., 3078, **43.** Article 3078 of the said statutes is replaced by the  
replaced. following:

Judges may **"3078.** Whenever the despatch of judicial business in  
be required any district requires the services of more judges than there  
to sit in are in such district, the chief justice shall require one or  
other more judges to discharge their duties temporarily in such  
districts. other district".

Id., 3092, **44.** Article 3092 of the said statutes is amended by  
am. striking out the words: "the juridical days fixed for sittings in review and", in the first and second lines thereof.

Id., 3118, **45.** Article 3118 of the said statutes is amended by  
am. striking out the words: "the juridical days fixed for sittings in review and", in the first and second lines thereof.

Id., 3135, **46.** Article 3135 of the said statutes, as amended by  
am. the act 1 George V (1st session), chapter 24, section 1, is again amended by replacing the word: "six", in the first line thereof, by the word: "five".

Id., 3138, **47.** Article 3138 of the said statutes, as amended by  
am. the act 1 George V (1st session), chapter 24, section 2, is again amended by replacing the word: "six", in the second line of the second paragraph thereof, by the word: "five".

Id., 3180, **48.** Article 3180 of the said statutes, as amended by  
repealed. the act 1 George V (1st session), chapter 25, section 1, is repealed.

**49.** Article 3225 of the said statutes is amended by Id., 3225, adding thereto the following paragraph: am.

"Appeals with respect to offences entailing capital punishment or imprisonment for life shall be heard by five judges, and all others by three judges." Certain appeals to be heard by five judges.

**50.** Article 3226 of the said statutes is replaced by the following: Id., 3226, replaced.

**"3226.** The Court of King's Bench, sitting as a criminal court of original jurisdiction, has such criminal jurisdiction throughout the Province as is given by competent authority. Extent of jurisdiction of C. K. B.

For all purposes of the administration of justice in criminal matters in first instance, the judges of the Superior Court shall act as judges of the Court of King's Bench, shall preside over that court in the various districts, and shall, in such quality, have such jurisdiction and such powers as are given them by competent authority. The judges of the Superior Court are justices and conservators of the peace and coroners in and throughout the Province." Judges of S. C. to sit as criminal judges in first instance.

**51.** Articles 3228 and 3229 of the said statutes are repealed. Id., 3228 and 3229, repealed.

**52.** Article 3493 of the said statutes is amended by striking out paragraph *f* thereof. Id., 3493, am.

**53.** Article 3494 of the said statutes is amended by striking out the third paragraph of the third division thereof. Id., 3494, am.

**54.** The following article is inserted in the said statutes after article 3572 thereof: Id., 3572a, enacted.

**"3572a.** Every year, in the month of January, and for the year ended on the last day of the month of December of the previous year, the prothonotary of each judicial district of the Province shall make out a statement or special report mentioning every case which has been under advisement longer than three months, the date it was so taken under advisement and that of the judgment, if rendered, and also the names of the parties and of the judge." List of cases under advisement over three months.

**55.** Article 5551 of the said statutes is amended: Id., 5551, am.  
a. by replacing the words: "revision before the Court of Review", in the second and third lines thereof, by the words: "appeal before the court of appeal";

b. by replacing the word: "Review", in the fifth line thereof, by the word: 'appeal'.

Id., 5724a,  
am.

**56.** Article 5724a of the said statutes, as enacted by the act 7 George V, chapter 41, section 3, is amended by replacing the words: "of Review", in the fourth line thereof, by the words: "of King's Bench sitting in appeal".

Id., 7342,  
replaced.

**57.** Article 7342 of the said statutes is replaced by the following:

Delay for  
appeals.

**"7342.** Appeals from judgments susceptible thereof shall be taken within fifteen days from the rendering of such judgments, and if not so taken the right thereto shall lapse. Such appeals shall have precedence."

Id., 7569,  
replaced.

**58.** Article 7569 of the said statutes is replaced by the following:

Appeals for  
*censitaires*.

**"7569.** The *censitaire* may appeal from the judgment to the Court of King's Bench sitting in appeal with three judges, and articles 1209 to 1248, inclusive, of the Code of Civil Procedure, shall apply to such appeal."

Id., title  
amended.

**59.** The title of section eighth of chapter second of title twelfth of the said statutes, preceding article 7573 thereof, is amended by striking out the words: "Review before three judges and appeal to the Court of King's Bench".

Id., 7573,  
am.

**60.** Article 7573 of the said statutes is amended by striking out the words: "to the Court of Review or", in the eighth line thereof.

Id., 7575,  
am.

**61.** Article 7575 of the said statutes is amended:

a. by striking out the words: "or to the Court of Review, as the case may be", in the third line thereof;

b. by replacing the words and figures: "of articles 47 and 53", in the fourth line thereof, by the words and figures: "of article 47".

Application  
of act.

**62.** This act shall apply to cases pending in the first instance, but not to those already decided in the first instance, when the act comes into force, which shall be conducted, heard and decided as if this act did not exist.

Idem.

**63.** Every case decided in the first instance at the time of the coming into force of this act, and which is susceptible of review, and every case inscribed in review

at such time shall be heard and decided by three judges of the Superior Court, sitting at Quebec and Montreal respectively, as if this act did not exist.

**64.** Unless otherwise provided by this act, all cases, C. K. B., matters or things which, at the time of its coming into force, were within the competence of the Court of Review, shall be within the competence of the Court of King's Bench, sitting in appeal. substituted for Court of Review.

**65.** Any reference in any act to a provision of the Code of Procedure or any other provision respecting the Court of Review, shall be considered as a reference to the corresponding provision applicable to the Court of King's Bench, *mutatis mutandis*. References, etc.

**66.** Whenever, in any act, the words "Review" or "Court of Review" occur, such words shall mean "Appeal" or "Court of King's Bench, sitting in appeal", unless the context or the provisions of this act are in contravention thereto. References to "Review".

**67.** The act 9 George V, chapter 76, is repealed. 9 Geo. V, c. 76, repealed.

**68.** This act shall come into force on the day which the Lieutenant-Governor in Council may be pleased to fix by proclamation. Coming into force.

## CHAP. 80

An Act to amend article 776 of the Code of Civil Procedure respecting the retention of dues payable to the Crown

[Assented to, 14th of February, 1920]

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

**1.** Article 776 of the Code of Civil Procedure is amended C. C. P., by inserting therein, after the word: "office", in the third line thereof, the words: "and the duty of one per cent mentioned in paragraph 5 of article 3533 of the Revised Statutes, 1909". art. 776, am.

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