

C H A P. 75

An Act to amend article 2143 of the Civil Code, in regard
to certain writings executed outside of the Province of
Quebec

[Assented to, 4th of March, 1919]

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

1. Article 2143 of the Civil Code, as amended by the C. C., 2143,
act 7 George V, chapter 51, section 2, is again amended by ^{amended.}
inserting therein, after the word: "court" in the fourth
line thereof, the words: "or a notary public".

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

C H A P. 76

An Act respecting the organization and competence of
courts of civil jurisdiction, and the procedure in cer-
tain cases

[Assented to, 17th of March, 1919]

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

1. Article 5 of the Code of Civil Procedure is amended ^{C. C. P., art.}
by striking out paragraph 4 thereof. ^{5, am.}

2. Article 43 of the said Code, as replaced by the act 8 ^{Id., art. 43,}
Edward VII, chapter 74, section 1, is again replaced by ^{replaced.}
the following:

"**43.** Unless where otherwise provided by statute, an ^{Appeal to}
appeal lies to the Court of King's Bench, sitting in appeal, ^{C. K. B.}
from any final judgment rendered by the Superior Court,
except in matters of *certiorari*."

3. The following article is inserted in the said Code ^{Id., art. 43a,}
after article 43 thereof: ^{enacted.}

"**43a.** An appeal also lies to the Court of King's Bench, ^{Further}
sitting in appeal,— ^{appeals to}
^{C. K. B.}

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*."

Id., art. 44,
replaced.

4. Article 44 of the said Code, as replaced by the act 8 Edward VII, chapter 74, section 2, is again replaced by the following:

Further
appeals to
C. K. B.

"**44.** An appeal also lies to the Court of King's Bench, sitting in appeal, from final judgments of the Circuit Court in the following cases:

a. When the sum claimed or the value of the thing demanded amounts to or exceeds one hundred dollars; except in suits for the recovery of assessments for schools or school-houses, or for monthly contributions for schools, and in suits for the building or repairing of churches, parsonages and churchyards;

b. When the demand, being for less than one hundred dollars, relates to fees of office, duties, rents, revenues or sums of money payable to His Majesty;

c. When the demand, being for less than one hundred dollars, relates to titles to lands or tenements, annual rents or other matters in which the rights in future of the parties may be affected;

d. In all actions in recognition of hypothecs."

Title
replaced.

5. The title of section third of chapter second of part first of the said Code, is replaced by the following:

"SECTION III

"*Superior Court*".

Id., art. 51,
repealed.

6. Article 51 of the said Code is repealed.

Id., art. 52,
repealed.

7. Article 52 of the said Code, as replaced by the act 8 Edward VII, chapter 74, section 3, is repealed.

Id., art. 52*a*,
repealed.

8. Article 52*a* of the said Code, as enacted by the act 8 Edward VII, chapter 74, section 4, is repealed.

Id., art. 53,
repealed.

9. Article 53 of the said Code, as enacted by the act 6 George V, chapter 39, section 2, is repealed.

Id., art. 69,
repealed.

10. Article 69 of the said Code is repealed.

11. Article 72 of the said Code, as amended by the Id., art. 72, act 1 George V (1st session), chapter 43, section 4, is again amended by striking out the words: "to review", in the fourth line thereof. am.

12. Article 347 of the said Code is amended by striking Id., art. 347, out the words: "of review or", in the second line thereof. am.

13. Article 491 of the said Code is replaced by the follow- Id., art. 491, ing: replaced.

"**491.** 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 494, and render judgment thereon." Trial judge to render judgment.

14. Article 493 of the said Code is repealed.

Id., art. 493, repealed.

15. Article 494 of the said Code is replaced by the following: Id., art. 494, replaced.

"**494.** One of the parties may move for judgment according to the verdict. Motions may also be made for judgment *nonobstante verdicto*, for a judgment different from the verdict, for a new trial, or alternatively for any of such remedies. Motions for judgment.

A statement of facts in support of such motion must be filed."

16. Article 495 of the said Code is repealed.

Id., art. 495, repealed.

17. Article 496 of the said Code is amended by striking Id., art. 496, out the words: "in a reserved case", in the second line thereof. am.

18. Article 508 of the said Code is amended by striking Id., art. 508, out the words: "in a reserved case", in the second and third lines thereof. am.

19. Article 594 of the said Code is amended by striking Id., art. 594, out the words: "review or", in the second line thereof. am.

20. Article 596 of the said Code is amended by striking Id., art. 596, out the words: "review or", in the second line thereof. am.

21. The first paragraph of article 597 of the said Code is replaced by the following: Id., art. 597, am.

"**597.** The court of appeal, whenever the application is made during term, or two judges of the Court of King's Provisional execution.

Bench, whenever the application is made out of term, have power:".

Id., art. 890, am. **22.** Article 890 of the said Code is amended by striking out the words: "to review or", in the third line thereof.

Id., art. 923, am. **23.** Article 923 of the said Code is amended by striking out the words: "Court of Review or to the", in the second and third lines thereof.

24. Article 924 of the said Code is amended:

Id., art. 924, am. *a.* By striking out the words: "review or to", in the fourth line of the first paragraph thereof;

b. By replacing the second paragraph thereof by the following:

"In this 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.";

c. By striking out the third paragraph thereof.

Id., art. 969, am. **25.** Article 969 of the said Code is amended:

a. By striking out the words: "or review", in the second and third lines of the first paragraph thereof;

b. By striking out the words: "to review or", in the fourth line of the second paragraph thereof;

c. By striking out the words: "in review or", in the fifth and sixth lines of the second paragraph thereof; and

d. By striking out the words: "or of the Superior Court, as the case may be", in the third and fourth lines of the third paragraph thereof.

Id., art. 1006, replaced. **26.** Article 1006 of the said Code is replaced by the following:

Delay for 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".

Id., art. 1010, am. **27.** Article 1010 of the said Code is amended by striking out the words: "or from that of the Court of Review", in the second and third lines thereof.

Id., art. 1020, am. **28.** Article 1020 of the said Code is amended by striking out the words: "or from that of the Court of Review", in the second and third lines thereof.

29. Article 1112 of the said Code is amended by Id., art. striking out the words: "or review", in the first line thereof. 1112, am.

30. The title of chapter fifty-third, of part sixth, fol- Title am.
lowing immediately after article 1134 of the said Code, is
amended by striking out therefrom the words: "of review
or".

31. Article 1135 of the said Code is amended by striking Id., art.
out the words: "of review or", in the third line thereof. 1135, am.

32. The title of chapter fifty-fourth of part sixth, fol- Title am.
lowing immediately after article 1135 of the said Code, is
amended by striking out the words: "of review or".

33. Article 1136 of the said Code is amended by striking Id., art.
out the words: "of review or" in the third line thereof. 1136, am.

34. Article 1149 of the said Code is amended by Id., art.
striking out the words: "of review or", in the first line 1149, am.
thereof.

35. Articles 1189 to 1195, inclusive; 1196, as amended Provisions
by the act 3 George V, chapter 51, section 1; 1197 to 1201, repealed.
inclusive; 1202 as amended by the act 8 Edward VII,
chapter 74, section 5; 1202a, 1202c, as enacted by the
act 8 Edward VII, chapter 74, section 6; 1202b, as enacted
by the act 8 Edward VII, chapter 74, section 6, and
amended by the act 6 George V, chapter 39, section 3,
and 1203 to 1208, inclusive, of the said Code, are repealed.

36. Article 1210 of the said Code is repealed.

Id., art.
1210,
repealed.

37. The following article is inserted in the said Code,
after article 1214 thereof:

Id., art.
1214a,
enacted.

"**1214a.** Either party may in every case require that Security.
such security be for a fixed amount; and in that case such
amount shall be fixed by a judge or by the prothonotary
of the court by which such judgment was rendered."

38. The following article is inserted in the said Code Id., 1215a,
after article 1215 thereof: enacted.

"**1215a.** If it is shown, to the satisfaction of a judge Judge may
of the court by which the judgment was rendered, that dispense
the appeal is a serious one, and that the appellant is unable with
to give the required security, such judge may, on applica- security.
tion therefor, after notice to the adverse party, exempt,
either altogether or in part, such appellant from giving

the said security, on such conditions as he may see fit to impose for the protection of the respondent.

Order may
be can-
celled or
amended.

Such order may at any time be cancelled or amended by a judge of the Court of King's Bench, sitting in appeal, upon new evidence, and in such case the security required by the new order must be given within the delay fixed thereby; otherwise the appeal shall be dismissed, saving recourse."

Id., art.
1219a,
enacted.

39. The following article is inserted in the said Code, after article 1219 thereof:

Order to be
deemed to
be security.

"**1219a.** If the judge has exempted the appellant from giving security, his order shall be deemed to be the security, and the date of such order shall be deemed to be the date of its execution, for the purposes of this chapter."

Id., art.
1223, am.

40. Article 1223 of the said Code is amended by replacing the words: "printed factum or case", in the fifth line thereof, by the words: "factum or case complying with the rules of practice in force".

Id., art.
1223a,
enacted.

41. The following article is inserted in the said Code, after article 1223 thereof:

Factums.

"**1223a.** In cases which are heard before the court consisting of three judges, neither the record nor the factum shall be printed. The factum alone shall be type-written in compliance with the rules of practice."

Id., art.
1226,
replaced.

42. Article 1226 of the said Code is replaced by the following:

Represent-
atives may
appeal.

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

Id., arts.
1226a and
1226b,
enacted.

43. The following articles are inserted in the said Code after article 1226 thereof:

Who may
bring appeal
in certain
cases.

"**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.

"1226b. If some of several parties die after the inscription in appeal, such proceedings may be continued by and between the other surviving parties."

44. Article 1227 of the said Code is replaced by the following:

"1227. 1. The appeal before the Court of King's Bench shall be heard by three judges: (a) in every action for separation as to property, or for an alimentary allowance, (b) from any judgment in a matter respecting a municipal corporation, or municipal offices, on any proceeding taken under chapter XL of this code, (c) in every proceeding or thing mentioned in articles 43a, 44, 987 to 1005 of this Code, and in articles 5551, 5724a, 7569, 7573 and 7575 of the Revised Statutes, 1909, and (d) in every case in which the sum claimed or the value of the thing demanded is not more than one thousand dollars.

2. Every petition, motion, exception or incidental proceeding, as well as every interlocutory judgment in any case or matter included in the first and third paragraphs of this article, shall also be heard before three judges.

3. In every other case or matter, five judges of the Court of King's Bench constitute a quorum in appeal.

4. 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.

5. Any lesser number of judges, or even the clerk in the absence of all the judges, may, on any day in term, 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."

45. Article 1231 of the said Code is amended:

a. By replacing paragraph 2 thereof by the following:

"2. When the number of judges available to hear a case is insufficient;"

b. By striking out paragraph 3 thereof.

46. Article 1241 of the said Code is replaced by the following:

"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

Id., art.
1227,
replaced.

Appeals to
be heard by
three
judges.

Formal
proceedings.

Id., art.
1231, am.

Id., art.
1241,
replaced.

Judgments
in appeal.

judges are present when the court consists of five or more judges.

Changes in composition of court not to make rehearing 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 decision 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 or more judges, are present in court and ready to render judgment therein; then, if any judge who heard the cause 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."

Id., art. 1285, am.

47. Article 1285 of the said Code, as amended by the act 6 George V, chapter 41, section 1, is again amended by striking out the words: "of review or", in the third line thereof.

Id., art. 1306, am.

48. Article 1306 of the said Code is amended by striking out the words: "nor are such judgments subject to review", in the third line thereof.

R. S., 443, am.

49. 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".

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

51. Article 515 of the said statutes is replaced by the Id., 515, am. following:

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

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

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

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

55. Article 526 of the said statutes, as amended by the Id., 526, am. 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".

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

57. Article 3056 of the said statutes is amended: Id., 3056,
am.

a. By replacing the word: "six", in the first line thereof, by the word: "eleven";

b. By replacing the word: "five", in the third line thereof, by the word: "ten".

58. Article 3057 of the said statutes is replaced by the Id., 3057,
am. following:

"**3057.** The judges of the Court of King's Bench shall ^{Residence} respectively reside at or near the cities of Quebec and ^{of judges.} Montreal, and not less than four shall reside at or near the city of Quebec and not less than seven at or near the city of Montreal".

Id., 3062,
am.

59. Article 3062 of the said statutes is replaced by the following:

Quorum.

"3062. The quorum of the court shall be that provided for by article 1227 of the Code of Civil Procedure."

Id., 3070a,
enacted.

60. The said statutes are amended by inserting therein, after article 3070 thereof, the following article:

Days in
which
several
divisions
may sit at
once.

"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,
am.

61. 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 again amended:

a. By replacing the word: "forty-two", in the second line thereof, by the word "thirty-seven"; and

b. By replacing the word: "forty-one", in the third line thereof, by the word: "thirty-six".

Id., 3073,
am.

62. 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".

Id., 3074,
am.

63. 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".

Id., 3076,
am.

64. Article 3076 of the said statutes, as replaced by the act 7 George V, chapter 32, section 1, and conditionally amended by the act 8 George V, chapter 45, section 2, is amended:

a. By replacing the word: "twenty-one", in the third line of paragraph 1 thereof, by the word: "eighteen";

b. By replacing the word: "five", in the second line of paragraph 2 thereof, by the word: "three".

Id., 3077,
am.

65. Article 3077 of the said statutes, as amended by 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.

66. Article 3078 of the said statutes is amended by Id., 3078, striking out the second paragraph thereof. am.

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

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

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

70. 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." Appeals to be heard by how many judges.

71. 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 first instance, has such criminal jurisdiction throughout the Province as is given by competent authority. Criminal Jurisdiction.

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 in criminal cases in first instance.

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

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

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

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

List of cases
under ad-
visement
over three
months.

“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 of the judgment if rendered, and also the names of the parties and of the judge.”

Id., 5551.
am.

76. Article 5551 of the said statutes is amended:

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.

77. 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,
am.

78. Article 7342 of the said statutes is amended by replacing the words: “Review and appeal of or,” in the first line thereof, by the words: “Appeals”.

Id., 7569,
replaced.

79. 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., 7573.
am.

80. 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.

81. 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: “of article 47”.

Pending
cases.

82. 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.

83. Unless otherwise provided by this act, all cases, Competence matters or things which, at the time of its coming into ^{of C. K. B.} 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.

84. Any reference in any act to a provision of the Code ^{References} of Procedure or any other provision respecting the Court ^{to be taken} of Review, shall be considered as a reference to the cor- ^{to be to} responding provision applicable to the Court of King's ^{C. K. B.} Bench, *mutatis mutandis*.

85. Whenever, in any act, the words "Review" or ^{Do.} "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.

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

CHAP. 77

An Act respecting affidavits made by soldiers outside the Province of Quebec

[Assented to, 4th of March, 1919]

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

1. The force and effect given to affidavits received by ^{Affidavits} the persons authorized to receive them under the pro- ^{by members} visions of articles 25, 26 and 27 of the Code of Civil Pro- ^{of C. E. F.} cedure, shall extend to any affidavit made outside the ^{given effect} Province of Quebec, by any officer, non-commissioned officer or private forming part of the Canadian Expeditionary Force, on service outside of Canada, and received by a colonel, a lieutenant-colonel, a major or a captain, also forming part of such Canadian Expeditionary Force.

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