

Court appealed from ; and thereupon it
 2 shall be the duty of the said Clerk of the
 last mentioned Court without waiting for
 4 the presenting of the said petition to the
 Superior Court, forthwith to certify under
 6 his hand and the seal of the Court, to the Su-
 perior Court, and to cause to be transmitted
 8 to the said Court (to be filed among the re-
 cords thereof) the judgment, record, evidence,
 10 and proceedings to which such appeal shall
 relate ; and after the transmission of the said
 12 judgment, record, evidence and proceedings,
 and the filing of the said petition of appeal
 14 by and on the part of the appellant as afore-
 said, the appeal shall, without any further
 16 formality, be summarily heard, and judg-
 ment thereon rendered by the said Court, as
 18 to law and justice may appertain ; Pro-
 vided always, that if the judgment appealed
 20 from shall have been rendered, by any
 Judge of the Superior Court holding the
 22 Circuit Court, such Judge shall not sit on
 the hearing and judgment of the cause upon
 24 such appeal ; and if the Superior Court be
 equally divided on the question whether the
 26 judgment appealed from ought or ought not
 to be affirmed, it shall stand and be affirmed ;
 28 And provided also, that any appellant who
 shall neglect to cause a copy of such petition
 30 and notice of appeal to be served as afore-
 said or who after having caused the same to
 32 be served, shall neglect to prosecute effect-
 ually the said appeal in the manner herein-
 34 before prescribed, shall be considered to have
 abandoned the said appeal, and upon the
 36 application of the respondent, the Court
 appealed to shall declare all right and
 38 claim founded on such appeal to be for-
 feited, and shall grant costs to the respon-
 40 dent, and order the record (if transmitted)
 to be remitted to the Court below.

LVIII. And be it enacted, That if the de-
 42 fendant in any non-appealable suit or action
 44 instituted in the Circuit Court, shall not
 appear personally or by his Attorney, on
 46 the day fixed for the return of the Writ of
 Summons, his default shall be recorded ;

Transmission
of the record.

Subsequent
proceedings.

Proviso: judge
appealed from
not to sit.

Equal division.

Appeal to be
deemed
abandoned in
certain cases.

Defaults in
non-appealable
cases.