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PROVINCE OF CANADA, }  
LOWER CANADA TO WIT: } Court of Queen's Bench.

Quebec, Friday, the Twelfth day of July, One Thousand Eight  
Hundred and Fifty.

PRESENT:

The Honble. Sir JAMES STUART, Bart., Chief Justice.  
" " Mr. Justice ROLLAND.  
" " Mr. Justice PANET.  
" " Mr. Justice AYLWIN.

PROVINCE OF CANADA.

IN THE COURT OF QUEEN'S BENCH.

*General Rules of the Court in the exercise of its Civil Appellate  
Jurisdiction.*

**Rules of July Term, 1850.**

IT IS ORDERED BY THE COURT HERE—

1st. That this Court, in the exercise of its appellate Opening of the Court.  
Civil Jurisdiction, be opened at the hour of Ten in the  
forenoon of each of the Juridical days, on which the  
same is by law appointed to be held, unless an Order  
or Adjournment to the contrary be made.

2nd. That the Queen's Counsel and Advocates prac- Officers of the Court and Mem-  
bers of the Bar to  
be habited.  
tising in this Court, and the Clerk of the Court, when  
in the discharge of their respective duties in Court, be  
habited in black, and in robes and bands, as heretofore  
hath been used; and that no Queen's Counsel, or Ad-  
vocate, not so habited, and in such robes and bands, be  
heard in any cause.

3rd. That all Records, Registers, Books, and Papers Records, &c., to  
be kept in the  
place assigned,  
and not to be re-  
moved without  
the order of the  
Court.  
belonging to and fyled in the Court, be kept in the  
places assigned for the safe custody thereof, in the  
Court Houses respectively, at the places where this

Court is by law appointed to be held, and be not thence removed or taken therefrom on any pretence whatever, without the order of this Court, or of one of the Judges thereof in writing.

Hours during which the Office of the Clerk is to be kept open.

4th. That the Office of the Clerk of this Court, in what relates to its Jurisdiction as a Court of Appeals and Error, be kept in the apartment assigned for it in the Court Houses respectively, at the places where this Court is by law appointed to be held; and that the said Office in the said Court Houses respectively, during the present and every future Term, be open, and regular and proper attendance afforded therein, from the hour of Nine in the forenoon, until the hour of Five in the afternoon of every day, Sundays and Holidays excepted; and during the Vacation after each Term, from the hour of Ten in the forenoon till the hour of Three in the afternoon of every day, Sundays and Holidays excepted.

Election of Domiciles by the Attornies and Advocates practicing before this Court.

5th. That there shall be prepared and kept by the said Clerk of this Court, in what respects its Civil appellate Jurisdiction, in his Office, a fit and proper Book, in which shall be made the entries hereinafter mentioned, that is to say: every Attorney of this Court, before the first day of September next, shall make in the said Book an Entry in writing, and to be signed by him, of his name and of his real and elected domiciles, in the Cities of Quebec and Montreal respectively, that is to say, of his real domicile in one or other of the said Cities, if resident in either of them, and of his elected domicile in that in which he is not resident, or of his elected domicile in each of the said Cities, if not resident in either of them, at which real or elected domiciles all Pleadings, Summonses, Rules, Orders, and Notices of which the service on him may be required, may lawfully be made; and every Attorney hereafter to be admitted, shall on his admission, and before he commences practising in this Court, make in the said Book a like entry: and as often as any Attorney of this Court shall change his real or elected domicile or domiciles, of which an entry shall have been made as aforesaid, he shall make a like entry of such change, and all Pleadings, Summonses, Rules, Orders,

and Notices, which do not require personal service, shall be deemed and taken to be sufficiently served on such Attorneys, if a copy thereof be left at the place last entered by such Attorney as aforesaid, as his real or elected domicile, with any person of competent age and discretion resident at, or belonging to such place; and if any such Attorney shall neglect to make such entry as aforesaid, then the fixing up of any Notice, Pleading, Summons, Rule, or Order for such Attorney, in the said Office of the said Clerk of this Court, shall be deemed and taken to be service thereof, and as effectually as if the same had been served at such real or elected domicile as aforesaid.

6th. That a Schedule of all Suits depending in this Court, specifying in each suit the names of the parties, the date of the Writ of Appeal, or of the Writ of Error, the time when returned, or if not returned, the fact of its not being returned, the names of the Attornies by whom appearances for the parties have been filed, and the dates of such appearances, and if not filed, the fact that they have not been filed, the day on which the Reasons of Appeal, and the Answer thereto, and the Cases of the Parties (if filed) have been filed, and if not filed, the fact that they have not been filed; the day on which each suit, if inscribed on the Roll for hearing, hath been so inscribed, and the day which by such inscription is fixed for the hearing of such suit, shall be made and kept by the said Clerk of this Court, and shall be laid before this Court on the first day of the next, and of every succeeding Term; and such Schedule shall be deemed and taken in all parts therein mentioned, to be an official certificate by the said Clerk of this Court, of the state of such suits, severally and respectively, on the first day of the Term when such Schedule shall be laid before the Court as aforesaid.

Schedule of Causes pending to be prepared by the Clerk.

7th. That no Writ of Appeal or Writ of Error shall issue from this Court, unless a *Precipe* for the same, signed by the Attorney suing out such Writ, be first delivered to the proper Officer by whom the said Writ is to be issued; and every such Writ shall be written on parchment, shall bear the signature of the Attorney upon whose *Precipe* the same shall be issued, and shall

Writs of Appeal how to be issued.

be made returnable at the place at which this Court shall be held next after the issuing of such Writ, within fifteen days from the date thereof, except such Writs of Appeal and Writs of Error as may be directed to the Judges of the Superior Court for the District of Gaspé, which shall be made returnable within two Calendar Months from the date thereof.

How to be served.

8th. That personal service of any Writ of Appeal or Writ of Error upon the Attorney who has appeared in the Court below, for the Respondent or the Defendant in Error, as heretofore has been practised, shall in default of other legal service, be held and taken to be legal service.

Records sent to this Court how to be made.

9th. That the Writs, Pleadings, Motions, Exhibits, and other paper-writings composing any Record to be hereafter transmitted to this Court, shall by the Prothonotary of the Court from which such Record proceed, at the head of each, be separately numbered progressively, from number one to the entire number thereof; and that an Index of Reference to the whole, by number, title, and description, under the signature of such Prothonotary, shall be by him annexed to such Record.

Postage thereof to be paid by the Appellant.

10th. That the Postage paid by the said Clerk of this Court on the returns to Writs of Appeal and Writs of Error, and the Records accompanying them, shall on demand, be forthwith reimbursed to him by the Attorney of the Appellant or Plaintiff in Error, and if not so reimbursed, the payment thereof by such Attorney may be immediately enforced by resort to the summary jurisdiction of this Court.

Appearances to be filed by the Appellant and the Respondent.

11th. That on every Writ of Appeal or Writ of Error, hereafter to be issued, it shall be incumbent on the Appellant and Respondent, or the Plaintiff and Defendant, in Error, respectively, to enter his appearance in the Office of the said Clerk of this Court, on or before the Eighth day next after the day on which such Writ of Appeal or Writ of Error has been made returnable, and in default thereof, shall be forecluded from entering an Appearance in such suit, in which subsequent proceedings may be had *Exparte* against the party so in default as aforesaid.

12th. That the Reasons of Appeal, or the Assignment of Errors, as the case may require in every Suit, shall be filed within Eight days next after the return of the Writ of Appeal, or Writ of Error, as the case may be, and the transmission of the Record and Proceedings from the Court below, and shall contain specifically the several grounds and Reasons of Appeal, and the several Errors for which the reversal of the Judgment appealed from is sought; and if the Reasons of Appeal, or the Assignment of Errors be not filed within the time aforesaid, it shall be competent to the Attorney of the Respondent or Defendant in Error, by Notice in writing, under his signature, directed to the Attorney of the Appellant or Plaintiff in Error in such Suit, to demand the Reasons of Appeal, or the Assignment of Errors, as the case may require; and if the Reasons of Appeal, or the Assignment of Errors, be not filed within Six days service of such Notice, every such Suit in Appeal or in Error shall be dismissed with costs.

Delay for filing  
Reasons of Appeal  
or Assignment  
of Errors.

13th. That the Answers to the Reasons of Appeal in every suit in Appeal, and the Joinder in Error in every Suit in Error, shall be filed within Eight days after the filing of the Reasons of Appeal or the Assignment of Errors; and if not so filed, it shall be competent to the Attorney of the Appellant, or of the Plaintiff in Error, as the case may be, by Notice in writing, under his signature, directed to the Attorney of the Respondent or Defendant in Error in such Suit, to demand the Answer to the Reasons of Appeal, or the Joinder in Error; and if such Answer or Joinder in Error shall not within four days from the service of such Notice be filed, the Respondent or Defendant in Error, as the case may be, shall be wholly forecluded from filing an Answer to the Reasons of Appeal, or a Joinder in Error; and the Appellant or Plaintiff in Error may, after notice given to the adverse party of his intention so to do, proceed to a hearing of his Suit in Appeal or in Error *Exparte*, and to Judgment therein, without the intervention of the Respondent or Defendant in Error.

Delay to file  
Answers.

14th. That the Cases of the Appellant and Respondent, or Plaintiff and Defendant in Error, in every suit

Within what period  
Cases are to  
be filed.

in Appeal or Error, to the number of Ten on each side, shall be delivered by the Appellant and Respondent, the Plaintiff and Defendant in Error respectively, to the said Clerk of this Court, to be by him filed, within ten days after the filing of the Answer to the Reasons of Appeal, or the Joinder in Error; and if the cases of the Appellant, or the Plaintiff in Error, be not so delivered and filed, the suit in Appeal or in Error, of such Appellant or Plaintiff in Error, shall be deemed to be deserted, and on Motion of the Respondent, or Defendant in Error, shall be dismissed with Costs; and if the Cases of the Respondent, or Defendant in Error, be not delivered and filed as aforesaid, such Respondent, or Defendant in Error, shall be deemed to have deserted such suit in Appeal or Error; and the same may be heard *ex parte* on the part of the Appellant, or Plaintiff in Error, and Judgment rendered therein, without the intervention of the Respondent, or Defendant in Error.

Inscriptions.

15th. That when and so soon as the Answer to the Reasons of Appeal, or the Joinder in Error, as the case may require, shall be filed, it shall be competent to either party, by whom Cases have been filed, to set down such suit for hearing, by inscribing the same on a Docket or Roll, to be kept by the said Clerk of this Court for that purpose, in Vacation or in Term, of which inscription two days' notice shall be given to the adverse party.

Cases to be delivered to the Judges.

16th. That after the inscription of a Cause for final hearing, it shall be the duty of the said Clerk of this Court, without delay, to deliver to the Judges respectively, printed Cases, making part of the Cases which have been filed as aforesaid in such case, and furnish the Attorney of each party, who shall have filed his Cases on his demand, with a printed copy of the Case of the adverse party, and he shall retain and file of Record one of the printed Cases of the said parties respectively.

Docket or Roll of Inscriptions to be kept by the Clerk

17th. That it shall be the duty of the said Clerk of this Court, to prepare and keep a Docket Roll of the Causes which have been inscribed, from which Docket, or Roll, the Causes to be heard shall be called on each day, in the order in which they stand on the said Roll,

18th. That in Cases where a Suit in Appeal, or in Error, having been inscribed for hearing, and being called from the Roll, the Appellant and Respondent, or the Plaintiff and Defendant in Error, shall not appear, or shall not be ready to proceed, every such Suit shall be struck from the Roll; and in cases where a Suit in Appeal, or in Error, having been inscribed for hearing, and being called from the Roll, the Appellant, or Plaintiff in Error, shall not appear, and the Respondent, or Defendant in Error, shall appear, every such Suit shall be dismissed with Costs to the Respondent, or Defendant in Error; and in cases where a Suit in Appeal, or in Error, having been inscribed for hearing, and being called from the Docket Roll, the Respondent; or Defendant in Error, shall not appear, and the Appellant, or Plaintiff in Error, shall appear, and be ready to proceed, every such Suit shall be heard on the part of the Appellant, or Plaintiff in Error, so appearing *ex parte*; and such Order and Judgment thereupon made and rendered as to law and justice shall appertain, without costs in such case to the Respondent, or Defendant in Error.

Parties not appearing at the hearing. \*

19th. That in all Suits which shall hereafter be pending in this Court, no more than two Counsel shall be heard in opening or in answer, and one only in reply.

Number of Counsel to be heard.

20th. That when this Court shall be moved in any Suit upon any special matter, not appearing upon the Record, or proceeding filed in such Suit, such special matter shall be previously authenticated by Affidavit, and a copy of the Affidavit, and two days' notice of such Motion served on the adverse party; and no such Motion shall be received until such Affidavit, and an Affidavit of the Service of Notice as aforesaid, shall be read and filed.

Special Motions to be served on the adverse party, and Affidavit to accompany the same when the special matter do not appear upon the Record.

21st. That every Motion for an Appeal from an Interlocutory Judgment, shall be accompanied with Copies of such Interlocutory Judgment, and of the Pleadings filed in the Suit, together with Copies of such Exhibits and Proceedings therein as may be material and necessary in support of any such Motion.

Motions for Appeal from Interlocutory Judgments to be accompanied with copies of the Judgments, and other documents relative thereto.

22nd. That a Copy of every Judgment of this Court, by reason whereof the Record in any Suit in this Court shall be remitted to the Court below, shall be annexed

Copy of Judgment to be transmitted with Record.



to the Record, and transmitted with the same, under the Certificate of the said Clerk of this Court.

23rd. That in the computation of time, the common Manner of computing time. rule, *Dies à quo non computatur in termino*, shall be observed ; and in all cases in which a prescribed delay or period, within which something is required to be done, shall expire on a Sunday or Holiday, the same shall, *ipsa Jure*, stand and be enlarged to the then next Juridical day.

24th. That all Rules and Orders heretofore made for Forms, Rules and Orders repealed. regulating the practice in Appeal and in Error, and now in force in this Court, be, and the same is hereby rescinded and annulled.

[True Copy.]

J. U. BEAUDRY,  
*Clerk of Appeals.*

TARIFF MADE ON THE 12<sup>TH</sup> JULY, 1850.

BY COUNSEL AND ATTORNIES.

1	Attendance examining the Record and proceedings of the Court below, and taking Instructions to prosecute, or defend in Appeal.....	£1 0 0
2	Præcipe for Writ of Appeal or Writ of Error, and lodging it in the Office .....	0 5 0
3	Attendance to obtain Writ .....	0 5 0
4	Engrossing Copy of Writ, to be served on Respondent or Defendant in Error.....	0 2 6
5	Drawing and Engrossing Notice of putting in security on Appeal.....	0 5 0
6	Copy of Notice to be served .....	0 2 6
7	Attendance when security is put in.....	0 5 0
8	Examining Recognizance in Appeal.....	0 11 8
9	Attendance at the return of the Writ.....	0 7 6
10	Drawing Appearance, and attendance to file it.....	0 5 0
11	Every attendance at the Office, to file Pleadings, or Cases, or to obtain Rules.....	0 5 0
12	Attendance and making Abstract of the Record.....	2 6 8
13	Drawing and Engrossing Reasons of Appeal, or Assignment of Errors.	1 0 0
14	Copy for the Respondent or Defendant in Error.....	0 10 0
15	Drawing and Engrossing Answer to Reasons, or Joinder in Error....	1 0 0
16	Copy for the Appellant or Plaintiff in Error .....	0 10 0
17	Drawing Case .....	3 10 0
18	Engrossing Copy for Printer, correcting Proof Sheet.....	1 3 4
19	Attendance and inscribing cause for hearing.....	0 10 0
20	Drawing and Engrossing Notice of Inscription.....	0 5 0
21	Copy to be served.....	0 2 6
22	Copy of every Rule to be served on the adverse party.....	0 2 6
23	Every necessary attendance in Court.....	0 7 6
24	Every Motion in Court .....	0 7 6
25	Every necessary attendance at the Office.....	0 5 0
26	Fee on the argument of every point of law on motion.....	0 11 8
27	Ditto on every law issue.....	1 3 4
28	Ditto on the merits of a cause, whether on one or more days.....	2 6 8
29	Attendance and remitting the Record to the Court below.....	0 16 8
30	Drawing and Engrossing Bill of Costs.....	0 12 6
31	Copy for adverse party and attendance at taxation .....	0 7 6

BY THE CLERK.

Entering and filing a Præcipe for a Writ of Appeal or a Writ of Error.	0 2 6
Drawing, Engrossing, and Sealing Writ .....	0 12 6
Entering and filing return to Writ.....	0 2 6
Entering and filing Appearance .....	0 2 6

Entering and filing Reasons of Appeal, Answer, or other Pleading, each .....	£0	2	6
Entering and filing every Petition, Affidavit, Case, or any other paper (those accompanying the return of the Writ excepted).....	0	1	0
Attendance affording communication of Record .....	0	11	8
Attendance taking Inscription of Cause for hearing.....	0	2	6
Reading any Petition, Affidavit, or written document, when required to do so.....	0	1	0
Copies of all papers per sheet of 100 words.....	0	0	6
Entering every Motion.....	0	2	0
Drawing and entering Order thereon.....	0	3	0
Copy of Motion and Order.....	0	2	6
Entering a Rule in the Office.....	0	2	6
Entering every express and necessary continuance after the Cause is at issue and set down for hearing.....	0	3	0
Attendance at the hearing of a Cause, chargeable half against each of the parties .....	0	15	0
Attendance at every consultation of the Judges, chargeable half against each party.....	0	5	0
Drawing up and entering judgment on every law issue or point of law argued on motion.....	0	11	8
Drawing up and entering final judgment on the merits.....	1	3	4
Copy of Judgment .....	0	5	0
Drawing and engrossing Recognizance on Appeal to the Queen in Council.....	0	10	0
Entering and taking the acknowledgment of it.....	0	5	0
Fee on remitting the Record.....	0	10	0

**BY THE CRIER.**

On every Writ of Appeal or Error.....	0	10	0
On every Appearance filed by a Respondent.....	0	10	0

**BY BAILIFFS OF THE COURT.**

For service of every Writ of Appeal, Notice, or Rule, and Certificate thereof .....	0	5	0
For Mileage, the accustomed rate.			

[A True Copy,]

J. U. BEAUDRY,  
Clerk of Appeals.

**TAX.**

1.—On every Writ of Appeal or Writ of Error.....	£1	10	0
2.—Filing Reasons of Appeal... ..	0	15	0
3.—Filing Answers to Reasons.....	0	10	0
4.—Filing Appellant's Case.....	0	15	0
5.—Filing Respondent's Case.....	0	15	0
6.—Every Rule.....	0	5	0
7.—Remitting Record.....	0	10	0
8.—Every Bond upon Appeal to the Queen in Her Privy Council.....	6	0	0