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OTTAWA, March 14th, 1876.

SIR,—In pursuance of the provision contained in Section 79 of “ The Supreme and Exchequer Court Act,” I have the honour of transmitting to you for the purpose of being laid before both Houses of the Parliament of Canada copies of the general rules and orders which have been framed by the Judges of the Supreme and Exchequer Courts for regulating the procedure of those courts, and for carrying out the other objects mentioned in said section.

I have the honour to be, Sir,

Your obedient servant,

(Signed), ROBT. C. CASSELS, Jun.,

Registrar of the Supreme and Exchequer Courts.

The Hon. R. W. SCOTT,

Secretary of State,

Ottawa.

In pursuance of the Provisions contained in the 79th Section of the 38th Victoria, Chapter 11, intituled : " An Act to establish " a Supreme Court and a Court of Exchequer for the Dominion of Canada," it is ordered that the following rules in respect of the matters hereafter mentioned shall be in force in the Supreme Court of Canada :—

SUPREME COURT.

APPEALS.

1. The first proceeding in appeal in this Court shall be the filing in the office of the Registrar of a case, pursuant to section 29 of the Act, certified under the seal of the Court appealed from.

2. The case, in addition to the proceedings mentioned in the said section 29, shall invariably contain a transcript of all the opinions or reasons for their judgment delivered by the Judges of the Court or Courts below, or an affidavit that such reasons cannot be procured, with a statement of the efforts made to procure the same.

3. The case shall also contain a copy of any order which may have been made by the Court below or any Judge thereof enlarging the time for appealing.

4. The Court or a Judge thereof may order the case to be remitted to the Court below, in order that it may be made more complete by the addition thereto of further matter.

5. If the appellant does not file his case in appeal with the Registrar within one month after the security required by the Act shall be allowed, he shall be considered as not duly prosecuting his appeal, and the respondent may move to dismiss the appeal pursuant to section 41 of the Act.

6. The case shall be accompanied by a certificate under the seal of the Court below, stating that the appellant has given proper security to the satisfaction of the Court whose judgment is appealed from, or of a Judge thereof, and setting forth the nature of the security to the amount of five hundred dollars, as required by the thirty-first section of the said Act, and a copy of any bond or other instrument by which security may have been given shall be annexed to the certificate.

7. The case shall be printed by the party appellant, and twenty-five printed copies thereof shall be deposited with the Registrar for the use of the Judges and officers of the Court.

8. The case shall be in demy quarto form. It shall be printed on paper of good quality, and on one side of the paper only, and the type shall be small pica leaded, and the size of the case shall be eleven inches by eight and one half inches and every tenth line shall be numbered in the margin. An index to the pleadings, depositions and other principal matters shall be added.

9. The Registrar shall not file the case without the leave of the Court or a Judge, if the foregoing order has not been complied with, nor if it shall appear that the press has not been properly corrected, and no costs shall be taxed for any case not prepared in accordance with this order.

10. Together with the case, certified copies of all original documents and exhibits used in evidence in the Court of first instance, are to be deposited with the Registrar, unless their production shall be dispensed with by order of a Judge of this Court; but the Court or a Judge may order that all or any of the originals shall be transmitted by the officer having the custody thereof to the Registrar of this Court in which case the appellant shall pay the postage for such transmission.

11. Immediately after the filing of the case, a notice of the hearing of the appeal shall be given by the appellant for the next following session of the Court as fixed by the Act, or as specially convened for hearing appeals according to the provisions thereof, if sufficient time shall intervene for that purpose, and if between the filing of the case and the first day of the next ensuing session there shall not be sufficient time to enable the appellant to serve the notice as hereinafter prescribed, then such notice of hearing shall be given for the session following the then next ensuing session.

12. The notice convening the Court under section 14 of the Act for the purpose of hearing election or criminal appeals or appeals in matters of *habeas corpus* or for other purposes shall, pursuant to the directions of the Chief Justice or Senior Puisne Judge, as the case may be, be published by the Registrar in the *Canada Gazette*, and shall be inserted therein for such time before the day appointed for such special session as the said Chief Justice or Senior Puisne Judge may direct, and may be in the form given in Schedule A to these Rules appended.

13. The notice of hearing may be in the form given in Schedule B to these Rules appended.

14. The notice of hearing shall be served at least one month before the first day of the session at which the appeal is to be heard.

15. Such notice shall be served on the Attorney or Solicitor who shall have represented the Respondent in the Court below, at his usual place of business, or on the booked agent or at the elected domicile of such Attorney or Solicitor at the City of Ottawa, and if such Attorney or Solicitor shall have no booked agent or elected domicile at the City of Ottawa, the notice may be served by affixing the same in some conspicuous place in the office of the Registrar, and mailing a copy thereof prepaid to the Address of such Attorney or Solicitor in sufficient time to reach him in due course of mail before the time required for service.

16. There shall be kept in the office of the Registrar of this Court a book to be called "The Agents' Book," in which all Advocates, Solicitors, Attornies and Proctors practising in the said Supreme Court may enter the name of an agent (such agent being himself, a person entitled to practice in the said Court) at the said City of Ottawa, or elect a domicile at the said city.

17. In case any Respondent who may have been represented by Attorney or Solicitor in the Court below, shall desire to appear in person in the appeal, he shall immediately after the allowance by the Court appealed from or a Judge thereof of the security required by the Act, file with the Registrar a suggestion in the form following:—

" A. vs. B.

" I, A. B., intend to appear in person in this appeal.

" (Signed),

A. B."

18. If no such suggestion shall be filed, and until an order shall have been obtained as hereinafter provided for a change of Solicitor or Attorney, the Solicitor or Attorney who appeared for any party respondent in the Court below shall be deemed to be his Solicitor or Attorney in the appeal to this Court.

19. When a Respondent has appeared in person in the Court below he may elect to appear by Attorney or Solicitor in the appeal, in which case the Attorney or Solicitor shall file a suggestion to that effect in the office of the Registrar, and thereafter the notice of hearing and all other papers are to be served on such Attorney or Solicitor as hereinbefore provided.

20. A Respondent who appears in person may, by a suggestion filed in the Registrar's office, elect some domicile or place at the City of Ottawa, at which all notices and papers may be served upon him, in which case service at such place of the notice of hearing and all other notices and papers shall be deemed good service on the Respondent.

21. In case the respondent shall have appeared in person in the Court appealed from, or shall have filed a suggestion pursuant to Rule 17, shall not, before service, have elected a domicile at the City of Ottawa, the notice of hearing may be served by affixing the same in some conspicuous place in the office of the Registrar.

22. Any party to an appeal may on an *ex parte* application to a Judge obtain an order to change his attorney or solicitor, and after service of such order on the opposite party, all services of notices and other papers are to be made on the new attorney or solicitor.

23. At least one month before the first day of the session at which the appeal is to be heard, the parties appellant and respondent shall each deposit with the Registrar, for the use of the Court and its officers, twenty-five copies of his *factum* or points for argument in appeal.

24. The *factum* or points for argument in appeal shall contain a concise statement of the facts, and of the points of law intended to be relied on, and of the arguments and authorities to be urged and cited at the hearing arranged under the appropriate heads.

25. The *factum* or points for argument in appeal shall be printed in the same form and manner as hereinbefore provided for with regard to the case in appeal, and shall not be received by the Registrar unless the requirements hereinbefore contained, as regards the case, are all complied with.

26. If the appellant does not deposit his *factum* or points for argument in appeal within the time limited by Order 23, the respondent shall be at liberty to move to dismiss the appeal on the ground of undue delay, as provided for by Section 41 of the Act.

27. If the respondent fails to deposit his *factum* or points for argument in appeal within the said prescribed period, the appellant may set down or inscribe the cause for hearing *ex parte*.

28. Such setting down or inscription *ex parte* may be set aside or discharged upon an application to a Judge in Chambers sufficiently supported by affidavits.

29. The *factum* or points for argument in appeal first deposited with the Registrar shall be kept by him under seal, and shall in no case be communicated to the opposite until the latter shall himself bring in and deposit his own *factum* or points.

30. So soon as both parties shall have deposited their said factum or points in argument in appeal, each party shall, at the request of the other, deliver to him three copies of his said factum or points.

31. Appeals shall be set down or inscribed for hearing in a book to be kept for that purpose by the Registrar at least one month before the first day of the session of the Court fixed for the hearing of the appeal.

Hearing.

32. No more than two counsel on each side be heard on any appeal, and but one counsel shall be heard in reply.

33. The Court may in its discretion postpone the hearing until any future day during the same session, or at any following session.

34. Appeals shall be heard in the order in which they have been set down, and if either party neglect to appear at the proper day to support or resist the appeal, the Court may hear the other party, and may give judgment without the intervention of the party so neglecting to appear, or may postpone the hearing upon such terms as to payment of costs or otherwise as the Court shall direct.

35. All orders of this Court in cases of appeal shall bear date on the day of the judgment or decision being pronounced, and shall be signed by the Registrar.

Adding parties to the appeal.

36. In any case not already provided for by the Act, in which it becomes essential to make an additional party to the appeal, either as appellant or respondent, and whether such proceeding becomes necessary in consequence of the death or insolvency of any original party, or from any other cause, such additional party may be added to the appeal by filing a suggestion as nearly as may be in the form provided for by Section 43 of the Act.

37. The suggestion referred to in the next preceding rule may be set aside, on motion, by the Court or a Judge thereof.

38. Upon any such motion the Court or a Judge thereof may, in their or his discretion, direct evidence to be taken before a proper officer for that purpose, or may direct that the parties shall proceed in the proper Court for that purpose to have any question tried and determined, and in such case all proceedings in appeal may be stayed until after the trial and determination of the said question.

Motions.

39. All interlocutory applications in appeals shall be made by motion supported by affidavit to be filed in the office of the Registrar before the notice of motion is served. The notice of motion shall be served at least four clear days before the time of hearing.

40. Such notice of motion may be served upon the Solicitor or Attorney of the opposite party by delivering a copy thereof to the booked agent, or at the elected domicile of such Solicitor or Attorney, to whom it is addressed at the City of Ottawa. If the Solicitor or Attorney has no booked agent, or has elected no domicile at the City of Ottawa, or if a party to be served with notice of motion has not elected a domicile at the City of Ottawa, such

notice may be served by affixing a copy thereof in some conspicuous place in the office of the Registrar of this Court.

41. Service of a notice of motion shall be accompanied with copies of affidavits filed in support of the motion.

42. Upon application supported by affidavit, and after notice to the opposite party, the Court or a Judge thereof may give further reasonable time for filing the printed case, depositing the printed factum or points of either party, and setting down or inscribing the appeal for hearing, as required by the foregoing rules.

43. Motions to be made before the Court are to be set down in a list or paper, and are to be called on each morning of the session before the hearing of appeals is proceeded with.

Appeals to be deemed out of Court for delay.

44. Unless the appeal is brought on for hearing by the appellant within one year next after the security shall have been allowed, it shall be held to have been abandoned without any order to dismiss being required, unless the Court or a Judge thereof shall otherwise order.

45. The foregoing rules shall be applicable to appeals from the Exchequer Court of Canada, except in so far as the Act has otherwise provided.

Criminal Appeals.

46. The foregoing rules shall not, except as hereinbefore provided, apply to criminal appeals, nor to appeals in matters of *habeas corpus*.

47. In the cases mentioned in the next preceding rule, no printed case shall be required, and no factum or points for argument in appeal need be deposited with the Registrar, but such appeals may be heard on a written case, certified under the seal of the Court appealed from, and which case shall contain all judgments and opinions pronounced in the Court below.

48. In criminal appeals, and in appeals in cases of *habeas corpus*, and unless the Court or a Judge shall otherwise order, the case must be filed as follows :—

(1.) In appeals from any of the Provinces other than British Columbia, at least one month before the first day of the session at which it is set down to be heard.

(2.) In appeals from British Columbia, at least two months before the said day.

49. In cases of criminal appeals and appeals in matters of *habeas corpus*, notice of hearing shall be served the respective times hereinafter fixed before the first day of the general or special session at which the same is appointed to be heard, that is to say :—

(1.) In appeals from Ontario and Quebec, two weeks.

(2.) In appeals from Nova Scotia, New Brunswick and Prince Edward Island, three weeks.

(3.) In appeals from Manitoba, one month.

(4.) In appeals from British Columbia, six weeks.

Election Appeals.

50. The foregoing Rules are not to apply to appeals in Controverted Election cases.

51. In such election appeals the party appellant shall deposit with the Registrar such sum as shall be required for printing the record or so much thereof as a Judge may direct to be printed at the rate of thirty cents per folio of one hundred words.

52. The Registrar shall cause twenty-five copies of the said record to be printed in the same form as hereinbefore provided for the case in ordinary appeals for the use of the Court and its officers, and also twenty additional copies, ten of which are, upon his request, to be delivered to the Appellant free of charge, and ten to the Respondent upon payment of thirty cents for each folio of one hundred words in the record so printed.

53. The *factum* or points for argument in appeal in Controverted Election appeals shall be printed as hereinbefore provided in the case of ordinary appeals.

54. The points for argument in appeal or *factum* in Controverted Election cases shall be deposited with the Registrar at least three days before the first day of the Session fixed for the hearing of the appeal, and are to be interchanged by the parties in manner hereinbefore provided with regard to the *factum* or points in ordinary appeals.

55. In election appeals a Judge in chambers may, upon the application of the Appellant make an order dispensing with the printing of the whole or any part of the record, and may also dispense with the delivery of any *factum* or points for argument in appeal. Such order may be obtained *ex parte*, and the party obtaining it shall forthwith cause it to be served upon the adverse party.

Fees.

56. The fees mentioned in Schedule C to these orders shall be paid to the Registrar by stamps to be prepared for that purpose.

Costs.

57. Costs in appeal between party and party shall be taxed pursuant to the tariff of fees contained in Schedule D to these orders.

58. The Court or a Judge may direct a fixed sum for costs to be paid in lieu of directing the payment of costs to be taxed.

59. The payment of costs, if so ordered, may be enforced by process of execution in the same manner and by means of the same writs and according to the same practice as may be in use from time to time in the Exchequer Court of Canada.

60. Contempts incurred by reason of non-compliance with any order of the Court other than order for payment of money may be punished in the same manner and by means of the same process and writs and according to the same practice as may be in use from time to time in the Exchequer Court of Canada.

Cross Appeals.

61. It shall not under any circumstances be necessary for a Respondent to give notice of motion by way of cross appeal, but if a Respondent intends upon the hearing of an appeal to contend that the decision of the Court below should be varied, he shall within the time specified in the next rule,

or such time as may be prescribed by the special order of a Judge, give notice of such intention to any parties who may be affected by such contention. The omission to give such notice shall not in any way interfere with the power of the Court on the hearing of an appeal to treat the whole case as open, but may, in the discretion of the Court, be ground for an adjournment of the appeal, or for a special order as to costs.

62. Subject to any special order which may be made, notice by a Respondent under the last preceding rule shall be one month's notice.

63. A Respondent who gives a notice, pursuant to the two last preceding rules shall, before or within two days after he has served such notice, deposit a printed *factum* or points for argument in appeal with the Registrar as hereinbefore provided as regards the principal appeal, and the parties upon whom such notice has been served, shall within two weeks after service thereof upon them, deposit their printed *factum* or points with the Registrar, and such *factum* or points shall be interchanged between the parties as hereinbefore provided as to the principal appeal.

Translations.

64. Any Judge may require that the *factum* or points for argument in appeal of any party shall be translated into the language with which such Judge is most familiar, and in that case the Judge shall direct the Registrar to cause the same to be translated, and shall fix the number of copies of the translation to be printed, and the time within which the same shall be deposited with the Registrar, and the party depositing such *factum* shall thereupon cause the same forthwith to be printed at his own expense, and such party shall not be deemed to have deposited his *factum* until the required number of the printed copies of the translation shall have been deposited with the Registrar.

65. Any Judge may also require the Registrar to cause the judgments and opinions of the Judges in the Court below to be translated, and in that case the Judge shall fix the number of copies of the translation to be printed and the term within which they shall be deposited with the Registrar, and such translation shall thereupon be printed at the expense of the Appellant.

Payment of Money into Court.

66. Any party directed by any order of the Court or a Judge to pay money into Court must apply at the office of the Registrar for a direction so to do, which direction must be taken to the Ottawa Branch or Agency of the Bank of Montreal, and the money there paid to the credit of the cause or matter, and after payment the receipt obtained from the Bank must be filed at the Registrar's office.

Payment of Money out of Court.

67. If money is to be paid out of Court, an order of the Court or a Judge must be obtained for that purpose, upon notice to the opposite party.

68. Money ordered to be paid out of Court is to be so paid upon the cheque of the Registrar, countersigned by a Judge.

Formal objections not to prevail.

69. No proceeding in the said Court shall be defeated by any formal objection.

Extending or abridging Time.

70. In any appeal or other proceeding the Court or a Judge may enlarge or abridge the time for doing any act, or taking any proceeding, upon such (if any) terms as the justice of the case may require.

71. The Registrar is to keep in his office all appropriate books for recording the proceedings in all suits and matters in the said Supreme Court.

Computation of Time.

72. In all cases in which any particular number of days not expressed to be clear days, is prescribed by the foregoing rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless such last day shall happen to fall on a Sunday, or a day appointed by the Governor General for a public fast or thanksgiving, or any other legal holiday or non-juridical day, as provided by the Statutes of the Dominion of Canada.

73. If it happens at any time that the number of Judges necessary to constitute a quorum for the transaction of the business to be brought before the Court is not present, the Judge or Judges then present may adjourn the sittings of the Court to the next or some other day and so on from day to day until a quorum shall be present.

Vacations.

74. There shall be a vacation at Christmas commencing on the 15th of December and ending on the 10th of January.

75. The long vacation shall comprise the months of July and August.

Interpretation.

76. In the preceding rules the term "a Judge" means any Judge of the said Supreme Court transacting business out of Court.

77. In the preceding rules the following words have the several meaning hereby assigned to them over and above their several ordinary meanings, unless there be something in the subject or context repugnant to such construction, that is to say:

- (1.) Words importing the singular number include the plural number, and words importing the plural number include the singular number.
- (2.) Words importing the masculine gender include females.
- (3.) The word "party" or "parties" includes a body politic or corporate, and also Her Majesty the Queen and Her Majesty's Attorney General.

thereby provided for, the fees to be paid shall be in the discretion of the Registrar, subject to revision by the Court or a Judge.

SCHEDULE D.

Referred to in Rule 57 of the Supreme Court of Canada.

Tariff of Fees

To be taxed between party and party in the Supreme Court of Canada.

On special case required by Section 29 of the Act when prepared and agreed upon by the parties to the cause, including attendance on the Judge to settle the same, if necessary, to each party	\$25 00
Notice of Appeal	4 00
On consent to appeal directly to the Supreme Court from the Court of original jurisdiction.....	3 00
Notice of giving security.....	2 00
Attendance on giving security.....	3 00
On motion to quash proceedings under Section 37 according to the discretion of the Registrar to.....	25 00
Subject to be increased by order of the Court or of a Judge.....	0 00
On <i>factums</i> in the discretion of the Registrar to.....	50 00
Subject to be increased by order of the Court or a Judge.....	0 00
Printed case per folio of 100 words including correcting, superintending printing and all attendances.....	0 30
On dismissal of appeal if case be not proceeded with, in the discretion of the Registrar to	25 00
Subject to be increased by order of the Court or a Judge.....	0 00
Suggestions under Sections 42, 43, 44, including copy and service	2 50
Notice of intention to continue proceedings under Section 45...	4 00
On depositing money under Section 48 in Controverted Election cases	2 50
Notice of Appeal in Election cases limiting the appeal to special and defined questions under Section 48.....	6 00
Allowance to cover all fees to Attorney and Counsel for the hearing of the appeal, in the discretion of the Registrar to..	200 00
Subject to be increased by order of the Court or of a Judge.....	0 00
On printing <i>factums</i> , the same fees as in printing the case.	
Besides the Registrar's fees reasonable charges for postages and disbursements necessarily incurred in proceedings in appeal will be taxed by the Taxing Officer.	

(Signed),	WM. B. RICHARDS, C. J.,
"	W. J. RITCHIE, J.,
"	S. H. STRONG, J.,
"	T. FOURNIER, J.,
"	W. A. HENRY, J.