

Bill No. 25 of 1945.

A BILL TO AMEND THE SMALL DEBTS ACT

NOTE.

This Bill by section 1 introduces a new section 44a into the above Act. Its purpose is to provide procedure for an appeal to the District Court in cases where it has become impossible to serve the required notice on the magistrate in the case, because of his death, resignation or absence. Under the Act, notice of appeal is required to be served on the magistrate within five days of the judgment and the magistrate fixes the security and sends the same and the evidence to the District Court. The proposed amendment enables an appellant to get over this difficulty by filing notice of appeal in the District Court office and applying to the District Court judge for directions as to security, trial, etc.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 25 of 1945.

An Act to amend The Small Debts Act.

(Assented to _____, 1945.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Small Debts Act*, being chapter 145 of the Revised Statutes of Alberta, 1942, is hereby amended by adding immediately after section 44 thereof the following new section:

“44a.—(1) In this section ‘judge’ means a District Court Judge exercising jurisdiction in the judicial district or sub-judicial district in which the proceedings were carried on.

“(2) In any case where an appellant has been unable to serve upon the magistrate a written notice of his intention to appeal within the time limited by section 43 by reason of the death, resignation or absence of the magistrate or any other cause beyond the control of the appellant, he may within two days after the expiration of the said period of five days file a written notice of his intention to appeal in the office of the Clerk or Deputy Clerk of the District Court of the judicial district or sub-judicial district in which the proceeding were carried on.

“(3) Within ten days after the filing of the Notice of Appeal as aforesaid, or within such further period as a judge may allow, the appellant may, after giving to the respondent two clear days notice of the application, apply to a judge for an order for directions as to the service of the Notice of Appeal on the respondent, the amount and nature of the security to be filed or deposited with the Clerk or Deputy Clerk of the District Court, and as to the time and method of the hearing of the appeal.

“(4) If the judge is satisfied that the appellant was unable to serve the Notice of Appeal upon the magistrate within the time limited for one of the reasons hereinbefore set out, he may grant an order as applied for pursuant to subsection (2), but if not so satisfied he shall disallow the appellant’s application, and the appeal shall thereupon be dismissed.

“(5) In any order made pursuant to subsection (4), the judge may direct that the appeal be heard as a trial *de novo* if he is satisfied that the appellant is unable to procure a certified copy of the evidence taken at the trial and the documents connected with the case.”

2. The said Act is further amended as to section 47 by inserting at the beginning of the said section the words "Subject to the provisions of subsections (3) and (4) of section 44a".

3. This Act shall come into force on the day upon which it is assented to.

FIRST SESSION
TENTH LEGISLATURE

9 GEORGE VI

1945

BILL

An Act to amend The Small Debts
Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1945