

Bill No. 48 of 1954

A BILL RESPECTING MASTERS AND SERVANTS

NOTE

This Bill enacts a new Act entitled "*The Masters and Servants Act, 1954*" which repeals and replaces *The Masters and Servants Act*, being chapter 136 of the Revised Statutes of Alberta, 1942.

The provision in the former Act which this Bill replaces making certain conduct of the employee, servant or labourer a violation of his contract and an offence has been removed.

A police magistrate is given jurisdiction to hear a claim for wages not in excess of six months' wages or five hundred dollars, whichever is the lesser. Previously a justice had jurisdiction to hear a claim for wages not in excess of six months' wages.

Where an employee, servant or labourer has been improperly dismissed the police magistrate in addition to directing payment of any wages found to be due may direct payment of a further amount but not in excess of four weeks' wages or one hundred dollars, whichever is the lesser, or an amount equal to the rate of wages the employee, servant or labourer would have earned between the date of the dismissal and the date of the determination of the complaint, or one hundred dollars, whichever is the lesser.

Where an employee, servant or labourer has for good cause been dismissed, the police magistrate may order the payment of any wages found to be due not in excess of six months' wages or five hundred dollars, whichever is the lesser.

Where the right to a set-off or counterclaim is established by the master or employer the police magistrate shall deduct from the amount of wages determined to be due, the amount that the master or employer is entitled to by the set-off or counterclaim, or if the set-off or counterclaim is equal to or greater than the wages determined to be due, the police magistrate shall dismiss the complaint.

An order made under this Bill may be levied by distress and sale of the goods and chattels of the master or employer in accordance with the provisions of *The Seizures Act*.

Previously it was necessary to engage police officers to execute such distress warrants.

Proceedings under the Act proposed by this Bill may only be taken within six months after the engagement or employment has ceased or has been terminated or after the

last instalment of wages under the contract of employment has become due, whichever last happens.

The Act proposed by this Bill does not curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages by the employer or master against their employees, servants or labourers, or by the employees, servants or labourers against their masters or employers.

This Bill is to come into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

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

BILL

No. 48 of 1954

An Act respecting Masters and Servants

(Assented to , 1954)

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

Short Title

1. This Act may be cited as "*The Masters and Servants Act, 1954*".

Interpretation

2. In this Act "master" or "employer" includes a corporation and partnership. "master" or "employer"

Application

3. (1) Every contract or hire of personal service is sub- Scope of Act
ject to the provisions of this Act.

(2) A contract or hire of personal service for a period of more than one year shall be in writing and signed by the contracting parties.

4. The provisions of this Act apply in the Province to contracts and agreements made at any place outside the Province. Application to contracts made outside Province

5. (1) Where an employee, servant or labourer complains upon oath before a police magistrate of Proceedings on non-payment of wages etc.

(a) any non-payment of wages by the master or employer

(i) if the wages are not in excess of six months' wages or five hundred dollars, whichever is the lesser, and

(ii) if the unpaid wages have been demanded from the master or employer by the employee, servant or labourer,

or

(b) improper dismissal by the master or employer, the police magistrate may summon the master or employer to appear before him at a reasonable time to be stated in the

summons and the police magistrate shall examine into the matter of the complaint whether the master or employer appears or not.

Disposal of
complaint

(2) Upon the hearing, the police magistrate after proof of the matters alleged in the complaint

- (a) may discharge the employee, servant or labourer from the service or employment of the master or employer, and
- (b) may order the payment to the employee, servant or labourer of any wages found to be due not in excess of six months' wages or five hundred dollars, whichever is the lesser, and costs.

Levy by
distress

(3) An order made pursuant to this section for any wages found to be due to the employee, servant or labourer may be levied by distress and sale of the goods and chattels of the master or employer in accordance with *The Seizures Act*.

Direction as
to payment
of further
amount

6. (1) Where the police magistrate determines that the employee, servant or labourer has been improperly dismissed from the service or employment of the master or employer, the police magistrate in addition to ordering the payment to the employee, servant or labourer of any wages found to be due under section 5 may order the master or employer to pay the employee, servant or labourer

- (a) such further amount as to the police magistrate appears reasonable, but not in excess of four weeks' wages at the rate at which the employee, servant or labourer was being paid by the master or employer at the time of the improper dismissal, or one hundred dollars, whichever is the lesser, and costs, or
- (b) an amount equal to the wages that would have been earned by the employee, servant or labourer between the date of his improper dismissal and the date of the determination of the matter of the complaint by the police magistrate if the employee, servant or labourer had continued in the employment at the rate at which he was being paid at the time of his improper dismissal, or one hundred dollars, whichever is the lesser, and costs.

Levy by
distress

(2) An order made pursuant to this section for the payment of a further amount may be levied by distress and sale of the goods and chattels of the master or employer in accordance with *The Seizures Act*.

Adjudging
dismissal for
good and
sufficient
cause

7. (1) Where the police magistrate determines that the employee, servant or labourer has for good and sufficient cause been dismissed from the service or employment of the master or employer, if the police magistrate finds that wages are due to the employee, servant or labourer, the police magistrate may order the master or employer to pay to the employee, servant or labourer any wages found to be due

not in excess of six months' wages or five hundred dollars, whichever is the lesser, and costs.

(2) An order made pursuant to subsection (1) for any wages found to be due to the employee, servant or labourer may be levied by distress and sale of the goods and chattels of the master or employer in accordance with *The Seizures Act*.

Levy by
distress

8. (1) Where upon the hearing of a complaint under sections 6 or 7 before a police magistrate it is made to appear by the oath of the master or employer or some person acquainted with the facts that the master or employer would or might be entitled in a civil action by the employee, servant or labourer for the recovery of the wages claimed to be due for services rendered or for improper dismissal or both, to a claim by way of set-off or counterclaim the police magistrate shall in a summary manner inquire into the set-off or counterclaim.

Inquiry into
counter-
claim by
employer

(2) If on the inquiry pursuant to subsection (1) the police magistrate determines that the right to the set-off or counterclaim is established

Payment of
wages or
dismissal of
complaint

(a) the police magistrate shall order the payment to the employee, servant or labourer of the wages determined to be due to the employee, servant or labourer, and costs, in accordance with the provisions of sections 6 or 7 and shall deduct the amount that in the opinion of the police magistrate the employer or master is entitled to by the set-off or counterclaim, or

(b) if the amount the employer or master is entitled to by the set-off or counterclaim is equal to or greater than the wages determined to be due to the employee, servant or labourer, the police magistrate shall dismiss the complaint.

(3) This section does not prejudice or in any way affect the right of any master or employer, or his administrators, executors or assigns to any civil remedy to which he or they might be entitled against the employee, servant or labourer by reason of a set-off or counterclaim.

Saving of
other civil
remedies by
employer

9. Proceedings under this Act may only be taken

Time within
which
proceedings
taken

(a) within six months after the engagement or employment has ceased or has been terminated, or

(b) within six months after the last instalment of wages under the contract of employment has become due,

whichever last happens.

10. This Act does not in any way curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages

Preser-
vation of
other
remedies

(a) that the employers or masters might have against their employees, servants or labourers, or

(b) that the employees, servants or labourers might have against their masters or employers.

Repeal **11.** *The Masters and Servants Act*, being chapter 136 of the Revised Statutes of Alberta, 1942, is hereby repealed.

Coming into
force **12.** This Act comes into force on the day upon which it is assented to.

No. 48

SECOND SESSION
TWELFTH LEGISLATURE
3 ELIZABETH II
1954

BILL

An Act respecting Masters and
Servants

Received and read the

First time

Second time.....

Third time.....

HON. MR. MAYNARD
