

No. 47

1st Session, 14th Legislature, Alberta
8 Elizabeth II

BILL 47

A Bill to amend The Trustee Act

HON. MR. MANNING

Explanatory Note

General. The Trustee Act (R.S.A. 1955, chapter 346) is amended to cure a defect in respect of section 33. Section 33(1) reads:

"33. (1) Where any deceased person committed a wrong to another in respect of his person or of his real or personal property, except in cases of libel and slander, the person so wronged may maintain an action against the executors or administrators of the deceased person who committed the wrong."

Where no executor or administrator is appointed within a year after the death in respect of the estate of a deceased wrong-doer, no action can be brought against his estate. The appointment within that period of an administrator ad litem will not assist. (See *Farish and Ellison v. Papp and Patterson* (1958) 23 W.W.R. (N.S.) 690). This amendment would permit bringing an action in such a case against an administrator ad litem within the time limited for bringing an action.

BILL

No. 47 of 1960

An Act to amend The Trustee Act

(Assented to _____, 1960)

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

1. *The Trustee Act*, being chapter 346 of the Revised Statutes, is amended by adding immediately after section 33 the following:

33a. (1) Where a person wronged is unable to maintain an action under section 33 because neither letters probate of the will of the deceased person nor letters of administration of the deceased person's estate have been granted within six months after the death, a judge of the Supreme Court may, on the application of the person wronged and on such notice as he may deem proper, appoint an administrator *ad litem* of the estate of the deceased person, whereupon

- (a) the administrator *ad litem* is an administrator against whom and by whom an action may be brought under section 33, and
- (b) a judgment in favour of or against the administrator *ad litem* in any such action has the same effect as a judgment in favour of or against, as the case may be, the deceased person, but it has no effect whatsoever for or against the administrator *ad litem* in his personal capacity.

(2) This section applies whether the wrong was committed or the deceased person died before or after the commencement of this section.

2. This Act comes into force on the day upon which it is assented to.

No. 47

FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

BILL

An Act to amend The Trustee Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
