

nor does the form in the schedule require that to be alleged. It would be quite superfluous to state that fact, as the man does say that he was convicted and fined \$50. The inference that he is the person aggrieved is plain."

In *R. v. McKay* (1913), 10 D.L.R. 820, 21 Can. Cr. Cas. 211, it was held on an appeal from a summary conviction on a charge of assault that it is not essential that the notice of appeal given by defendant shall state explicitly in the language of Crim. Code sec. 749 that the defendant is a "person aggrieved."

In the judgment in that case Judge McLorg of the Saskatoon District Court said:—

"I know that for the past fifteen years notices of appeal without this allegation have continually been held sufficient, and I think it is too late now to entertain this objection, which is of the most technical character."

In *R. v. Nichol*, 40 U.C.Q.B. 46, cited in *The King v. Bryson* 10 Can. Cr. Cas. 398, the notice of appeal was held good although not signed by anyone. Mr. Justice Gwynne (afterwards of the Supreme Court of Canada) said:—

"We must, I think, read these notices, not with a critical eye but literally *ut res magis valeat*, and so as to uphold not to defeat the rights of appeal given to parties summarily convicted."

The expression, "party aggrieved," has been held not to be a technical expression, but one to be construed according to the ordinary meaning of the words: *Robinson v. Currey*, L.R. 7 Q.B. 465.

Where a statute gives a right of appeal "to any person who may think himself aggrieved" it is necessary that the appellant should have legal grounds for thinking himself aggrieved by what he appeals against: *Harrup v. Bayley* (1856), 6 Ellis & Bl. 218 (Lord Campbell, C.J., Erle, J., and Crompton, J.).

In that case Lord Campbell said: "The Act . . . gives an appeal to any person who 'may think himself aggrieved'; but that does not mean to any person who says or fancies he is aggrieved. Giving it a reasonable construction, the enactment means to give an appeal to any one who has legal ground for saying he is aggrieved. Now, how can such a provision apply to a person who wishes to complain of the act which he himself authorized and expressly required to be done?"

Crompton, J., in the same case, said: "The parties all thought that the application of the (town) funds would not be legal though it would be beneficial . . . Now, though others not parties to that resolution may be entitled to complain that it was acted