

Section 749 states who may appeal, in the following words:—

"Any person who thinks himself aggrieved by any such conviction or order or dismissal, the prosecutor or complainant, as well as the defendant, may appeal."

The phrase, "any person who thinks himself aggrieved," appeared also in the corresponding sections in Canadian statutes, from which sec. 749 is derived, viz.:—

(a) 32-33 Vict. Canada Statutes, 1869, ch. 31, sec. 65; 40 Vict. Canada Statutes, 1877, ch. 27, amending said sec. 65.

(b) Revised Statutes of Canada, 1886, the Summary Convictions Act, sec. 76.

(c) The Criminal Code, 1892, sec. 879, and continued in the various amendments to the Code, down to the present time, as it is now in said sec. 749.

The statutory enactment dealing with the notice of appeal is sec. 750. A glance at the history of this section is interesting and instructive.

If the words are really and fairly doubtful, then, according to well-known legal principles, and principles of common sense, historical investigation may be used for the purpose of clearing away the doubt which the phraseology of the statute creates: *The Queen v. Most* (1881), 7 Q.B.D. at p. 251, per Lord Coleridge, C.J.

(a) 32-33 Vict. Canada Statutes, 1869, sec. 65, the material part reads:—

"Provided that such person (*i.e.*, the aggrieved person) shall give to the prosecutor or complainant a notice in writing of such appeal, and the cause and matter thereof." In the schedule thereto a "General Form of Notice of Appeal against a Conviction" is given, but there is no statement or reference in such form requiring a recital that the appellant is a person aggrieved.

(b) Revised Statutes of Canada, 1886, the Summary Convictions Act, sec. 77 "b," reads:—

"The person aggrieved shall give to the prosecutor or complainant, or to the convicting justice, for him, a notice in writing (R) of such appeal." Form (R) is the form in the schedule of "Notice of Appeal against a Conviction," but there is no statement or reference therein requiring a recital that the appellant is the person aggrieved.

(c) The Criminal Code, 1892, sec. 880 "b," reads:—

"The appellant shall give to the respondent, or to the justice who tried the case for him, a notice in writing, in the form N.N.N. in schedule 1 to this Act, of such appeal."

The form referred to contains no statement or reference that the appellant is the person aggrieved.