

(c.) The appellant, when lodging such deposit, shall also file in the office of the appellate Court a copy of all papers filed in the original proceedings, and of the decision appealed against.

(d.) Such copy shall be certified as correct under the hand of the Warden or the Clerk, and, with the notice of appeal, shall constitute the case on appeal.

(e.) Service of notice of appeal may be effected by personal service on the respondent, or upon the solicitor or mining agent who appeared for the respondent at the hearing of the suit or application in which the decision was given which is appealed against, or by leaving the same at the place of residence where the respondent was residing when the decision appealed against was given, or by leaving the same at the office of the said solicitor or mining agent of the respondent. 1900, No. 64, sec. 18

(f.) When service cannot conveniently be effected in manner aforesaid, it may be effected by filing a copy of the notice, within the prescribed time, in the office of the Warden's Court in which the decision appealed against was given.

337. If the appeal is on matter of law alone, the following provisions shall apply:—

(a.) The appeal shall be in the form of a special case to be agreed on by the parties, or, if within seven days they cannot agree, then to be settled by the Warden at the request of either of them. Procedure when appeal on law alone. 1898, No. 38, sec. 284

(b.) The special case, when agreed on or settled as aforesaid, shall be transmitted to the Clerk or Registrar of the appellate Court by the appellant, who shall also, within thirty days after the notice of appeal was filed as aforesaid, set the special case down for hearing, and give notice thereof to the other party.

338. If the appeal is on matter of fact alone, or of both fact and law, it shall be by way of a rehearing of the original proceedings in like manner as if the proceedings had been properly and duly commenced in the appellate Court: Appeal to be by way of rehearing. Ibid, sec. 285 1899, No. 29, sec. 21

Provided that where the appellate Court is the Supreme Court the Judge thereof may in his discretion, or on the application of either of the parties, and upon such terms as to costs or otherwise as he thinks fit, direct any issue of fact to be tried by jury: Issue of fact may be tried by jury.

Provided also that where the appellate Court is the District Court the Judge thereof in his discretion, or on the application of either of the parties, and upon such terms as to costs and otherwise as the Judge thinks fit, may direct any issue of fact to be tried by Assessors in like manner as if the proceedings were in the Warden's Court and were triable by Assessors, and the provisions of this Act relating to Assessors shall be construed accordingly.

339. The appeal shall in every case be deemed to be abandoned if the appellant—

(a.) Fails to duly file or serve such notice of appeal, or to duly lodge such deposit, within the time hereinbefore limited in that behalf; or

(b.) Fails to duly file such certified copy, if the appeal is on matter of fact alone or of both fact and law, or to duly set down such special case if the appeal is on matter of law

When appeal deemed to be abandoned. 1898, No. 38, sec. 286