

as a revivor of judgment.

execution or other process has been issued, or payment made within the year, it shall be sufficient for him to make the affidavit of the facts of non-payment before the clerk of the division in which judgment was obtained, instead of before the Judge, as heretofore ; which clerk shall thereupon issue the execution, and leave of the Judge to issue the same shall not be necessary ; any Acts or rules to the contrary notwithstanding. 5

Proceedings on appeal from judgment of Court.

XXIV. In all cases in the said Courts, where a suit has been instituted for a sum of *Ten Pounds* or upwards, and judgment has been pronounced in favor of the plaintiff or defendant, or the plaintiff has been non-suited, or the suit dismissed for supposed want of jurisdiction, or other causes, if either party be dissatisfied with the judgment or decision of the judge upon the law, or facts, or either, it shall be lawful for such party to give notice of such dissatisfaction to the Judge orally in Court after pronouncing judgment, at any time during the sitting thereof, or to the Clerk of the said Court at the time of pronouncing judgment, or reading the judgment, (if done after Court,) and the Judge be not present ; and if, during the same day of pronouncing judgment, or reading the same, security be given to the opposite party, with two sureties, to the satisfaction of the Clerk of the Court, according to the following form, or substantially so, viz : 10 15 20

Security by appellant to opposite party.

In the Division Court of

" We hereby agree to pay, upon demand made upon us, the debt adjudged, and all interest and costs, and all costs of appeal to be awarded in the suit of A B against C D, (or all costs of suit, as well as of appeal, as the case may be,) unto A B, the plaintiff, (or C D, the defendant,) in case the appeal made and laid this day from the judgment and decision of the Judge in the said suit, be dismissed, or any other costs the said C D (or A B) may be ordered to pay. 25

Dated at this day of 18 ."

Proceedings then to be stayed.

the proceedings shall thereupon become stayed, until the direction of the Superior Court shall be made known ; and the Judge of the Division Court, upon such security being given and filed, shall forthwith certify, under his hand, to either of the Superior Courts of Common Law, at Toronto, copies of all papers, proceedings, and evidence, and the exceptions and objections urged, with his judgment or decision ; whereupon the appeal shall be set down for argument in either Superior Court, at the next term after, without any other formality of extra copies to the Judges, or copies to be served on the opposite party or Counsel, but a notice of the day and Court to the opposite party, according to the usual practice ; which Court shall, in due course, give direction to the Judge of the Inferior Court, touching the judgment to be given or course to be pursued, as to new trial or otherwise, as may appear necessary, and may order as to costs to either party, and which costs, if awarded, shall be taken by the proper officer of the Superior Court ; and upon receipt of such direction and order, and certificate of costs, the Judge of the inferior Court shall forthwith proceed in accordance therewith, and observe the same. 30 35 40 45

Judge of Court below to carry out direction of Superior Court.

In case of dismissal costs of appeal to be added to costs in Court below.

And if the said appeal be dismissed with costs, such costs may be added to the costs of the proceedings in the inferior Court, and form part thereof, and of the judgment to be enforced ; and the party entitled to the judgment may proceed thereupon forthwith to have the same executed for the debt, interest, and cost of trial, and such costs 50