

in the discretion of the Court. The claimant should have the longer period as various conditions such as being away may result in delay in appeal as the Act provides that if an appeal is not lodged within the time set a claimant will be deemed to have abandoned his claim.

*Trustee Not Liable for Costs or Damages—Section 53 (5)*

The provision in Section 53 (5) relieving the estate of liability for the costs of establishing a claim or of an appeal is too broad. The Court should have discretionary power to award costs to a claimant where it is clear he has been unnecessarily put to the expense of proceedings to establish his claim.

APPEALS FROM DECISION OF TRUSTEE

*Proceedings by Creditor When Trustee Refuses to Act—Section 63 (1)*

Section 63(1) would enable a creditor to act in his own name in proceedings when the trustee refuses or neglects to act. While this would overcome difficulties which sometimes arise when trustees require indemnity for costs, it is noted that before a creditor could carry on proceedings in his own name, the right of action would have to be transferred from the trustee to the creditor and there is insufficient protection provided other creditors for sharing in any funds recovered. For these reasons the present provisions contained in Section 69 of the Act should be retained.

SETTLEMENTS AND PREFERENCES

*Avoidance of Preferences—Section 68*

Section 68 is a redraft of the provisions respecting settlements and preferences. There has been much litigation on the section now in the Act and there is a considerable body of settled case law. In order to retain the benefit of this settled law and avoid the contentious feature concerning "concurrent intent", it is suggested that Section 64 of the present Act be retained and a subsection added providing that it is not necessary for the trustee or creditor attacking the alleged preference to show concurrent intent.

*Protected Transactions—Section 69(2)*

Section 69(2) concerning protected transactions places the onus of proof on the person supporting the validity of the transaction. It seems unfair to so leave the onus of proof on transactions more than three months old as in the course of time records necessary to proof are often mislaid or lost. In the case of the older transactions the onus should lie on the person attacking the validity of a transaction. As the new section gives no advantage and seems to confuse, it is considered the section now in the Act, Section 65, should be retained.

DIVIDENDS

*When Complete Realization Delayed—Section 78 (1)*

The Superintendent should not, as proposed in Section 78 (3), be given power to direct preparation of an interim statement and to pay an interim dividend. This should be left to the discretion of the inspectors.

*No Action for Dividend—Section 78(4)*

Following the recommendation in the preceding paragraph, the reference to the Superintendent should be deleted from Section 78(4).

*Statements of Receipts and Disbursements—Section 82*

The proposal in Section 82 that the trustee's statement of receipts and disbursements should be passed by the Superintendent should be deleted and the