

case the Judge shall be guided in allowing the same by the amount to which the assets of the estate may be affected by the final decision of the question at issue, as well as by his opinion upon the pretensions of the appellant; but any appeal to a single Judge in Upper Canada may, in his discretion, be referred on a special case to be settled by the full Court, and on such terms in the meantime as he may think necessary and just. 5

**Notice of appeal must be given within a certain period.** 3. Such appeal shall not be permitted, unless the party desiring to appeal applies for the allowance of the appeal, with notice to the opposite party, within five days from the day on which the judgment of the Judge is rendered; and unless within five days after the allowance thereof he causes to be served upon the opposite party and upon the assignee, a Petition in appeal, setting forth the Petition to the Judge and his decision thereon, and praying for its revision, with a notice of the day on which such Petition is to be presented; and also, within the said period of five days, causes security to be given before the Judge by two sufficient sureties that he will duly prosecute such appeal, and pay all costs incurred by reason thereof by the respondent. 10 15

**Presenting of petition in appeal.** 4. The Petition in appeal, when the appeal is to a Court, shall be presented on one of the first four days of the term next following the putting in of the security in appeal, and shall not be thereafter received; and when the appeal is to a Judge, the Petition shall be presented within ten days after putting in security, and shall not thereafter be received; and on or before the day of the presentation of the Petition, the assignee shall file in the office of the Court of Appeal, or of the Court to which the Judge appealed to belongs, the evidence, papers, and documents which had been previously produced before the Judge; and thereupon the appeal shall be proceeded with and decided according to the practice of the Court. 20 25

**In case petition is not presented on the day fixed.** 5. If the party appellant does not present his petition on the day fixed for that purpose, the Court, or Judge selected to be appealed to, as the case may be, shall order the record to be returned to the assignee, and the party respondent may, on the following or any other day during the same term, produce before the Court, or within six days thereafter before such Judge, the copy of petition served upon him, and obtain costs thereon against the appellant. 30 35

**Costs in appeal.** 6. The costs in appeal shall be in the discretion of the Court, or of the Judge appealed to, as the case may be.

#### OF FRAUD AND FRAUDULENT PREFERENCES.

**Certain contracts presumed to be made with intent to defraud.** 9. All gratuitous contracts or conveyances, or contracts or conveyances without consideration, or with a merely nominal consideration, made by a debtor afterwards becoming an insolvent with any person whomsoever, within three months next preceding the date of the assignment or of the issue of the writ of attachment in compulsory liquidation, and all contracts by which creditors are injured, obstructed, or delayed, made by a debtor unable to meet his engagements and afterwards becoming an insolvent, with a person knowing such inability or having probable cause for believing such inability to exist, or after such inability is public and notorious, are presumed to be made with intent to defraud his creditors. 40 45

**Contract injurious to creditors made within a certain period are voidable.** 2. A contract or conveyance for consideration, by which creditors are injured or obstructed, made by a debtor unable to meet his engagements with a person ignorant of such inability, and before it has become public and notorious, but within thirty days next before the execution of a deed of assignment or the issue of a writ of attachment under this Act, is voidable, and may be set aside by any Court of competent jurisdiction, upon such terms, as to the protection of such 50 55