

Damages and double costs of suit against sheriff or other officer for neglect of duty.

*And be it enacted*, That if any sheriff or other officer, shall, in any matter or thing, act or do contrary to his duty hereby required and directed, or contrary to the liberty and election hereby given to the defendant, or shall refuse to return the overplus money arising from such sale, if any shall remain in his hands, such defendant or person injured thereby, shall and may maintain his, her or their action on the case, against such sheriff or other officer in any court of record within this province, which shall or may have cognizance of the same, wherein he, she or they shall recover the damage by him, her or them sustained, with double costs of suit.

### CAP. XIII

## An ACT for RELIEF against ABSCONDING DEBTORS.

*Be it enacted by the Governor, Council and Assembly,*

Debtors absconding, creditors may make oath before the judges of the supreme court.

**T**HAT from and after the passing of this act, whensoever it shall happen, that any person or persons whatsoever, being indebted within this province, shall either secretly depart the province, or keep concealed within the same, any one creditor or joint company whose debt or demand is due to them jointly to whom such absconding or concealed person or persons is or are indebted in the sum of *Twenty Pounds* or upwards, or any *Two* to whom he, she or they is or are indebted in the sum of *Thirty Pounds* or upwards or any *Three* to whom he, she or they is or are indebted in the sum of *Forty Pounds* or upwards over and above all discounts may make application to the judges of the supreme court of this province for the time being or any of them and there make affidavit or affirmation in writing in cases where by law an affirmation is allowed, that the said absconding or concealed person or persons is or are indebted to him, her or them in the sum of \_\_\_\_\_ over and above all discounts, and that he, she or they do verily believe that the said absconding or concealed person or persons is or are either departed the province or concealed within it with intent and design to defraud him, her or them and other creditors (if any such there be) of their just dues or to avoid being arrested by the ordinary process of law which departure or concealment shall also be proved to the satisfaction of such judge or judges by *Two* witnesses: And on such affidavit or affirmation and such other proof made the said judge or judges or any one of them hereby is and are fully empowered authorized and required forthwith to issue his or their warrant or warrants to the sheriff of the city or county which contains the last usual place of residence of such absconding or concealed

Warrant for the attachment of the estate of such debtors.

cealed person or persons, or to the sheriff or sheriffs of any or every other city or county within this province commanding such sheriff or sheriffs respectively to attach, seize, take and safely keep all the estate as well real as personal of the said absconding or concealed person or persons of what kind or nature soever, and every or any part or parcel thereof in whatever part of his bailiwick they can be found with all evidences, books of account, vouchers and papers relating thereto, which warrant or warrants the sheriff or sheriffs respectively to whom the same shall be directed and delivered, are hereby enjoyn'd, required, authorised and commanded well and truly to execute, and with the assistance of two substantial freeholders forthwith to make a just and true inventory of all such estate and effects as he shall seize and take by virtue thereof, and to return the same signed by himself and the said two freeholders to such judge or judges who issued the warrant or warrants for taking and seizing thereof.

II. *And be it further enacted,* That such judge or judges who shall issue such warrant or warrants, shall immediately thereafter order notice to be given in the *Royal Gazette*, publish'd by the *Kings Printer* in this province, that on application to him or them made by a creditor or creditors as the case may be of such absconding or concealed person or persons, he has directed all his, her or their estates real and personal within this province to be seized and that unless he, she or they, by name so absconding or concealed return and discharge his, her or their debt or debts within three months after such public notice given, all his, her or their estates real and personal will be sold for the payment and satisfaction of his, her or their creditors.

Public notice of such attachment to be given, and that the estate will be sold if the debtor does not return and pay his debts within three months.

III. *And be further enacted,* That in case any sheriff or sheriffs shall by virtue of any warrant or warrants to be issued in pursuance of this act, seize and take any perishable goods or chattels it shall and may be lawful for the judge or judges who issued such warrant or warrants at his or their discretion to order the sale of such things perishable, and the monies arising thereby to be delivered and paid to the trustees that shall be appointed to manage the estate and effects of such absconding or concealed person or persons mentioned in such warrant or warrants, to be by such trustees applied according to the directions and intention of this act.

Perishable goods to be attached and sold immediately.

IV. *And be it further enacted,* That if any sheriff or sheriffs shall by virtue of any warrant or warrants to be issued in pursuance of this act, thro' ignorance or want of proper information seize and take any goods, chattles or effects which shall or may be claimed or challenged by any person or persons as his or their property, it shall and may be lawful for such sheriff thereupon to summon and swear a jury to inquire into and try the right and

When goods seized are claimed by other persons the right of property to be tried by a jury.

property thereof; and if such jury shall upon such inquest find the right and property of such goods, chattels or effects to be in the person or persons so claiming the same, or in any other than the person or persons against whose effects or estate such warrant or warrants did issue such sheriff shall forthwith after such inquisition had and taken deliver such goods, chattels and effects to the person or persons in whom the property thereof shall be so found, or to his, her or their agent, attorney or assigns, and such sheriff shall not be liable to any suit or prosecution for his having seized and taken such goods, chattels or effects so seized and taken thro' ignorance or for want of proper information and all reasonable charges arising by the sale of such perishable goods or by such inquest as aforesaid, shall be allowed and certified by the judge or judges who issued such warrant and paid out of the effects or estate of the absconding or concealed person or persons against whose estate and effects such warrant issued if the property of such goods, chattels or effects so claimed shall by such inquisition be found to be in any other than the person or persons against whose estate or effects such warrant issued; but if the property of the goods chattles or effects so claimed shall by such inquisition be found to be in the person or persons against whose estate or effects the warrant of attachment which caused them to be seized did issue then all costs charges and expences accrued or arising by such claim and inquisition or either of them shall be paid and born by the person or persons who claimed the same from the sheriff or applied for inquisition to be had or occasioned the same to be had and taken.

*After such public notice payment of monies or delivery of effects to the absconding debtor to be deemed fraudulent.*

V. *And be it further enacted*, That if any person or persons indebted to any such absconding or concealed person or persons or having the custody or possession of any effects or other thing or things whatsoever of any such absconding or concealed person or persons shall after such first public notice as aforesaid given, pay any debt or demand or deliver any such effects or other thing or things whatsoever to any such absconding or concealed person or persons or his, her or their attorney, agents, factors or assigns the person or persons so paying any such debt or demand or delivering such effects or other thing or things whatsoever shall be deemed to have paid the same fraudulently and is and are hereby made liable to answer the same or the amount or value thereof to such trustees or the survivor of them as shall by virtue of this act be appointed to receive and distribute the estate and effects of such absconding or concealed person or persons, towards the payment and satisfaction of his, her or their creditors. And if any person or persons indebted to, or having the custody or possession of any effects or other thing or things whatsoever of any absconding or concealed debtor or debtors shall after such public notice as aforesaid given, be sued by him or them or by  
his

his, her or their order, attorney or procurement for any such debt or debts, duty, demand, effects or thing, he, she or they so sued may plead the general issue and give this act and the special matter in evidence.

VI. *And be it further enacted,* That all sales and conveyances of his, her or their estates, lands, goods and chattels, to him, her or them belonging, made by any such absconding or concealed person or persons after such public notice as aforesaid given, and all powers of attorney by him, her or them for selling any estate or effects or collecting any debts or demands whether made after or before such first public notice as aforesaid given, shall be null and void to all intents, constructions and purposes whatsoever as to all acts done or to be done after such first public notice given, any law usage or custom to the contrary notwithstanding.

All sales &c. by the absconding debtor after such notice to be void.

VII. *And be it further enacted,* That if any person or persons against whose estate or effects such warrant or warrants of attachment as aforesaid shall have issued, shall at any time before the appointment of trustees for all the creditors of such debtor be made, either by himself or by his attorney or agent by petition to the judge or judges who issued such warrant offer to prove to the court of which he or they is or are judge or judges in open court, that he, she or they against whose estate or effects such warrant or warrants issued is or are resident within this province and were not at the time such warrant issued nor within thirty days preceding, nor at any time after and is or are not then absconding or concealed, and thereby pray that the same may be heard and determined at the then next sitting of such court, and shall and do at the same time execute and deliver to the creditor or creditors who applied for and obtain'd such warrant or warrants of attachment a bond with good and sufficient security to be approved of by the said judge or judges; if in the supreme court in the sum of forty pounds if in any of the inferior courts in the sum of twenty pounds binding the obligors jointly and severally with a condition that if such person or persons by name against whose estate or effects such warrant or warrants issued, do not prove to the said court at the then next court that he, she or they is or are resident in this province and were not at the time such warrant or warrants issued nor within thirty days preceding the issuing thereof nor at any time after and is or are not then absconding or concealed, then such bond or obligation to be void, otherwise to remain in full force and virtue; then and in every such case the judge or judges who issued such warrant or warrants shall report his or their proceedings in the premises to the next court whereof he or they is or are judge or judges which court is hereby fully authorized and empowered to compel the parties and their witnesses to come into court and

When the debtor shall prove that he is a resident and did not abscond or lie concealed when such warrant issued, or within 30 days preceding; the court is to grant a supersedeas of the warrant and allow costs against the creditors who procured the warrant.

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hear the proofs and allegations of the parties and their witnesses in a summary way, and thereupon to determine whether the matter and things in such petition have been fully proved and supported, and if such court shall adjudge and determine that the matters and things contained in such petition have been fully and satisfactorily proved and supported then such court shall grant a *superfedeas* to such warrant or warrants and the person or persons against whose estate or effects such warrant or warrants did issue shall recover his, her or their costs (to be taxed by the said court, in open court) of the creditor or creditors who procured such warrant or warrants of attachment to be issued: but if the said court shall adjudge and determine that the matters and things in such petition mentioned have not been fully and satisfactorily proved and supported to the said court, then the person or persons to whom such bond as aforesaid shall have been given his, her or their executors or administrators shall recover the penalty or sum of such bond together with costs of suit, by action of debt, bill, plaint or otherwise, in any court of record within this province, the one moiety of such penalty or sum to the use of the obligee or obligees, his, her or their executors, administrators or assigns, and the other moiety thereof when recovered and received, to be paid to such trustees or the survivor of them, as shall be appointed to manage and distribute the estate and effects for seizing whereof such warrant or warrants issued, to be by such trustees or the survivor of them, disposed of and distributed in like manner as all other monies that may come to their hands by virtue of their appointment as trustees is directed to be disposed of by virtue of this act.

If the person absconding return not within three months, the judges to appoint trustees for all the creditors.

VIII. *And be it further enacted*, That if such absconding or concealed person or persons do not return within three months next after such public notice as aforesaid given and discharge his, her or their debt or debts or otherwise compound with or satisfy his, her or their creditors not having presented such petition and given such bond as aforesaid, or if such absconding or concealed person or persons shall have presented such petition and the court shall have adjudged and determined that the matters and things in such petition mentioned have not been fully and satisfactorily supported and proved or shall have refused to grant a *superfedeas* to such warrant or warrants, that then and in either such case, it shall and may be lawful for the judge or judges who issued the warrant of attachment or the judges of the same court for the time being, or any one of them, and either of them is hereby fully authorized and empowered to nominate and appoint three or more fit persons to be trustees for all the creditors of such absconding or concealed person or persons, which trustees shall take an oath or affirmation (in cases where by law an affirmation is allowed) well and truly to execute the trust by that appointment

Oath or affirmation of trustees.

reposed

reposed in them according to the best of their skill and understanding, which oath or affirmation the judge or judges appointing the said trustees is and are hereby required to administer.

IX. *And be it further enacted*, That the said trustees or any two of them, when so as aforesaid appointed, shall as soon as may be thereafter cause public notice to be given in the *Royal Gazette* publish'd by the *Kings Printer* in this province, of such their appointment, and thereby require all persons indebted to such absconding or concealed person or persons by a day certain to be appointed by them in their said notice, to pay all such sum or sums of money or other debt, duty or thing which they owe to the said absconding or concealed person or persons, and deliver all other effects of such absconding or concealed person or persons, which he, she or they may have in their hands, power or custody, to them the said trustees; and that the said trustees, shall also by public advertisement in the said news-paper, desire all the creditors of such absconding or concealed person or persons, by a certain time in such advertisement to be mentioned, to deliver to the said trustees, or any one or more of them, their respective accounts and demands against such absconding or concealed debtor or debtors.

Trustees to notify their appointment and to require payment of debts, &c.

Creditors to deliver their accounts &c. to the trustees.

X. *And be it further enacted*, That such trustees and each and every of them, when so nominated and appointed under the hand and seal, or hands and seals of the said judges or any one of them, hereby is and are fully authorized and empowered, to take into their hands all the estate or estates of such absconding or concealed person or persons for the management of whose estate or effects they were appointed, and every part or parcel thereof that shall have been seized as aforesaid, and all other his, her or their estate and effects, which they the said trustees may afterwards discover in any part of this province, and all evidences, books of account, vouchers and papers relating thereto; and such trustees immediately from their appointment shall be and hereby are declared to be vested with all the estate real and personal of such absconding or concealed person or persons for the management of whose estate they were appointed, and they and the survivors and survivor of them, is and hereby are enabled and made capable to sue for, recover and receive all such estate and estates, as well real as personal, debts, dues, effects or other thing or things whatsoever, which they shall find due, payable or belonging to such absconding or concealed person or persons; and such sheriff, or sheriffs as shall have seized, attached or taken any estate or estates real or personal or any other matter or thing whatsoever, by virtue of any such warrant or warrants as aforesaid, shall deliver the same to such trustees or one of them; and such trustees and the survivor and survivors of them is and are hereby authorized

Trustees to take the estate &c. of the absconding party into their hands, with power to sue for the same.

After 14 days notice to make sale of the same at public auction

Deeds &c. executed by trustees declared valid against the absconding party and all claiming under him.

fed and directed to make sale by public vendue of all such estates and effects of such absconding or concealed person or persons as shall come to their hands (after fourteen days notice of each time and place of sale respectively) and of all estate and interest which such absconding or concealed person or persons had in the same, and deed, releases, bills of sale or other conveyances for the same or any part or parts thereof, from time to time to make and execute, which being so made and executed, by them or any two of them, or the survivor of them, for such estates or effects or any part or parts thereof, shall be and are hereby declared to be as good, valid and effectual to transfer the property thereof to all intents, constructions and purposes whatsoever, as if executed by the said absconding or secreted person or persons before such first public notice as aforesaid given, and shall be good, valid and effectual in law, to all intents and purposes whatsoever, against the said absconding or concealed person or persons, his, her or their heirs, executors, administrators and assigns, and all persons claiming under them or any of them, by virtue of any act, deed, matter or thing, after such first public notice as aforesaid given.

Persons concealing effects or debts to forfeit double the value or sum due.

XI. *And be it further enacted*, That if any person or persons indebted to such absconding or concealed debtor or debtors, or having the custody of any goods, chattels or effects, or other thing or things whatsoever of such absconding or concealed person or persons, shall conceal the same and not deliver a just account thereof to such trustees as aforesaid, or one of them, by the day, for that purpose by them appointed, he, she or they, so concealing, shall forfeit double the sum of the debt or debts, or double the value of the goods, chattels, effects or other thing or things so concealed, to be recovered by the said trustees in any court within this province having jurisdiction to the amount of such forfeiture, and applied as herein after is directed which said courts are hereby respectively fully empowered to compel to come before them, all such concealers or others concerned, and them to examine upon oath, touching the premises and to commit them or either of them if they refuse to be so examined, or being so examined, refusing to answer fully and satisfactorily to such court.

False swearing to be deemed wilful perjury.

XII. *And be it further enacted*, That in case any person so to be examined as aforesaid, shall wilfully and knowingly swear or affirm falsely, the person so offending, shall be liable to all the same pains and penalties as those who are convicted of wilful and corrupt perjury.

Persons discovering secreted effects, entitled to 10 per cent. on the value thereof

XIII. *And be it further enacted*, That any person or persons (other than those who have the effects in their custody) who shall discover any effects of any absconding or concealed debtor or debtors, secreted contrary to the true intent and meaning of this

this act, so that they be recovered by the trustees of such absconding or concealed person or persons estate shall be and hereby is or are intitled to ten *per cent* on the value of all effects so discovered, recovered and received by the said trustees, to be paid to the discoverer or discoverers by the said trustees out of the estate or effects of such absconding or concealed person or persons.

XIV. *And be it further enacted*, That the trustees of any absconding or concealed debtors estate, hereafter to be appointed in pursuance of this act, or any two of them, are hereby fully impowered to settle and adjust all matters, contracts and accounts that may be subsisting between such absconding or concealed person or persons and his, her or their debtor or debtors and also between such absconding or concealed person or persons and his, her or there creditor or creditors, and to examine any person or persons upon oath, concerning any matters, accounts or settlements between them or either of them, which oath the said trustees or any one of them, two of them being present, is and are hereby impowered to administer.

Trustees impowered to settle all accounts &c. and to examine any persons upon oath.

XV. *And for the greater ease and relief of such trustees aforesaid, Be it enacted*, That in case any controversy shall arise concerning any debt, matter or thing claimed by any creditor or creditors of such absconding or concealed person or persons, or concerning any debt, due, duty matter or thing claimed by the said trustees from or against any person or persons, as belonging to or in right of the effects or estate of such absconding or concealed debtor or debtors, or concerning or relating to any contract or agreement entered into or made by such absconding or concealed debtor or debtors previous to such public notice as aforesaid first given, it shall and may be lawful for such trustees or any two of them, or the survivors or survivor of them, to have every such controversy determined in the following manner, that is to say, the said trustees or any two of them, or the survivors or survivor of them, may nominate two referees not being creditors of such absconding or concealed debtor or debtors, or to them known to be otherwise interested in such controversy, or related to any person interested in such controversy and the other party or parties in such controversy shall also nominate two indifferent persons to be referees, and their names shall be seperately written upon four pieces of paper as nearly as may be of the same size and figure, which shall be rolled up seperately in the same manner, and put into a box and from thence one of the trustees shall draw out three of the said pieces of paper, and the persons whose names are so drawn shall finally settle such controversy, and if any referees so appointed shall refuse or be incapable of acting in a reasonable time, a new choice shall be made in the manner as before, of another or others in the room of him

Trustees impowered to settle controversies by referees.

Made of appointing referees.



or them so refusing or being incapable of acting as aforesaid; and in case any person or persons who shall have any controversy with any such trustees as aforesaid, shall refuse to nominate fit persons to be referees on his or their part, then such trustees or any two of them or the survivors or survivor of them are hereby impowered to nominate referees for him or them so refusing, and to proceed to the final settlement of such controversy in manner aforesaid.

Duty of trustees.

XVI. *And be it further enacted*, That all trustees hereafter to be appointed by virtue of this act, shall proceed to convert the estate or estates real and personal of such absconding or concealed debtor or debtors, for the management of which estates respectively they shall be appointed, into money and collect the debts, due to the same, and that the said trustees or any two of them, or the survivors or survivor of them, shall cause public notice to be given in the public news paper before mentioned, requesting a general meeting of all such creditors as shall chuse to attend, to examine and see the debts due to each person ascertained at a certain time and place by such trustees in their said notice to be appointed, which shall not be less than two nor more than three months after such notice given, nor more than one year and a half from the time of their first appointment, at which meeting or at other subsequent meetings to be continued by adjournment if necessary, when all accounts are fairly stated and adjusted, they shall proceed to make a distribution or division among the creditors in proportion to their respective just demands, of all such monies as shall have come to their hands as trustees of such estate or effects (of which all forfeitures by them recovered and received by virtue of this act, shall be considered as a part) first deducting thereout all legal charges and commissions, in which payment no preference shall be allowed to debts due on specialities; and if the whole of such absconding or concealed debtor or debtors estate shall not be then settled and distributed such trustees or any two of them, or the survivors or survivor of them, shall within the space of one year thereafter make a second dividend of all such monies as shall have come to his or their hands after the first division, and so from year to year until a final settlement thereof, and a just and equal distribution of such estate or effects shall have been made amongst the creditor or creditors of such absconding or concealed debtor or debtors in proportion to their respective just demands; and if any surplus shall remain after all just debts and legal charges and commissions are fully paid and satisfied, such surplus shall be paid or delivered to the said absconding or concealed person or persons, his, her or their executors, administrators or assigns.

Creditors having demands not due at the time of making a divi-

XVII. *And be it further enacted*, That any person or persons who may have given credit to any such absconding or concealed debtor

debtor or debtors on a valuable consideration, for any sum of money which shall not be due or payable at the time of any such division or distribution as aforesaid, but will become due or payable at some time after; shall and may nevertheless be admitted and considered as a creditor or creditors whose debts were then due, and shall receive a dividend of the estate of such absconding or concealed debtor or debtors in the same proportion as other creditors, deducting thereout only a rebate of legal interest for what shall be received on such debt or debts to be computed from the actual payment thereof to the time such debt or demand respectively would have become due.

dent to receive their proportion upon rebate of interest.

XVIII. *And be it further enacted*, That if any creditor or creditors shall neglect or refuse to give notice of or deliver unto the said trustees an account of his, her or their debt or demand or having any controversy relating to or concerning the estate of such absconding or concealed debtor or debtors shall refuse to adjust or settle the same with the said trustees in the manner in and by this act directed until after a division shall have been made of the monies and effects in the hands of the said trustees any such creditor or creditors shall not be entitled to any dividend and the whole monies then in hand to be divided, shall be divided by the said trustees among the other creditors; But in case the whole of such debtor or debtors estate shall not be divided and settled at the first division, then if such creditor or creditors respectively shall prove and deliver unto the trustees, his, her or their debt or demand before the time appointed for the second division or shall have settled such controversy as aforesaid with the said trustees, then such creditor or creditors shall have his, her or their first dividend or so much money as he, she or they would otherwise have been entitled to on the first division, before any second division shall be made.

Creditors neglecting &c. to deliver their accounts to be excluded from any dividend.

XIX. *And be it further enacted*, That any creditor or creditors residing out of this province, shall be entitled to all the privileges and benefits of this act, and that the attorney or attorneys of every such creditor or creditors residing out of this province, on producing a letter of attorney from such creditor or creditors, duly authenticated, and legal proof of the debt due, shall and may in all respects act, do and proceed for and in behalf of such creditor or creditors in the same manner as such creditor or creditors might or could do for securing or recovering their respective debts from such absconding or concealed debtor or debtors if such creditor or creditors was or were personally present.

Creditors out of this province authorized to act by attorneys.

XX. *And be it further enacted*, That the judges of the inferior court of common pleas in each county within this province and the mayor and recorder of the city of *Saint John*, and each

Judges of inferior courts and the mayor and recorder of the city of *St. John*

to put this act in execution for debts under £ 50 where warrants have issued from judges of both courts a *certiorari* shall be awarded to bring all the proceedings before the judges of the supreme court.

and every of them is hereby authorized and empowered to put this act in execution in their respective counties where the debt or sum due to any one creditor or joint company applying for relief does not exceed fifty pounds. *Provided always*, That where warrants shall be issued by any judge or judges of the supreme court, and also by any judge or judges of any of the said inferior courts against the estate or effects of the same person or persons, in such case the judges of the supreme court or any one of them, shall award a writ or writs of *certiorari* to the judge or judges of such inferior courts as the case may require, to remove the proceedings there, before the judge or judges of the supreme court, that he, or they may proceed upon both warrants or either of them.

Judge or judges issuing warrants to report to the court the proof of the debt, &c.

XXI. *And be it further enacted*, That the judge or judges who shall issue any warrant or warrants of attachment in pursuance of this act, shall make report to the court whereof he or they is or are judge or judges of the proof of the debt or demand made by the creditor or creditors on whose application such warrant or warrants issued, of the issuing of such warrant or warrants, of the notice thereon ordered, of the publication of such notice, of the appointment of trustees and of all other matters required of him or them by this act to be done out of court, and cause that report to be entered in the minutes of the said court, to be evidence of the facts so reported and such report or the record or entry thereof in the minutes of the said court shall be full and conclusive evidence of the facts so reported in all courts of record within this province.

Judges appointing trustees may endorse a certificate authorising the proper officers to record the same.

XXII. *And be it further enacted*, That the judge or judges who shall make any such appointment of trustees, shall and is and are hereby required at the request of the trustees thereby appointed, or any one of them, to indorse on such appointment an allowance that the same may be recorded, which allowance signed by the said judges or any one of them, if a judge of the supreme court, shall be a sufficient warrant and authority to the secretary of this province, and all or any of the clerks of the respective cities or counties within this province to record the same. And if such judge, be a judge of an inferior court of common pleas, shall be a sufficient warrant and authority to the clerk of the county whereof he is a judge to record the same; and any appointment of trustees under the hand and seal, or hands and seals of any judge or judges authorized to put this act in execution, or the record thereof duly made in the said secretary's office, or in the office of the clerk of any city or county of this province, shall be full and conclusive proof in all courts and places within this province, that the person or persons against whose estate or effects such warrant or warrants issued, was or were at the time of issuing thereof absconding or concealed debtor or debtors within

Record of such appointment to be good proof in all courts.

within the meaning of this act, and that the said appointment and the proceedings previous thereto were regular and according to the directions of this act.

XXIII. *And be it further enacted,* That any judge or judges who shall issue such warrant or warrants of attachment as aforesaid, pursuant to this act, shall, and he or they is and are hereby required and directed to cause the affidavits or affirmations of the creditor or creditors made before him or them previous to the issuing of such warrant or warrants respectively within thirty days after the taking of such affidavit or affirmation, and such warrant or warrants of attachment as aforesaid, within thirty days after the return thereof by such Sheriff as shall return the same, together with the Sheriff's return thereof, to be delivered into the office of the clerk of that court, whereof he or they is or are judge or judges which clerk is hereby required and commanded to mark or cause them to be marked respectively with the day and year on which each of them respectively shall be filed in his office, and to preserve the same amongst the papers filed in such office. And all trustees hereafter to be appointed by virtue of this act or the survivors or survivor of them, who by virtue of such appointment shall sell and convey any messuages, lands, tenements or hereditaments, shall cause such appointment of trustees to be duly proved or acknowledged and allowed, so that the same may be recorded, and shall cause the same to be entered of record either in the secretary's office of this province or in the office of the clerk of the city or county wherein such messuages, lands, tenements or hereditaments do lie. And every appointment of trustees hereafter to be made in pursuance of this act or the record thereof made by such proper officer as aforesaid, or an office copy thereof attested by any such proper officer as aforesaid, in case such record should have perished by fire or other accident, together with a legal title or conveyance from such trustees or any two of them, or the survivors or survivor of them proved or to be proved in due form as by law required, shall be a full, compleat and perfect title for such messuages, lands, tenements or hereditaments, to such purchaser or purchasers, his, her, or their heirs and assigns, against such absconding or concealed debtor or debtors, his, her, or their heirs or assigns, and all other persons claiming or to claim by, from or under him, her or them, by virtue of any act deed, matter or thing, after such first public notice as aforesaid given.

Judges issuing warrant of attachment to file the same together with the affidavits in the office of their respective courts.

Trustees selling real estate to prove and record their appointment.

Record of the appointment of trustees and a legal conveyance from them to be deemed a good title.

XXIV. *And be it further enacted,* That such trustees as shall hereafter be appointed by virtue of this act shall keep a regular book or regular books of account of all such monies as shall come to their hands by reason or on account of such their appointment, to which book or books every creditor interested in such monies or estate at all reasonable times may have recourse. And that such

Trustees to keep an account of their receipts to be open to the inspection of the creditors.

To be subject to the orders of the court the judges whereof appointed them.

And to render to the same court an account of their proceedings attesting thereto in open court.

Trustees to be allowed 5 per cent for their trouble.

Special matter given in evidence under general issue.

Continuance of the act.

such trustees and each of them shall be subject to such orders and directions for the more effectual putting this act in execution, and finishing a distribution of such estate or effects as may come to their hands by virtue of such appointment as shall from time to time be made and given in the court by the judge or judges whereof such appointment of trustees was made. And also that such trustees shall render unto the court by the judge or judges whereof they were appointed, a just and true account or accounts in writing, upon oath made in open court of their proceedings and accounts in the premises by virtue of their appointment, which shall be filed with the clerk of the said court for the satisfaction of all persons concerned. And such trustees of the estate of any such absconding or concealed person or persons shall and may retain and keep in their hands for the trouble and services to be by them performed, the sum of five per cent on the whole sum which shall come into their hands by virtue of such appointment before each dividend made, over and above all necessary disbursements in the premises.

XXV. *And be it further enacted*, That if any person or persons shall be sued for any matter or thing done in pursuance or by virtue of this act, it shall and may be lawful for him, her or them, to plead the general issue and give the special matter in evidence. And also that this act shall be beneficially construed for the creditors in all courts of record within this province; and that the same shall continue and be of force as to the powers of judges to grant such warrants of attachment and exercise the powers hereby given until the first day of February, which will be in the year of our Lord one thousand seven hundred and ninety. And from thence to the end of the then next session of the general assembly of this province. But shall continue and be in full force as to the power of every court, person, and trustees, that shall be appointed as aforesaid, by virtue of this act before its above limitation and have any duty or thing thereby enjoined or required to be done until a full and final settlement and distribution shall be made by them and finished according to the true intent and meaning of this act.

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CAP. XIV.

An ACT for PREVENTION of FRAUDS  
and PERJURIES.

Preamble.

FOR prevention of many fraudulent practices, which are commonly endeavour'd to be upheld by perjury and subornation of perjury; *Be it enacted by the Governor, Council and Assembly,*