

Proviso : New writ not to make new Inventory requisite. against the absconding Debtor and be so recovered from him ; Provided always, that the Sheriff having made an inventory and appraisement on the first Writ of Attachment against any absconding Debtor, shall not be required to make any new inventory and appraisement on a subsequent Writ of Attachment coming into his hands, nor shall he be allowed any charge for any inventory or appraisement except upon the first Writ. 5

Persons having previously commenced suits against the same Defendant may proceed to judgment, &c. LV. Any person who shall have commenced a suit in any Court of Record of Upper Canada, the process wherein shall have been served or executed before the suing out a Writ of Attachment against the same defendant as an absconding Debtor, shall, notwithstanding the suing out of the Writ of attachment, be entitled to proceed to Judgment and execution in his suit in the usual manner ; and if he shall obtain execution before the Plaintiff in any such Writ of Attachment, he shall have the full advantage of his priority of execution in the same manner as if the property and effects of such absconding Debtor still remained in his own hands and possession, subject to the prior satisfaction of all costs of suing out and executing the Attachment if the Court or a Judge shall so order ; Provided always, that nothing herein contained shall prevent the Court in which such action is brought or a Judge from setting aside any such judgment and execution, or staying proceedings therein on the application of the Plaintiff on any Writ of Attachment, if such judgment shall appear to be fraudulent, or such action has been brought in collusion with the absconding Debtor, or for the fraudulent purpose of defeating the just claims of other Creditors of such absconding Debtor. 15 20 25

Proviso : If such suit be fraudulent or collusive.

If the Sheriff find property in the hands of a Bailiff, or Clerk of a Division Court under 13 & 14 V. c. 53. LVI. If any Sheriff to whom a Writ of Attachment is delivered for execution, shall find any property or effects, or the proceeds of any property or effects which have been sold as perishable, belonging to the absconding Debtor named in such Writ of Attachment, in the hands, custody and keeping of any Constable or of any Bailiff or Clerk of a Division Court by virtue of any warrant of attachment issued under the provisions of the Act of the Parliament of this Province, passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to consolidate and amend the several Acts now in force regulating the practice of Division Courts in Upper Canada, and to extend the Jurisdiction of the same*, it shall be the duty of such Sheriff to demand and to take from such Constable, Bailiff or Clerk all such property or effects, or the proceeds of any part thereof as aforesaid, and it shall be the duty of such Constable, Bailiff or Clerk, on demand by such Sheriff and notice of the Writ of Attachment, forthwith to deliver all such property, effects and proceeds as aforesaid to the Sheriff, upon penalty of forfeiting double the value or the amount thereof, to be recovered by such Sheriff, with costs of suit (which sheriff shall, after deducting his own 30 35 40 45 50