

order in the matter as they may think fit, and if necessary to make a rule, &c.
direct an issue to try any disputed question of fact.

LIII. If the real and personal property, credits and effects of any absconding Debtor attached by any Writ of Attachment as
5 aforesaid, shall prove insufficient to satisfy the executions obtained in the suit thereon against such absconding Debtor, the Sheriff having the execution thereof may by rule or order of the Court or a Judge to be granted on the application of the Plaintiff, in any such case, sue for and recover from any person
10 indebted to such absconding Debtor, the debt, claim, property or right of action attachable under this Act and owing to or recoverable by such absconding Debtor, with costs of suit, in which suit the Defendant shall be allowed to set up any defence which would have availed him against the absconding Debtor
15 at the date of the Writ of Attachment, and a recovery in such suit by the Sheriff shall operate as a discharge as against such absconding Debtor; and such Sheriff shall hold the moneys recovered by him as part of the assets of such absconding Debtor, and shall apply them accordingly; provided that the
20 declaration in such action shall contain an introductory averment to the effect following:—"A. B., Sheriff of, (&c.) who
"sues under the provisions of the law respecting absconding
"Debtors, in order to recover from C. D., Debtor to E. F., an
"absconding Debtor, the debt due (or other claim according to
25 "the facts) by the said C. D., to the said E. F. complains, &c."
Provided also, that no Sheriff shall be bound to sue any party as aforesaid until the attaching creditor shall give his bond with two sufficient sureties payable to such Sheriff by his name of
30 office in double the amount or value of the debt or property sued for conditioned to indemnify him from all costs, losses and expenses to be incurred in the prosecution of such action or to which he may become liable in consequence thereof; Provided
lastly, that in the event of the death, resignation or removal from office of any Sheriff after such action brought, the action shall not
35 abate, but may be continued in the name of his successor to whom the benefit of the bond so given shall enure as if he had been named therein, and a suggestion of the necessary facts as to the change of the Sheriff as Plaintiff shall be entered of record.

Debtor or Defendant may be sued if defendant's property seized be not sufficient to satisfy Plaintiff.

Money recovered to be held as part of assets of absconding debtor.

Proviso: averment to be inserted in Sheriff's declaration.

Proviso: Sheriff not bound to sue until creditor shall give bond to indemnify him

Proviso: Sheriff's successor may continue the action.

LIV. The costs of the Sheriff for seizing and taking charge of property, credits and effects under a Writ of Attachment, including the sums paid to any persons for assisting in taking
40 an inventory, and for appraising (which shall be paid for at the rate of *five shillings* for each day actually required for and occupied in making such inventory or appraisement) shall be paid in the first instance by the Plaintiff in the Writ of Attachment, and may after having been taxed be recovered by the Sheriff by action in any Court in Upper Canada, having jurisdiction for the amount, and such costs shall be taxed to the
50 party who pays the same as part of the disbursements in the suit

Costs in such cases, and how paid.