

case sufficient estate of the absconding person shall not come to the hands of the said trustees, nor be reduced into money, at the time of making the first dividend, to satisfy the whole of the creditors, and thereafter any debts should be recovered by them the said trustees, or any of the absconding person's estate come to their hands, the same shall be reduced to money, and distributed, together with such part as was not before reduced into money, in manner aforesaid, after such notice as aforesaid.

XII. **Provided always,** That no sale shall be made of any lands, tenements or hereditaments, where the personal estate seized, or which may be seized, and debts received, are sufficient to satisfy all the creditors and costs; and that no more of the effects of any absconding person shall be sold, than may be deemed as near as may be, together with debts received, sufficient to satisfy his or her creditors, with costs; and all the remaining part of the effects seized, together with the overplus money (if any there be) shall be delivered back by the said trustees to the owner or owners thereof, or to his or her attorney or attorneys, executors, administrators or assigns. Proviso.

XIII. **And,** whereas it may often happen, that absconding persons may be indebted, but by the terms of their contracts the debts may not be demandable till after the time of the dividend made, and many times suits may be depending undetermined, when the trustees are obliged to make the said dividends; **It is therefore hereby enacted,** That the said trustees may allow and take, into all such dividends, all just debts, although the time of payment be not incurred, deducting thereout at and after the rate of six *per cent. per annum*, from the time of such dividend struck to the time at which by contract the debt ought to be paid: And that over and above, ten pounds *per centum* for the first hundred pounds, and seven pounds ten shillings for every hundred pounds thereafter, and so *pro rato*, on the whole sum which shall come to the hands of the said trustees, which the said trustees are hereby empowered in all cases to retain in their hands for their commission, and as a reward for their services; they may also retain in their hands a reasonable sum, where any suits by them as trustees are depending, to indemnify and secure themselves against the costs of such suits. Trustees to take into the dividends all just debts, &c.

XIV. **And be it further enacted,** That the trustees to be appointed in virtue of this act, shall be subject to such orders and directions as shall, from time to time, be made in the court from whence their commission issued, for the more effectual putting this act in execution; and on the death of any of the said trustees, or their or any of their refusal to act, the court from whence such commission issued shall, and is hereby empowered, to issue a new commission, to such person or persons as to the same court shall seem expedient, to act in the place or stead of any such trustee so dead, or who shall refuse to act; and such court is likewise hereby empowered to displace any trustee or trustees for negligence or misbehaviour, and to put and place others to act in their stead, and the whole power of such displaced trustee shall thenceforth cease, and the trustee so displaced shall immediately deliver over to the other trustees all the estate of the said absconding person, and all books and papers concerning the same, in his hands, custody or power, touching which he may be examined on oath by the court, and on his refusal to submit to such examination, or to make such delivery, shall be committed to close prison till he doth the same. And be subject to the directions of the court, &c.

XV. **And be it further enacted,** That where attachments shall be issued, both out of any county court and the provincial court, against one and the same absconding person, then, and in such case, upon application made to the provincial court, or any one justice thereof, a *certiorari* shall issue to remove the proceedings of the county court before the provincial court, and on the return of such *certiorari*, the provincial court shall proceed therein, and the trustees appointed by that court shall be invested with all the personal estate and papers seized by virtue of the attachment issued out of the county court, as if the same had been seized by virtue of the attachment issued out of the provincial court; and where attachments shall issue out of the provincial court and any county court, to the Where attachments shall be issued, on application certiorari may issue to remove the proceedings, &c.
sheriff