

### Claimant of Property Taken Under Execution.

An. Code, sec. 73. 1904, sec. 71. 1888, sec. 69. 1870, ch. 84.

**76.** When an execution on a judgment of a justice of the peace is levied upon property claimed by any person other than the party against whom it issued, such person or his agent or attorney may apply to a justice of the peace of the county or city in which the levy is for a warrant to a constable, requiring him to summon both the judgment creditor and debtor to show cause why the property so levied upon should not be discharged from the levy, and said warrant shall be returnable in not less than five days; and if an earlier day shall have been fixed for the sale of the property so levied upon, the justice shall make an order on the warrant requiring a postponement of the same until after the return day; and upon hearing the parties, or such of them as may attend after being summoned, he shall order the property to be delivered to the claimants, or the person from whom it was taken, or shall dismiss the summons, as may seem most proper, and may give such judgment for costs as shall seem just, subject, however, to the right of appeal as now provided by law; and upon appeal from the judgment of a justice awarding the property to the claimant, the justice shall require security of the claimant for the safe keeping and return of the property to await the determination of the appeal.

Extent of magistrate's powers, and purpose of this section discussed. A claimant who acts in pursuance of this section is not barred from bringing suit for the wrongful taking and detention. *Clark v. Dressel*, 56 Md. 150.

Cited but not construed in *State v. Brown*, 54 Md. 326.

See art. 9, sec. 47, *et seq.*

An. Code, sec. 74. 1904, sec. 72. 1888, sec. 70. 1870, ch. 84.

**77.** Upon appeal from an order or judgment under the preceding section, the court hearing such appeal shall give such judgment respecting the property, the expense of keeping it, and any injury done it as may appear to be most equitable to all parties.

Cited but not construed in *State v. Brown*, 54 Md. 326.

### Profanity Before Justice.

An. Code, sec. 75. 1904, sec. 73. 1888, sec. 71. 1723, ch. 16, sec. 2. 1822, ch. 91.

**78.** Any fine imposed by a justice of the peace for swearing in his presence contrary to law shall be placed in the hands of a constable for collection by execution or otherwise, and when collected shall be paid by the constable to the county commissioners of the county or the mayor and city council of Baltimore, as the case may be.

### Probates, Affidavits and Other Instruments.

An. Code, sec. 76. 1904, sec. 74. 1888, sec. 72. 1801, ch. 74, sec. 31.

**79.** Justices of the peace shall write and prepare all probates, affidavits, *supersedeas* and other instruments to be executed by them when required, except acknowledgments of deeds.