

CLAIMANTS OF PROPERTY TAKEN UNDER EXECUTION.

39. 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 corporation 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.

1870, c 84
Proceedings
when execution
on judgment is
levied on prop-
erty claimed by
a third party

Security on
appeal

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

1870, c 84
Appeal
Judgment

SUPERSEDEAS AND EXECUTION.

41. No execution shall issue upon any judgment or decree obtained in any court of record of this State; *provided*, the defendant therein shall come before a justice of the peace of the county where such judgment or decree was rendered, within two months after the rendition of such judgment or decree, and together with two other persons, such as the said justice shall approve of, confess judgment for his debt and costs of suit, adjudged or decreed, with stay of execution for six months thereafter; which confession shall be made in manner and form following, that is to say: "You, _____, do confess judgment to _____, for the sum of _____ and costs, which were recovered by the said _____, against _____, on the _____ day of _____, in the _____ Court; the said _____ to be levied of your goods or chattels, lands or tenements, for the use of the said _____, in case the said _____ shall not pay and satisfy to the said _____, so as aforesaid recovered against him, with the additional costs thereon, on the _____ day of _____ next" Which confession shall be signed by the justice before whom the same is made, and forthwith returned to the clerk of the court in which the judgment or decree was rendered, who shall record the same; if the judgment was rendered in the Court of Appeals, the confession aforesaid

Id s 45
1791, c 67, ss
1-4, 1809, c 76,
s 3, 1826, c 194
Supersedeas
28 Md 388,
33 Md 545

Time of stay

Form of con-
fession

When to be
returned