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**LEGISLATURE OF PENNSYLVANIA.**

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**FILE OF THE HOUSE OF REPRESENTATIVES.**

**No. 672**      **Session of**  
**1919.**

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INTRODUCED BY MR. ALLUM, FEBRUARY 25, 1919.

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REFERRED TO COMMITTEE ON JUDICIARY LOCAL,  
MARCH 3, 1919.

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**AN ACT**

Authorizing the several justices of the peace throughout the Commonwealth of Pennsylvania to issue writs of replevin to recover a chattel or chattels with or without damages in cases where the value of the chattel or chattels does not exceed three hundred dollars and regulating the practice thereof

1      Section 1 *Be it enacted by the Senate and House of Repre-*  
2 *sentatives of the Commonwealth of Pennsylvania in General Assembly*  
3 *met and it is hereby enacted by the authority of the same That*  
4 *the several justices of the peace throughout the Common-*  
5 *wealth of Pennsylvania are hereby authorized to issue*  
6 *writs of replevin to recover a chattel or chattels with*  
7 *or without damages in cases where the value of the*  
8 *chattel or chattels does not exceed three hundred dollars*  
9      Section 2 Before such writ shall issue the plaintiff  
10 shall file with the justice of the peace an affidavit par-  
11 ticularly describing the chattel or chattels to be replevined  
12 The affidavit shall also contain the allegations that the

1 plaintiff is the owner of the chattel or chattels or is  
2 entitled to the immediate possession thereof by reason of  
3 a special property therein that the chattel or chattels are  
4 wrongfully detained by the defendant and the alleged  
5 cause of detention thereof to the best knowledge informa-  
6 tion and belief of the plaintiff

7 Section 3 Before such writ of replevin shall issue the  
8 plaintiff or someone in his behalf shall execute a bond  
9 in at least double the amount of the value of the  
10 chattel or chattels with two good and sufficient sureties  
11 to be approved by the justice of the peace conditioned  
12 that if the plaintiff fails to maintain title or the right  
13 to possession of such chattel or chattels he shall pay  
14 to the party thereunto entitled the value of said chattel  
15 or chattels and all legal costs fees and damages which  
16 the defendant or other persons to whom such chattel or  
17 chattels so replevined belong may sustain by reason of  
18 such writ of replevin

19 Section 4 Upon receiving the plaintiff's affidavit and  
20 bond the justice of the peace shall issue a summons  
21 and deliver it to the constable The summons shall com-  
22 mand the defendant to appear before the justice of the  
23 peace in not less than five days nor more than eight  
24 days from the date thereof and in addition thereto the  
25 justice of the peace shall attach to the summons a copy  
26 of the plaintiff's affidavit which said summons and affidavit  
27 shall be served on the defendant in the manner now  
28 prescribed by law The justice of the peace shall also  
29 attach to the summons a written requisition requiring the

1 constable to whom the summons is delivered to replevy  
2 and take into his possession the chattel or chattels de-  
3 scribed in the plaintiff's affidavit which replevy must be  
4 made at least four days before the return of the sum-  
5 mons

6 Section 5 If any other person than the defendant  
7 named in the writ be found in possession of the chattel  
8 or chattels he shall be duly served with the writ and  
9 his name added thereto as a defendant to the cause  
10 The writ shall command the constable to serve the party  
11 in possession as well as the defendant The justice of  
12 the peace may grant leave to any person upon an  
13 affidavit being filed that the chattel or chattels belong  
14 to him to intervene as a party defendant in such suit  
15 and the defendant or party so intervening may file a  
16 counter bond within forty-eight hours after the chattel or  
17 chattels have been replevied during which time the chattel  
18 or chattels shall remain in possession of the constable  
19 and which time may be extended by the justice or alder-  
20 man upon cause shown Upon the bond being approved  
21 by the justice of the peace and the proper affidavit  
22 having been filed the justice of the peace shall direct  
23 the constable to deliver the possession of the chattel or  
24 chattels to the defendant or the party intervening which  
25 said possession shall be terminated upon proof at the  
26 trial of the cause that the title or the right to the  
27 possession of the chattel or chattels is in the plaintiff

28 Section 6 On or before the return day of the sum-  
29 mons the constable shall make a return to the summons

1 and the requisition under his hand showing the manner  
2 in which the summons and requisition were served together  
3 with an inventory of the property replevied and if they  
4 were served other than by delivering certified copies there-  
5 of to the defendant personally the reason therefor and  
6 the name of the person to whom the copies were de-  
7 livered unless the name be unknown to the constable in  
8 which case the return shall describe him as nearly as  
9 may be .

10 Section 7 If the defendant or party intervening fail  
11 to execute a counter bond to which is attached a de-  
12 mand for a return of the chattel or chattels within the  
13 time hereinbefore required the constable shall deliver the  
14 chattel or chattels to the plaintiff

15 Section 8 Any constable who delivers to either party  
16 except as provided by this act or by virtue of an ex-  
17 ecution issued by the justice of the peace shall forfeit  
18 to the party aggrieved the sum of one hundred dollars  
19 and shall also be liable to him for all damages which  
20 he sustains thereby

21 Section 9 Where a chattel or chattels have been re-  
22 plevied and the defendant or party intervening has not  
23 required the return of the chattel or chattels as pre-  
24 scribed in section five of this act he may in answer  
25 demand judgment for the return thereof either with or  
26 without damages for the taking withholding or detention  
27 thereof

28 Section 10 Upon the return day of the writ if the  
29 parties appear either in person or by their agents the

1 justice of the peace shall proceed to hear their proofs and  
2 allegations and having heard such proofs and allegations de-  
3 termine to whom the title or possession of the chattel  
4 or chattels rightfully belong and if the demand shall  
5 not exceed three hundred dollars shall give judgment to  
6 the party aggrieved as right and justice may belong  
7 Either party to the cause shall have the right to ap-  
8 peal in the time and manner as now provided by law