

addressed to the contractor at the contractor's last known place of business or residence, or to the surety at any of its offices or places of business.

Section 5. Every person, co-partnership, association, or corporation, upon application to such department, agency, or municipality, stating that the applicant has furnished, supplied, or performed material or labor in the prosecution of the work as above provided, and that payment has not been made therefor, shall be promptly furnished, at the cost of the applicant, with a certified copy of the said additional bond and contract. A copy of said additional bond or contract, certified as aforesaid, shall be prima facie evidence of the contents and due execution and delivery of the original.

Copy of bond and contract to be furnished upon application.

Copies as prima facie evidence.

Section 6. This act shall take effect thirty days after its final enactment and approval by the Governor.

When effective.

Section 7. The provisions of this act are severable, and, if any of the provisions hereof are held to be unconstitutional, the decision shall not be construed to impair any other provision of this act. It is hereby declared as a legislative intent that this act would have been adopted had such unconstitutional provision not been included herein.

Constitutionality

APPROVED—The 22d day of June, A. D. 1931.

GIFFORD PINCHOT

No. 295

AN ACT

Relating to proceedings where goods or chattels have been levied upon or seized by the sheriff, and claimed to belong to others than the defendant in the execution or process, and relieving the sheriff from liability therefor.

Section 1. Be it enacted, &c., That whenever tangible goods or chattels have been levied upon or seized by the sheriff of any county under any execution or process, except an attachment sur judgment, issued out of any court of this Commonwealth, and the sheriff has been notified that said goods and chattels, or any part of them, belong to any person or persons other than the defendant or defendants in said execution or process, said sheriff or claimant may enter a rule in the court out of which the senior execution or process issued on the persons making adverse claims thereto to show cause why an issue should not be framed to determine the ownership of said goods and chattels; notice of said rule shall be given to the plaintiff and defendant in said execution or process, the claimant or sheriff, and

Sheriff's interpleader.

Duty of sheriff when goods levied on are claimed by others.

Rule to show cause why issue should not be framed.

Notice.

Hearing on rule.	the person or persons found in possession of the goods and chattels levied upon or seized. The hearing on said rule shall be in the nature of a preliminary hearing to determine the right of the sheriff or claimant to have an interpleader. If either the plaintiff or claimant fails to show cause why an issue should be framed, such failure shall be considered an abandonment of his claim as respects said execution or process on the goods or chattels claimed. If the defendant cannot be found in the county where the goods or chattels are levied upon or seized, an interpleader may be granted without prejudice to his rights.
Failure to show cause.	
Abandonment of claim.	
Interpleader without prejudice.	
When rule may be made absolute without hearing.	If the claimant, or his agent, enters a rule as aforesaid upon a petition showing a prima facie title and right of possession to the goods or chattels claimed at the time the levy or attachment made, and attaches an inventory of said goods and chattels, the court, or judge thereof, may make said rule absolute forthwith, upon condition that the claimant shall file a bond as hereupon provided, without a hearing on said rule.
Claimant to give bond if rule made absolute.	Section 2. If said rule shall be made absolute, either with or without a hearing, the claimant shall give bond to the Commonwealth of Pennsylvania, with security to be approved by said court, or a judge thereof, in double the appraised value of the goods and chattels claimed, or in double all claims, with interest and probable costs thereon, for which said property is in legal custody, whichever shall be the smaller amount, conditioned that he shall at all times maintain his title to said goods and chattels claimed, or pay the value thereof to the party or parties thereunto entitled in accordance with their respective interests therein by reason of such executions or process or otherwise, and thereupon the sheriff shall withdraw all levies and attachments on the property claimed, and deliver any goods and chattels actually in his custody to the claimant, upon payment by the latter of the charges incurred by the sheriff in taking and keeping and transporting the same, unless otherwise ordered by the court: Provided, That the claimant shall first have filed a statement of title required by this act in each suit or proceedings in which any execution or attachment issued, and any of said goods and chattels were levied upon and seized by said sheriff.
Conditions of bond.	
Withdrawal of levies and delivery of goods.	
Proviso.	
Bond to inure to benefit of plaintiff.	Section 3. Such bond shall inure to the benefit of the plaintiff in the execution or process, or of any other person who may be adjudged to have the right or title to said goods or chattels, or any part thereof, and successive suits may be brought thereon to the use of such persons until the amount thereof is exhausted.
Only one bond to be filed if more than one execution.	Section 4. If there be more than one execution or process issued against said goods and chattels, only one

bond shall be filed in the court out of which the said execution or process having the first lien issued, but notice of an intention to present security for approval shall be given to the plaintiff in every such execution or process, and to the person found in possession of such goods and chattels.

If the claimant files a bond in double the value of the goods claimed, he shall not be required to file an additional bond for any plaintiff in any subsequent execution or process against the same defendant with respect to the same goods, but the bond filed shall inure to the benefit of such plaintiff, and the said plaintiff may be made a party to the pending interpleader upon the first or prior execution or process.

Additional bond not required in subsequent execution.

Section 5. If the goods and chattels levied on are found in the possession of the claimant (or his agent or bailee) and not in the possession of the defendant in the execution or process, the court may permit the claimant to file his own bond, upon it being shown that the claimant does not derive his title thereto by, from, or through the said defendant.

When claimant may file his own bond.

Section 6. The value of the goods and chattels claimed shall be determined by two appraisers appointed by the sheriff, duly qualified and sworn by him to make a just and fair valuation of the said goods and chattels claimed, subject to the approval thereof by the court, if exceptions thereto be filed before the entry and approval of the bond herein provided for.

Appraisement.

No appraisement shall be necessary where the claimant shall give bond in double the amount of all claims, with interest and probable costs thereon, for which the goods claimed are in legal custody.

When unnecessary.

Section 7. The cost of making an appraisement of said goods and chattels shall be the sum of four dollars, to be paid to the sheriff, which shall form part of the costs of the cause, and shall be paid by the claimant at the time of making his or her claim: Provided, That in any case where the appraisement of a large quantity of goods shall be required, the sheriff may apply, by petition, to the court, or a judge thereof, having jurisdiction over said matter, setting forth the facts, and said court or judge may make an order fixing the sum to be allowed and paid to the sheriff as the proper cost of making such appraisement, which sum, so fixed and allowed, shall be taxed as the sheriff's proper legal costs, in addition to the official fee of one dollar to be charged and collected by him for docketing the property claim.

Cost of appraisement.

Proviso.

If the claimant fails to pay said sum, when required under this act so to do, it shall be treated as an abandonment of his or her right to have the goods and chattels themselves, as the case may be, and the sheriff

Failure to pay costs.

shall proceed to sell said goods and chattels, or so much thereof as may be necessary, and apply the money received from the sale thereof in satisfaction of said execution or process.

Appraised value shall be prima facie evidence.

Section 8. The appraised value, thus ascertained, shall be prima facie evidence of the real value in any proceedings touching the ownership of said goods and chattels, but at the trial the real value thereof may be shown to be more or less than the appraised value, and a verdict and judgment may be rendered against the claimant up to the value of said goods and chattels as so proven.

Verdict.

Abandonment of lien.

Section 9. If the plaintiff in the execution or process voluntarily relinquish or abandon the lien of the levy upon the goods and chattels levied upon, or seized and claimed as aforesaid, the sheriff shall retain possession of the goods and chattels so claimed for a period of forty-eight hours, after notice of such relinquishment or abandonment shall have been given by the sheriff to the claimant, so that the claimant may have an opportunity to take other proceedings to recover possession of the claimed goods if he was not found in possession of them at the time of the levy or seizure, otherwise the sheriff shall return the goods claimed to the person in whose possession they were found.

Retention of possession by sheriff.

Parties to issue.

Section 10. In the issue to be framed under this act, the claimant shall be the plaintiff, and all other parties thereto shall be defendants. The issue shall consist of a statement of the source of the claimant's title and an inventory of the goods claimed attached thereto, which statement shall be signed and sworn to by him or by some one in his behalf, and an affidavit to be filed by the defendant or defendants in the issue, averring the grounds on which he questions the claimant's title. If the defendant fails or refuses to file such affidavit within fifteen days after notice of a rule to file same, the prothonotary or clerk may enter judgment against the defendant for want of such affidavit of defense.

Statement and inventory.

Affidavit of defense.

Failure to file, entry of judgment.

Judgment for want of sufficient affidavit.

The claimant may take a rule for judgment for want of a sufficient affidavit of defense to the whole or any part of his claim, and the court shall enter judgment or discharge the rule as justice may require. The court in which such issues are raised may make general rules governing the proceedings under this act, not inconsistent herewith, and may grant new trials of such issues, and the judgment recovered shall be subject to appeal to the Supreme Court or Superior Court as in other cases. By leave of court, other parties may be allowed to intervene and become parties to the issue, with like rights and remedies as if made parties at the commencement of the proceedings.

General rules.

New trial.

Appeal.

Section 11. The bond and claimant's statement of title shall be filed within two weeks after the sheriff's or claimant's rule for an issue shall be made absolute, unless the court, for cause shown, shall extend the time for doing so. If the claimant shall fail to comply with this section, then the sheriff, on being furnished with a certificate, from the prothonotary or clerk, that a bond and statement has not been so filed, shall proceed with the execution or process as if no claim had been filed.

Time when bond and statement shall be filed.

Section 12. If the claimant fails to give bond, but otherwise files his or her statement of title within the time herein specified, the court, if in term time, or a judge thereof, if in vacation, may, on motion of the plaintiff in the execution or process or other party interested therein, direct a sale of the goods and chattels claimed as aforesaid—and the plaintiff in the execution or process shall direct the sheriff as to what goods and chattels he shall sell, but no more shall be sold than enough to satisfy the said execution or process, and the proceeds thereof shall be paid into court to await the determination of the issue—or the court may impound the goods upon such conditions as justice may require.

Statement filed but not bond.

Court may sell or impound goods.

Proceeds of sale.

If the claimant files a bond but fails to file a statement of title within the time specified, the plaintiff in the execution or process may enter a rule upon the claimant to file the same within fifteen days after notice thereof or to suffer a judgment of non pros, which shall have the effect of forfeiting his bond.

Bond filed but not statement.

Judgment of non pros.

If the plaintiff in the execution or process obtains judgment by non pros in the interpleader issue, his damages may be assessed on a writ of inquiry, not exceeding the value of the goods claimed.

Writ of inquiry.

Section 13. If upon the trials of said issue the title to said goods and chattels be found not to be in the claimant, he shall pay all the costs of said proceeding, including the allowance of a fee to counsel for the plaintiff in the execution or process as shall be fixed by the court, and the proceeds of said goods and chattels, if in court, shall be paid to the party entitled thereto as thus ascertained. If, however, said goods and chattels have been taken by the claimant, a verdict and judgment for the value thereof shall be entered against the claimant and in favor of the defendants in the issue as their interests may appear.

When title found not to be in claimant.  
Costs.

Value of goods.

If upon the trials of said issue the title to said goods and chattels be found in the claimant, a verdict and judgment may be entered against the plaintiffs in the executions or processes for the damages suffered by the claimant by reason of the levies or attachments on same, including the allowance of a counsel fee to be fixed by the court, and the proceeds of any goods and

When title found to be in claimant.

Damages.

Counsel fee.

Proceeds of goods.

chattels sold, if in court, shall be paid to the claimant on account of such judgment.

Assessment of damages.

If the claimant obtains judgment against the plaintiff in any execution or process for want of an affidavit of defense or sufficient affidavit, the claimant may have his damages assessed upon writ of inquiry.

Costs to follow judgment.

Section 14. In all issues framed under this act, all the costs of the proceeding shall follow the judgment and be paid by the losing party as in other cases.

Liability of sheriff.

Section 15. If the sheriff shall comply with the provisions of this act, he shall be free from all liability to the claimant, the plaintiff and defendant in the execution, the person found in possession of the goods and chattels levied on or seized, and every other person who had actual or constructive notice of such levy or seizure prior to the sale of said goods and chattels, or who shall take any step under the provisions of this act. The advertising of a sheriff's sale, as required by law, shall be deemed constructive notice of said levy or seizure.

Rights of lien holder.

Section 16. Nothing herein contained shall be construed to affect the rights of any lien holder other than the plaintiffs in each execution and process herein provided for.

Fees, etc.

Section 17. The fees, commissions, and mileage of the sheriff and other county officers, having any duties to perform under this act, shall be the same as allowed by their respective fee bills for such similar services, and paid by the claimant as costs in the issue.

Perishable goods.

Section 18. Whenever any goods or chattels claimed are perishable, the court or judge may, on petition of plaintiff in the execution or process, direct a sale thereof and the payment of the proceeds into court to await an adjudication of the title thereto.

Statements by sheriff.

Section 19. Any statement by the sheriff, in any petition, rule, notice, or return of service, regarding the person or persons found in possession of the goods and chattels claimed, or any of them, shall not be conclusive against the claimant or any other person or party interested therein.

Constitutionality.

Section 20. The provisions of this act are severable, and if any of its provisions are held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of this act. It is hereby declared as a legislative intent that this act would have been adopted by the General Assembly had such unconstitutional provisions not been included therein.

Effective date.

Section 21. This act shall take effect on the first day of July, one thousand nine hundred and thirty-one.

Act of  
May 26, 1897  
(P. L. 95),  
repealed.

Section 22. The act approved the twenty-sixth day of May, one thousand eight hundred and ninety-seven

(Pamphlet Laws, ninety-five), entitled "An act relating to proceedings where goods or chattels have been levied upon or seized by the sheriff, and claimed to belong to others than the defendant in the execution or process," its amendments and supplements, is hereby specifically repealed. All other acts and part of acts inconsistent herewith are hereby repealed.

General repeal.

The act approved the eleventh day of April, one thousand eight hundred and ninety-nine (Pamphlet Laws, thirty-five), entitled "An act to require interpleaders on testatum fieri facias to be carried on in the county where levy is made," shall not be affected, modified, or repealed by this act. This act shall not affect any interpleader proceeding begun before it takes effect.

Act of  
April 11, 1899  
(P. L. 35), not  
affected.

APPROVED—The 22d day of June, A. D. 1931.

GIFFORD PINCHOT

No. 296

AN ACT

To amend section one of the act, approved the seventh day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand five hundred eighty-nine), entitled "An act relating to executions; providing that proceeding under a landlord's warrant, issued previous to any execution, shall be stayed pending a sale under such execution; and making claims under such landlord's warrant, and the costs thereof, preferred claims to be paid first out of the proceeds of such sale," by extending the provisions of said act to cases where a receiver, a receiver in bankruptcy, or a trustee in bankruptcy shall be appointed after the distress.

Section 1. Be it enacted, &c., That section one of the act, approved the seventh day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand five hundred eighty-nine), entitled "An act relating to executions; providing that proceeding under a landlord's warrant, issued previous to any execution, shall be stayed pending a sale under such execution; and making claims under such landlord's warrant, and the costs thereof, preferred claims to be paid first out of the proceeds of such sale," is hereby amended to read as follows:

Executions.

Section 1,  
act of May 7, 1929  
(P. L. 1589),  
amended.

Section 1. Be it enacted, &c., That whenever any sheriff shall, pursuant to an execution issued, levy upon any goods and chattels upon which there is at the time a distress for rent, or whenever a receiver, a receiver in bankruptcy, or a trustee in bankruptcy shall be appointed for any person, firm, or corporation upon whose goods and chattels there is at the time a distress warrant for rent, any sale, [by the person executing such landlord's warrant,] pursuant to such levy or distress

Distress for rent.

Subsequent levy  
by sheriff or  
appointment of  
receiver.