

to the same by forfeiture or confiscation; and for the recovery of real property, they shall in like manner prosecute an ejectment in the general court in the name of the state, alleging the demise to have been made by the state, in which it shall be sufficient to prove the lands or tenements for which the ejectment is brought were the property of some person whose estate is forfeited or confiscated, and that the state became entitled thereto by forfeiture or confiscation; in all which actions, the cause of action shall be endorsed on, or a declaration sent with, the writ; and a trial in personal actions shall be had at the emparlance court, and in actions of ejectment or trespass, at the third court, unless the judges shall be satisfied that there is a necessity for the continuance of the cause, for the sake of justice being done to the parties.

V. And be it enacted, That in case of replevin by the state, no bond shall be necessary for obtaining such writ; and the sheriff may suffer the goods and chattels to remain in the possession of such party, if he will give bond, with good and sufficient security, to deliver the goods and chattels, in such replevin mentioned, to the said commissioners, if a delivery thereof shall be adjudged, on the return of such replevin, or upon the trial thereof, and shall pay all damages and costs, for which judgment shall be given in such replevin; and every sheriff, taking such bond, shall be liable for the value of the goods and chattels, damages and costs, aforesaid, in case of insufficiency of the principal and securities to comply with the terms of the bond aforesaid; and the court before whom such replevin shall be returned may, at the return court, enquire whether the defendant, against whom such replevin shall issue, came to the possession of the goods and chattels in such replevin mentioned, fairly, by gift, purchase, or otherwise, or by fraud, deceit, collusion, or force; and if the court shall be of opinion that such defendant came by the possession of such goods and chattels fairly, then the court shall order that the said goods and chattels remain in the hands of the defendant, in case where bond has by him been given as aforesaid, until the property of such goods and chattels shall be determined; and in case no bond has been given, and the commissioners have taken possession of the goods and chattels, and the court, on the return of such replevin, shall, upon enquiry, be of opinion, that the person against whom such replevin shall issue came fairly by the possession of the goods and chattels aforesaid, a return of such goods and chattels shall be ordered to the defendant, upon his entering into recognizance, with security, to abide by and perform the judgment of the court upon the trial of such replevin; but in case the court, on the return of such replevin, shall, upon enquiry, be of opinion, that the defendant in such replevin came to the possession of the goods and chattels therein mentioned, by deceit, fraud, collusion, or force, then the court may order the goods and chattels to be delivered to the commissioners, where the goods and chattels have been suffered to remain in the possession of the defendant, in consequence of giving bond as aforesaid; and in case the goods and chattels have been delivered to the commissioners, and the court shall be of opinion, on the return of the replevin, that the defendant came to the possession of the goods and chattels therein mentioned by deceit, fraud, collusion, or force, a return of such goods and chattels shall not be ordered to such defendant, but the same shall remain in the possession of the commissioners, until a trial of the property shall be had, and judgment thereon given.

Bond not necessary, &c.