

replevin, in the usual manner, for the whole property, and shall pay over the said money to the collector, when demanded, under the penalty of paying to such collector double the sum received, to be recovered by action for money had and received, wherein the plaintiff may declare generally, and give this act and the special matter in evidence.

SEC. 4. *And be it enacted*, That upon trial of any such replevin, if the jury shall give their verdict for the defendant, they shall find particularly how much is due to him, whereupon the defendant shall have judgment to recover the sum so found, and costs, where the whole of the defendant's claim is found, but where the jury only find a part of the defendant's claim, he shall only have costs in the discretion of the court; and, upon such judgment, the said defendant may sue out *capias ad satisfaciendum, fieri facias*, or attachment in nature of execution, on which last writs the property originally distrained may be taken and sold, in whose hands soever the same shall be found, to satisfy the said judgment, but the defendant shall not have the writ *de retorno habendo*; and if the jury shall give their verdict for the plaintiff, they may find such damages as they think reasonable, in which may be included the money, (if any,) lodged by the plaintiff with the clerk of the county, under the condition of the magistrate's warrant as aforesaid; whereupon judgment shall be given for the plaintiff for the said damages, and also for costs; on which judgment the same process of execution shall be had as aforesaid.

On trial, jury to give verdict for what is due, &c.

SEC. 5. *And be it enacted*, That if in any such replevin the plaintiff shall be non-suited for want of a declaration, or in any other manner, except on verdict, the defendant shall be entitled to a return of the property, or may take out a writ of inquiry, to ascertain the amount of his claim for taxes, and if he shall elect to have a return of the property, he may proceed to sell the goods, when returned, in the same manner as if no replevin had been sued out; but if the said defendant shall elect to issue a writ of inquiry, judgment shall be entered, on the return thereof, for the sum found by the jury, and costs, on which judgment he shall have the same advantage of execution as is herein before given to him where the judgment is rendered on a verdict on issue joined between the parties.

On non-suit defendant entitled to a return, &c.

SEC. 6. *And be it enacted*, That if in any such replevin judgment shall be given against the defendant by default, the plaintiff may sue out a writ of inquiry, to ascertain his damages, on which writ the jury may award damages for any money lodged by the plaintiff with the county clerk as aforesaid; and on the return of the said writ, judgment shall be rendered for the

On judgment, plaintiff may sue, &c.