

tution of the possession of the said lands, tenements or messuages so demised, let or leased, should not be forthwith made to such lessor, his heirs, executors, administrators or assigns.

4. If, upon hearing the said parties, or in case the tenant in possession shall neglect to appear, after being summoned as aforesaid, proof thereof being made, it shall appear in testimony to the said jury, and be so on their oath by them found, that the said lessor had been in possession of the lands, tenements and messuages as aforesaid; and that he demised, let or leased them as aforesaid; that the said lease or estate is fully ended and expired; that due notice to quit as aforesaid had been given to the said tenant in possession, and that he refused so to do, the justices shall thereupon award restitution of the possession of the said lands, tenements and messuages, and shall forthwith issue their warrant under their hands and seals to the sheriff, commanding him forthwith to deliver to the lessor, his heirs, executors, administrators or assigns, possession thereof in as full and ample a manner as the lessor was possessed of the same at the time when the lease was made and executed, and shall give judgment for costs against the tenant so holding over; and if required by the lessor, his heirs, executors, administrators, or assigns, shall forthwith issue execution against the said tenant for the same.

5. If the tenant in possession shall allege that the title to the said lands, tenements, and messuages, is disputed and claimed by some other person whom he shall name, by virtue of a right or title accruing or happening since the commencement of the said lease, by descent, deed, or under the last will and testament of the lessor; and if, thereupon, the person so claiming shall forthwith appear, or upon a summons to be immediately issued by said justices, and returnable in six days next following, shall appear before said justices, and shall, on oath to be administered by them, declare that he verily believes that he is entitled in manner aforesaid to the lands, tenements and messuages in question; and shall, with two sufficient securities, enter into bond to the lessor, his heirs or assigns, in such sum as the said justices shall think proper, not less than eight hundred dollars, to prosecute his claim at the next Circuit Court for the county, then the said justices shall forbear to award restitution, and cease to give judgment for costs; *Provided*, that if the said claim shall not be prosecuted as aforesaid, the said justices shall proceed to award restitution, and issue their warrant, give judgment, and