

refuse to order a return to the defendant until a judgment is given in the action.

60. If the defendant in replevin shall be returned "summoned," and shall not appear, in person or by attorney, on or before the fourth day of the term next succeeding that to which such return shall be made, the court shall on motion enter judgment for the plaintiff for the property replevied, and for nominal damages and costs; and the same proceedings shall be had upon the return of two "non ests" as upon a return of "summoned."

61. Upon the allowance of any writ of certiorari for the removal of the proceedings by a justice of the peace, between landlords and tenants, and also in all cases of inquest for a forcible entry and detainer, or a forcible detainer, the party obtaining the said writ of certiorari, shall give bond with security to the opposite party, to be approved by the judge or clerk of the court allowing the writ, in such penalty as the said judge or clerk shall direct, conditioned for the payment of all costs and damages that may be incurred or suffered by the delay of the proceedings, if the matter in controversy upon such writ shall be decided against the person obtaining the same.

62. When an interlocutory judgment is entered in any of the courts of this State, whereby the right of the plaintiff is established, but the damages sustained by him cannot be ascertained without the intervention of a jury, the court where judgment is given shall, on motion of the plaintiff or of his attorney, make an order in the nature of a writ of inquiry, to charge the jury attending at the same or at the next term, to inquire of the damages and costs sustained by the plaintiff in such action; which said inquiry shall be made, and the evidence given in open court, in the same manner and under the same regulations as in other jury trials; and after the said jury charged as aforesaid shall have considered thereof, they shall forthwith return their inquisition under their hands and seals, and thereupon the court shall proceed to judgment, as upon inquisitions of that kind returned by the sheriff.

63. In all cases of actions brought for the penalty of any bond, bill, covenant or contract with penalty, the jury may, under the direction of the court, upon the plea of payment or performance of the conditions or terms of the contract, ascertain and by their verdict find what sum of money is really and justly