

An. Code, sec. 119. 1904, sec. 117. 1888, sec. 111. 1888, ch. 269.

**128.** Whenever in replevin or detinue there shall be a judgment in the alternative for the return of chattels or the payment of their value, the judgment for the return or delivery of the goods may be enforced by a writ in the nature of a writ of *capias in withernam*, and by attachment of the party or parties adjudged to return or deliver the same, or either, unless the court, on good cause shown, shall otherwise order, or unless the party or parties entitled to such return or delivery shall agree of record to accept the value of the chattels as ascertained by the judgment in lieu of such return or delivery, but nothing herein contained shall prevent the party entitled to such judgment from having his execution besides for the damages, if any, given for the detention and his costs, and every judgment in detinue and replevin, and every verdict therein shall ascertain separately the value of the goods and chattels and the damages, if any, for their detention.

Although the verdict as originally rendered is erroneous under last clause of this section, if it is properly corrected by jury before its record, error is cured. *Farmers' Packing Co. v. Brown*, 87 Md. 13.

Under this section, a verdict "in favor of the defendant for the return of the property replevied and one cent damages and costs" is erroneous. How such irregularity should be raised. *Standard Co. v. O'Brien*, 88 Md. 336.

A case remanded on account of the failure to comply with last clause of this section, in order that property might be valued, and judgment entered in accordance with this section. *B. & O. R. R. Co. v. Rueter*, 114 Md. 698. *Cf. Passapal v. Oehring*, 141 Md. 65.

An. Code, sec. 120. 1904, sec. 118. 1904, ch. 26, sec. 111A.

**129.** From and after March 9, 1904, all bonds given by the plaintiff in any action of replevin hereafter instituted in any of the courts of law shall be given to the State of Maryland, and such bonds shall be for the use of any person interested in any way in the property taken under the suit of replevin; and any person having any interest in or right to such property may upon a breach of the condition of such bond maintain an action on such bond in the name of the State for the use of such person so having an interest in or right to such property.

See notes to sec. 125.

### Reservation of Points for Court in Banc.

An. Code, sec. 121. 1904, sec. 119. 1888, sec. 112. 1868, ch. 441, sec. 1.

**130.** When at the trial of any cause any party to such cause shall require any point or question decided by the court to be reserved for the consideration of the court in *banc*, and either of the judges of the said court shall be disqualified to sit in such cause, then it shall be lawful for the party at whose instance the point or question shall be reserved, to elect to have such point or question decided by the remaining judges or judge who may be qualified to sit in such cause, or to have the cause removed to some other court of a different circuit for the decision of the judges thereof, or of such of said judges who may be qualified to sit in such cause in *banc*, or to take an appeal to the court of appeals; and if such party or his counsel shall fail to make and file such election in writing