

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.

In action against four defendants to recover shares of stock, or their value, or damages for detention, declaration was in form one of detinue, while only one of defendants (Bank Commissioner, as receiver) was in possession of stock, hence judgment against others could be for damages only; action for detinue cannot be joined with one for damages, but point not raised in lower court. *Mylander v. Page*, 162 Md. 255.

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, 1924, sec. 129. 1912, 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, 1924, sec. 130. 1912, 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 within thirty days after the announcement of such disqualification, or within thirty days after the trial of the cause, in case such announcement shall have been made before the trial, then such point or question shall be decided by the remaining judges or judge, who may be qualified to sit in such cause; provided, that every point or question reserved upon a motion for a new trial shall be decided by the remaining judge or judge who may be qualified to sit in such cause.