

next general election. If the bond hereinbefore required be filed within ninety days after the first day of January in any year, it shall, in addition to the provisions hereinbefore required, be so conditioned as to make the obligors in such bond responsible also for all official acts of said sheriff committed or done by him from the said first day of January up to the date of the filing of the said bond as well as thereafter.

Cited but not construed in Ringgold's Case, 1 Bl. 25.

### Service of Process, Civil and Criminal, and Proceedings in Cases of Failure to Make Due Return.

1904, art. 87, sec. 5. 1888, art. 87, sec. 5. 1860, art. 88, sec. 8. 1785, ch. 72, sec. 23. 1794, ch. 54, sec. 1. 1798, ch. 101, sub-ch. 15, sec. 14. 1817, ch. 139, sec. 6.

5. All writs and process shall be directed to the sheriff, unless he is disqualified, or except in cases where by law the writ or process may be directed to another officer.

An execution should be directed to the acting sheriff, although the former sheriff has issued and returned an attachment levied prior thereto on the same judgment. Otherwise, the execution will be quashed. *Johnson v. Foran*, 58 Md. 149.

As to process, see art. 75, sec. 144, *et seq.*

*Ibid.* sec. 6. 1888, art. 87, sec. 6. 1860, art. 88, sec. 9. 1817, ch. 139, sec. 6.

6. He shall serve and return all writs and process directed to him according to the command contained therein.

The sheriff's return to a writ of attachment may be amended during the term. *Boyd v. Chesapeake, etc., Canal Co.*, 17 Md. 210.

When a sheriff returns a writ of attachment fully executed according to its command, he has nothing more to do so far as that writ is concerned. *Johnson v. Foran*, 58 Md. 150.

In all collateral inquiries the return of the sheriff must be taken as correct. Admissibility of evidence in a suit for false return. *Keedy v. Newcomer*, 1 Md. 250.

The sheriff's return is *prima facie* evidence of the truth of what it discloses. *State v. Lawson*, 2 Gill, 62. See also, *Hanson v. Barnes*, 3 G. & J. 359; *Scott v. Bruce*, 2 H. & G. 262; *Hayes v. Lusby*, 5 H. & J. 485.

A court of equity has no jurisdiction to decide that a return is defective: the court out of which the writ issues alone has cognizance thereof. *Nelson v. Turner*, 2 Md. Ch. 73.

The return of a writ "*cepi*" when it has not been served, does not necessarily amount to fraud, and though the sheriff is liable for his misconduct to the party aggrieved, a judgment founded on such return is not to be set aside on that ground alone. *Fowler v. Lee*, 10 G. & J. 358.

To enable the sheriff to sell land and vest a valid title in the purchaser, a seizure is indispensable. *Elliott v. Knott*, 14 Md. 135.

If the plaintiff agrees to a return, he can not sustain an action against the sheriff for its being false. How a writ of replevin should be executed. *Hayes v. Lusby*, 5 H. & J. 485.

For a special return upheld, see *Scott v. Bruce*, 2 H. & G. 262.

As to the service of the writ of *habeas corpus* by the sheriff, see art. 42, sec. 7, *et seq.*

*Ibid.* sec. 7. 1888, art. 87, sec. 7. 1860, art. 88, sec. 11. 1780, ch. 10, sec. 2. 1872, ch. 433.

7. He or his deputy, when he arrests a person on a writ for any criminal offense not punishable by confinement in the penitentiary, may