By the Act of 1861, ch. 70,[119] judgments (which are intended as final judgments, Davidson v. Myers, 24 Md. 538,) are made liens upon leases for more than five years, as upon freehold interests.

In Harding v. Stevenson, 6 H. & J. 264, it was decided:

1°. That though money, specific pieces of coin, might be taken in execution if actually owned by, and in the possession of the defendant, money in the hands of the Sheriff could not be taken by him under a *fieri facias* against the person entitled to receive it, but on the Sheriff's bringing the money into Court he will be directed to pay it over to the creditor of the latter.

2°. That a mere *chose in action* is not liable to execution.

3°. That an execution cannot be levied on the lien which a judgment creditor has upon the lands of his debtor (see Hampson v. Edelin, 2 H. & J. 64), and though a *fieri facias* binds the personal property of the debtor from the time it is placed in the hands of the Sheriff, an execution on a judgment against the creditor cannot be levied upon the property so bound.

4°. That an execution cannot be levied upon property on which the debtor has a lien as consignee and pawnee for his commissions and advances. So equitable interests in personal property cannot be seized at law and sold under a *fieri facias*.[120] The course of the creditor is to issue a *fieri facias*, and cause it to be levied and returned, thus showing that his remedy at law has failed, and so obtain in equity a priority of right in the debtor's interest in the property from the time the execution was placed in the Sheriff's hands. He may then be permitted to redeem the prior incumbrance in equity, and have the property sold for its satisfaction and the satisfaction of the execution, or, more properly, he will obtain a decree for the sale of the property absolutely, first, to pay off the incumbrance, and **550** then the execution, Harris v. Alcock, 10 G. & *J. 226; Furlong v. Edwards, 3 Md. 99; and if danger of irreparable loss in the meantime, from the apprehended fraudulent behavior of the debtor and the incumbrancer, be shown, the creditor will be entitled to an injunction, and, in some cases, to a receiver, Rose v. Bevans, 10 Md. 466; Myers v. Amey, 21 Md. 302. But the execution creditor must shew that his debtor has no other property, and that the property in question is more than sufficient to pay the incumbrance (for the assertion of a lien, simply to compel a settlement between the debtor and the incumbrancer, would be mischievous intermeddling with the affairs of third persons), and these averments are material, Bruce v. Levering, 23 Md. 288. If the evidence leave the Court in doubt as to the value of the property or the amount of the incumbrance, then a sale may be decreed, as the only practicable way of determining whether it is sufficient to satisfy the claim of the execution creditor, *ibid.*

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[119] Code 1911, Art. 26, sec. 19 (as now amended); Shryock v. Morris, 75 Md. 78.

[120] Martin v. Jewell, 37 Md. 530. Cf. Albert v. Lindau, 46 Md. 334. The interest of the mortgagee in the mortgaged property is not liable to execution and sale. Sumwalt v. Tucker, 34 Md. 89.