

cases in Maryland have often occurred in adversary proceedings by attaching creditors, when the question of delivery becomes important, in view of the law that the retention of possession by the vendor after sale may be fraudulent as against them, and upon this subject the cases of *Wells v. Biscoe*, and *Van Brunt v. Pike* are leading authorities.

**Goods in vendor's possession.**—If the goods are in the vendor's own possession at the time of sale, the question is often a difficult one when they may be said to have been actually received by the purchaser. Delivery to a carrier seems to be an actual receipt. In *Hall v. Richardson*, 16 Md. 396, goods having been purchased by the seller, as it appears, on account of the buyer, (to be paid for by a draft at one day's sight which was accepted by him, but dishonored,) to be shipped to Liverpool on the latter's account, and having been marked with his initials and those of the ship by direction of the seller, and delivered to the warehouse agent of the ship's agents, it was held as complete a delivery as the subject matter of the contract reasonably allowed,—a delivery, too, which was not countervailed by the circumstance that the seller had taken a receipt in his own name from the warehouseman, the Court concluding that the seller considered the buyer entitled to the goods on his acceptance of the draft, and that he designed the delivery to the warehouseman as a completion of the contract by which the property was transferred to the purchaser.

The vendor may himself become the vendee's bailee, and an instance of this sort is mentioned in *Thompson v. B. & O. R. R. Co.*, 28 Md. 396.<sup>146</sup> The case generally referred to on the subject is *Elmore v. Stone*, 1 Taunt. 458. There the plaintiff was a livery-stable keeper and horse-dealer, and demanded 180 guineas for a couple of horses; the defendant after offering a less sum, which was refused, at length sent word "that the horses were his, but as he had neither servant nor stable, the plaintiff must keep them at livery for him." The plaintiff thereupon removed them out of his sale-stable into another; and it was held that from the time the defendant said that the horses must stand at livery and the plaintiff had accepted the order, the latter possessed them not as owner, but as any other livery-stable keeper might have them to keep. "Under many events," said the Court, "it might appear hard that the plaintiff should not continue to have a lien upon the horses, which were in his own possession, as long as the price was unpaid, but it was for him to consider that before he made his agreement." This case seems to have been approved in *Franklin v. Long* *supra*, and was followed in the case of *Marvin v. Wallis*, 6 E. & B. 726, where there having been a verbal bargain for the sale of a horse by plaintiff to defendant, the horse to be delivered immediately, the plaintiff, before an actual delivery, asked the defendant to lend him the horse for a few weeks till he got another; to which the defendant assented, and the

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<sup>146</sup> Where goods are prepared for delivery according to contract but before actual delivery the vendor is requested by the vendee to hold possession of them until further orders, such preparation for delivery and request for detention constitute delivery and acceptance. *Armstrong v. Turner*, 49 Md. 589.