

It has been urged, that the sheriff has a lien upon the property taken in execution, for his poundage fees. But it is no where directly said, that he has any such lien upon the property taken, either as against the plaintiff or the defendant; or that he has a right to hold it in any way until his fees are paid. Yet the allowance of such a lien, so far as it does not conflict with the rights of others, or that superintending control necessary to the due administration of justice would seem to be entirely reasonable, and sustainable upon principles analogous to those on which tradesmen and officers are allowed to have a lien upon property in their possession to secure the payment of their compensation and fees. But such a common law lien can only exist as an associate with possession; it begins and ends with possession. *Schw. N. P.* 1286.

In this case the petitioner, having been lawfully and completely divested of the possession of all the property he had taken in execution, he certainly can have no lien, according to the common law, upon it, or its proceeds, which the Court is now about to distribute. And there is not the slightest ground to maintain, that a sheriff has a general lien on the property taken by him in execution, like the lien of the State upon the property of its debtors, or a plaintiff's judicial lien, as on a judgment at law, or a lien according to the civil law which follows the property on which it has * once fastened, through every change, and into all other hands. The petitioner, therefore, cannot sustain his pre- **632**
tensions upon any foundation of this kind. *Ridgely v. Iglehart, ante, 540.*

In the case under consideration, it is necessary to ascertain whether the plaintiffs or the defendants in these executions are liable to the sheriff for his poundage fees; and the principles upon which that liability rests.

This Court has, in many instances, where it has money in its hands which it is about to pay over to a party who is liable no further than to the amount of such assets; or who is not a resident of the State, and within the reach of common law process, allowed a creditor of such a party to come in and obtain payment of his merely legal claim out of the assets or money of his debtor in this Court. It seemed to be admitted, and indeed I do not see how it could be denied, that if the plaintiffs in those executions only were liable for these poundage fees, that there could not, from any thing alleged or shewn by the petitioner, be the slightest pretext for this Court to entertain jurisdiction of his case, as he has against them an ample remedy at law. Because it is not shewn, that these proceeds are specifically bound for those fees, or that they are assets in respect of which those plaintiffs are chargeable; or that those plaintiffs are insolvent, or non-residents, and beyond the reach of ordinary common law process. There is, therefore,