

however, great care would be taken to make him as liable as if he had been kept in execution for the debt; and particularly, that he should be responsible for the sheriff's poundage fees, and for all other incidental expenses. *Franklyn v. Thomas*, 3 *Meriv.* 234.

The Act of Assembly has altered the law upon this subject so far as, that upon the service of the injunction the sheriff must discharge a defendant held in custody under a *capias ad satisfaciendum*. 1826, ch. 157. But it is perfectly manifest from the language of this Act, that it was not the intention of the Legislature thereby to impair the rights of the sheriff; or to lessen the liability of the defendant in any other respect whatever; and, consequently, as we have seen, although the defendant was discharged from custody, yet the sheriff might recover his poundage fees in like manner as any other fees. *Howard v. The Levy Court*, 1 *H. & J.* 566.

Upon the same principles it was the established law, that if a *feri facias* had been levied upon the property of the defendant before the sheriff was notified of the injunction, he could not proceed to sell; but must return the fact of his having been so stayed, and hold the property taken until the injunction was dissolved, or otherwise disposed of. But after the dissolution of the injunction the sheriff might proceed to sell, or he might be commanded to do so by a *renditioni exponas*. *Blacklock v. Maddox*, 2 *Harris' Entries*, 694; *Cockey v. Chapman*, 2 *Bland*, 83, note; —, 6 *Peters*, 658. (l)

A partial alteration of the law upon this subject has been made by an Act of Assembly which declares, that, where personal property has been taken in execution, the sheriff, on being served with an injunction, shall deliver it back to the party from whom it

**638** \*was taken. 1799, ch. 79, s. 10. This provision is expressly confined to personal property; the law remains unaltered as to any real estate which may be taken in execution; and, consequently, after the dissolution of an injunction, which had prevented a sale of lands, the proper mode is for the sheriff to proceed

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(l) *BOYCE v. BRADFORD*.—February, 1720.—Mr. Daniel Dulany appears with liberty to move for a dissolution of the injunction next Court. And forasmuch as the complainant has given good and sufficient security in forty-six thousand pounds of tobacco in he case here depending between the said complainant and defendant. Therefore Ordered, by the Chancellor, that Mr. Sabret Sollers, high sheriff of Calvert County, let the complainant have liberty to make use of the tobacco in the said sheriff's hands, as he the said Boyce shall see occasion.—July, 1721.—Answer with liberty to move for a dissolution of the injunction this Court.—July, 1723.—Exceptions filed to the answer, to be argued last Court. For answer this Court.—Argued and adjudged good.—Ruled, that the defendant make a better answer, and pay the complainant 800 pounds of tobacco, costs, as well on the overruling the exceptions aforesaid, as for scandal in the answer alleged. Further answer to be filed according to rule.—*Chancery Proceedings, lib. P. L. fol.* 568, 672, 887.