

five days after the same are so taken, unless such officers' fees are paid, but the sheriff shall not charge any fees for such distress, execution or sale.

1904, art. 87, sec. 34. 1888, art. 87, sec. 33. 1860, art. 88, sec. 50. 1779, ch. 25, sec. 18.

34. The sheriff shall, before the first day of November in each year, account with and pay over to each officer who may have placed fees in his hands for collection; and if any sheriff shall refuse or neglect to pay over officers' fees which he has received or collected, or ought to have collected, the person entitled to receive the same may apply to the circuit court for the county or any of the courts in the city of Baltimore having jurisdiction over the amount claimed, and such court shall render judgment against such sheriff for the amount due from him; provided that no such judgment shall be entered unless the person applying for the same shall exhibit to the court an account of the sum due, verified by affidavit, and such other proof as the court may require, and shall also prove to the satisfaction of the court that he has served a copy of such account on said sheriff, and demanded payment thereof at least twenty days before the meeting of the court at which the application is made.

Where the sheriff fails to account for fees by November first, he is *prima facie* liable for the same whether collected or not. He may meet this burden by showing the insolvency and non-residence of parties from whom the fees were to be collected. A sheriff failing to account under this section is liable to be proceeded against under this section and section 35, or to have his bond put in suit: and if the plaintiff can not collect by the former method, he may adopt the latter. *State v. Tabler*, 41 Md. 238: *Mantz v. Collins*, 4 H. & McH. 65.

Ibid. sec. 35. 1888, art. 87, sec. 34. 1860, art. 88, sec. 51. 1779, ch. 25, sec. 18.

35. If such sheriff shall controvert the demand and desire a jury to be empanelled, the court shall direct a jury to be immediately empanelled to try an issue whether the said sheriff be chargeable with and liable to pay any and what sum of money to the person so claiming and authorized to receive the same, and the court shall pass judgment on the verdict of the jury as in other cases and award execution; and no execution issued on any judgment rendered under this or the preceding section shall be stayed by writ of error, *supersedeas*, injunction or appeal.

See notes to sec. 34.

Ibid. sec. 36. 1888, art. 87, sec. 35. 1860, art. 88, sec. 52. 1788, ch. 31.

36. Any sheriff whose term has expired shall have the same power to collect his own fees or any officers' fees previously placed in his hands for collection for one year thereafter that he had during the time he was sheriff and may distrain or execute for the same in the same manner as if his commission had not expired.

Ibid. sec. 37. 1888, art. 87, sec. 36. 1860, art. 88, sec. 53. 1824, ch. 202, secs. 2-4. 1840, ch. 216, sec. 4. 1842, ch. 272, sec. 3.

37. If any sheriff shall die, his administrator may collect all fees placed in the hands of such sheriff for collection, in the same manner