

Service of Process, Civil and Criminal, and Proceedings in Cases of Failure to Make Due Return.

An. Code, sec. 5. 1904, sec. 5. 1888, sec. 5. 1785, ch. 72, sec. 23. 1794, ch. 54, sec. 1. 1798, ch. 101, sub-ch. 15, sec. 14. 1817, ch. 139, sec. 6.

5. All writs and process shall be directed to the sheriff, unless he is disqualified, or except in cases where by law the writ or process may be directed to another officer.

An execution should be directed to acting sheriff, although former sheriff has issued and returned an attachment levied prior thereto on same judgment. Otherwise, the execution will be quashed. *Johnson v. Foran*, 58 Md. 149.

As to process, see art. 75, sec. 153, *et seq.*

An. Code, sec. 6. 1904, sec. 6. 1888, sec. 6. 1817, ch. 139, sec. 6.

6. He shall serve and return all writs and process directed to him according to the command contained therein.

The sheriff's return to a writ of attachment may be amended during the term. *Boyd v. Chesapeake, etc., Canal Co.*, 17 Md. 210.

When a sheriff returns a writ of attachment fully executed according to its command, he has nothing more to do so far as that writ is concerned. *Johnson v. Foran*, 58 Md. 150.

In all collateral inquiries the return of sheriff must be taken as correct. Admissibility of evidence in a suit for false return. *Keedy v. Newcomer*, 1 Md. 250.

The sheriff's return is *prima facie* evidence of truth of what it discloses. *State v. Lawson*, 2 Gill, 62. See also *Hanson v. Barnes*, 3 G. & J. 359; *Scott v. Bruce*, 2 H. & G. 262; *Hayes v. Lusby*, 5 H. & J. 485.

A court of equity has no jurisdiction to decide that a return is defective; court out of which writ issues alone has cognizance thereof. *Nelson v. Turner*, 2 Md. Ch. 73.

The return of a writ "*cepi*" when it has not been served does not necessarily amount to fraud, and though sheriff is liable for his misconduct to the party aggrieved, a judgment founded on such return is not to be set aside on that ground alone. *Fowler v. Lee*, 10 G. & J. 358.

To enable the sheriff to sell land and vest a valid title in the purchaser, a seizure is indispensable. *Elliott v. Knott*, 14 Md. 135.

If the plaintiff agrees to a return, he cannot sustain an action against the sheriff for its being false. How a writ of replevin should be executed. *Hayes v. Lusby*, 5 H. & J. 485.

For a special return upheld, see *Scott v. Bruce*, 2 H. & G. 262.

As to the service of the writ of *habeas corpus* by the sheriff, see art. 42, sec. 6, *et seq.*

An. Code, sec. 7. 1904, sec. 7. 1888, sec. 7. 1780, ch. 10, sec. 2. 1872, ch. 433.

7. He or his deputy, when he arrests a person on a writ for any criminal offense not punishable by confinement in the penitentiary, may take a bail-bond from the person so arrested with security to be by him approved and in a penalty not exceeding three hundred dollars, except in those cases where a specific fine or penalty is prescribed for the commission of the offense, in which cases the penalty of the bond shall be the highest penalty or fine fixed by law, with condition that the person so arrested shall appear in court on the day the said writ is returnable and attend the court from day to day and not depart therefrom without the leave of said court; and if the person so arrested cannot give bail-bond, he shall be taken before a justice of the peace to be dealt with according to law.

Bail is taken to secure attendance of accused and is not designed as a satisfaction for the offense, when it is forfeited. *Ex parte Milburn*, 9 Pet. 710.