

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 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 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 sec. 34, or to have his bond put in suit; and if plaintiff cannot collect by former method, he may adopt latter. *State v. Tabler*, 41 Md. 238; *Mantz v. Collins*, 4 H. & McH. 65.

An. Code, sec. 35. 1904, sec. 35. 1888, sec. 34. 1779, ch. 25, sec. 18.

**34.** 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. 33.

An. Code, sec. 36. 1904, sec. 36. 1888, sec. 35. 1788, ch. 31.

**35.** 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.

An. Code, sec. 37. 1904, sec. 37. 1888, sec. 36. 1824, ch. 202, secs. 2-4. 1840, ch. 216, sec. 4. 1842, ch. 272, sec. 3.

**36.** If any sheriff shall die, his administrator may collect all fees placed in the hands of such sheriff for collection, in the same manner and by the same means as said sheriff might have done in his lifetime; provided, the power to execute or distrain for such fees shall not extend beyond two years after the date of his letters, and such fees shall be applied to the payment of officers' fees due from the sheriff and not applied to any other purpose until such officers' fees are paid.

An. Code, sec. 38. 1904, sec. 38. 1888, sec. 37. 1715, ch. 46, sec. 6.

**37.** No sheriff shall levy a distress or execution for officers' fees if the person from whom such fees are claimed shall produce the former sheriff's receipt or otherwise make it appear that the said fees have been paid, under a penalty of fifty dollars for each offense.