

against such sheriff; which judgment shall have the same effect as if rendered upon verdict.

See notes to sec. 12.

1904, art. 87, sec. 12. 1888, art. 87, sec. 12. 1860, art. 88, sec. 16. 1794, ch. 54, sec. 1.

12. If any sheriff shall fail to make return of a writ of execution within the time limited by rule of court for that purpose, the court may cause judgment to be entered in the name of the plaintiff against such sheriff for the amount of the judgment recited in such execution, which judgment shall have the same effect as a judgment rendered on verdict.

A judgment by default under this section is equally as valid as a judgment on verdict. The fact that the debtor (against whom the sheriff fails to make return on execution) has secured an injunction against the creditor from proceeding on his judgment, does not *per se* entitle the sheriff to the same relief as to the judgment against him under this section. When the judgment against the sheriff will be arrested. *Fowler v. Lee*, 10 G. & J. 360.

Unless there is an affidavit that the execution has been delivered to the sheriff, or that a copy of the rule on the sheriff to return it has been served upon him, the court can not enter judgment against the sheriff. *Cadwallader v. Ringgold*, 4 H. & J. 564.

See art. 83, sec. 1, *et seq.*

Ibid. sec. 13. 1888, art. 87, sec. 13. 1860, art. 88, sec. 17.
1794, ch. 54, sec. 4.

13. The court, on motion, shall order a sheriff to make return of any original writ or writ of execution, unless such sheriff shall satisfy the court by his oath or otherwise that the said writ was not received by him or, to his knowledge, by any of his deputies.

Ibid. sec. 14. 1888, art. 87, sec. 14. 1860, art. 88, sec. 18. 1794, ch. 54, sec. 3.

14. If a sheriff shall pay to the plaintiff any judgment rendered against him as aforesaid, he shall thereupon be entitled to the original cause of action or the judgment as fully as the plaintiff was and may issue any execution in his own name, or in the name of the plaintiff, on such judgment for his own use; or prosecute such action to judgment and execution for his own use, and shall be entitled to every other benefit and advantage from such judgment or cause of action and suit thereon depending that the original plaintiff might have had thereon.

Ibid. sec. 15. 1888, art. 87, sec. 15. 1868, ch. 203.

15. If any sheriff shall make return to the court of any *feri facias*, attachment, or *venditioni exponas* that he has seized the property of the defendant which remains unsold, or that the property heretofore levied upon remains in his hands unsold for want of buyers, or that the defendant has satisfied the plaintiff or his attorney the debt or claim or any part thereof mentioned in the said process, the said plaintiff or his attorney may apply to the said court for a rule on the said sheriff or late sheriff, as the case may be, to bring the said money into court or before a judge thereof on a day to be named in the said rule, or show good cause to the contrary; and upon the failure of the said sheriff