any personal action whatever at law or in equity, which the testator or intestate might have commenced and prosecuted, except actions of slander, and actions for injury done to the person.[1]

But, says Lord Coke, Co. Litt. 162 b, "the distresse is the more plain and certain remedy than the action of debt; for the action of debt must be brought against them that tooke the profits when the rent became behinde, or against their executors or administrators; but the distresse may be taken upon the land be it either in the tenant's (tenant in demean being tenant in occupation, Meriton v. Gilbee, 8 Taunt, 162 *per* Burrough J.) owne hands or in the hands of any other that claimes by or from him (that is by interpretation under him,) by purchase, gift or descent. And these words *claiming onely by and from him*, are to be understood claiming onely from or under him by purchase, gift, or descent, and not paramount or above him; as the lord by escheate claimeth not under the tenant by purchase, gift or descent, but by reason of his seigniory, which is a title
359 paramount," and see Cro. Eliz. 332; *1 Leon. 302; 2 Vern. 612; Edridge's case, 5 Rep. 118. "If there be lord and tenant, and the rent is behinde, and the lord grant away his seigniory, and dyeth, the executors shall have no remedy for these arrearages; because the grantor himself had no remedy for them when he dyed in respect of his grant, &c. If the tenant make a lease for life, the remainder for life, the remainder in fee, the tenant for life payes not the rent due to the lord, the lord dyeth, the tenant for life dyeth: the executors cannot distraine upon him in remainder, because he claimes not by or from the tenant for life. And so it is of a reversion for the cause aforesaid, &c. And arrears of a *nomine pœnæ* (which is a penalty incurred for not paying rent, &c. at the day appointed by the lease) are not within the Statute. But otherwise the Statute extends to all manner of arrears, whether in money or any other profit to be delivered," *ibid.*

He also observes, Co. Litt. 162 a. that the preamble of the Statute concerning executors or administrators of tenant for life is to be intended of *tenant pur auter vie*, so long as *cestuy que vie* liveth, who are also holpen by the said double remedy. The passage has been relied on to show that he was of opinion against extending the remedy of the Statute to the executors of tenant for his own life, who before the Statute were entitled to an action of debt, but could not distrain. But in Hool v. Bell, 1 Ld. Raym. 172, it was adjudged that the Statute being remedial extends to the executors of *all* tenants for life.

Statute not applicable to leaseholds.—Lord Coke in his observations on the Statute makes no allusion to leases for years, and evidently considers the Statute as applicable only to freehold rents.[2] And in Prescott v. Boucher, 3 B. & Ad. 849, it was determined that the executor of a person who was seised in fee of land, and demised it for a term of years, reserving a rent, cannot distrain for arrears of rent accrued in the testator's lifetime; for the latter was not a tenant in fee simple of a rent, within the

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[1] But under the Act of 1888, ch. 262, amending and re-enacting this section, the exception is limited to actions for slander. Code 1911, Art. 93, sec. 104. See also Art. 75, sec. 26; Stewart v. United Co., 104 Md. 332.

[2] See on this subject Williams on Executors 796 *et seq.*