Moo. & Malk. 533. The goods must be the tenant's own goods,[3] Neale v. Clautice *supra*, and the defence of fraudulent removal being required to be specially pleaded, for the 21st section of this Statute relates only to distresses upon the demised premises, Postman v. Harrell, 6 C. & P. 225; see Spencer v. Harrison, 2 C. & K. 429, in an action by a stranger, the plea justifying the following and distraining must aver that the goods were the tenant's at the time of the removal, Thornton v. Adams, 5 M. & S. 38; Neale v. Clautice; Postman v. Harrell, *supra*. With respect to pleading the landlord's right in such cases, see Angell v. Harrison, 17 L. J. Q. B. 25; Bowler v. Nicholson, 12 A. & E. 341. And where the declaration charges a breaking and entering the plaintiff's house, &c., and taking the goods, the plea justifying the entry should be confined to the breaking and entering, and the property in the goods traversed in a separate plea, Fletcher v. Marillier, 9 A. & E. 457. In regard to this latter point, the Court observed in Williams v. Roberts, 7 Exch. 618, that the goods of the tenant are made liable to distress if they are fraudulently conveyed away, to whatever place removed. By the general terms of the 1st section, the liability attaches to the particular goods themselves, not merely so long as they continue the goods of the tenant; and then the next section, which states by way of proviso that no landlord shall take goods as a distress which have been *bona fide* sold, operates as a defeasance of the provisions of the former section, and takes all goods so sold out of its operation. If the plaintiff fall within that category, he ought to reply it on the well known principle of pleading. In the absence of such a replication, the plaintiff must be taken to have been either merely in possession of the goods, or a bailee, or a donee without value, and the liability of the goods still continues; so that it is not necessary in the plea to aver that the goods have not been *bona fide* sold, &c. In that case, where the plea was substantially the same as that in Neale v. Clautice *supra*, it averred the goods to have been the tenant's at the time of removal, which averment, it was insisted, was an argumentative traverse of the allegation in the declaration that the goods were the plaintiff's, or, if the plea admitted them to be the plaintiff's, then the right to distrain did not exist. But the Court said that the plea admitted the goods to be the plaintiff's *at the time of seizure* (for the plaintiff being taken to be a bailee or a donee without value, the second section did not apply), and averred that they were the tenant's *at the time of removal*, which was perfectly consistent, for both might be true. And they doubted Fletcher v. Marillier *supra* in not adverting to the difference between the time of seizure and the time of removal of the goods, though the decision there was capable of being sustained. Williams v. Roberts seems to be right, and the decision therefore in Neale v. Clautice cannot, perhaps, be supported. See also Thomas v. Watkins, 7 Exch. 630.

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[3] And he must have the legal title. The Statute was passed to deal with the legal property in goods and not with a view of enforcing any equitable rights among the parties. Tomlinson v. Consolidated Cor., 24 Q. B. D. 135.