in the 5th section would be made here to the Circuit Courts for the counties and, in Baltimore, to the City Court.

VII. **Breaking open doors.**—The common law with respect to breaking open doors by the landlord [6] is altered so far only as the provisions of this section extend, and consequently the landlord has no authority to break open doors upon the demised premises, though goods have been deposited within to prevent the levy of a distress, and for the purpose of fraudulent removal from the premises, Dent v. Hancock, 5 Gill, 120.

In a proceeding under this section, as under the 1st section, it is not necessary that the party on whose land the goods are seized should have been privy to the fraud of the tenant. And no previous demand is required to give the landlord a right to break into the premises. Goods fraudulently removed, said the Court in Williams v. Roberts *supra*, are not **747** generally secreted in a man's house or close without his privity *and consent, and *ad ea quæ frequentius accidunt jura adaptantur.* The remedy is stringent and meant to be operative. It would be difficult for the landlord, within the time allowed to distrain, to prove his privity. There is no necessity for a previous demand before breaking into the premises. The presence of the peace officer is a protection against any excess, and the party, if innocent, has a remedy against him who removed the goods upon his lands for any damage done by the landlord. But a plea, justifying the breaking a lock under this section, must aver that a constable was present and a previous application to a magistrate pursuant to the Act, Rich v. Woolley, 7 Bing. 651. It seems, however, that a special constable appointed for the occasion is sufficient, Cartwright v. Smith, 1 M. & Rob. 284.

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[6] Judge Alvey in Cate v. Schaum, 51 Md. 307, thus stated the rule: "Neither the landlord nor his bailiff, in order to make distress of the tenant's goods, can lawfully break open gates, or break down enclosures, or force open the outer door of any dwelling house or other building, or enter by a window which is found shut though not fastened; but it seems the landlord or his bailiff may open the outer door by the usual means adopted by persons having access to the building, and therefore he may open it by turning the key, by lifting the latch, or by drawing back the bolt." See also Nash v. Lucas, L. R. 2 Q. B. 590; also Crabtree v. Robinson, 15 Q. B. D. 312, where an entry, made by further opening a window which was already partly open, was held lawful; also Long v. Clarke, (1894) 1 Q. B. 119, where a bailiff climbed over a wall into the back yard and then entered the house and distrained and it was held lawful. As to the distinction between distress and execution in respect of entry, see Hodder v. Williams, (1895) 2 Q. B. 663; American Co. v. Hendry, (1893) W. N. 67, 82. Cf. Gusdorff v. Duncan, 94 Md. 169.

An unlawful entry to make a distress renders the bailiff making it and the landlord for whom he is authorized to act trespassers *ab initio.* Cate v. Schaum, 51 Md. 299. But the fact that the first distress is illegal does not prevent the landlord from levying a second for the same rent. Grunnell v. Welch, (1905) 2 K. B. 650; (1906) 2 K. B. 555.