

VIII. Distraint of cattle.—The first clause of this section applies only to live stock.

The term "product" in the succeeding part of the section includes only such products as are similar to those here described in becoming ripe, and being cut, gathered and laid up when ripe, and hence trees, shrubs, and plants growing in a nursery-ground cannot be distrained, *Clarke v. Gas-karth*, 8 Taunt. 431. Nor can standing crops be distrained under a clause in an annuity deed, giving power to enter and distrain for arrears in like manner as for arrears of rent, *Miller v. Green*, (in error), 2 Tyr. 1; 8 Bing. 92. The growing crops are not to be appraised before they have been cut and gathered. And the sale is void if they are sold before that time, and the property not divested out of the tenant, *Owen v. Legh*, 3 B. & A. 470. And see *Proudlove v. Tremlow*, 1 Cr. & M. 326; *Rodgers v. Parker*, 18 C. B. 112.

X. In *Washborn v. Black*, 11 East, 405, *n.*, the strict law was agreed to be, that the distrainor ought either to put the goods all into one room (and that the most convenient room, *Woods v. Durant*, 16 M. & W. 149, but it seems a cottage may be locked up so as to exclude the tenant altogether, if it be necessary to secure the distress) and keep possession of that only, or to remove the goods out of the house. But the tenant may consent to the bailiff's leaving the goods as he found them, and slight evidence will be sufficient; see *Tennant v. Field*, 8 E. & B. 336.⁷ A distress was made by the party putting his hand upon one bullock, and then making a list of twenty cattle which he delivered to the tenant, leaving a man in possession,⁸ and the next morning the distrainor gave a notice of the distress of the cattle, stating he had impounded them on the premises, and this was held a sufficient impounding, or at least, a "securing" under the Statute, *Thomas v. Harries*, 1 Man. & G. 695. In *Kerby v. Harding*, 6 Exch. 234, a distress being put into a livery stable, the carriage and horse of one of the tenant's customers were taken. The bailiff in possession permitted the owner, who was ignorant of the distress, to take the carriage and horse out as usual, believing that they would be brought back, and it was held to be no abandonment of the distress, and that when the owner brought them back they were still subject to the distress. Goods distrained and impounded on the premises are in the custody of the law, and though they may have been removed, yet when they are restored to the original pound, they remain under the original custody.

XI. Attornment.—Attornment was where the original landlord parted with his estate and transferred it to another, and the tenant consented to hold of that other; in which case, having attorned, he continued to hold upon the same terms as he held of his former landlord. At common law,

⁷ See *Lamotte v. Wisner*, 51 Md. 543, where cattle distrained for rent were left in the tenant's possession unsold at his request.

⁸ Where goods distrained have been impounded under this section, it is not necessary that any one on the landlord's behalf should be left in possession of them. *Jones v. Biernstein*, (1899) 1 Q. B. 470; (1900) 1 Q. B. 100.