taneously effected, and that the period between these acts during which the tenant might formerly tender the rent and expenses and obtain an immediate return of his goods, has no longer any existence. At common law, a tender after the goods had been impounded was unavailing, and this singular result ensued, that whereas the only object of permitting a landlord to distrain was to enable him to obtain payment of his rent and costs, he might refuse to receive such payment, and in spite of the tender, proceed under the statute to sell the goods distrained. Moved by the grievous hardship to the tenant of this state of the law, the judges have sanctioned an action on the equity of the Stat. 2 W. M., sess. 1, c. 5, in case of the sale of the goods after a tender made within the five days allowed to the tenant to replevy.

The provisions of the statute conferring the power to sell the goods distrained, have, on the whole, been somewhat strictly construed. The notice of distress must be in writing, and the inventory must specify with reasonable certainty the articles taken; the latter must in all cases be appraised by two sworn appraisers, and the landlord is not permitted to appraise the goods, or to buy them under the distress.

In reviewing this subject, the chief point calling for remark is the fact that the whole conduct of the process is left in the hands of the person least concerned to protect the interests of the tenant, and most inclined to exercise harshly the rights given him by law. The power of distress to compel appearance on civil process was at a very early period placed in the hands of the sheriff acting by virtue of the king's writ; but upon a distress for rent, the law still "allows a man to be his own avenger, and to minister redress to himself." To confer on an interested individual the power of seizing and selling the goods of his adversary, is to afford an obvious temptation to unfair dealing: and the existing checks on abuse must be admitted to be entirely inadequate. Notice of the distress is to be given to the tenant; but this notice need not accurately state the amount of rent for which the distress is made. The goods are to be appraised by two sworn appraisers; but since these persons are employed by the landlord, and are permitted to purchase the goods at the appraised value, it is obviously their interest to make as low an appraisement as possible. The landlord is to sell at the best price; but goods sold at the appraised value are presumed to have been sold for the best price. The overplus of the sale is to be left in the hands of the sheriff, under-sheriff, or constable, for the owner's use; but since no scale of charges for distresses for arrears of rent exceeding 20*l.* has been established, the landlord and his bailiff may deduct a large sum for the costs of the distress and sale. On the other hand, the temptation to vexatious litigation on the part of the tenant is scarcely less powerful. The existing process of distress is so full of legal pitfalls that a person who desires to revenge himself upon his landlord for distraining, can hardly fail to find a pretext for involving him in an action. Of all the various sources of litigation, however, the employment of unskilled bailiffs appears to be the most fruitful. Every inexperienced auctioneer deems himself qualified to act in this capacity, and the landlord has frequently to pay heavily for the ignorance of his agent.

But while responsible for any irregularity in the conduct of the distress, the landlord is not liable for illegal acts committed without his knowledge or sanction by the person employed to distrain, and the consequence is that for grave injuries, such as the taking of goods exempted from distress, the tenant's only remedy is against the bailiff, who may be a mere man of straw. It appears to us that much of the evil at present attendant upon the exercise of the right of distress for rent might be obviated by the adoption of a similar provision to that contained in the New York Revised Statutes (Vol. II., 504, ss. 2, 3, 8), under which every distress must be made by the sheriff upon the previous affidavit of the landlord or his agent, stating the amount of rent due, and the time when it became due. The present process of distress, as Lord Mansfield long ago pointed out, is neither more nor less than an execution, and there can be no reason why it should be conducted in a different manner from other executions. As at present conducted it cannot be said to afford a remedy which is either safe for the landlord or just to the tenant.—*Law Magazine.*

Sheriff—Seizure Under Fi. Fa.

Gladstone v. *Padwick*, Ex. 19 W. R. 1064, L. R. 6 Ex. 203.

The question what is an actual seizure or taking of possession, like the question, what is a continuing possession, is one rather of fact than of law, but stands so much upon the border that an illustrative instance is often of great service. In the present case a writ of *fi. fa.* was executed by a seizure at the mansion-house, accompanied by a declaration that it was intended as a seizure of all the goods on the estate; and this was held to be an "actual seizure" of the stock on the home farm (including some outlying fields) and of goods in the farm-house occupied by the bailiff. It was, therefore, held to bind them in favour of the execution creditor, as against the holders of a bill of sale executed half-an-hour afterwards, who claimed the benefit of section 1 of Mercantile Law Amendment Act, 1856. The general rule involved in this decision is that where there is a single holding, the lands of which are continuous or separated by only a moderate interval, a seizure at the principal