

Magistrates, in this country particularly, should examine the particular Statute under which they are acting, for the rule as to the admission of interested witnesses is not uniform. The witness who has a pecuniary interest in the result of a proceeding is not competent unless rendered so by special enactment.

In every case there should be sufficient of undoubted evidence to prove the offence clearly, so as to satisfy the true intent and meaning of the Statute; and where compensation is awarded, the extent of the damage should be proved.

A free and voluntary confession made by a defendant in the course of conversation with private individuals, or while in the presence of the Bench of Magistrates, is good evidence against him; but proof of any confession *obtained by threats or promises* would not be sufficient. The evidence of an accomplice is admissible, but if uncorroborated, not very reliable testimony.

MANUAL, ON THE OFFICE AND DUTIES OF BAILIFFS IN THE DIVISION COURTS.

(For the Law Journal.—By V.)
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What Goods and Property may be Seized.

A writ of *Fi. Fa.* delivered to a Sheriff binds the goods and chattels against which it is sued forth, from the time that such writ has been delivered to the Sheriff to be executed. This rule has always been considered to apply to executions from the Division Courts, which are in the nature of *Fi. Fa.*, and that the defendant's goods and chattels are bound by such a writ from the time it has been delivered to the Bailiff to be executed, and so the Rule applicable to a Sheriff would equally apply to a Bailiff.

The meaning then of goods being bound by the delivery, &c., is that after the writ is so delivered, if the defendant make an assignment of the goods even for a valuable consideration, unless in market overt, the Sheriff may take them in execution. If the party at whose suit the writ issued after the delivery of it to the Sheriff, gave him notice not to execute it, until further order, this is tantamount to a withdrawal of the writ, which cannot be considered in the hands of the Sheriff *to be executed* until an order to proceed.

A Division Court Bailiff would seem to be justified in seizing any goods sold by the defendant

in the ordinary way *after* the execution has been *delivered* to the Bailiff, as, notwithstanding the sale, no property would pass to the purchaser, the property being bound by such delivery as against the defendant himself, and all claims by assignment or representation through or under him, and also after an unqualified order from the plaintiff to the Bailiff, not to execute if another execution should come into the Bailiff's hands to be executed, he should seize under the latter execution, although there might not be sufficient goods to satisfy both. [1]

In the above case, and indeed in every case where the Bailiff is called upon to act under circumstances where his powers admit of question, it will be safer for him to take the first step, casting on an adverse claimant and the judgment creditor the responsibility of having the question decided. This the officer can do by suing out the Interpleader Summons, of which hereafter.

With respect to the sort of goods that may be seized, it may be laid down as a general rule that the Bailiff can seize and sell all the personal property belonging to the defendant which he can find and which can be sold, with the exception of wearing apparel and bedding, &c., to the value of five pounds, and perhaps also of goods in the corporal possession of the defendant. "Goods and chattels" are the words used in writs from the Superior Courts, and each of these words, in its largest sense, signifies all a man's property that is not real estate; but they would not include choses in action, as promissory notes, &c.; for these, however, there is a distinct provision, as we shall see.

Under the term, goods and chattels, it has always been considered that the Bailiff can, as in the case of a *Fi. Fa.* in the Sheriff's hands, sell a lease or term for years belonging to the defendant, and execute an assignment of it under his seal to the purchaser, and the same of a term for years acquired by marriage, the execution having the same effect as a disposal by the husband. *Fixtures*, however, cannot be sold: by *Fixtures* are meant those things which are fixed to the Freehold, and which go to the heir, and not to the executor—such as furnaces, ovens, doors, windows, &c., but utensils fixed for the purpose of trade, such

[1] See Arch. Proc.—Execution.