

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Tuesday the 28th day of May 1765, in the Fifth Year of His Majesty's Reign, and there continued by several Prorogations until the eighteenth day of June, 1768, in the Eighth Year of His said Majesty's Reign; being the Sixth Session of the Fourth General Assembly convened in the said Province.

8 George III – Chapter 4 (Session 1)

An Act for enabling the Sale of Goods distrained for Rent.

Whereas the most ordinary and ready way for recovery or arrears of rent is by distress; yet such distresses not being to be sold, but only detained as pledges for enforcing the payment of such rent, the persons distraining have little benefit thereby; For the remedying whereof, be it enacted by the Lieutenant Governor, Council and Assembly, that where any goods or chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever, and the tenant or owner of the goods so distrained shall not, within five days next after such distress taken, and notice thereof (with the cause of such taking) left at the chief mansion house, or other most notorious place on the premises charged with the rent distrained for, replevy the same with sufficient security to be given to the sheriff, according to law; that then in such case, after such distress and notice as aforesaid, and expiration of the said five days, the person distraining shall and may with the Provost Marshal or his deputy, or with the constable of the town or place where such distress shall be taken (who are hereby required to be aiding and assisting therein) cause the goods and chattels so distrained to be appraised by two sworn appraisers (whom any Justice of the Peace of the county where such goods shall be distrained, or such Provost Marshal or his deputy, are hereby empowered to swear) to appraise the same truly according to the best of their understandings; and after such appraisement shall and may lawfully sell the goods and chattels so distrained, for the best price can be gotten for the same, towards satisfaction of the rent for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement and sale, leaving the overplus (if any) in the hands of the said Provost Marshal, his deputy, or constable, for the owner's use.

II. And whereas no sheaves or cocks of corn loose or in the straw, or hay in any barn, or on any hovel, stack, or rick, can by the law be distrained, or otherwise secured for rent, whereby landlords may be oftentimes cousened and deceived by their tenants, who may sell their corn, grain, and hay, to strangers, and remove the same from the premisses chargeable with such rent, and thereby avoid the payment of the same, be it further enacted by the authority aforesaid, that it shall and may be lawful to and for any person or persons having rent arrear, and due upon any such demise, lease, or contract, as aforesaid, to seize and secure any sheaves or cocks of corn, or corn loose, or in the straw, or hay lying or being in any barn, or upon any hovel, stack, or rick, or otherwise upon any part of the land or ground charged with such rent, and to lock up or detain the same in the place where the same shall be found, for or in the nature of a distress, until the same shall be replevied upon such security to be given as aforesaid; and in default of replevying the same as aforesaid, within

the time aforesaid, to sell the same after such appraisement thereof to be made; so as nevertheless such corn, grain, or hay, so distrained as aforesaid, be not removed by the person or persons distraining, to the damage of the owner thereof, out of the place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied, or sold in default of replevying the same within the time aforesaid.

III. And be it further enacted, that upon any pound breach, or rescuous of goods or chattels distrained for rent, the person or persons grieved thereby, shall, in a special action upon the case for the wrong thereby sustained, recover his and their treble damages and costs of suit, against the offender or offenders in any such pound breach or rescuous, any or either of them, or against the owners of the goods distrained in case the same be afterwards found to have come to his use or possession.

IV. Provided always, and be it further enacted, that in case any such distress and sale, as aforesaid, shall be made by virtue or colour of this present Act, for rent pretended to be arrear and due, where in truth no rent is arrear or due to the person or persons distraining, or to him or them in whole name or names, or right, such distress shall be taken as aforesaid, that then the owner of such goods or chattels distrained and sold as aforesaid, his executors or administrators, shall and may, by action of trespass, or upon the case, to be brought against the person or persons so distraining, any or either of them, his or their executors or administrators, recover double of the value of the goods or chattels so distrained and sold, together with full costs of suit.

V. And be it further enacted, that no goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall be liable to be taken by virtue of any execution, on any pretence whatsoever, unless the party at whose suit the said execution is sued out, shall before the removal of such goods from off the said premises, by virtue of such execution or extent, pay to the landlord of the said premises, or his bailiff, all such sum or sums of money as are or shall be due for rent for the said premises at the time of the taking such goods or chattels by virtue of such execution; Provided the said arrears of rent do not amount to more than one year's rent; and in case the said arrears shall exceed one year's rent, then the said party, at whose suit such execution is sued out, paying the said landlord, or his bailiff one year's rent, may proceed to execute his judgment, as he might have done before the making of this Act; and the Provost Marshal or his deputy, or other officer, is hereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent, as the execution money.

VI. And be it further enacted, that in case any lessee for life or lives, term of years, at will, or otherwise, of any messuages, lands, or tenements, upon the demise whereof any rents are or shall be reserved or made payable, shall fraudulently or clandestinely convey or carry off or from such demised premises, his goods or chattels, with intent to prevent the landlord or lessor from distraining the same for arrears of such rent so reserved as aforesaid, it shall and may be lawful to and for such lessor or landlord, or any person or persons by him

for that purpose lawfully empowered, within the space of twenty one days next ensuing such conveying away or carrying off such goods or chattels, as aforesaid, to take and seize such goods and chattels wherever the same shall be found, as a distress for the said arrears of such rent, and the same to sell, or otherwise dispose of in such manner, as if the said goods and chattels had actually been distrained by such lessor or landlord, in and upon such demised premises for such arrears of rent; any law, custom, or usage to the contrary in any wise notwithstanding.

VII. Provided nevertheless, that nothing in this Act contained shall extend, or be construed to extend, to empower such lessor or landlord to take or seize any goods or chattels as a distress for arrears of rent, which shall be sold bona fide, and for a valuable consideration, before such seizure made; any thing herein contained to the contrary notwithstanding.

VIII. And whereas no action of debt lies against a tenant for life or lives, for any arrears of rent, during the continuance of such estate for life or lives, be it enabled, that it shall and may be lawful for any person or persons, having any rent in arrear or due upon any lease or demise for life or lives, to bring an action or actions of debt for such arrears of rent, in the same manner as they might have done, in case such rent were due and reserved upon a lease for years.

IX. And whereas tenants pur auter vie, and lessees for years, or at will, frequently hold over the tenements to them demised, after the determination of such leases and whereas after the determination of such, or any other leases, no distress can by law be made for any arrears of rent that grew due on such respective leases, before the determination thereof; It is further enacted, that it shall and may be lawful, for any person or persons, having any rent in arrear or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears, after the determination of the said respective leases, in the same manner as they might have done, if such lease or leases had not been ended or determined.

X. Provided, that such distress be made within the space of six calendar months, after the determination of such lease and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due.

XI. And be it further enacted, that it shall and may be lawful to and for every lessor or landlord, lessors or landlords, or his, her, or their steward, bailiff, receiver, or other person or persons empowered by him, her, or them, to take and seize, as a distress for arrears of rent, any cattle or stock, of their respective tenant or tenants, feeding or depasturing upon any common, appendant or appurtenant, or any ways belonging to all or any part of the premisses demised or holden, and also to take and seize all sorts of corn and grass, hops, roots, fruits, pulse, or other product whatsoever, which shall be growing on any part of the premisses so demised or holden, as a distress for arrears of rents and the same to cut, gather, make, cure, carry, and lay up, when ripe, in the barns, or other proper place on the premisses so demised or holden; and in case there shall be no barn or proper place on the premisses so demised or holden, then in any other barn or proper place which such lessor or

landlord, lessors or landlords shall hire or otherwise procure for that purpose, and as near as may be to the premisses; and in convenient time to appraise, sell, or otherwise dispose of the same, towards satisfaction of the rent for which such distress shall have been taken, and of the charges of such distress, appraisement, and sale, in the same manner as other goods and chattels may be seized, distrained and disposed of; and the appraisement thereof to be taken when cut, gathered, cured, and made, and not before.

XII. Provided always, that notice of the place where the goods and chattels so distrained shall be lodged or deposited, shall, within the space of one week after the lodging or depositing thereof in such place, be given to such lessee or tenant, or left at the last place of his or her abode.

Provided always, and it is hereby enacted, that nothing in this Act contained shall extend, or be construed to extend, to let, hinder, or prejudice His Majesty, his heirs or successors, in the levying, recovering or seizing, any quit rents, debts, fines, penalties, or forfeitures, that are or shall be due, payable, or answerable, to His Majesty, his heirs or successors; but that it shall and may be lawful for His Majesty, his heirs and successors, to levy, recover, and seize, such quit rents, debts, fines, penalties and forfeitures, in the same manner as if this Act had never been made; any thing in this Act contained to the contrary thereof in any wise notwithstanding.