

the sum or sums of money so reported to be due either from the said owners, occupiers or tenants, against whom the said judgment shall be so as aforesaid given in the same manner and under the same penalties as they are authorized and required to recover the other proportions of expense accrued on stopping out the said creeks, anything in the said act to which this act is a supplement to the contrary in any wise notwithstanding.

Passed February 24, 1770. Confirmed by the King in Council, May 24, 1771. See Appendix XXVII, Section III, and the note to the Act of Assembly passed February 20, 1768, Chapter 577.

CHAPTER DCVII.

AN ACT FOR THE SALE OF GOODS DISTRAINED FOR RENT AND TO SECURE SUCH GOODS TO THE PERSONS DISTRAINING THE SAME, FOR THE BETTER SECURITY OF RENTS AND TO PREVENT FRAUDS [AND ABUSES] COMMITTED BY TENANTS.

Whereas the most ordinary and ready way for recovery of arrears of rent is by distress; and no provision hath yet been made by the laws of this province that such distresses may be sold; and by the common law the same may be only detained as pledges for enforcing the payment of such rent and the persons distraining have little benefit thereby:

For the remedying whereof:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act, 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 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 and 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 sheriff, under-sheriff or any constable in the city or county 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 reputable freeholders, who shall have and receive for their trouble the sum of two shillings per diem each, and shall first take the following oath or affirmation:

I, A. B., will well and truly, according to the best of my understanding, appraise the goods and chattels of C. D., distrained on for rent by E. F.

Which oath or affirmation such sheriff, under-sheriff or constable are hereby empowered and required to administer; and after such appraisement shall or may, after six days' public notice, lawfully sell the goods and chattels so distrained for the best price that can be gotten for the same for and 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 sheriff, under-sheriff or constable for the owner's use.

[Section II.] And be it further enacted by the authority aforesaid, That upon any pound-breach or recous 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, her or their treble damages and costs of suit against the offender or offenders in any such rescous or pound-breach, any or either of them, or against the owner or owners of the goods distrained in case the same be afterwards found to have come to his or their use or possession.

[Section III.] Provided always and be it further enacted, That in case any such distress and sale as aforesaid shall be made by virtue of this act for rent pretended to be in arrear and due when in truth no rent shall appear to be in arrear or

due to the person or persons distraining or to him or them in whose name or names or right such distress shall be taken as aforesaid, that then the owner of such goods and 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 the value of the goods or chattels so distrained and sold, together with full costs of suit.

[Section IV.] And be it further enacted by the authority aforesaid, That the goods and chattels lying or being in or upon any messuage, lands or tenements which are or shall be leased for life or lives, term of years or otherwise, taken by virtue of any execution, shall be liable to the payment of all such sum or sums of money as are or shall be due for rent for the premises at the time of taking such goods and chattels by virtue of such execution. And the said sheriff shall after sale of the said goods and chattels pay to the landlord or other person empowered to receive the same such rent so due if so much shall be in his hands, and if not, so much as shall be in his hands, and apply the overplus thereof if any towards satisfying the debt and costs in such execution mentioned.

Provided always, That the said rent so to be paid to the landlord shall not exceed one year's rent.

[Section V.] And be it further enacted by the authority aforesaid, 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 from and after the publication of this act 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 other person or persons by him for that purpose lawfully empowered within the space of ten days next ensuing such conveying away or carrying off of such goods or chattels as aforesaid to take and seize such goods and chattels wherever the same may 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 notwithstanding.

Provided nevertheless, That nothing herein contained shall extend or be deemed or 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 *bona fide* and for a valuable consideration sold before the seizure made, anything herein to the contrary notwithstanding.

And whereas it frequently happens within this province that lessees or tenants for years or at will often hold over the tenements to them demised, after the determination of such leases, and although such lessees and tenants have been required to deliver up the tenements to the landlord or lessor, who had occasion to dwell in his own house or give, grant or demise the same to another, yet they have most unjustly refused so to do, and have obliged the lessors or landlords at a great expense to bring ejectments against their tenants, and by the delays incident to law proceedings have kept the owner of the house at law and out of possession several years:

For preventing, therefore, such unjust practices:

[Section VI.] Be it further enacted by the authority aforesaid, That every lessor or landlord in this province having leased or demised any lands or tenements to any person or persons for a term of one or more years, or at will, paying certain rents, and being desirous upon the determination of the lease to have again and repossess his estate so demised, for that purpose shall demand and require his lessee or tenant to remove from and leave the same, and upon the lessee or tenant's refusing to comply therewith in three months after such request to him made, it shall and may be lawful to and for such lessor or landlord to complain thereof to any two justices of the city, town or county where the demised premises are situate, and upon due proof made before the said justices that the said lessor had been quietly and peaceably possessed of the land or

tenements so demanded to be delivered up, that he had demised the same under certain rents to the then tenant in possession or some person or persons under whom such tenant claims or came into possession, and that the term for which the same was demised is fully ended, that then and in such case it shall and may be lawful for the said two justices to whom complaint shall be made as aforesaid and they are hereby enjoined and required forthwith to issue their warrant in nature of a summons directed to the sheriff of the county, thereby commanding the sheriff to summon twelve substantial freeholders to appear before the said justices within four days next after issuing the same summons, and also to summon the lessee or tenant or other person claiming or coming into possession under the said lessee or tenant at the same time to appear before them the said justices and freeholders to show cause if any he has why restitution of the possession of the demised premises should not be forthwith made to such landlord or lessor; and if upon hearing the parties, or in case of the tenants or other persons claiming or coming into possession under the said lessee or tenant neglect to appear after being summoned as aforesaid, it shall appear to the said justices and freeholders that the lessor or landlord had been possessed of the lands or tenements in question; that he had demised the same for a term of years, or at will, to the person in possession, or some other under whom he or she claims or came into possession at a certain yearly or other rent, and that the term is fully ended; that he had demanded of the lessee or [other] person in possession as aforesaid to leave the premises three months before such application to the said justices, that then and in every such case it shall and may be lawful for the said two justices to make a record of such finding by them the said justices and freeholders, and the said freeholders shall assess such damages as they think right against the tenant or other person in possession as aforesaid for the unjust detention of the demised premises from the lessor thereof, for which damages and reasonable costs judgment shall be entered by the said justices, which judgment shall be final and conclusive to the parties, and upon which the said justices shall and they are hereby enjoined and

required to issue their warrant under their hands and seals directed to the sheriff of the county, commanding him forthwith to deliver to the lessor full possession of the demised premises aforesaid and to levy the costs taxed by the justices and damages so by the freeholders aforesaid assessed of the goods and chattels of the lessee or tenant or other person in possession as aforesaid, any law, custom or usage to the contrary notwithstanding.

And whereas after the determination of such leases so made as aforesaid no distress can by law be made for any arrears of rent that grew due on such respective leases before the determination thereof:

[Section VII.] Be it therefore further enacted by the authority aforesaid, That from and after the publication of this act 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 one or more 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.

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

Passed February 24, 1770. Repealed by the King in Council, May 24, 1771. See Appendix XXVII, Section III.

CHAPTER DCVIII.

AN ACT FOR APPOINTING COMMISSIONERS TO MEET WITH COMMISSIONERS WHO ARE OR MAY BE APPOINTED BY THE LEGISLATURES OF THE NEIGHBORING COLONIES TO FORM AND AGREE ON A GENERAL PLAN FOR THE REGULATION OF THE INDIAN TRADE.

Whereas His Majesty has been graciously pleased to direct that the regulations of the Indian trade for the future shall be committed to the care and management of the colonies: