

CHAPTER 230

LANDLORD AND TENANT

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SCHEDULE**THE LAWS OF BARBADOS**

CHAPTER 230

LANDLORD AND TENANT

An Act to consolidate and amend the Acts of Barbados relating to landlord and tenant.

1897-2.
1955-38.
1956-56.
1956-57.
1969-27.
1979-11.
1980-14.
1997-11.
2002-24.

[19th June, 1897] Commence-
ment.

1. This Act may be cited as the *Landlord and Tenant Act*. Short title.

PART I

Interpretation

2. For the purposes of this Act, the expression Interpretation.

"agent" means any attorney lawfully constituted or any person usually employed by the landlord or his attorney in the letting of the premises or in the collection of the rents thereof or specially authorised to act in the particular matter by writing under the hand of the landlord;

"landlord" means the person entitled to the immediate reversion of the premises or, if the property be held in joint tenancy, coparcenary or tenancy in common, any one of the persons entitled to such reversion;

"lodger" includes every person the renter from any occupier, not being the owner, of a dwelling-house or part of such dwelling-house for the purposes of residence only but does not include an under-tenant of premises used for business purposes;

"person" includes a body politic, corporate, or collegiate as well as an individual;

"premises" means lands, houses or other corporeal hereditaments.

1979-11.

PART II

Attornment

3 - 8. *Repealed by 1979-11.*

PART III
Apportionment

9. *Repealed by 1979—11.*

Portion of rent may be recovered by executors of tenant for life.

10. Where any rent is reserved and made payable on any demise or lease of lands, tenements or hereditaments and the lease or demise determines on the death of the person making the same (although he was not strictly tenant for life thereof) or on the death of the life for which such person was entitled to such hereditaments, the executors or administrators of the person and the person making any such demise or lease which determines on the death of the life for which such person was entitled to such hereditaments shall and may respectively recover of and from the under-tenants of such lands, tenements or hereditaments a proportion of the rent, according to the time the person, by whose death such demise or lease determined, lived of the last year or quarter of a year or other time in which the rent was growing due, making all just allowances or a proportionable part respectively.

Landlord may recover portion of rent if premises attached.

11. Where any lands, tenements or hereditaments are attached before the day on which any rent was reserved or made payable upon any demise or lease thereof, the lessor or landlord thereof from whom they were attached shall and may recover from the tenant thereof a proportion of the rent, according to the time such lessor or landlord was seised thereof, of the last year or quarter of a year or other time on which the said rent was growing as aforesaid, making just allowances.

Apportionment of rents, annuities, pensions, dividends, etc., on death of person to whom such interest is due.

12. (1) All rents-service reserved on any lease by a tenant in fee or for any life interest or by any lease granted under any power (such leases having been granted after the 7th April, 1868) and all rents-charge and other rents, annuities, pensions, dividends and all other payments of every description in Barbados, made payable or coming due at fixed periods under any instrument executed, or in the case of a will or testamentary writing coming into operation, after that date, shall be apportioned so and in such manner that on the death of any person interested in any such rents, annuities, pensions, dividends, or other payments, or in the estate, fund or office from or in respect of which the same issue or derive, or on the

determination by any other means whatsoever of the interest of any such person, he and his executors, administrators or assigns shall be entitled to a proportion of such rents, annuities, pensions, dividends and other payments, according to the time which elapses from the commencement or last period of payment thereof, as the case may be, including the day of the death of such person, or of the determination of his interest, all just allowances and deductions in respect of charges on such rents, annuities, pensions, dividends and other payments being made.

(2) Every such person, his executors, administrators and assigns shall have the same remedies at law and in equity for recovering such apportioned parts of the rents, annuities, pensions, dividends, and other payments, when the entire portion, of which such apportioned parts form part, become due and payable and not before, as they would have had for recovering and obtaining such entire rents, annuities, pensions, dividends and other payments, if entitled thereto.

(3) Persons liable to pay rents reserved by any lease or demise, and the lands, tenements and other hereditaments comprised therein, shall not be resorted to for such apportioned parts specifically as aforesaid, but the entire rents of which such portions shall form a part shall be received and recovered by the persons who, if this Act had not been passed, would have been entitled to such entire rents and such portions shall be recoverable from such persons by the parties entitled to the same under this Act in any action at law or in equity.

(4) This section shall not apply to any case in which it is expressly stipulated that no apportionment shall take place or to annual sums made payable in policies of assurance of any description.

PART IV

Distress

13. It shall be lawful for every lessor or landlord, or other person empowered by him, to take and seize, as a distress for arrears of rent

Cattle, etc.,
and all sorts
of produce
may be
distrained.

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- (a) any cattle or stock of his tenant feeding or depasturing upon any field appendant or appurtenant or in any ways belonging to all or any part of the premises demised or holden; and
- (b) all sorts of corn, grass, roots, fruits, pulse or other product whatsoever which is cut, gathered, made, cured and laid up in the store-rooms or other proper place on the premises so demised or holden,

and to appraise, sell or otherwise dispose of the same towards satisfaction of the rent for which the distress is taken and of the charges of the distress, appraisement and sale, in the same manner as other goods and chattels may be seized, distrained and disposed of.

Growing
crops may
be dis-
trained.

14. (1) It shall be lawful for any lessor or landlord, or any person authorised by him

- (a) to take and seize as a distress for arrears of rent all sorts of corn, grass, roots, canes, fruits, pulse or other product whatsoever which are growing on any part of any lands demised or holden; and
- (b) to cut, gather, make, cure, carry and lay up the same, with the exception of canes, when ripe, in any proper place on the premises so demised or holden and, if there is no proper place on the premises so demised or holden, then in any proper place which the lessor or landlord hires or otherwise procures for that purpose and as near as may be to the premises.

(2) The lessor or landlord or person authorised by him shall give the auctioneer of the district in which the distress takes place notice of it, and the sale thereof shall be made in like manner as other goods and chattels now seized and distrained are disposed of, the sale thereof, except in the case of canes, to be made when cut, gathered, cured and made and not before.

(3) In every case of any distress on canes as aforesaid the canes shall be sold before they are cut.

(4) The lessor or landlord shall be entitled to be repaid from the proceeds of the sale the necessary expenses incurred

by him in cutting, gathering, making, curing, carrying and laying up under this section.

(5) Notwithstanding subsections (1) to (4), where after any distress for arrears of rent so taken of any corn, grass, roots, canes, fruits, pulse or other product which is growing as aforesaid and at any time before it is ripe and cut, cured or gathered, the tenant or lessee, his executors, administrators or assigns pays or causes to be paid to the lessor or landlord for whom the distress is taken, the whole rent which is then in arrear together with full costs and charges of making the distress and which were occasioned thereby, then and upon such payment or lawful tender thereof actually made, whereby the end of the distress will be fully answered, the same and every part thereof shall cease, and the corn, grass, roots, canes, fruits, pulse or other product distrained shall be delivered up to the lessee or tenant, his executors, administrators or assigns.

15. (1) It shall be lawful for any person having any rent in arrear or due upon any lease for life, years or at will, ended or determined, to distrain for such arrears after the determination thereof, in the same manner as he might have done if the lease had not been ended or determined, provided the distress is made within six calendar months after the determination of the lease and during the continuance of such landlord's title or interest and during the possession of the tenant from whom the arrears became due.

Distrain of rent after determination of lease.

(2) Where the value of the goods distrained is not found to be the value of the arrears distrained for, the party to whom the arrears were due, or his executors or administrators, may from time to time distrain again for the residue of the arrears.

16. Where any tenant or lessee for life or lives, term of years, at will, sufferance or otherwise, of any messuages, lands, tenements or hereditaments upon the demise or holding whereof any rent is reserved, due or made payable fraudulently or clandestinely conveys away or carries off from such premises his goods or chattels to prevent the landlord or lessor from distraining them for arrears of the rent, it shall be lawful for every landlord or lessor, or any person by him lawfully empowered for that purpose, within the space of thirty days next

Goods fraudulently removed may within thirty days be distrained and sold.

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ensuing such conveying away or carrying off such goods or chattels, to take and seize such goods and chattels, wherever they are found, as a distress for the arrears of rent, and to sell or otherwise dispose of them in such manner as if the goods and chattels had actually been distrained by the lessor or landlord in and upon such premises for arrears of rent.

Saving for
bona fide
purchaser.

17. No landlord or lessor or other person entitled to such arrears of rent shall take or seize any such goods or chattels as a distress for the same which have been sold *bona fide* and for a valuable consideration, before the seizure, to any person not privy to the fraud.

Penalty on
tenants and
persons
assisting them
in removing
goods
fraudulently.

18. To deter tenants from so fraudulent conveying away of their goods and chattels and others from wilfully aiding or assisting therein or concealing the same, any such tenant or lessee who fraudulently removes and conveys away his goods or chattels as aforesaid or any person who wilfully and knowingly aids or assists any such tenant or lessee in such fraudulent conveying away or carrying off of any part of his goods or chattels or in concealing the same, shall forfeit and pay to the landlord or lessor, from whose estate such goods and chattels were so fraudulently carried off, double the value of the goods by him so carried off or concealed.

Houses, etc.,
to which
goods are
fraudulently
removed may
be broken
open with
assistance of
a constable.

19. Where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or lessee, or his servant or agent or other person aiding or assisting therein, are put, placed or kept in any house, stable, store-room, out-house, yard, close or place locked up, fastened or otherwise secured, so as to prevent them from being taken and seized as a distress for arrears of rent, the landlord or lessor or other person empowered to take and seize as a distress for rent such goods and chattels having first—

- (a) called to his assistance a constable of the district where the same are suspected to be concealed, who is hereby required to aid and assist therein; and
- (b) in case of a dwelling-house, made an oath before the magistrate for the district of a reasonable ground to suspect that such goods or chattels are therein,

may in the day time break open and enter into such house, stable, store-room, outhouse, yard, close and place, and take and seize such goods and chattels for the arrears of rent, as he might have done by virtue of this Act if the goods and chattels had been put in any open field or place.

20. (1) Where the lands, tenements, or hereditaments in respect of which any distress is made are rented, on what tenure soever, at a sum not exceeding two hundred and forty dollars in the year, it shall be lawful for the magistrate of the district and he is hereby required, on application of the tenant within ten days next after such distress, by summons under his hand, to require the landlord or person in whose name the distress was made to appear before him at a time therein specified and establish his claim to the amount distrained for.

For rent not exceeding \$240 p.a. redress by warrant for a wrongful distress before magistrate.

(2) Where it appears to the magistrate, on examining into the matter with the evidence adduced by the parties on either side, that the said amount is not due and owing by the tenant in terms of the agreement between him and his landlord, he shall direct the proceedings in such distress to be stayed, and the goods and chattels distrained on to be delivered up to the tenant, free of all costs and charges, and at the expense of the landlord or other person in whose name such distress was made.

(3) The tenant shall not be barred thereby from such redress as in this Act or by any other law then in force is provided in the case of a wrongful distress.

21. (1) Where the goods distrained are claimed by any person, other than the lessee or his under-tenants, as his property and he makes satisfactory proof of such claim to the magistrate of the district where the goods were distrained, the goods shall be restored to him, he paying all expenses incurred by the distress and application to the magistrate, who is hereby authorised to enquire into the ownership of such goods and to examine the tenant, claimant and any witnesses he may think necessary for that purpose.

Magistrate to enquire into right to distrained goods claimed by a stranger.

(2) Where any goods on the premises are distrained and sold without being claimed, the purchaser thereof shall not be

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subject to any action or other proceeding by the owner for the recovery thereof but shall have a good title to them.

Proceedings
to be stayed
on applica-
tion to
magistrate.

22. (1) Whenever an application is made to a magistrate under section 20 or 21, it shall be the duty of the magistrate and he is hereby required, forthwith on such application being made, to notify the District Auctioneer of that district.

(2) The District Auctioneer is hereby required on receiving such notice to stay all proceedings on the distress until the application is fully heard and disposed of by the magistrate, or by the Divisional Court where there is an appeal against the order made by the magistrate.

(3) Any District Auctioneer selling any goods and chattels distrained on for rent after having received notice of such application shall, should the applicant succeed in his application, incur a penalty of double the value of the goods and chattels sold, to be recovered by the person aggrieved by such sale, for his own use and benefit, before the magistrate of his district in a summary manner.

In replevin,
what con-
stitutes
sufficient
defence.

23. (1) It shall be lawful for all defendants in replevin to avow or make conusance generally that the plaintiff in replevin or other tenant of the lands and tenements, whereon such distress was made, enjoyed the same under a grant or demise at such a certain rent during the time wherein the rent distrained for accrued, which rent was then and still remains due, or that the place where the distress was taken was parcel of such tenements for which the rent distrained for was at the time of such distress and still remains due, without further setting forth the grant, tenure, demise or title of such landlord, lessor, or owner of the premises, any law or usage to the contrary notwithstanding.

(2) Where the plaintiff in such action becomes nonsuit, discontinues his action, or has judgment given against him, the defendant in such replevin shall recover double costs of suit.

Chief
Marshal to
proceed in
replevin of
a distress.

24. (1) The Chief Marshal shall, in every replevin of a distress for rent, take in his own name from the plaintiff and two responsible persons as sureties a bond in double the value

of the goods distrained (such value to be ascertained by the oath of one or more credible witness or witnesses not interested in the goods or distress, which oath the person granting such replevin is hereby authorised and required to administer) and conditioned for prosecuting the suit with effect and without delay, and for duly returning the goods and chattels distrained, in case a return is awarded before any deliverance be made of the distress.

(2) The Chief Marshal shall, at the request and costs of the avowant or person making consuance, assign such bond to such avowant or person by endorsing the same and attesting it under his hand and seal in the presence of two or more credible witnesses.

(3) Where the bond so taken and assigned is forfeited, the avowant or person making consuance may bring an action and recover thereupon in his own name and the court may by order give such relief to the parties upon such bond as may be agreeable to justice and reason and such order shall have the nature and effect of a defeasance to such bond.

(4) The Chief Marshal shall be entitled to demand and receive the fee of two dollars and forty cents for taking the bond, to be paid by him into the Consolidated Fund.

25. (1) Where any superior landlord levies or authorises to be levied a distress on any furniture, goods or chattels of any lodger for arrears of rent due to the superior landlord by his immediate tenant, the lodger may serve the superior landlord or the bailiff or other person employed by him to levy such distress, with a declaration in writing made by the lodger, setting forth that the immediate tenant has no right of property or beneficial interest in the furniture, goods, or chattels so distrained or threatened to be distrained upon and that such furniture, goods or chattels are the property or in the lawful possession of the lodger and also setting forth whether any and what rent is due and for what period from the lodger to his immediate landlord.

Lodger, if distress levied, to make declaration that immediate tenant has no property in goods distrained.

(2) The lodger may pay to the superior landlord or to the bailiff or other person employed by him the rent if any so due or so much thereof as is sufficient to discharge the claim of such superior landlord.

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(3) To such declaration shall be annexed a correct inventory, subscribed by the lodger, of the furniture, goods and chattels referred to in the declaration.

(4) Any lodger who makes or subscribes such declaration and inventory, knowing the same or either of them to be untrue in any material particular, shall be guilty of a misdemeanour.

Penalty for distress after declaration by lodger.

26. (1) Where any superior landlord or any bailiff or other person employed by him, after being served with the declaration and inventory mentioned in section 25, and after the lodger has paid or tendered to the superior landlord, bailiff or other person, the rent, if any, which by section 25 the lodger is authorised to pay, levies or proceeds with a distress on the furniture, goods or chattels of the lodger, the superior landlord, bailiff or other person shall be guilty of an illegal distress, and the lodger may apply to the magistrate of his district for an order for the restoration to him of such goods.

(2) Such application shall be heard before the magistrate who shall enquire into the truth of such declaration and inventory and shall make such order for the recovery of the goods or otherwise as to him may seem just, and the superior landlord shall also be liable to an action by the lodger, in which action the truth of the declaration and inventory may likewise be enquired into.

Effect of payments by lodgers to superior landlord.

27. Any payment made by any lodger pursuant to section 25 shall be deemed a valid payment on account of any rent due from him to his immediate landlord.

Distress not deemed unlawful for irregularity, but party aggrieved may recover special damage.

28. (1) Where any distress is made for any kind of rent justly due, and any irregularity or unlawful act is afterwards done by the party distraining, or by his agent, the distress itself shall not be deemed to be unlawful, nor the party making it be therefore deemed a trespasser *ab initio*.

(2) The party aggrieved by such unlawful act or irregularity shall or may recover full satisfaction for the special damage he sustains thereby, and no more, and where the plaintiff recovers in such action, he shall be paid his full costs of suit and have all the like remedies for the same as in other cases of costs.

29. No tenant or lessee shall recover in any action for any such unlawful act or irregularity as aforesaid, if tender of amends is made by the party distraining or his agent before the action brought.

No action where amends tendered before action brought.

30. Where any goods or chattels are distrained for any rent reserved and due upon any demise, lease or contract whatsoever and the tenant or owner of the goods so distrained does not, within 10 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 Chief Marshal, then and in such case after such distress and notice, and after the expiration of the 10 days, the goods and chattels so distrained may be sold as by law provided. No distress shall be taken for more than 2 years' rent in arrears, nor shall the goods of a stranger be liable to be sold under a distress, if the claim to them is established in manner in this Act provided.

Distress for rent may be sold.

31. Upon any rescous of any goods or chattels distrained for rent, the person aggrieved thereby shall recover treble damages and costs of the action against the offender in any such rescous, or against the owners of the goods distrained where they are afterwards found to have come to his use or possession.

For rescous of distrained goods treble damages and costs recoverable.

32. Where any such distress and sale is made by virtue or colour of this Act for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the person distraining, or to him in whose name or right such distress is so taken, the owner of such goods or chattels so distrained and sold or his executors or administrators shall and may by action against the person so distraining, his executors or administrators, recover double the value of the goods or chattels so distrained and sold, together with full costs of the action.

Double the value may be recovered against a party distraining and selling goods when no rent due.

33. (1) In all actions against any person entitled to rents of any kind, or his agent or other person, relating to any entry by virtue of this Act or otherwise upon the premises chargeable with such rents or to any distress or seizure, sale or disposal of any goods or chattels thereupon, it shall be

Landlord may plead general issue and give special matter in evidence.

lawful for the defendant in such action to plead the general issue and give the special matter in evidence, any law or usage to the contrary notwithstanding.

(2) Where the plaintiff in such action becomes nonsuit, discontinues his action or has judgment given against him, the defendant shall recover costs of the action.

PART V

Summary Recovery of Possession

Where lands
etc. are
deserted,
how
landlord
may proceed
to obtain
possession,
etc.

34. (1) Where any tenant holding any lands, tenements or hereditaments at a rack rent, or in respect of which the rents reserved are three-fourths of the yearly value of the demised premises, is in arrear for any one year's rent and deserts the demised premises and leaves the same uncultivated or unoccupied, so that no sufficient distress can be had to countervail the arrears of rent, it shall be lawful for the magistrate of the district where the premises are situate (having no interest in the premises), at the request of the lessor or landlord to go upon and view the same and cause to be affixed on the most notorious part of the premises a notice in writing as to what day (at the distance of 14 days at least) he will return to take a second view thereof.

(2) Where upon such second view the tenant or some person on his behalf does not appear and pay the rent in arrear or there is not sufficient distress on the premises, then the magistrate may put the landlord or lessor into the possession of the demised premises, and the lease thereof to such tenant as to any demise therein contained only shall from thenceforth become void.

35. (1) When and as soon as

- (a) the term or interest of the tenant of any house, land, premises or any corporeal hereditaments held by him at will or for any term not exceeding 7 years, either without being liable to the payment of any rent or at a rent not exceeding the rate of \$10 000 a year, is ended or duly determined by a legal notice to quit or otherwise; and
- (b) the tenant or (if he does not actually occupy the premises or only part thereof) any person by whom the same or any part thereof is then actually occupied neglects or refuses to quit and deliver up the possession of the premises, or such part thereof respectively,

Recovering possession of tenements held at will or for a term of not more than 7 years and at an annual rent not exceeding \$10 000, after the tenancy has been duly determined. 1969-27. 1980-14. 2002-24.

it shall be lawful for the landlord of the premises, or his agent, to cause the person so neglecting or refusing to quit and deliver up possession to be served (in the manner hereinafter mentioned) with a written notice in the form or to the effect set forth for that purpose in the Form No. 1 in the *Schedule*, signed by the landlord, or by his agent, of his intention to proceed to recover possession of the same under the authority of and according to the mode prescribed in this Act.

Schedule.

(2) Where the tenant or occupier

- (a) does not thereupon appear at the time and place appointed by a summons to be issued by the magistrate and show to the satisfaction of the magistrate, as hereinafter mentioned, reasonable cause why possession should not be given under this Act; and
- (b) still neglects or refuses to deliver up possession of the premises, or such part thereof of which he is then in possession, to the landlord or his agent,

it shall be lawful for the landlord or his agent to give to such magistrate proof of the holding and of the end or other determination of the tenancy, with the time or manner thereof and, where the title of the landlord has accrued since the letting of the premises, the right by which he claims the possession.

s.36

(3) Upon proof of service of the notice and of the neglect or refusal of the tenant or occupier, as the case may be, to deliver up possession, it shall be lawful for the magistrate of the district in which the land or premises, or any part of them, is situate, to order that a warrant shall issue forthwith or within such period not exceeding 2 months as he sees fit.

1955-38. (4) The date of such warrant shall be the date of issue in accordance with such order and such warrant shall be under the hand of the magistrate and be directed to any one or more police constable or constables commanding them within a period to be therein named, not less than 3 nor more than 10 clear days from the date of such warrant, to enter (by force if needed) into the premises and give possession of the same to the landlord or agent.

(5) Entry upon any such warrant shall not be made on a Sunday, Good Friday or Christmas Day or at any time except between the hours of 8 in the morning and 5 in the afternoon.

(6) Nothing herein contained shall be deemed to protect any person, on whose application, and to whom, any such warrant is granted, from any action which may be brought against him by any such tenant or occupier for or in respect of the entry and taking possession when such person had not at the time of granting the same lawful right to the possession of the same premises.

(7) Nothing herein contained shall affect any rights to which any person may be entitled as outgoing tenant or otherwise.

1969-27. (8) Notwithstanding the provisions of any enactment to the contrary, any complaint made to a magistrate under this section shall be heard before a magistrate sitting in the exercise of his civil jurisdiction.

Manner of serving the notice of intention to proceed.

36. (1) Such notice of application intended to be made under this Act may be served either personally or by leaving the same with some person being in, and apparently residing at, the place of abode of the person so holding over.

(2) The person serving the same (where notice is required to be in writing) shall read over the same to the person served or with whom it is so left, and state the purport and intent thereof or leave a copy of it with such person.

(3) Where the person so holding over cannot be found or the place of abode of such person is not known or admission thereto cannot be obtained for serving the summons, the posting up of the summons on some conspicuous part of the premises so held over shall be deemed to be good service upon such person.

37. (1) Where the person to whom any such warrant is granted had not at the time of granting the same lawful right to the possession of the premises, the obtaining and service of any such warrant shall be deemed a trespass by him against the tenant or occupier of the premises.

Proceedings in cases of parties claiming possession who have no title.

(2) Where any such tenant or occupier becomes bound with two sureties as hereinafter provided, to be approved of by the magistrate in such sum as to him seems reasonable, regard being had to the value of the premises and to the probable cost of an action, to sue the person to whom such warrant was granted with effect and without delay and to pay all the costs of the proceedings in such action in case judgment passes for the defendant or the plaintiff discontinues or does not prosecute his action or becomes nonsuit therein, execution of the warrant shall be delayed until judgment is given in such action of trespass.

(3) Where upon the trial of such action of trespass judgment passes for the plaintiff, such judgment shall supersede the warrant so granted.

38. (1) Every such bond shall be made to the landlord or his agent, shall be approved of and signed by the magistrate and shall be in the Form No. 4 in the Schedule.

Bond to be given by the party disputing the title to pay costs in the event of judgment going against him. Schedule.

(2) Where the bond so taken is forfeited or upon the trial of the action for securing the trial of which such bond was given the Judge by whom it is tried does not endorse upon the record, upon application to be made to him in court in that behalf, that the condition of the bond is fulfilled, the party to whom the bond is so made may bring an action and recover thereon.

(3) The court where such action is brought may by order give such relief to the parties upon such bond as may be agreeable to justice, and such order shall have the nature and effect of a defeasance to such bond.

39. It shall not be lawful to bring any action or prosecution against the magistrate by whom such warrant is issued, or against any police constable by whom such warrant may be executed, for issuing such warrant or executing the same

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respectively, by reason that the person on whose application the same is granted does not have lawful right to the possession of the premises.

Parties having a title not to be deemed trespassers by reason of any informality in the proceedings.

40. (1) Where the landlord or his agent at the time of applying for such warrant had lawful right to the possession of the premises or of the part thereof so held over, neither the landlord nor his agent, nor any other person acting in his behalf, shall be deemed to be a trespasser by reason merely of an irregularity or informality in the mode of proceeding for obtaining possession under the authority of this Act but the party aggrieved may, if he thinks fit, bring an action for such irregularity or informality in which the damage alleged to be sustained thereby shall be specially laid and may recover full satisfaction for such special damage with costs of the action.

(2) Where special damage as laid is not proved, the defendant shall be entitled to judgment and, if proved but assessed at any sum not exceeding nine dollars and sixty cents, the plaintiff shall recover no more costs than damages, unless the Judge before whom the trial is held certifies upon the back of the record that in his opinion full costs ought to be allowed.

Tenement held by servant where no term has been fixed or no rent receivable or where occupancy incidental to service.

41. (1) In all cases in which the relation of master or employer and servant and labourer exists between the owner or his agent and the occupier of any land, house or premises in which no fixed term for the duration of such occupancy has been agreed on between the parties, and where either no rent has been reserved, or the same has been received or customarily paid in labour or otherwise at shorter periods than three months, it shall be lawful for either party to terminate the occupancy of such house, land or premises only by giving one month's notice, either verbal or in writing, to the other party of his intention to put an end to the same.

(2) In every case in which the occupier of any house, land or premises so held after having received one month's notice to terminate such occupancy refuses to deliver possession of such premises to the owner or his agent, the person so refusing shall be considered to hold over the same unlawfully and shall be liable to be forthwith proceeded against for the recovery of

possession thereof under the authority and in the manner provided by this Act.

42. (1) It shall not be lawful either for the master or landlord or for the servant or tenant to terminate the tenancy or occupancy of any land, house or tenement which is held or occupied as incident to service otherwise than by giving to the other party one month's previous notice, either verbal or in writing, of his intention to terminate the same.

Ejectment of servants holding as incident to service.

(2) It shall not be lawful for any owner of a house, room or land, on the termination of the tenancy by himself or his agents, to remove or eject any servant from any house, room or land which he holds as an incident to service under a penalty of twenty-four dollars to be recovered before any magistrate in a summary manner it being the true intent and meaning of this Act that all ejectments shall take place under the order and by the direction of a magistrate in the manner referred to in section 41.

(3) Where there is any growing crop on the land, which such servant is permitted to occupy as incident to such service, such master, mistress or employer shall, on the termination of the tenancy, either permit the servant to reap the same or pay the value thereof to the servant, the value to be ascertained, in case of disagreement, by arbitration under the provisions of the Security of Tenure of Small Holdings Act, or the value of any such crop may be taken into consideration towards the discharge of any sum of money which the servant may be awarded to pay to such master, mistress or employer by the magistrate.

1955-38.

Cap. 237.

(4) Nothing in this section shall be construed to apply to any domestic servant who is suffered to occupy any room in the dwelling-house or yard of his master, mistress or employer.

43. Where the tenancy or occupancy of any land or tenement held or occupied as an incident to service is terminated by notice, the tenant or occupier shall, in addition to the then value of the crops (if any) growing on the land or tenement, be entitled to receive from the master or landlord compensation for all breadfruit, plantain and banana trees established by the

Compensation for fruit trees, and unexhausted farming works.

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tenant or occupier on such land and for all tillage, manuring and other farming works done by him and of which the benefit is unexhausted at the time of the termination of his tenancy.

Amount of compensation.

1955-38.

44. The amount of compensation to be paid to any tenant or occupier under section 43 shall, in case the parties cannot agree as to the same, be determined by arbitration, in like manner as the value of any crop growing on the land held or occupied by him is determined.

Act not to work as incidental tenancy where not previously so.

45. Nothing in sections 41 to 44 shall be deemed to render any tenancy or occupancy a tenancy or occupancy incidental to service if, prior to the passing of this Act, such tenancy or occupancy would not have been a tenancy or occupancy incidental to service.

Fees of magistrates and constables. Cap. 116. 1955-38. 1956-57.

46. (1) It shall be lawful for the magistrates and constables to demand and receive such fees as may be prescribed under the Magistrates Jurisdiction and Procedure Act.

(2) The fees of a magistrate shall be paid into the Consolidated Fund.

Value of crops and compensation for fruit trees and unexhausted farming works.

47. Where the tenancy of any land, held otherwise than under a lease or any agreement in writing or as incident to service is determined by the landlord, the tenant may elect to receive from the landlord the value of the crops, if any, growing on such land and shall also be entitled to receive from the landlord compensation for all breadfruit, plantain and banana trees established by him on such land and for all tillage, manuring and other farming works done by him, if the benefit is unexhausted at the time of the termination of the tenancy.

How value and compensation are to be assessed and recovered.

1955-38.

48. (1) The value of the growing crops, and of the compensation aforesaid shall be determined in the manner and subject to the conditions mentioned in this Act relating to the determination by arbitration of the value of crops on lands held as incident to service and to the compensation to be paid for fruit trees, and unexhausted farming works.

(2) The amount awarded as the value of any growing crops or as compensation for fruit trees and unexhausted farming works may be recovered by the tenant by an action in the court having jurisdiction to determine the same.

PART VI

Miscellaneous

49. Every tenant to whom any declaration or other process in ejectment is delivered for any lands, tenements or hereditaments shall forthwith give notice thereof to his landlord or his constituted attorney or receiver of the rent, under penalty of forfeiting the value of three years' improved rack rent of the premises so demised or holden in possession of such tenant to the person of whom he holds, to be recovered with costs of suit.

Tenant to whom declaration in ejectment delivered to give notice forthwith to his landlord.

50. (1) It shall be lawful for the court when such ejectment is brought to suffer the landlord to make himself a defendant by joining with the tenant to whom such declaration in ejectment is delivered if he appears.

Landlord may be made defendant with tenant in ejectment.

(2) Where the tenant refuses or neglects to appear, judgment shall be signed against the tenant for want of appearance, but if the landlord of any part of the lands, tenements or hereditaments for which such ejectment was brought desires to appear by himself, the court where such ejectment is brought shall permit him so to do, upon such terms as to the court seem just and enter a stay of execution upon such judgment against the tenant until it makes a further order therein.

51. (1) It shall be lawful for the landlord, where any agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements or hereditaments held or occupied by the defendant in an action for the use and occupation of what was so held or enjoyed.

Landlord may recover reasonable satisfaction for lands occupied where agreement is not by deed.

(2) Where in evidence on the trial of such action any parol demise or any agreement (not being by deed) whereon a certain rent was reserved appears, the plaintiff in such action shall not be nonsuited but may make use thereof in evidence of the quantum of damages to be recovered.

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Goods not to be taken in execution without the rent due, not exceeding one year, being paid to the landlord.

52. (1) No goods or chattels whatsoever lying or being in or upon any messuage, lands or tenements which are leased for life or lives, term of years, at will or otherwise shall be liable to be taken by virtue of any execution, unless the party at whose suit the execution is sued out shall, before the removal of the goods from the premises by virtue of the execution, pay to the landlord or lessor of the premises or his agent all such sums of money as are due for rent for the premises at the time of the taking of the goods or chattels by virtue of the execution:

Provided the arrears of rent do not amount to more than one year's rent.

(2) Where the arrears exceed one year's rent, then the party at whose suit such execution is sued out, paying the landlord or his agent one year's rent, may proceed to execute his judgment as he might have done before the passing of this Act.

(3) The Marshal is hereby empowered and required to levy and pay to the plaintiff as well the money so paid for rent as the execution money.

Protection of persons acting under authority of Act.

53. (1) Where any action is commenced against any person for anything done in pursuance of this Act, the defendant in such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act.

(2) Where it appears so to have been done, judgment shall be entered for the defendant and if the plaintiff is nonsuited or discontinues his action, or judgment is given against the plaintiff, the defendant shall recover treble costs and have the like remedy for the same as the defendant has in other cases by law.

s. 35.

SCHEDULE

FORM No. 1

Notice of owner's intention to apply to a magistrate to recover possession

I owner or agent of the
owner *(as the case may be)* do hereby give you notice that unless peaceful
possession of the tenement *(shortly describing it)* situate
which was held of me or of the said *(as the case may be)*

under a tenancy from year to year (*as the case may be*) which expired or was determined by notice to quit from the said _____ or otherwise (*as the case may be*) on the _____ day of _____ and which tenement is now held over and detained from the said _____ be given to _____ (the owner or agent) on or before the expiration of _____ clear days from the service of this notice, I shall lodge my complaint before the Magistrate of District _____ to obtain his warrant directing any one or more police constables to enter and take possession of the said tenement and to eject any person therefrom.

Dated this _____ day of _____ 19 .

(Signed)

To _____
Owner or agent

FORM No. 2

Complaint before a magistrate

The complaint of _____ owner or agent (*as the case may be*) made before me _____ Magistrate of District _____ who says that the said _____ did let to _____ a tenement consisting of _____ for _____ under the rent of _____ and that the said tenancy expired or was determined by notice to quit given by the said _____ owner or agent (*as the case may be*) on the _____ day of _____, and on the _____ day of _____ the said _____ did serve on _____ (the tenant holding over) a notice of his intention to apply to recover possession of the said tenement (a duplicate of which notice is hereto annexed) by giving and (*describing the mode by which the service was effected*), and that notwithstanding the said notice the said _____ refused (or neglected) to deliver up possession of the said tenement and still retains the same.

(Signed)

Taken the _____ day of _____ before me,

(Signed)

A duplicate of the notice of intention to apply is to be annexed to this complaint.

FORM No. 3

Warrant to police constables to take and give possession

Whereas (*set forth the complaint*) I _____ Magistrate for District _____ do authorise and command you, or each of you, on any day within _____ days from the date hereof (except on Sunday, Christmas Day and Good Friday *to be added if necessary*), between the hours of eight in the forenoon and five in the afternoon to enter (by force

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if needful) and with or without the aid of _____ (the owner or agent *as the case may be*) or any other person or persons whom you may think requisite to call to your assistance, into and upon the said tenement and to eject therefrom any person, and of the said tenement full and peaceable possession to deliver to the said _____ (the owner or agent *as the case may be*).

Given under my hand this _____ day of _____ 19 .
To _____ and all other police constables.

s. 38.

FORM No. 4

Bond by tenant and sureties to landlord

Know all men by these presents, that we A.B. of _____ C.D. of _____ and E.F. of _____ are jointly and severally held and firmly bound to _____ (the landlord) in the sum of _____ of lawful money of this Island to be paid to the said _____ (the landlord) or his certain attorney, executors, administrators or assigns, for which payment to be well and truly made we bind ourselves and each and every of us in the whole sum, and each and every of our heirs, executors and administrators, firmly by these presents. Sealed with our seals. Dated this _____ day of _____ 19 .

Whereas the above-named _____ (the landlord) hath taken out a warrant against the above-named _____ (the tenant) before _____ esquire, Magistrate for District _____ to recover possession of (*state the premises*) under the Landlord and Tenant Act, Chapter 230, *Laws of Barbados*,

And whereas execution of the said warrant has been delayed at the instance of the said _____ (the tenant),

Now the condition of this obligation is such that if the above-bounden _____ (the tenant) do sue the above-named _____ (the landlord) with effect and without delay in an action of trespass and pay all the costs of the proceedings in such action in case judgment passes for the defendant, or the plaintiff discontinues or does not prosecute his action or becomes nonsuit therein, then this obligation shall be void and of none effect, or else to be and remain in full force and virtue.

Sealed and delivered, etc.