

in the like case by the law of England, and none other or more extensive warranty.

Commence-
ment of
Ordinance.

5. And be it enacted, That this Ordinance shall commence and take effect on the expiration of three calendar months next immediately after the promulgation thereof.

Passed in Council this first day of December, in the year of our Lord one thousand eight hundred and forty-five.

THOMAS F. JOHNSTON,
Clerk of Council.

The foregoing Ordinance was proclaimed in Port of Spain, this sixteenth day of December, one thousand eight hundred and forty-five.

A. CLOGSTOUN,
Marshal.

No. 1.—1846.

AN ORDINANCE for assimilating the Law with regard to Leases, and for the recovery of Rents and other periodical Sums of Money, to the Law of England.

(L. S.) H. MACLEOD.

Interpretation
clause.

WHEREAS it is expedient that the law with regard to leases, and for the recovery of rents and other periodical sums of money, should be assimilated to the law of England: Be it therefore enacted by his Excellency the Governor in and over the Island of Trinidad and its dependencies, by and with the advice and consent of the Council of Government thereof, and by the authority of the same, That the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Ordinance, except where the nature of the provision or the context of the Ordinance shall exclude such construction, be interpreted as follows, that

is to say: the word "land" shall extend to messuages, lands, tenements, and all corporeal hereditaments, and to any undivided share thereof, and to any estate or interest therein: the word "freehold" shall have the same meaning as the same has by the law of England; the word "lease" shall extend to every lease, whether the same be for life or lives, or for a term or terms of years, or from year to year; the word "rent" shall extend to all rent-charges, rents-seck, as well as rents reserved with a power of distress; the word "person" shall extend to a corporation as well as an individual; and every word importing the singular number only shall extend and be applied to several persons or things, as well as to one person or thing; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

2. And be it enacted, That no lease of any land, or surrender of any land, shall be valid as a lease or surrender, unless the same shall be made by deed duly registered: but any agreement in writing to let or surrender any land, shall be valid and take effect as an agreement to execute a lease or surrender, and the person who shall be in the possession of the land in pursuance of any agreement to let may from payment of rent or other circumstances, be construed to be a tenant from year to year.

No lease or surrender to be valid as a lease or surrender unless by deed.

3. And be it enacted, That every lease for life or lives, or for any other term of uncertain duration, shall be and be taken to be a freehold interest, and every lease for a time certain shall be and be taken to be a chattel interest, and every such estate of freehold or chattel interest, as the case may be, shall have such and the same qualities and incidents as the like estate or interest has by the law of England.

What shall be a freehold, and what a chattel interest.

4. And be it enacted, That whenever any question shall arise touching the validity of any lease or demise of any land in this Colony as regards the lessor's power to grant such lease: or touching the right of any lessor or any person claiming from, by or under the lessor, to the rent reserved or to re-enter upon the land demised, or to determine such lease; or touching the liability of any lessor or any person claiming from, by or under the

All questions touching the lessor's power to grant a lease, &c., to be decided according to the law of England.

lessor to repair: or touching the validity of any lease against any person claiming or entitled to any estate in the land demised after the determination of the particular estate of the lessor: or touching the right of the lessee or tenant of any land to remove any fixtures annexed or affixed to the land demised during the continuance of the lease or touching the liability of any lessee, his heirs, successors, executors, administrators or assigns, or the assignee or under lessee of any lease for the rent or for doing waste or other forfeiture, or for not performing any condition, covenant or agreement, contained and expressed in the lease, demise or grant, or for repairs or for the payment of any tax or local rate; or touching the determination, merger, forfeiture or disclaimer of any lease: every such question shall be determined according to the law of England.

Proviso—
aliens may
take leases to
their own use.

5. Provided always, and be it enacted, That nothing herein contained shall extend or be construed to render any person incapable of holding any land on lease for his own use, by reason of such person being an alien born, or to make any lease, agreement or contract void, or to prevent the same from being given in evidence by reason of the same not being stamped.

A tenancy
from year to
year where to
be implied,
such tenancy
to have the
same duration
as in England.

6. And be it enacted, That a tenancy from year to year may be implied from any circumstances which would be sufficient to create such a tenancy according to the law of England, and such tenancy from year to year shall have the same duration and incidents, and shall be determinable by notice in the same manner as by the law of England.

Lease to be
good except as
against
creditors by
prior express
mortgage.

7. And be it enacted, That every lease *bona fide* made by deed duly recorded, shall be good as against all parties claiming as creditors of the lessor, save only and except any mortgagee of the land so leased claiming by virtue of some express mortgage duly registered previously to the enregistration of such lease, and no mortgage granted by the lessor shall be taken as determining the privity of estate between the lessor and the lessee.

Right of
distress.

8. And be it enacted, That every person having any rent in arrear and due to him upon any grant, lease, demise or contract whatsoever, shall have the same

remedy by distress for the recovery of such rent as is given by the law of England in the like case.

9. And be it enacted, That in every case of distress for rent, the tenant or owner of the goods or chattels distrained upon, shall have the same right to replevy the goods or chattels so distrained upon as is given by the law of England in the like cases.

Right of replevy.

10. And be it enacted, 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 dwelling-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 Stipendiary Justice of the district, 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 Marshal or with the Stipendiary Justice of the district, or with any constable of the district 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 such Stipendiary Justice or constable is 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 that 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 Marshal, Stipendiary Justice or constable for the owner's use.

Goods distrained and not replevied, to be appraised and sold.

11. And be it enacted, That the Marshal and Stipendiary Justice and all other officers having authority to grant replevins, may and shall in every replevin of a distress for rent, take in their own names from the plaintiff and one responsible person as surety, 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

Replevin
bonds may be
assigned.

distress, which oath the person granting such replevin is hereby authorized 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 shall be awarded before any deliverance be made of the distress; and that the Marshal or Stipendiary Justice, or other officer as aforesaid taking such bond, shall at the request and costs of the avowant or person making conusance, assign such bond to the avowant or person aforesaid, by indorsing the same and attesting it under his hand and seal in the presence of two or more credible witnesses; and if the bond so taken and assigned be forfeited, the avowant or person making conusance may bring an action and recover thereupon in his own name, and the Court where such action shall be brought may by a rule of the same Court give such relief to the parties upon such bond as may be agreeable to justice and reason, and such rule shall have the nature and effect of a defeasance to such bond.

Remedy in
case of rescue
or pound
breach.

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

In case of
distress where
no rent in
arrear, the
owner to
recover double
the value of
the goods
distrained.

13. 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 Ordinance for rent pretended to be in arrear and due, where in truth no rent is 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, 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 the value of the goods or chattels so distrained and sold, together with full costs of suit.

No goods to
be removed by

14. And be it enacted, That no goods or chattels

whatsoever, lying or being in or upon any land which is 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, pay to the landlord of the said premises 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 always, that 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 one year's rent, may proceed to execute his judgment as he might have done before the making of this Ordinance, and the Marshal 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.

any execution creditor without payment to the landlord of his rent, not exceeding rent for one year.

15. And be it enacted, That in case any tenant, lessee for life or lives, term of years, at will or sufferance of any land upon the demise or holding whereof any rent is or shall be reserved, due, or made payable, shall fraudulently or clandestinely convey away 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 thirty 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, and to distribute the monies arising by such sale 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; Provided, nevertheless, that nothing in this Ordinance contained shall extend, or be construed to empower such

In case of fraudulent removal of goods the same may be seized within thirty days.

lessor or landlord to take or seize any goods or chattels as a distress for arrears of rent, which shall have been sold bona fide and for a valuable consideration before such seizure made, to any person or persons not privy to such fraud as aforesaid; any thing herein contained to the contrary notwithstanding.

Arrears of rent may be distrained for within six calendar months after the determination of the lease.

16. And be it enacted, That it shall and may be lawful for any person 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 such lease, in the same manner as he might have done if such lease had not been ended or determined: 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.

Any person aiding in the fraudulent removal of goods to forfeit double the value.

17. And to deter tenants from the fraudulent conveying away their goods and chattels, and others from wilfully aiding or assisting therein or concealing the same: Be it enacted, That if any tenant or lessee shall fraudulently remove and convey away his goods or chattels, or if any person shall wilfully and knowingly aid or assist any tenant or lessee in such fraudulent conveying away or carrying off of any part of his goods or chattels, or in concealing the same; every person so offending shall forfeit and pay to the landlord or lessor from whose estate such goods and chattels were fraudulently carried off as aforesaid, double the value of the goods so carried off or concealed as aforesaid, to be recovered by action of debt.

Landlords may distrain stock or cattle off the premises for arrears of rent.

18. And be it enacted, That it shall and may be lawful to and for every lessor or landlord, or his steward, bailiff, receiver, or other person or persons empowered by him to take and seize as a distress for arrears of rent, any cattle or stock of any lessee or tenant feeding or depasturing upon any common appendant, or appurtenant, or in anywise belonging to all or any part of the premises demised or holden, and also to take and seize all sorts of fruits, produce, or other product whatsoever which shall be growing, or in the course of manufacture, or made on any part of the premises so demised or holden

as a distress for arrears of rent, and the same to cut, gather, make, cure, carry, and lay up when ripe or cured in the buildings, or other proper place on the premises so demised or holden; and in case there shall be no building or proper place on the premises so demised or holden, then in any other building, or proper place which such lessor or landlord shall hire or otherwise procure for that purpose, and as near as may be to the premises, 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: 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 abode, and that if after any distress for arrears of rent so taken of fruits, produce, or other product which shall be growing, or in the course of manufacture, or made as aforesaid, and at any time before the same shall be ripe and cut, cured or gathered, the tenant or lessee, or his executors, administrators, or assigns, shall pay or cause to be paid to the lessor or landlord for whom such distress shall be taken, or to the steward, or other person empowered, or usually employed to receive the rent of such lessor or landlord the whole rent which shall be then in arrear, together with the full costs and charges of making such distress, and which shall have been occasioned thereby, then and upon such payment or lawful tender thereof, actually made, whereby the end of such distress will be fully answered, the same and every part thereof shall cease, and the fruits, produce, or other product so distrained, shall be delivered up to the lessee or tenant, his executors, administrators, or assigns, anything hereinbefore contained to the contrary notwithstanding.

Tenants to have notice of the place where the distress is lodged.

Distress of crop, &c., to cease if rent be paid before it be cut.

19. And be it enacted, That where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or lessee, or his servant or agent, or

Goods fraudulently removed may be seized as a

distress for
rent: and on
the warrant of
a jus ice
dwelling
house may be
broken open
and entered.

other person or persons aiding or assisting therein shall be put, placed, or kept in any house, stable, out-house, yard, close or place locked up, fastened or otherwise secured so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful for the landlord or lessor, or any person empowered, to take and seize, as a distress for rent, such goods and chattels, first calling to his assistance some police constable of the district or place where the same shall be suspected to be concealed; which constable is required to aid and assist therein, and in case of a dwelling-house, oath being also first made before a justice of the peace of a reasonable ground to suspect that such goods or chattels are therein, and on the warrant of such justice, in the day-time to break open and enter into such house, stable, out-house, yard, close and place, and to take and seize such goods and chattels for the said arrears of rent.

Distresses
may be
secured and
sold on the
premises.

20. And be it enacted, That it shall and may be lawful to and for any person lawfully taking any distress for any kind of rent to impound or otherwise secure the distress so made, of what nature or kind soever it may be, in such place or on such part of the premises chargeable with the rent as shall be most fit and convenient for the impounding and securing such distress, and to appraise, sell and dispose of the same upon the premises in like manner, and under the like directions and restraints to all intents and purposes as hereinbefore are expressed and contained; and that it shall and may be lawful to and for any person or persons whomsoever to come and go to and from such place or part of the said premises where any distress for rent shall be impounded and secured as aforesaid in order to view, appraise, and buy, and also in order to carry off or remove the same on account of the purchaser thereof; and that if any pound-breach or rescue shall be made of any goods and chattels, or stock distrained for rent and impounded or otherwise secured by virtue of this Ordinance, the person aggrieved thereby shall have the like remedy as in cases of pound-breach or rescue is hereinbefore given and provided.

Persons
holding over
lands, &c.

21. And be it enacted, That in case any tenant for any term of life, lives, or years, or other person who

shall come into possession of any land by, from, or under, or by collusion with such tenant, shall wilfully hold over any land after the determination of such term, and after demand made, and notice in writing given for delivering the possession thereof by his landlord or lessor, or the person to whom the remainder or reversion of such land shall belong, or his agent thereunto lawfully authorized, then and in such case such person so holding over shall for and during the time he shall so hold over or keep the person entitled out of possession of the said land as aforesaid, pay to the person so kept out of possession, his executors, administrators, or assigns, at the rate of double the yearly value of the land so detained, for so long time as the land is detained, to be recovered by action of debt, against the recovering of which said penalty there shall be no equitable relief.

after expiration of lease to pay double the yearly value.

22. And be it enacted, That in all cases between landlord and tenant, as often as it shall happen, that one half year's rent shall be in arrear, and the landlord or lessor to whom the same is due hath right by law to re-enter for the non-payment thereof, such landlord and lessor shall and may, without any formal demand or re-entry, serve a declaration in ejectment for the recovery of the demised premises, or in case the same cannot be legally served, or no tenant be in actual possession of the premises, then affix the same upon the door of any demised messuage, or in case such ejectment shall not be for the recovery of any messuage, then upon some notorious place of the land comprised in such declaration in ejectment, and such affixing shall be deemed legal service thereof, which service or affixing such declaration in ejectment shall stand in the place and stead of a demand and re-entry, and in case of judgment against the casual ejector or nonsuit for not confessing lease entry and ouster if it shall be made to appear by affidavit or be proved upon the trial (in case the defendant appears) that half a year's rent was due before the said declaration was served, and that no sufficient distress was to be found on the demised premises countervailing the arrears then due, and that the lessor or lessors in ejectment had power to re-enter, then and in every such case the lessor or lessors in ejectment shall recover judgment and execution in the

One half year's rent in arrear, landlord may re-enter, serving a declaration of ejectment.

When lessor in ejectment.

may recover
judgment, &c.

same manner as if the rent in arrear had been demanded and re-entry made; and in case the lessee, his assignee, or other person claiming or deriving under the said lease, shall permit and suffer judgment to be had and recovered on such ejectment and execution to be executed thereon without paying the rent and arrears together with full costs, and without filing any bill or bills for relief within six calendar months after such execution executed, then and in such case the said lessee, his assignee, and all other persons claiming and deriving under the said lease shall be barred and foreclosed from all relief or remedy, and the said landlord or lessor shall from thenceforth hold the said demised premises discharged from such lease; and if on such ejectment a verdict shall pass for the defendant, or the plaintiff shall be nonsuited therein, except for the defendant not confessing lease entry and ouster, then in every such case such defendant shall have and recover his full costs: Provided always, that nothing herein contained shall extend to bar the right of any mortgagee of such lease or any part thereof who shall not be in possession, so as such mortgagee shall and do within six calendar months after such judgment obtained and execution executed, pay all rents in arrear and all costs and damages sustained by such lessor or person entitled to the remainder or reversion as aforesaid, and perform all the covenants and agreements which on the part and behalf of the first lessee are and ought to be performed.

Not to bar the
right of any
mortgagee.

Lessees filing
bill for relief
not to have
an injunction
against
proceeding at
law.

23. And be it enacted, That in case the said lessee, or his assignee, or other person claiming any right, title, or interest in law or equity of in or to the said lease, shall within the time aforesaid file any bill for relief, such person shall not have or continue any injunction against the proceedings on such ejectment, unless he shall within ten days next after a full and perfect answer shall be filed by the lessor of the plaintiff in such ejectment, bring into Court and lodge with the proper officer such sum and sums of money as the lessor of the plaintiff in the said ejectment shall in his answer swear to be due and in arrear over and above all just allowances, and also the costs taxed in the said suit, there to remain till the hearing of the cause or to be paid out to the lessor or landlord on good security, subject to the decree of the

Court; and in case such bill shall be filed within the time aforesaid, and after execution is executed the lessor of the plaintiff shall be accountable only for so much and no more as he shall really and bona fide, without fraud, deceit, or wilful neglect, make of the demised premises from the time of his entering into the actual possession thereof, and if what shall be so made by the lessor of the plaintiff happen to be less than the rent reserved on the said lease, then the said lessee, or his assignee, before he shall be restored to his possession, shall pay such lessor or landlord what the money so by him made fell short of the reserved rent for the time such lessor of the plaintiff or landlord held the said land.

24. Provided always, and be it further enacted, That if the tenant, or his assignee, do or shall at any time before the trial in such ejection, pay or tender to the lessor or landlord, his executors or administrators, or his or their attorney in that cause, or pay into the Court where the same cause is depending, all the rent and arrears together with the costs, then and in such case all further proceedings on the said ejection shall cease and be discontinued; and if such lessee, or his executors, administrators, or assigns, shall, upon such bill filed as aforesaid, be relieved in equity, he shall have, hold and enjoy, the demised land according to the lease thereof made, without any new lease to be thereof made to him.

25. And be it enacted, That where the term or interest of any tenant now or hereafter holding under a lease or agreement in writing any lands for any term or number of years certain, or from year to year, shall have expired or been determined either by the landlord or tenant, by regular notice to quit, and such tenant or any one holding or claiming by or under him, shall refuse to deliver up possession accordingly after lawful demand in writing made and signed by the landlord or his agent, and served personally upon, or left at the dwelling-house or usual place of abode of such tenant or person, and the landlord shall thereupon proceed by action of ejection for the recovery of possession, it shall be lawful for him at the foot of the declaration to address a notice to such tenant or person, requiring him to appear in the Court, and for such purposes as are hereinafter next specified, and upon the appearance of the party at the day prescribed, or in

Tenant paying all rent with the costs, proceedings to cease.

Landlords bringing ejections may give notice to tenants to appear in term, and then on production of the lease or agreement to move on affidavit for a rule nisi on the tenant to enter into certain undertakings and give certain bail.

case of non-appearance, on making the usual affidavit of service of the declaration and notice, it shall be lawful for the landlord producing the lease or agreement, or some counterpart or duly certified copy thereof, and proving the execution of the same by affidavit, and upon affidavit that the premises have been actually enjoyed under such lease or agreement, and that the interest of the tenant has expired or been determined by regular notice to quit, as the case may be, and that possession has been lawfully demanded in manner aforesaid, to move the Court for a rule for such tenant or person, to show cause within a time to be fixed by the Court on a consideration of the situation of the premises, why such tenant or person upon being admitted defendant, beside entering into the common rule and giving the common undertaking, should not undertake, in case a verdict shall pass for the plaintiff, to give the plaintiff a judgment to be entered up against the real defendant, and also why he should not enter into a recognizance by himself and two sufficient sureties in a reasonable sum, conditioned to pay the costs and damages, which shall be recovered by the plaintiff in the action; and it shall be lawful for the Court upon cause shown, or upon affidavit of the service of the rule, in case no cause shall be shown, to make the same absolute in the whole or in part, and to order such tenant or person, within a time to be fixed upon a consideration of all the circumstances, to give such undertakings and find such bail with such conditions and in such manner as shall be specified in the said rule, or such part of the same so made absolute; and in case the party shall neglect or refuse so to do, and shall lay no ground to induce the Court to enlarge the time for obeying the same, then upon affidavit of the service of such order an absolute rule shall be made for entering up judgment for the plaintiff.

On rule made absolute, if tenant shall not conform, judgment to be for the landlord.

On trial of ejectment between landlord and tenant, on proof of notice of trial the consent rule to be evidence of lease entry and ouster, and whether

26. And be it enacted, That whenever it shall appear on the trial of any ejectment at the suit of a landlord against a tenant, that such tenant or his attorney, or solicitor, has been served with due notice of trial, the plaintiff shall not be nonsuited for default of the defendant's appearance, or of confession of lease entry and ouster, but the production of the consent rule and undertaking of the defendant, shall in all cases be

sufficient evidence of lease entry and ouster, and the judge before whom such cause shall come on to be tried shall, whether the defendant shall appear upon such trial or not, permit the plaintiff on the trial, after proof of his right to recover possession of the whole or of any part of the premises mentioned in the declaration, to go into evidence of the mesne profits thereof which shall or might have accrued from the day of the expiration or determination of the tenant's interest in the same down to the time of the verdict given in the cause, or to some preceding day to be specially mentioned therein; and the jury on the trial, finding for the plaintiff, shall in such case give their verdict upon the whole matter, both as to the recovery of the whole or any part of the premises, and also as to the amount of the damages to be paid for such mesne profits: Provided always, that nothing hereinbefore contained shall be construed to bar any such landlord from bringing an action of trespass for the mesne profits which shall accrue from the verdict or the day so specified therein down to the day of the delivery of possession of the premises recovered in the ejectment.

defendant appear or not plaintiff may recover mesne profits down to the verdict or to the day specified therein.

27. And be it enacted, That in all cases wherein the landlord shall elect to proceed in ejectment under the provisions hereinbefore contained, and the tenant shall have found bail as ordered by the Court, then if the landlord upon the trial of the cause shall be nonsuited, or a verdict pass against him upon the merits of the case, there shall be judgment against him with double costs: Provided always, that nothing hereinbefore contained shall be construed to prejudice or affect any other right of action or remedy of landlords in any of the cases hereinbefore provided for.

If landlord nonsuited or verdict pass against him, double costs.

Saving of former remedies.

28. And be it enacted, That every tenant to whom any declaration in ejectment shall be delivered for any land, shall forthwith give notice thereof to his landlord or his attorney or agent, under penalty of forfeiting the value of three years' improved rent of the premises so demised or holden in the possession of such tenant, to the person of whom he holds, to be recovered by action of debt.

Remedy against tenants secreting declarations in ejectments.

29. And be it enacted, That it shall and may be law-

Landlord empowered to

make himself
defendant by
joining with
the tenant, &c.

ful for the Court, where such ejectment shall be brought, to suffer the landlord to make himself defendant by joining with the tenant to whom such declaration in ejectment shall be delivered, in case he shall appear, but in case such tenant shall refuse or neglect to appear, judgment shall be signed against the casual ejector for want of such appearance; but if the landlord of any part of the land for which such ejectment shall be brought, shall desire to appear by himself and consent to enter into the like rule that the tenant in possession, in case he had appeared, ought to have done, then the Court shall and may permit such landlord so to do and order a stay of execution upon such judgment against the casual ejector until the Court shall make further order therein.

Rents how to
be recovered
where the de-
mise are not
by deed.

30. And be it enacted, That it shall and may be lawful to and for the landlord, where the agreement is not by deed, to recover a reasonable satisfaction for the land held or occupied by the defendant, in an action on the case for the use and occupation of what was so held or enjoyed, and if in evidence on the trial of such action any parole, demise, or any agreement (not being by deed) whereon a certain rent was reserved shall appear, the plaintiff in such action shall not therefore be nonsuited, but may make use thereof as evidence of the quantum of the damages to be recovered.

Rents recover-
able from
under tenant
where tenants
for life die be-
fore the rent
is payable.

31. And be it enacted, That where any tenant for life shall happen to die before or on the day on which any rent may be reserved or made payable upon any demise or lease of any land which determined on the death of such tenant for life, the executors or administrators of such tenant for life shall and may in an action on the case recover of and from such under tenant or under tenants of such land, if such tenant for life die on the day on which the same was made payable, the whole, or if before such day, then a proportion of such rent according to the time such tenant for life lived of the last year or quarter of a year, or other time in which the said rent was growing due as aforesaid (making all just allowances,) or a proportionate part thereof respectively.

All rents, an-
nuities, and
other pay-
ments com-
ing due at fixed
periods to be
apportioned.

32. And be it enacted, That all rents service reserved on any lease by any person being the owner of any land or having any life interest in the same, or by any lease granted under any power, and all rents charge and other

rents, annuities, pensions, dividends, and all other payments of every description in this Island made payable or coming due at fixed periods under any instrument already executed or that shall be executed after the passing of this Ordinance, or (being a will or testamentary instrument) that shall come into operation after the passing of this Ordinance, 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 as aforesaid, or in the estate, fund or office from or in respect of which the same shall be issuing or derived, 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 shall have elapsed from the commencement or last period of payment thereof respectively (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: And that every such person, his executors, administrators, and assigns shall have such and the same remedies for recovering such apportioned parts of the said rents, annuities, dividends, and other payments when the entire portion of which such apportioned parts shall form part shall become due and payable, and not before as he, she, or they would have had for recovering and obtaining such entire rents, annuities, pensions, dividends, and other payments if entitled thereto, but so that persons liable to pay the rents reserved by any lease or demise, and the lands, tenements, and 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 person or persons who if this Ordinance had not passed would have been entitled to such entire rents; and such portions shall be recoverable from such person or persons by the parties entitled to the same under this Ordinance in any action or suit: Provided always, that the provisions herein contained shall not apply to any case in which it shall be expressly stipulated that no apportionment shall take

Subject to all just deductions.

Remedies for obtaining the apportioned parts.

Ordinance not to apply to certain cases.

place, or to annual sums made payable in policies of assurance of any description.

Tenants holding premises after the time they notify for quitting them to pay double rent.

33. And be it enacted, That in case any tenant shall give notice of his intention to quit the premises by him holden at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof at the time in such notice contained, then the said tenant, his executors or administrators shall from thenceforward pay to the landlord or lessor double the rent or sum which he should otherwise have paid, to be levied, sued for, and recovered at the same times and in the same manner as the single rent or sum before the giving such notice could be levied, sued for, or recovered, and such double rent or sum shall continue to be paid during all the time such tenant shall continue in possession as aforesaid.

Distresses for rent not unlawful, &c., for any irregularity in the execution of them.

34. And be it enacted, That where any distress shall be made for any kind of rent justly due, and any irregularity or unlawful act shall be afterwards done by the party distraining or by his agent, the distress itself shall not be therefore deemed to be unlawful nor the party making it be deemed a trespasser *ab initio*, but the party aggrieved by such unlawful act or irregularity shall or may recover full satisfaction for the special damage he shall have sustained thereby and no more, in an action of trespass or on the case at the election of the plaintiff: Provided always, that where the plaintiff shall recover 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.

No tenant to recover by action after tender of amends.

35. Provided nevertheless and be it enacted, That no tenant or lessee shall recover in any action for any such unlawful act or irregularity as aforesaid, if tender of amends shall have been made by the party distraining or his agent before such action brought.

In actions against persons entitled to rents, defendants may plead the general issue.

36. And be it enacted, That in all actions of trespass, or upon the case to be brought against any person entitled to any rent or service of any kind, or his agent or receiver, or other person or persons relating to any entry by virtue of this Ordinance, or otherwise upon the premises chargeable with such rent or service, or to any distress or seizure, sale or disposal of any goods or chattels thereupon, it shall and may be lawful to and for the de-

fendant to plead the general issue and give the special matter in evidence, any law or usage to the contrary notwithstanding, and in case the plaintiff shall be nonsuited or have judgment against him, the defendant shall recover double costs of suit.

37. And be it enacted, That no person whatsoever making or employed in any manner whatsoever in making any distress for rent, or doing any act whatsoever in the course of such distress or for carrying the same into effect, shall take or receive out of the produce of the goods or chattels distrained upon and sold, or from the tenant distrained on, or from the landlord, or from any other person whatsoever, any other or more costs and charges for and in respect of such distress or any other matter or thing done therein than such as are fixed and set forth in the Schedule hereto annexed and appropriated to each act which shall have been done in the course of such distress, and no person or persons whatsoever shall make any charge whatsoever for any act, matter, or thing mentioned in the said Schedule, unless such act shall have been really done.

Persons making distress not to receive out of produce of goods, &c., more costs and charges than such as are fixed in Schedule.

38. And be it enacted, That all laws, ordinances, and orders of Government whatsoever relating to the several matters contained in this Ordinance, so far as the same or any part thereof are or is inconsistent with this Ordinance, shall be and the same are hereby repealed.

Repeals all laws, &c., repugnant to the present Ordinance.

39. And be it enacted, That this Ordinance shall commence and take effect upon and from the promulgation thereof.

Commencement of Ordinance.

Passed in Council the second day of March, one thousand eight hundred and forty-six.

THOMAS F. JOHNSTON,

Clerk of Council.

SCHEDULE OF FEES, COSTS, AND CHARGES ON DISTRESS.

	Where the sum due shall not exceed £20 stg.	Where the sum due shall exceed £20 stg.
Levying distress	0 5 0	0 10 0
Man in possession, per day ...	0 4 2	0 4 2
Appraisement—For each pound sterling of the value of the goods	0 0 6	0 0 6
All advertisements, if any such catalogues, sale and commis- sion and delivery of goods, one shilling in the pound, on the nett produce of the sale.	0 5 0	0 10 0

No. 2.—1846.

AN ORDINANCE to amend the Laws relating to
Usury.

(L. S.) H. MACLEOD.

Recites Orders
in Council of
the 8th of
June, 1816,
and of the
10th Decem-
ber, 1845.

WHEREAS on the eighth day of June, one thousand eight hundred and sixteen, an Order was made by His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty King George the Third, and by and with the advice of His said Majesty's Privy Council, establishing certain rules of law respecting the interest of money in this Colony: And whereas on the tenth day of December, one thousand eight hundred and forty-five, an Order was made by Her Majesty the Queen, by and with the advice of Her Majesty's Privy Council, empowering the Governor of this Colony, by and with the advice and consent of the Legislative Council thereof, by any Ordinance or Ordinances to be by them from time to time made and enacted, to make such provision as to them should seem meet, respecting the interest to be demanded and taken within this Colony, upon any debt or contract, or for or in respect of the forbearance or loan of any sum or sums of