

In levying distress, outside door cannot be broken open, but may be opened by key, latch or bolt. An unlawful entry makes distress void and landlord a trespasser *ab initio*. *Cate v. Schaum*, 51 Md. 299. And see *Dent v. Hancock*, 5 Gill, 120.

No action lies for distraining for more rent than is due, even though it be done maliciously; *contra* if more goods are sold than necessary to satisfy true claim and costs. *Hamilton v. Windolf*, 36 Md. 306. And see *Bonaparte v. Thayer*, 95 Md. 548. *Jean v. Spurrier*, 35 Md. 110.

Unless law is complied with, proceedings are void. In avowry for rent, warrant and proceedings under it are facts to be found by jury, and they must appear to be correct. *Giles v. Ebsworth*, 10 Md. 344.

A more liberal rule of construction applies to distraint proceedings than to attachments. *De Bebian v. Gola*, 64 Md. 271.

The affidavit.

A typographical omission in the affidavit, may be cured by the account. *Jean v. Spurrier*, 35 Md. 116.

The affidavit is essential. Object of this section. *State v. Timmons*, 90 Md. 11.

The affidavit is sufficient if it substantially follows this section. Object and general construction of this section. *Cross v. Tome*, 14 Md. 257.

Custodia legis.

There can be no distraint of goods *in custodia legis*. *Cromwell v. Owings*, 7 H. & J. 58. And see *Fisher v. Johnson*, 6 Gill, 354.

Property in hands of receivers is not liable to distress without permission of court having jurisdiction over receivership. *Everett v. Neff*, 28 Md. 176. And see *Cromwell v. Owings*, 7 H. & J. 58.

Landlord has *quasi* lien on goods upon demised premises for arrearages of rent, and if attaching creditor has taken the goods, though they cannot be distrained upon, landlord's lien prevails and he must be first paid out of proceeds of sale. *Thompson v. Baltimore, etc., Co.*, 33 Md. 319. *Cf. Fisher v. Johnson*, 6 Gill, 354.

Practice.

Distraint proceedings cannot be amended. The avowant is entitled to open and close at the trial. *Waring v. Slingluff*, 63 Md. 55.

Where the warrant is directed to the sheriff, the distress may be levied by a deputy. *Myers v. Smith*, 27 Md. 113. *Giles v. Ebsworth*, 10 Md. 344.

Generally.

Rent is demand of high nature; distress. See notes to art. 66, sec. 32. *Calvert Bldg. Co. v. Winakur*, 154 Md. 527.

Status of landlord who has failed to levy distraint before tenant's bankruptcy is that of a general creditor. *Loan Service v. Grossman*, 165 Md. 481.

All property on the demised premises, save such as is exempt by law, is liable to distress. *Giles v. Elsworth*, 10 Md. 344. *Swartz v. Gottlieb, etc., Brewing Co.*, 109 Md. 399. *Kennedy v. Lange*, 50 Md. 94.

Where goods of stranger are sold under distress, he may buy the goods in and sue lessee for what he pays, or allow them to be sold and sue lessee for their value. *Swartz v. Gottlieb, etc., Brewing Company*, 109 Md. 399.

A landlord resorting to distress, is not entitled to claim interest. *Longwell v. Ridinger*, 1 Gill, 57; *Dennison v. Lee*, 6 G. & J. 383.

Where a landlord distrains but leaves property in possession of tenant for an unreasonable time, the lien continues as against tenant, but not as against *bona fide* purchaser without notice. *Lamotte v. Wisner*, 51 Md. 559.

A landlord cannot (without good cause) abandon one distress and levy another for the same rent. *Everett v. Neff*, 28 Md. 176.

Distress is not within act of limitations. *Longwell v. Ridinger*, 1 Gill, 57.

A distress is rather a remedy upon the land than on person of tenant, although tenancy must exist. *Howard v. Ramsay*, 7 H. & J. 123.

See notes to secs. 10 and 17.

See art. 93, sec. 123, and notes, as to the preference of a claim for rent on which a distraint might have been issued in the settlement of a deceased tenant's estate. See also *Longwell v. Ridinger*, 1 Gill, 57.

As to proof of a claim for rent due by decedent, see art. 93, secs. 94 and 95.

As to distress against married women, see art. 45, sec. 17.

As to distress by a purchaser of property for rent in arrears at the time of the purchase, see art. 16, sec. 245.

As to distraint upon stallion or jackass stood without license, see art. 56, sec. 133.

See art. 66, sec. 29.

An. Code, 1924, sec. 10. 1912, sec. 9. 1904, sec. 9. 1888, sec. 9. 1834, ch. 192, sec. 3.

10. To every warrant authorizing any bailiff to levy a distress for rent there shall be prefixed or annexed the account of such landlord, stating