

no such presumption. But are there not numbers of defences usual in note cases which would be unapplicable in actions for rent? For example, the note may have been given for accommodation, in which case the plaintiff may have given no value for it; there may have been an agreement for renewal; it may have been given in payment for goods never delivered; it may have been given for a particular object and diverted from the purpose of the maker; the books are full of defences to such actions.

There are two defences common to actions for rent and upon notes.

First: the agreement or note may never have been made or signed. If the agreement was never made, the tenant most probably is not in possession of the premises, and in that case no distress can take place, and no question can arise.

Secondly: the rent or note may have been paid. When this is the case it is very seldom that there is any doubt upon the subject, and where, as in the case of rent, the payment would be of recent date, if made at all, the fact that a landlord might distrain although paid in full, would not form a very cogent argument against the existing law.

Let us examine now the arguments: (1) that under the present law landlords may abuse their power—may distrain on the day immediately after the due date; (2) may distrain in case of dispute according to their own view of the contract; and (3) may by having a shorter remedy obtain priority over other creditors.

No doubt landlords may distrain in a hasty and summary way, if the agreement has not provided for a delay; and if it were proposed to give them for the first time a power of distress this argument would seem to be somewhat formidable. But the system having been tried, experience is a complete answer to the objection. Landlords have not abused their power in the past, and will not in the future for the best of reasons, that it is not for their interest to harass