

MALICIOUS INJURY TO PROPERTY.

20 OF 1923.

TO AMEND AND CONSOLIDATE THE LAW RELATING TO
MALICIOUS INJURY TO PROPERTY.

MALCOLM STEVENSON.]

[June 8, 1923.]

1. This Law may be cited as the Malicious Injury to Property Short title.
Law, 1923.

2. In this Law—

Definitions.

“ Property ” includes any dwelling house, mandra, tree, plantation, fruit, vegetables, crops (whether standing or otherwise), bee-hives or any agricultural produce; any carriage or motor car; any cart or other vehicle used for the conveyance of goods; any boat, any animal used for burden, draught or food; any fence, wall or boundary mark; any agricultural machine or implement; any mill, oil or wine press of any kind, weir, dam, sluice, aqueduct or other construction or article made or used or to be used for the purpose of irrigation or drainage.

“ Damage or destruction ” includes the theft or abstraction of any trees, plants, vine-plants, vines, vegetables, melon plants of all kinds and standing crops.

“ Tax-paying inhabitants ” includes—

- (a) Every person of not less than eighteen years of age who is assessed for any form of taxation.
- (b) Every male inhabitant of a like age who is not assessed for any form of taxation.
- (c) The superintendent of any monastery, metochi, or teké and the owner of any chiftlik situated within the lands of any village; provided that the superintendent of any monastery, metochi or teké and the owner of any chiftlik not situated within the lands of any village shall be deemed to be a tax-paying inhabitant of the village nearest to which such monastery, metochi, teké or chiftlik is situated.

(d) Every owner and shepherd of sheep or goats who within seven days prior to the date of a discovery of any damage or destruction are known to have grazed sheep or goats within the lands of the village in which the said damage or destruction is discovered.

“ Complainant ” means the owner or occupier or his representative of any property to which any damage or destruction has been caused maliciously by persons unknown.

Notice of malicious injury to be given to Mukhtar and Police.

3. Where any damage or destruction has been caused to property maliciously by persons unknown and the complainant desires to obtain compensation under this Law, notice of the damage or destruction shall be given by him or on his behalf as soon as possible to the Mukhtar or any two members of the Commission of the village within the lands of which the property is situated or the damage or destruction has been caused and to the Police at the nearest Police Station. Should the damage or destruction be caused to property situate within the lands of more than one village notice shall be given to the Mukhtars or any two members of each of the Commissions of every such village.

Mukhtar and complainant to inspect damage.

4. Upon the receipt of the said notice the Mukhtar and any two members of the Commission or such person or persons as may be appointed by them in that behalf shall in company with the complainant forthwith inspect such damage or destruction.

Mukhtar and Commission to estimate damage.

5. Upon such inspection the Mukhtar and any two members of the Commission or their representative as aforesaid shall estimate the amount which should be payable as compensation in respect of the damage or destruction which has occurred.

In case of agreement Mukhtar to prepare list.

6.—(1) If the complainant shall agree with the estimation made by the Mukhtar and Commission or their representative of the amount payable as compensation in respect of the said damage or destruction, the Mukhtar shall prepare within ten days from the date of the receipt of the notice referred to in section 3 a list of the tax-paying inhabitants of the village.

List to be posted.

(2) A copy of such list shall within the said period of ten days be posted by the Mukhtar in the village.

List to show total and to be assessed equally.

(3) Such list shall at the foot thereof contain a statement of the total amount of agreed compensation payable and the amount equally.

payable by each tax-paying inhabitant and such total amount shall be allocated amongst all tax-paying inhabitants in equal shares.

(4) (a) Any tax-paying inhabitant may within twenty days from the first posting of such list pay to the Mukhtar the amount for which he is assessed as aforesaid. The Mukhtar on receiving the said sum shall give the said tax-paying inhabitant a receipt for such payment and shall retain all such sums so received by him until the whole amount due to the complainant has been thus paid or until a petition has been presented by the complainant to the Court.

Tax-paying
inhabitants
may pay
forthwith.

(b) In the event of the whole amount due to the complainant being paid to the Mukhtar in manner aforesaid the Mukhtar shall thereupon pay to the complainant the said amount and shall be entitled to receive from the said complainant a receipt in full satisfaction of the complainant's claim and upon such receipt being given the complainant's claim shall be finally and irrevocably concluded.

(c) In the event of the non-payment of the whole amount aforesaid and in the event of any legal proceedings being taken by the complainant for the recovery of the balance, the Mukhtar shall pay into the Court before which such proceeding is being taken the whole of the amounts so received by him together with a list of the persons by whom such amounts have been paid.

(5) If any tax-paying inhabitant pays within the time prescribed in the previous sub-section the amount for which he is assessed as aforesaid he shall not be liable to be cited in any legal proceeding taken by the complainant or for any further payment of any kind whatsoever in connection with the claim of the complainant.

On payment
payer freed
from liability.

(6) In the event of the non-payment to the Mukhtar within the prescribed period of the whole amount of the agreed compensation due to the complainant, the complainant may, within ten days after the expiration of the period during which such payment as aforesaid may be made, file a petition in the District Court within the jurisdiction of which the village, or one of the villages concerned, is situate, stating the nature and particulars of the damage and praying for the issue of an order that those tax-paying inhabitants of the village or villages mentioned in the petition who have not paid the amounts allocated upon them do pay the same and for a day to be fixed for the hearing of the petition.

Complainant
may proceed
against
non-payers
for balance.

Legal proceedings to recover balance.

(7) In the event of a petition being presented in manner provided in the preceding sub-section the procedure to be followed shall be the same as if no agreement had been made between the Mukhtar and Commission or their representative and the complainant, provided always that the petition shall only be filed against those tax-paying inhabitants who have not paid under the provisions of this section, that the claim shall only be for the amount so unpaid and that all costs, charges, fees and expenses of any kind whatsoever in connection with the legal proceedings shall be solely chargeable upon and recoverable from those tax-paying inhabitants who have not paid under the provisions of this section.

If no agreement arrived at.

7. In the event of the Mukhtar and Commission or their representative being unable to agree with the complainant as aforesaid the amount payable as compensation in respect of the said damage or destruction, the complainant may, within twenty-one days of the giving of the notice provided by section 3, file a petition in the District Court within the jurisdiction of which the village, or one of the villages, is situate, stating the nature and particulars of the damage and praying for the issue of an order that the inhabitants of the village or villages mentioned in the petition do pay compensation therefor, and for a day to be fixed for the hearing of the petition.

Day to be fixed and notice to be served.

8. The District Court shall thereupon fix a day for the hearing of such petition, and the complainant shall serve a copy of the petition and a notice of the day fixed for the hearing thereof upon the Mukhtar of the said village, and the Mukhtar shall post a copy of the petition and a notice of the day fixed for the hearing ten clear days before the hearing of such petition.

Hearing of petition and issue of order.

9. The District Court shall proceed to hear the petition on the day fixed for the hearing of the same, or on any other day to which the same may be adjourned, and, after hearing evidence in support of the petition and any evidence that may be adduced by any person contrary to the petition, and after taking all such evidence as the Court shall deem necessary, if the Court shall be of opinion that the order asked for in the petition ought to issue, it shall give judgment to that effect, and shall issue such order accordingly, specifying therein the amount of compensation and costs to be paid to the petitioner by the tax-paying inhabitants of the village. Provided always, that, if the compensation awarded by the Court is in respect of damage to a dwelling house, it shall not exceed one hundred pounds, and, if it is in respect of crops,

fruit or other agricultural produce contained in a dwelling house, in respect of which compensation is payable, it shall not exceed fifty pounds. And, if the Court shall be of opinion that no such order ought to issue, it shall give judgment to that effect and dismiss the petition accordingly, and may order the petitioner to pay such costs as may to the Court seem just.

10. Every judgment or order made by a District Court under the provisions of section 9 shall be subject to appeal to the Supreme Court, and every such appeal shall be made within thirty days of the date of the order appealed against.

Appeal
against
order.

11.—(1) After the expiration of the time limited for appealing against the order of the District Court, or after the hearing of such an appeal, the petitioner shall present to the District Court a list of the tax-paying inhabitants of the village by whom the compensation has been ordered to be paid (such list to be furnished by the Commissioner of the District on application), and the Court shall thereupon issue an order (hereinafter called the Compensation Order) allocating the amount of compensation and costs, and the fee which is payable to the Mukhtar, equally among the tax-paying inhabitants of the said village, and calling on all persons named therein within ten days of the date of the Compensation Order to pay into Court the amount declared to be payable by them.

Order of
Court upon
tax-paying
inhabitants.

(2) Where, on the allocation of the amount of compensation and costs amongst all the tax-paying inhabitants of the village, it appears that the amount payable by any tax-paying inhabitant would include a fraction of a piastre which is not represented by any coin current in Cyprus, the Court shall direct that the amount to be paid by every such tax-paying inhabitant shall be increased by the addition thereto of so many paras as shall raise the fraction of a piastre, above mentioned, to a sum which is represented by a coin which is current in Cyprus, and the amount which thereby is found to exceed the total sum ordered to be paid by the village, as aforesaid, shall be devoted by the Mukhtar to some charitable purpose of the village.

12. In the event of any male tax-paying inhabitant not paying into Court the amount ordered to be paid by him by the Compensation Order, such person shall be summoned by the Police before the District Court, and upon conviction of non-payment the Court shall order the imprisonment of such person for one day for

Proceedings
against male
tax-paying
inhabitant.

every three piastres of the amount which is not paid by him as aforesaid and of the amount of any costs of the proceedings.

Provided always that the Court may upon cause shown extend the period for payment to such period as it shall think fit.

Proceedings
against
female tax-
paying
inhabitant.
As amended
by 27, 1923, 2.

13.—(1) In the event of any female tax-paying inhabitant not paying into Court the amount ordered to be paid by her by the Compensation Order the following provisions shall have effect.

(2) Upon application by the Police, the District Court shall issue an order directed to the Mukhtar, calling upon him to collect from each female tax-paying inhabitant the sum so directed by the Court to be paid, as aforesaid, and to pay over the same forthwith to the petitioner, less any portion thereof to which the Mukhtar may be entitled by way of fees or otherwise, and the Mukhtar shall have power to levy all such sums, and to seize and sell so much of the movable property of any person failing or refusing to pay as is sufficient to pay the sum due from such person and the costs incurred by such seizure and sale.

Provided always that goods which are declared to be exempt from seizure and sale, under the provisions of the Civil Procedure Law, 1885, shall not be liable to seizure and sale under the provisions of this Law.

Court or
Judge may
order sale of
immovables.

(3) If in any case the Mukhtar is unable to find sufficient movable property to satisfy the amount payable by any female tax-paying inhabitant by virtue of the Compensation Order, the Court, or a Judge thereof, may, upon application by the Police, issue a writ of execution directing the sale of so much of the immovable property of the person making default as may be sufficient to satisfy the amount so ordered to be paid by such person as aforesaid, together with any costs incurred in connection with such application, and the proceedings with regard to such writ of execution shall be the same as if it was issued in respect of a judgment debt.

Fee of
Mukhtar.

(4) A District Court may direct that the Mukhtar shall receive such fee as the Court may direct, and also five per cent. upon the monies collected by him under the provisions of this section.

Damage to
trees, fruit
or crops by
sheep or
goats levi-
able upon
owners and
shepherds.

14.—(1) Where any damage or destruction is discovered to have been caused to trees, fruit or crops by undetected sheep or goats all compensation costs and fees recoverable under this Law shall not be leviable upon and payable by the tax-paying inhabitants of the village concerned, but shall be solely leviable upon and pay-

able by such owners of sheep and goats as within seven days prior to the date of the discovery of such damage or destruction are known to have grazed sheep or goats within the lands of the village in which the said damage or destruction is discovered.

(2) The amount of compensation charges, costs and fees shall be allocated among the owners prescribed in the preceding sub-section in proportion to the number of sheep and goats owned by such owners at the date of the discovery of the damage or destruction in question.

In proportion to number of animals owned.

(3) For the purpose of satisfying the amount payable by any owner as prescribed in the two preceding sub-sections the Mudir may seize and sell any sheep or goats owned by such owner within seven days prior to or after the date of the discovery of the damage or destruction in question, in the possession of whomsoever such sheep or goats may be found, and any alienation of any sheep or goats made by any such owner within such period aforesaid shall for the purposes of this Law be absolutely void and of no legal force or validity. The aforesaid power of seizure and sale conferred upon the Mudir in manner herein provided shall be supplemental to any provisions of any other sections of this Law.

Mudir's powers.

(4) In any proceeding taken in respect of any damage or destruction referred to in this section it shall not be necessary for the petitioner to adduce any proof of the malicious character of such damage or destruction.

Proof of malice unnecessary.

(5) Save as provided by the provisions of this section all the provisions of this Law shall be applied so far as is possible in all cases in which any damage or destruction is discovered to have been caused to trees, fruit or crops by undetected sheep or goats, and in particular the owner of any sheep or goat shall be liable to imprisonment in manner hereinbefore provided for non-payment by him of any amount ordered to be paid by him by any Compensation Order.

All applicable provisions of Law to apply.

15. Every notice or order directed to be posted under this Law shall be posted upon the door of the Church or Mosque of the village or the Church and Mosque of the villages in which such notice is to be posted.

Posting of notices.

16. Every Mukhtar who wilfully neglects or refuses to perform the duties imposed upon him by the provisions of this Law shall be liable to a fine not exceeding ten pounds.

Penalty for neglect of Mukhtar.

This Law not to exempt from penalties.

17. Nothing in this Law shall be deemed to exempt any person from any penalty or punishment to which he would have been liable if this Law had not been passed.

Monasteries, etc., deemed to be within lands of nearest village.

18. Monasteries, Metochies, Tekkés and Chiftliks which are not within the lands of any village, shall for the purposes of this Law be deemed to be included within the lands of the village which lies nearest to their principal buildings.

Exclusion of principal towns.

19. Property contained within the lands of any of the following towns is excluded from the operation of this Law:—

- Nicosia.
- Limassol.
- Ktima, including Paphos.
- Larnaca, including Scala.
- Famagusta, including Varosha.
- Kyrenia.

Power to make Rules.

20. The High Commissioner, with the advice and assistance of the Chief Justice, may make Rules of Court regulating the practice and procedure of the Courts under this Law, and the fees to be taken with regard to the proceedings hereinbefore mentioned.

