ANNO DUODECIMO

VICTORIÆ REGINÆ.

****

C A P. XIV.

An Act to enable Overseers of the Poor and Surveyors of the Highways to recover the Costs of distraining for Rates. [11th *May* 1849.]

43 Eliz. c. 2. 5 & 6 W. 4. c. 50.

WHEREAS Provision is already made by Law for the Recovery of the Sum or Sums at which any Person is rated or assessed to the Relief of the Poor, or is rated or assessed in any Rate for the Highways, in *England* or *Wales*, by Distress and Sale of his Goods and Chattels, and in default of such Distress by Commitment to Prison until the same shall be paid; but no Provision is made for levying the Costs and Expenses incurred by the Overseers of the Poor or the Surveyors of Highways in the Recovery of the same respectively: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall be lawful hereafter for all Justices of the Peace, if in their Discretion they shall so think fit, in any Warrant of Distress they shall make and issue for the levying of any Sum or Sums to which any Person or Persons is or are now or may hereafter be rated or assessed in or by any Rate or Assessment for the Relief of the Poor or for the Highways in *England* or *Wales*, or in or by any other Rate or Assessment which by Law now or hereafter is or shall

Where a Warrant of Distress is granted for a Poor Rate or Highway Rate, &c. the Costs of obtaining it may also be levied.

be directed to be enforced or recovered in the same Manner as a Poor Rate, or in any Warrant for the levying of any Arrears of the same, to order that a Sum, such as they may deem reasonable, for the Costs and Expenses which such Overseers or Surveyors, or the Persons applying for such Warrant, shall have incurred in obtaining the same, shall also be levied of the Goods and Chattels of the Person or Persons against whom such Warrant shall be granted, together with the reasonable Charges of the taking, keeping, and selling of the said Distress.

Imprisonment in default of Distress. 43 Eliz. c. 2.

II. And whereas by an Act passed in the Forty-third Year of the Reign of Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, it is amongst other things enacted, that in default of Distress for a Poor Rate it shall be lawful for Two Justices of the Peace to commit the Party against whom the Distress Warrant shall have issued to the Common Gaol of the County, there to remain without Bail or Mainprize until Payment: And whereas it is desirable to limit the Time within which a Person assessed to a Poor Rate, or any other of the Rates or Assessments aforesaid, may be imprisoned for Nonpayment of the same: Be it therefore enacted, That so much of the said recited Act as relates to the Commitment of any Person to the County Gaol for Nonpayment of any Poor Rate, or for Default of Distress whereon to levy the same, shall be and the same is hereby repealed; and every Person now undergoing any such Imprisonment under or by virtue of the said recited Act shall be discharged from such Imprisonment so soon as he or she shall have been imprisoned Three Calendar Months, or shall sooner pay the Sum or Sums with which he or she is charged; and that hereafter, when to any Warrant of Distress for the levying of any Sum or Sums to which any Person or Persons is or are now or may hereafter be rated or assessed in or by any Rate or Assessment herein-before mentioned it shall be returned by the Constable or Person having the Execution of such Warrant that he could find no Goods or Chattels, or no sufficient Goods or Chattels, whereon to levy such Sum or Sums, together with the Costs of or occasioned by the levying of the same, it shall be lawful for any Two or more Justices of the Peace before whom the same shall be returned, or for any Two or more Justices of the Peace for the same County, Riding, Division, Liberty, City, Borough, or Place, if in their Discretion they shall so think fit, to issue their Warrant of Commitment against the Person with relation to whom such Return shall be so made as aforesaid, in the Form (D.) in the Schedule to this Act annexed, or in any Form to the like Effect, and thereby order such Person to be imprisoned in the Common Gaol or House of Correction for any Time not exceeding Three Calendar Months, unless the Sum or Sums therein mentioned shall

So much of 43 Eliz. c. 2. as relates to Commitments for Nonpayment of Rates, or for Default of Distress, repealed.

Power to order Imprisonment not exceeding Three Months in default of Distress.

be sooner paid; and every such Warrant of Commitment made or issued for Default of Distress as aforesaid shall be made as well for the Nonpayment of the Costs and Expenses so as aforesaid incurred in obtaining such Warrant of Distress, if the same shall be so ordered as aforesaid, and the Costs attending the said Distress, and also the Costs and Charges of taking and conveying the Party to Prison, (the Amount of such several Costs, Expenses, and Charges being stated in such Warrant of Commitment,) as for the Nonpayment of the Sum or Sums alleged to be due for the said Rates respectively.

One Warrant may be issued against several Rate-payers;

but otherwise as to a Commitment in default of Distress.

III. And be it enacted, That for the saving of Expense in the levying of any Sum or Sums for Rate and Costs as aforesaid it shall be lawful to make and issue One Warrant of Distress against any Number of Persons neglecting or refusing to pay the same, in the Form in the Schedule to this Act annexed; but nothing herein shall be deemed or construed to authorize Justices in like Manner to grant or issue One Warrant of Commitment against several Persons in default of Distress as aforesaid.

To whom Warrants of Distress or Commitment to be directed.

IV. And be it enacted, That the Warrants aforesaid may be directed to the Churchwardens and Overseers of the Poor, or the Overseers of the Poor, or the Surveyors of the Highways respectively, and to the Constable of the Parish or Township, and to any other Person or Persons, or to any One or more of them, as by the Justices granting the same shall be deemed fit.

Summons, and how served;

if not obeyed, the Justices may proceed ex parte.

V. And be it enacted, That every Summons to be issued against any Person for Nonpayment of any Sum for which he or she is or shall be so rated or assessed as aforesaid shall be directed to such Person, and may be in the Form (B.) in the Schedule to this Act annexed, or in any Form to the like Effect; and the same may be served by any Churchwarden or Overseer of the Poor, or Surveyor of the Highways, respectively, or Constable or other Person, to whom it shall be delivered for that Purpose, upon the Person to whom it is so directed, by delivering the same to the Party personally or by leaving the same with some Person for him or her at his or her last Place of Abode; and the Person who shall serve the same in manner aforesaid shall attend at the Time and Place and before the Justices in the said Summons mentioned, to depose if necessary to the Service of the said Summons; and if, upon the Day and at the Place appointed in and by the said Summons for the Appearance of the Party so summoned, such Party shall fail to appear accordingly in obedience to such Summons, then and in every such Case, if it be proved upon Oath or Affirmation to the Justices then present that such Summons was duly served as aforesaid a reasonable Time before the Time so appointed for his or her Appearance as aforesaid, it shall be lawful for such

such Justices of the Peace in their Discretion, if they shall so think fit, to proceed *ex parte*, in the same Manner to all Intents and Purposes as if such Party had personally appeared before them in obedience to the said Summons.

On Payment or Tender of Rate and Costs Proceedings to cease.

VI. And be it enacted, That in all Cases where any Proceedings have been or shall hereafter be taken to compel Payment of any Sum for which any such Person is or shall be so rated or assessed as aforesaid, if at any Time before such Person shall be committed to and lodged in Prison for Nonpayment thereof, or for or by reason of its being returned to such Warrant of Distress as aforesaid that there are no Goods or Chattels or no sufficient Goods or Chattels of such Person whereon the same may be levied as aforesaid, such Person shall pay or tender to the Churchwardens or Overseers of the Poor, or any of them, or to the Surveyor of Highways respectively, or other Person authorized to collect or receive such Rate, the Sum so sought to be recovered, together with the Amount of all Costs and Expenses up to that Time incurred in the Proceedings so taken to compel Payment thereof as aforesaid, then and in every such Case the Person to whom such Sum and Costs shall be so paid or tendered shall receive the same, and thereupon no further Proceedings for the Recovery of the same shall be had or taken.

Costs already recovered or proceeded for deemed legal.

VII. And be it enacted, That in all Cases where such Costs and Expenses as aforesaid shall have been paid and received, or any Proceedings taken or Imprisonment had for Nonpayment of the same, such Payment and Receipt, and such Proceedings or Imprisonment, shall be deemed legal to all Intents and Purposes, and no Action or other Proceeding shall be had or proceeded in for or in respect of the same.

Forms in Schedule valid.

VIII. And whereas it may be convenient, and save Expense and Litigation, if Forms to be used for the Purpose of levying the Sums aforesaid should be given: Be it enacted, That the Forms in the Schedule to this Act contained, or Forms to the same or the like Effect, shall be deemed good, valid, and sufficient in Law.

Imprisonment for Nonpayment of Church Rate limited.

IX. And whereas it is desirable to limit the Time within which a Person assessed to a Church Rate may be imprisoned for Nonpayment of the same: Be it enacted, That every Person now undergoing any such Imprisonment shall be discharged from such Imprisonment so soon as he or she shall have been imprisoned Three Calendar Months, or shall sooner pay the Sum or Sums with which he or she is charged; and that hereafter no Person shall be imprisoned for the Nonpayment of any Church Rate for any Time exceeding Three Calendar Months.

SCHE-

SCHEDULE.

(A. 1.)

Complaint of the Overseers or Surveyors against One Rate-payer.

} Be it remembered, That on the Day of
to wit. } in the Year of our Lord the [Churchwardens and Overseers of the Poor, *or* the Surveyors of the Highways] of the Parish of in the County of aforesaid, by *C.D.*, One of the said [Overseers *or* Surveyors], complain to the undersigned, [*One*] of Her Majesty's Justices of the Peace in and for the said [*County*], that *A.B.* of the said [*Parish*], being a Person duly rated and assessed to [the Relief of the Poor, *or* the Maintenance of the Highways] of the said Parish, in and by a Rate * made on the Day of in the Year in the Sum of hath not paid the same or any Part thereof, but hath refused so to do: Wherefore the said [Churchwardens and Overseers *or* Surveyors], by *C.D.* aforesaid, pray that the said *A.B.* may be summoned to appear before Two of Her Majesty's Justices of the Peace, to show Cause why he hath not paid and refuses to pay the said Sum.

C.D.

Made and exhibited before me
at in the County of
on this Day of 1849.
E.F.

* *Or*, in and by several Rates made on and on in the several Sums of and of .

(A. 2.)

Complaint against several Rate-payers.

} Be it remembered, That on the Day of
to wit. } in the Year of our Lord the [Churchwardens and Overseers of the Poor, *or* the Surveyors of the Highways] of the Parish of in the [*County*] of aforesaid, by *C.D.*, One of the said [Overseers *or* Surveyors], complain to the undersigned [*One*] of Her Majesty's Justices

Distraining for Rates.

Justices of the Peace in and for the said [*County*], that the several Persons whose Names are mentioned and set out in the Schedule hereunder written, being Persons duly rated and assessed to [the Relief of the Poor, *or* the Maintenance of the Highways] of the said Parish, in and by the Rates in the said Schedule mentioned, in certain Sums set down opposite to their respective Names in the said Schedule, have not respectively paid the said Sums or any Part thereof, but have respectively refused so to do: Wherefore the said [Churchwardens and Overseers, *or* Surveyors], by *C.D.* aforesaid, pray that said several Persons may respectively be summoned to appear before Two of Her Majesty's Justices of the Peace, to show Cause respectively why they have not paid and refuse to pay the said Sums respectively.

SCHEDULE.

Names of the Rate-payers.	Residence.	Under Rate dated the 1849.	Arrears due under Rate dated the 1848.	Total Sum due.
		£ s. d.	£ s. d.	£ s. d.
A. B.	(here state it)	1 7 0	1 7 0	2 14 0
I. K.		0 13 0		0 13 0
L. M.			0 18 6	0 18 6
N. P.		0 14 3	0 14 3	1 8 6

C.D.

Made and exhibited before me
at in the County of
on this Day of 1849.
E.F.

(B.)

Summons upon the Complaint.

To *A.B.* of

WHEREAS Complaint hath this Day been made before the undersigned, [*One*] of Her Majesty's Justices of the Peace in and for the [*County*] of by the [Churchwardens and Overseers of the Poor, *or* Surveyors of the Highways] of the Parish of in the said [*County*], that you, being a Person duly rated and assessed to [the Relief of the Poor, *or* the Maintenance of the Highways] of the said Parish, in and by a Rate made on the Day of 1849, in the Sum of , hath not paid the

the same or any Part thereof, but hath refused so to do: These are therefore to command you, in Her Majesty's Name, to be and appear on at o'Clock in the Forenoon, at before such Two or more Justices of the Peace for the said [*County*] as may then be there, to show Cause why you have not paid and refuse to pay the same, otherwise you shall be proceeded against by Default as if you had appeared, and be dealt with according to Law.

Given under my Hand and Seal, this Day of in the Year of our Lord at in the [*County*] aforesaid.

E. F.

Take notice, that you have already incurred the under-mentioned Costs; viz.

	s.	*d.*
Clerk to the Justices - - - -		
Overseer [*or* Surveyor], for obtaining the Summons -		
Constable, for serving ditto - - - -	1	0
Ditto, Travelling Expenses at Three-pence per Mile		
Total -		

If the Amount of these Charges, together with the Rate claimed, be paid to the Overseer [*or* Surveyor] before the Day on which the Summons is returnable, all further Proceedings will be stopped.

(C. 1.)

Warrant of Distress against One Rate-payer.

To the Overseers of the Poor [*or* to the Surveyors of the Highways] of the Parish of in the [*County*] of and to the Constable of and to all other Peace Officers in the said [*County*].

WHEREAS on last past a Complaint was made before *E. F.*, One of Her Majesty's Justices of the Peace in and for the [*County*] of by the [Churchwardens and Overseers of the Poor, *or* Surveyors of the Highways] of the Parish of in the said [*County*], that *A. B.*, being a Person duly rated and assessed to the Relief of the Poor [*or* to the Maintenance of the Highways] of the said Parish in and by a Rate made on in the Sum of had not paid the same or any Part thereof, but had refused so to do; and now at this Day, to wit, on at the Parties aforesaid appear before us, the

the undersigned, Two of Her Majesty's Justices of the Peace in and for the said County [*or* the said Churchwardens and Overseers, *or* Surveyors, by *C.D.*, One of the said Overseers, *or* Surveyors, appear before us, the undersigned, Two of Her Majesty's Justices of the Peace in and for the said County; but the said *A.B.*, although duly called, doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to us on Oath that the said *A.B.* has been duly served with the Summons in this Behalf, which required him to be and appear here at this Day before such Two or more Justices of the Peace as should now be here, to answer the said Complaint, and to be further dealt with according to Law]; and now having heard the Matter of the said Complaint, and it being now duly proved to us upon Oath [in the Presence and Hearing of the said *A.B.*], that an Assessment for the [Relief of the Poor, *or* the Maintenance of the Highways] of the said Parish of and for other Purposes chargeable thereon according to Law, dated the was duly made, allowed, and published, and that the said *A.B.* is therein and thereby assessed at the Sum of aforesaid,* and that the said Sum hath been duly demanded of the said *A.B.*, but that he hath not paid, and hath refused and still refuses to pay the same; and the said *A.B.* now not showing to us any sufficient Cause for not paying the same, These are therefore to command you, in Her Majesty's Name, forthwith to make Distress of the Goods and Chattels of the said *A.B.*; and if within the Space of [*Five*] Days after the making of such Distress the said Sum, and the Sum of for the Costs incurred by the said [Churchwardens and Overseers, *or* Surveyors] in obtaining this Warrant, together with the reasonable Charges of taking and keeping the said Distress, shall not be paid, that then you do sell the said Goods and Chattels so by you distrained, and out of the Money arising by such Sale you retain the said Sums of and rendering the Overplus, on Demand, to the said *A.B.*, the reasonable Charges of taking, keeping, and selling the said Distress being first deducted; and if no such Distress can be found that then you certify the same unto us, to the end that such further Proceedings may be had herein as to the Law doth appertain.

Given under our Hands and Seals, this Day of in the Year of our Lord at in the [*County*] aforesaid.

E.F.
G.H.

* "And that a certain other Assessment for the Relief," *&c. to the Asterisk, if there be Arrears.*

(C. 2.)

Warrant of Distress against several Rate-payers.

To the Overseers of the Poor *or* the Surveyors of the Highways of the Parish of in the [*County*] of and to the Constables of and to all other Peace Officers in the said [*County*].

WHEREAS on last past a Complaint was made before *E.F.*, One of Her Majesty's Justices of the Peace in and for the [*County*] of by the [Churchwardens and Overseers of the Poor, *or* the Surveyors of the Highways] of the Parish of in the said [*County*], that the several Persons whose Names are mentioned and set forth in the Schedule hereunder written, being Persons duly rated and assessed to [the Relief of the Poor, *or* Maintenance of the Highways] of the said Parish, in and by the Rates in the Schedule in that Complaint and in this Warrant underwritten, in certain Sums set down opposite to their respective Names in the said Schedule, had not respectively paid the said Sums or any Part thereof, but had respectively refused so to do; and now at this Day, to wit, on at the said [Churchwardens and Overseers, *or* Surveyors] by *C.D.*, One of the said Overseers, *or* Surveyors, and *A.B.*, *I.K.*, and *L.M.*, some of the said Parties in the said Schedule mentioned, appear before us, the undersigned, Two of Her Majesty's Justices of the Peace in and for the said [*County*]; but the said *N.P.*, although duly called, doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to us on Oath that the said *N.P.* has been duly served with the Summons in this Behalf, which required him to be and appear here at this Day before such Two or more Justices of the Peace as should now be here to answer the said Complaint, and to be further dealt with according to Law; and now having heard the Matter of the said Complaint against the said several Parties, and it being now duly proved to us upon Oath, in the Presence of the Parties so appearing as aforesaid, that an Assessment for [*the Relief of the Poor*] of the said Parish of and for other Purposes chargeable therein according to Law, dated the was duly made, allowed, and published, and that the said several Persons whose Names are mentioned and set out in the Schedule hereunder written are therein and thereby assessed at the Sums set down opposite to their respective Names in the said Schedule, and that the said several Sums have been duly demanded of them respectively, but they have not nor hath any of them paid the said Sums or any of them, or any Part thereof respectively, but they have refused and still do refuse to pay the same respectively, and have

have not, nor hath any of them, showed to us sufficient Cause for not paying the same; These are therefore to command you, in Her Majesty's Name, forthwith to make Distress of the Goods and Chattels of the several Persons whose Names are mentioned and set out in the Schedule hereunder written; and if within the Space of *Five* Days after the making of such Distresses respectively the said several Sums set opposite to their respective Names at which they were so rated and assessed as aforesaid, and the said several Sums for Costs incurred by the said [Churchwardens and Overseers, *or* Surveyors] also set opposite to their respective Names, together with the reasonable Charges of taking and keeping the said Distress in each Case, shall not be paid, that then you do sell the Goods and Chattels of the Party so making default so by you distrained, and out of the Money arising by such Sales respectively you retain the Sums so set opposite to the Name of each Party whose Goods you shall have so sold, rendering to him the Overplus, the reasonable Charges of taking, keeping, and selling the said Distress being first deducted; and if in any of the Cases mentioned in the Schedule hereunder written no such Distress can be found, that then you certify the same unto us, to the end that such further Proceedings may be had herein as to the Law doth appertain.

SCHEDULE.

Names of Rate-payers.	Residence.	Under Rate dated 1849.	Arrears due under Rate dated 1848.	Costs.	Total.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.
A. B. -	(here state it)	1 7 0	1 7 0	0 6 0	3 0 0
I. K. - -	- - -	0 13 0	- - -	0 2 0	0 15 0
L. M. - -	- - -	- - -	0 18 6	0 3 0	1 1 6
N. P. - -	- - -	0 14 3	0 14 3	0 5 0	1 13 6

Given under our Hands and Seals, this Day of in the Year of our Lord at in the [*County*] aforesaid.

E. F.
G. H.

(D.)

Warrant of Commitment in default of Distress.

To the Overseers of the Poor [*or* the Surveyors of the Highways] of the Parish of in the [*County*] of and to the Constable of and to all other Peace Officers in the said [*County*], and to the Keeper of the [*House of Correction*] at in the said [*County*].

WHEREAS on last past a Complaint was made before *E.F.*, Esquire, One of Her Majesty's Justices of the Peace in and for the said [*County*] of by the [Churchwardens and Overseers of the Poor, *or* Surveyors of the Highways] of the Parish of in the said [*County*], that *A.B.*, being a Person duly rated to the [Relief of the Poor, *or* Maintenance of the Highways] of the said Parish, in and by a Rate made on in the Sum of had not paid the same or any Part thereof, but had refused so to do; and afterwards on at the Parties aforesaid appeared before *E.F.* and *G.H.*, Esquires, Two of Her Majesty's Justices of the Peace in and for the said County [*or* the said Churchwardens and Overseers, *or* Surveyors, by *C.D.*, One of the said Overseers, *or* Surveyors, appeared before *E.F.* and *G.H.*, Esquires, Two of Her Majesty's Justices of the Peace in and for the said County; but the said *A.B.*, although duly called, did not appear by himself, his Counsel or Attorney, and it was then satisfactorily proved to the said Justices that the said *A.B.* had been duly served with the Summons in that Behalf, which required him to be and appear there at that Day before such Two or more Justices of the Peace as should then be there, to answer the said Complaint, and to be further dealt with according to Law]; and then having heard the Matter of the said Complaint, and it being then duly proved to the said Justices upon Oath [in the Presence and Hearing of the said *A.B.*] that an Assessment for the [Relief of the Poor, *or* the Maintenance of the Highways] of the said Parish of dated the was duly made, allowed, and published, and that the said *A.B.* was therein and thereby assessed at the Sum of aforesaid, and that the said Sum had been duly demanded of the said *A.B.*, but that he had not paid, and had refused and still refused to pay the same, and the said *A.B.* then not showing to the said *E.F.* and *G.H.* any sufficient Cause for not paying the same, the said Justices thereupon then issued a Warrant to commanding them to levy the said Sum of and the Sum of for the Costs incurred in obtaining that Warrant, by Distress and Sale of the Goods and Chattels of the said *A.B.*; And whereas it now appears

appears to me, the undersigned, One of Her Majesty's Justices of the Peace in and for the said [*County*], as well by the Return of the said to the said Warrant of Distress as otherwise, that the said hath made diligent Search for the Goods and Chattels of the said *A. B.*, but that no sufficient Distress whereon to levy the said Sums above mentioned could be found: These are therefore to command you the said [Churchwardens and Overseers, *or* Surveyors] and Constable and Peace Officers, or some or one of you, to take the said *A. B.*, and him safely to convey to the [*House of Correction*] at aforesaid, and there deliver him to the said Keeper, together with this Precept: And I do hereby command you, the said Keeper of the said [*House of Correction*], to receive the said *A. B.* into your Custody in the said [*House of Correction*], there to imprison him for the Space of unless the said Sums of and together with the Sum of for the Costs attending the said Distress, and the further Sum of being the Costs and Charges of this Commitment, and of taking and conveying the said *A. B.* to Prison, making in the whole the Sum of shall be sooner paid unto you the said Keeper; and for your so doing this shall be your sufficient Warrant.

Given under my Hand and Seal this Day of in the Year of our Lord at in the [*County*] aforesaid.

J. S. (L.S.)

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