

ANNO TERTIO & QUARTO

GULIELMI IV. REGIS.

****

CAP. XXXV.

An Act to remedy certain Defects as to the Recovery of Rates and Assessments made by Commissioners and other Persons under divers Inclosure and Drainage Acts after the Execution of the final Awards of the said Commissioners.

[24th *July* 1833.]

WHEREAS divers Acts of Parliament have from Time to Time been passed for the Inclosure, Drainage, and Improvement of divers Lands, Commons, and Waste Grounds, wherein Commissioners are empowered to set out and make private Roads and Drains, Banks, Bridges, Sluices, and other Works: And whereas it hath been discovered, since the passing of the said Acts, that there are no Powers therein for the Recovery of the Rates or Assessments from Time to Time after the making of the respective final Awards of the Commissioners acting in execution of the said Acts, under or by virtue of the said Acts or the said Awards, or under or by virtue of Powers, Authorities, or Directions given or contained in the said Acts or Awards, for defraying the Expences of repairing, superintending, or renewing the said Roads, Drains, Banks, Bridges, Sluices, and other Works, whereby great Inconvenience and Losses have been sustained for want of such Powers: And whereas it is expedient that a summary Mode of proceeding should be granted for the Purpose of recovering and enforcing the Payment of such Rates or Assessments; for Remedy

whereof, may it please Your Majesty that it may be enacted; and be it enacted by the King'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 in all Cases where no such Remedy shall have been given, and where any such Rate or Assessment, Rates or Assessments, already made or hereafter to be made, or any Part thereof, and whether made at One Time or at several Times, shall have been or shall be in arrear and unpaid for the Space of Twenty-one Days after a Notice in Writing requiring Payment thereof shall have been personally served on or left at the Place of Abode of the Person or Persons, or One of the Persons, by whom the said Rate or Assessment, Rates or Assessments, ought to be paid, or at the Place of Abode of the Tenant or Occupier of the Lands or Grounds in respect of which the said Rate or Assessment, Rates or Assessments, is or are made, it shall and may be lawful for any Two or more of His Majesty's Justices of the Peace acting for any County, Riding, or Division, in Petty Sessions assembled, (not interested in the Matter in question,) and who are hereby required, upon Complaint made to them by the Person or Persons, or any One of the Persons, to whom for the Time being the said Rate or Assessment or Rates or Assessments ought to be paid, or by the Person or Persons, or any One of the Persons, who for the Time being shall be duly appointed to make or collect such Rate or Assessment or Rates or Assessments, to summon the Person or Persons from whom any Rate or Assessment, Rates or Assessments, shall be due, and the Witnesses on both Sides, and upon the Appearance or Contempt of the Party or Parties accused, or any of them, to examine such Party or Parties and Witness or Witnesses as may be then present, upon Oath (which Oath such Justices are hereby authorized and empowered to administer), and to give Judgment accordingly upon the Matters and Things brought before them, and by Warrant or Warrants under the Hands and Seals of such Justices to levy the Amount of all and every such Rate or Assessment, Rates or Assessments, so in arrear and unpaid, by Distress and Sale of the Goods and Chattels of the Person or Persons so making default in payment of such Rate or Assessment, Rates or Assessments, wheresoever the same can or may be found, or of the Occupier or Occupiers of any Lands or Grounds belonging to such Person or Persons in respect of which such Rate or Assessment, Rates or Assessments, is or are made, which may be found on such Lands or Grounds, together with the reasonable Costs and Charges of such Proceeding, rendering the Overplus arising by such Sale (if any), after deducting the Sum or Sums to be levied by such Distrees and Sale, and the Charges of taking, keeping, appraising, and selling the said Distress, to the Owner thereof (on Demand); and the respective Tenants of all the Lands on which such Distress shall be taken are hereby authorized and required to pay any Sum of Money for which such Distress shall be made, and to deduct the same out of his, her, or their Rent; and every Tenant making such Payment shall be acquitted, exonerated, and discharged for so much Money as shall be by him or her so paid: Provided always, that no such Levy by Distress and Sale shall be made in respect of any such Rate or Assessment when more than Six Years shall have elapsed from the Time when

Mode of proceeding for Recovery of Rates or Assessments in arrear where no Remedy hath been already given.

Limiting the Recovery to Six Years from Period

when such Rate or Assessment first became due, unless a Promise in Writing to pay the said Rate or Assessment shall have been given by the Person or Persons liable to the Payment thereof to some Person duly authorized to receive the same; and when such Promise has been given no such Levy by Distress or Sale shall take place when more than Six Years shall have elapsed from the Time that such Promise was given: Provided also, that no such Levy by Distress and Sale shall in any Case exceed the Amount of the Rent due. of Rate becoming due.

II. And be it further enacted, That the Justices by whom any such Warrant of Distress shall be issued may cause such Warrant to be drawn up in the following Form of Words, or in any other Form to the same Effect; (that is to say,) Form of Warrant of Distress.

'To the Constable of the in the County
'of .
'
'to wit. } WHEREAS in and by a certain Rate or Assessment,
'dated the and made for
'[*here in Substance describe the Purposes of the Rate*] *A. B.* of
'in the Parish of in the County of was duly rated
'and assessed in the Sum of [*if more than One Rate or*
'*Assessment, recite the others in the same Manner*]: And whereas it
'appeareth unto us, Two (*or* more) of His Majesty's Justices of the
'Peace for the said (County, Riding, *or* Division, *as the Case may be*),
'upon the Complaint of *C. D.* of the Person to whom the
'said Rate or Assessment ought to be paid, (*or otherwise, as the Case*
'*may be*,) that a Notice in Writing, requiring Payment of the said
'Sum (*or* said several Sums), was personally served on the said *A. B.*,
'(*or* left at the Place of Abode of the said *A. B.*, *or* of the Tenant
'or Occupier of the Lands or Grounds,) to wit, on the
'Day of last, and that Default has been made in
'payment thereof for the Space of Twenty-one Days next after
'such Notice so served (*or* left), and that the same Sum (*or* several
'Sums, *or* a certain Part of such Sum or Sums, *as the Case may be*,)
'is (*or* are) still due and unpaid: And whereas it having been duly
'proved to us, upon Oath, that the said *A. B.* hath been duly
'summoned to appear before us, the said Justices, to show Cause
'why the said Rate or Assessment (Rates or Assessments) should
'not be paid; and he the said *A. B.* having appeared before us
'(*or* and he the said *A. B.* having neglected to appear accord-
'ingly before us, *as the Case may be*,) according to such Summons,
'and not having shown to us any sufficient Cause why the said
'Sum so as aforesaid due and unpaid should not be paid: These are
'therefore to require you forthwith to make Distress of the Goods
'and Chattels of him the said *A. B.* wheresoever they may be found,
'or of the Occupier or Occupiers of the Lands or Grounds or some
'Part thereof belonging to the said *A. B.* in respect of which the said
'Rate or Assessment (Rates or Assessments) is (*or* are) made, which
'may be found in and upon such Lands or Grounds; and if within
'the Space of Five Days next after such Distress by you taken, the
'Sum of and also the further Sum
'of being the Costs already incurred in
'the Premises, making together the Sum of

'together

'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 that you detain the said Sum of and also
'your reasonable Charges of taking, keeping, appraising, and selling
'the said Distress, rendering to him the said *A.B.* the Overplus, on
'Demand. Given under our Hands and Seals this
'Day of One thousand eight hundred and thirty .'

Appeal.

III. And be it further enacted, That if any Person or Persons shall think himself, herself, or themselves aggrieved by any thing done in pursuance of this Act, then and in every such Case he, she, or they may appeal to the next Court of General Quarter Sessions of the Peace which shall be holden not less than Ten Days after the Cause of such Complaint for the County, Riding, Division, or Place wherein the Cause of Complaint shall have arisen; provided that such Person shall give to the Complainant a Notice in Writing of such Appeal, and of the Cause and Matter thereof, within Eight Days after such Cause of Complaint, and Six clear Days at the least before such Sessions, and shall also enter into a Recognizance within such Six Days, with sufficient Surety, before a Justice of the Peace for the same County, Riding, Division, or Place, conditioned to appear at the said Sessions, and to try such Appeal, and to abide the Judgment of the Court thereupon, and to pay such Costs as shall be awarded by the Court; and the Court at such Sessions shall hear and determine the Matter of such Appeal, and shall make such Order therein, with or without Costs to either Party, as to the Court shall seem meet.

Warrant not to be quashed for want of Form.

IV. And be it further enacted, That no such Warrant of Distress or Adjudication made on Appeal therefrom shall be quashed for want of Form.

Rated Persons not to be disqualified from giving Evidence.

V. Provided always, and be it further enacted, That at the hearing of the said Complaint and Appeal, or either of them, no Person shall be an incompetent Witness by reason of his or her being rated or liable to be rated to the said Rate or Assessment, Rates or Assessments.

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