



Towns Improvement Clauses Act 1847

1847 CHAPTER 34

Recovery of Rates

And with respect to the Recovery of Rates, he it enacted as follows:

CXCI Rates to be recovered by Distress.

If any Person rated under the Authority of this or the special Act fail to pay any of the said Rates due from him for the Space of Fourteen Days after Demand thereof in Writing by the Commissioners or their Collector, any Justice, on the Application of the Commissioners or their Collector, may summon such Person to appear before him at a Time to be mentioned in the Summons to show Cause why the Rates due from him should not be paid; and in case no Sufficient Cause for the Nonpayment of such Rate be shown, the same shall be levied by Distress, and such Justice shall issue his Warrant accordingly, or the Commissioners may recover the same by Action of Debt; provided that if no sufficient Distress whereon to levy the Amount due in respect of such Rates can be found within the Jurisdiction of the said Justice, then, upon Oath thereof made before any Justice of any other County or Jurisdiction in which any Goods or Chattels Of the Person not paying the said Rates may be found, such Justice shall certify the said Oath by endorsing the said Warrant, and thereupon the Amount due in respect of the said Rates, and unpaid by the said Person, may be levied by Distress of the Goods and Chattels of such Person as assessed in the last-mentioned County or Jurisdiction.

CXCII Form of Warrant of Distress. Constables to assist in making Distress.

The Warrant of Distress for the Recovery of any Rate made payable by this or the special Act may be in the Form or to the Effect mentioned in Schedule (B.) to this Act annexed; and in all Cases where a Distress is hereby authorized to be made, every Constable authorized by the Warrant to levy any Sum mentioned therein shall, upon being required by a Collector of the Rates, aid in making a Distress or Sale pursuant to such Warrant; and every Constable who refuses to do so shall be liable to a Penalty not exceeding Five Pounds.

CXCIIIRate Books to be Evidence.

In any Proceeding to levy; and recover or consequent on the levying or recovering of any Rate under the Provisions of this or the special Act, the Books of Rates of the Commissioners, and all Entries made therein in manner by this or the special Act directed, by the Production thereof alone, and without any' Evidence that the Notices and other Requirements of this or the special Act have been given or complied with, or Proof of the Seal of the Commissioners if they are incorporated, or if not, then on Proof of the Signatures of the Commissioners whose Names appear thereon or subscribed therein, shall be received as Evidence of such Rate and of the Contents thereof.

CXCIVRemedy against Persons quitting before Payment of Rates.

If any Person quit or be about to quit any rateable Property before he has paid the Rates then payable by him in respect thereof, and do not pay the same to the Commissioners or their Collector on Demand, any Justice having Jurisdiction where such Person resides, or his Goods are found, may summon such Person to appear before him at a Time mentioned in the Summons to show Cause why the Rates should not be paid and if no sufficient Cause for the Nonpayment of such Rates be shown accordingly the same shall be levied by Distress, and such Justice shall issue his Warrant accordingly.

CXCV Rates to be apportioned on Holder quitting.

When any Rate has been made for a particular Period, and the Owner or Occupier who is rated to such Rate ceases to be the Owner or Occupier of the Property in respect whereof he is rated before the End of such Period, such Owner or Occupier shall be liable to pay a Portion only of the Rate payable for the whole of such Period proportionate to the Time during which he continued to be Owner or Occupier; and in every such Case if any Person after the making of such Rate become the Owner or Occupier of any Property so rated as aforesaid during Part of the Period for which such Rate was made, such Person shall pay a Portion of such Rate proportioned to the Time during which he held or occupied the Property so rated, and the same shall be recovered from him in the same Manner as if he had been originally rated for such Property.

CXCVIRates due from Owner may be recovered from Occupier.

When the Owner of any rateable Property is rated in respect thereof under the Authority of this or the special Act, and the Rate remains unpaid for Three Months, the Commissioners or their Collector may demand the Amount of such Rate from the Occupier for the Time being of such rateable Property, and on Nonpayment thereof may recover the same by Distress and Sale of his Goods and Chattels in like Manner as Rates may be recovered from the Occupier of any Property liable to be rated ; and every such Occupier shall be entitled to deduct from the Rent payable by him to such Owner so much as was so paid by or recovered from him.

CXCVIDoccupier not to be required to pay more than the Amount of Rent owing by him.

Provided always, That no such Occupier shall be required to pay, nor shall his Goods and Chattels be distrained for, any further Sum than the Amount of Rent due from him at the Time of the Demand made upon him for such Amount of Rate, or which after such Demand, and after Notice not to pay the same to his Landlord, at any Time

accrues and becomes payable by him, unless, he refuse, on Application being made to him for that Purpose by or on behalf of the Commissioners, truly to disclose the Amount of his Rent, and the Name and Address of the Person to whom such Rent is payable ; but the Burthen of Proof that the Sum demanded from any such Occupier is greater than the Rent due by him at the Time of such Notice, or which has since accrued, shall lie upon such Occupier.

CXCVI Occupier refusing to give Name of Owner liable to a Penalty.

If, on the Request of the Commissioners, or of the Collector of the said Rates, the Occupier of any Property refuses or wilfully omits to disclose, or wilfully misstates to the Commissioners or Collector making such Request, the Name of the Owner of such Property, or of the Person receiving or authorized to receive the Rents of the same, any Justice of the Peace, on Oath made before him of such Request, and of such Refusal or wilful Omission or Misstatement, may summon the Person who has so refused or wilfully omitted or misstated as aforesaid to appear at a Time and Place to be mentioned in such Summons before such Justice, or before some other Justice; and if the Person so summoned neglect or refuse to attend at the Time and Place mentioned in the Summons, or if he attend and do not show good Cause to the Justice then present for such his Refusal or wilful Omission or Mis-statement, such Justice, upon Proof, in ease of the Neglect or Refusal to attend as aforesaid, of the due Service of the said Summons, or on such Attendance, may impose a Penalty upon such Person who has so refused, or wilfully made such Omission or Mis-statement, not exceeding the Sum of Five Pounds.

CXCIX Surveyors of Highways may proceed for the Recovery of Arrears of Highway Rates.

The several Persons who at the Time of the passing of the special Act are Surveyors of Highways for any Township, or other District within the Limits of the special Act, may proceed for the Recovery of any Highway Rate made in such Township or District, and then remaining unpaid, in the same Manner as they might have done if this and the special Act had not been passed, and they shall apply the Money which they so recover, in the first place, in reimbursing themselves any Expences which they have incurred as such Surveyors as aforesaid, and in discharge of any Debts legally owing from them in respect of the Highways within such Township or District; and the Surplus, if any, arising from any Buildings or Lands within the Limits of the special Act, or a proportionate Part thereof, shall be paid by them to the Treasurer to the Commissioners, and shall be applied to the same Purposes as the Rates by this or the special Act authorized to be levied are directed to be applied.