



# Highway Act 1835

## 1835 CHAPTER 50

### **CIII Forfeitures, Costs, and Charges may be levied by Distress and Sale. Application of Penalties.**

And be it further enacted, That all Penalties and Forfeitures by this Act inflicted or authorized to be imposed for any Offence against the same, and all Balances due from a Surveyor, and all Costs and Charges to be allowed and ordered by the Authority of this Act, (the Manner of levying, recovering, and applying of which is not hereby otherwise particularly directed,) shall, upon Proof and Conviction of the Offences respectively before any Two or more Justices, either by the Confession of the Party offending, or by the Oath of any credible Witness or Witnesses (which Oath such Justices are in every Case hereby fully authorized to administer), or upon Order made as aforesaid, be levied, together with the Costs attending the Information, Summons, and Conviction, by Distress and Sale of the Goods and Chattels of the Offender or Person liable or ordered to pay the same respectively, by Warrant under the Hands of Two or more Justices before whom the Party may have been convicted (which Warrant such Justices are hereby empowered and required to grant); and the Overplus (if any), after such Penalties, Forfeitures, and Fines, and the Charges of such Distress and Sale, are deducted, shall be returned, upon Demand, unto the Owner or Owners of such Goods and Chattels ; and in case Such Fines, Penalties, and Forfeitures shall not be forthwith paid upon Conviction, then it shall be lawful for such Justices as aforesaid to order the Offender or Offenders so convicted to be detained and kept in safe Custody until Return can be conveniently made to such Warrant of Distress, unless the Offender or Offenders shall give sufficient Security, to the Satisfaction of such Justices as aforesaid, for his or their Appearance before such Justices on such Day or Days as shall be appointed for the Return of such Warrant of Distress, such Day not being later than Seven Days from the Time of taking any such Security, and which Security the said Justices as aforesaid are hereby empowered to take by way of Recognizance or otherwise; or in case it shall appear to the Satisfaction of such Justices, either by the Confession of" the Offender or otherwise, that he hath not Goods or Chattels within the Jurisdiction of such Justices sufficient whereon to levy all such Penalties and Forfeitures, Costs and Charges, such Justices may at their Discretion, without issuing any Warrant of Distress, commit the Offender for such Period of Time, and in such and like Manner, as if a Warrant of Distress had been issued, and Nulla bona returned thereon ; but if a Warrant of Distress shall be issued, and upon

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the Return thereof it shall appear that no sufficient Distress can be had, whereupon to levy the said Penalty, Forfeiture, or Fine, and Costs and Expences aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the Satisfaction of such Justices, upon the Confession of the Offender, or otherwise, that he hath not sufficient Goods and Chattels whereupon such Penalty, Forfeiture, or Fine, Costs, and Expences, could be levied if a Warrant of Distress were issued, such Justices shall not be required to issue such Warrant, but in such Case such Justices are hereby required, by Warrant under their Hands, to cause such Offender or Offenders to be committed to the Common Gaol or House of Correction of the County, Riding, or Place where the Offender shall be or reside, there to be kept to hard Labour, for any Term not exceeding Three Calendar Months unless such Penalties, Forfeitures, and Fines, and all reasonable Charges attending the same, shall be sooner paid and satisfied; and the Penalties and Forfeitures, when so levied, shall be paid, the one Half to the Informer, and the other Half to the Surveyor of the Parish where such Offence, Neglect, or Default shall happen, to be applied towards the Repair of the Highways thereof, unless otherwise directed by this Act; but in case the Surveyor shall be the Informer, then the .whole shall be applied towards the Repair of such Highway.