



# Land Clauses Consolidation Act 1845

## 1845 CHAPTER 18

### *Recovery of Penalties*

And with respect to the Recovery of Forfeitures, Penalties, and Costs, be it enacted as follows :

#### **CXXXVII Penalties to be summarily recovered before Two Justices.**

Every Penalty or Forfeiture imposed by this or the special Act, or by any Bye Law made in pursuance thereof, the Recovery of which is not otherwise provided for, may be recovered by summary Proceeding before Two Justices; and on Complaint being made to any Justice he shall issue a Summons requiring the Party complained against to appear before Two Justices at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending either in Person or by leaving the same with some Inmate at his usual Place of Abode; and upon the Appearance of the Party complained against, or in his Absence, after Proof of the due Service of such Summons, it shall be lawful for any Two Justices to proceed to the hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the Offence, either by the Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for such Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

#### **CXXXVIII Penalties to be levied by Distress.**

If, forthwith upon any such Adjudication as aforesaid, the Amount of the Penalty or Forfeiture, and of such Costs as aforesaid, be not paid, the Amount of such Penalty and Costs shall be levied by Distress, and such Justices or either of them shall issue their or his Warrant of Distress accordingly.

#### **CXXXIX Distress how to be levied.**

Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether in the Nature of Penalty, Costs, or otherwise, is directed to be levied by

Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expences of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

#### **CXXXIX Application of Penalties.**

The Justices by whom any such Penalty or Forfeiture shall be imposed may, where the Application thereof is not otherwise provided for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed, to be applied in aid of the Poor's Rate of such Parish, or if the Place wherein the Offence shall have been committed shall be extra-parochial then such Justices shall direct such Remainder to be applied in aid of the Poor's Rate of such extra-parochial Place, or if there shall not be any Poor's Rate therein in aid of the Poor's Rate of any adjoining Parish or District.

#### **CXL Distress against the Treasurer.**

If any such Sum shall be payable by the Promoters of the Undertaking, and if sufficient Goods of the said Promoters cannot be found whereon to levy the same, it may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Distress of the Goods of the Treasurer of the said Promoters, and the Justices aforesaid, or either of them, on Application, shall issue their or his Warrant accordingly; but no such Distress shall issue against the Goods of such Treasurer unless Seven Days previous Notice in Writing stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer or left at his Residence; and if such Treasurer pay any Money under such Distress as aforesaid he may retain the Amount so paid by him, and all Costs and Expences occasioned thereby, out of any Money belonging to the Promoters of the Undertaking coming into his Custody or Control, or he may sue them for the same.

#### **CXLI Distress not unlawful for Want of Form.**

No Distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser ab initio on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

#### **CXLII Penalties to be sued for within Six Months.**

No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any Offence made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

### **CXLIIIPenalty on Witnesses making default.**

It shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction under the Provisions of this or the special Act at a Time and Place mentioned in such (Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expences, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

### **CXLIVForm of Conviction.**

The Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule (C.) to this Act annexed.

### **CXLV Proceedings not to be quashed for Want of Form.**

No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts.

### **CXLVIParties allowed to appeal to Quarter Sessions on giving Security.**

If any Party shall feel aggrieved by any Determination or Adjudication of any Justice with respect to any Penalty or Forfeiture under the Provisions of this or the special Act, or any Act incorporated therewith, such Party may appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

### **CXLVICourt to make such Order as they think reasonable.**

At the Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant, or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

**CXLVI Receiver of the Metropolitan Police District to receive Penalties incurred within his District.**

Provided always, and be it enacted, That, notwithstanding any thing herein or in the special Act, or any Act incorporated therewith, contained, every Penalty or Forfeiture imposed by this or the special Act or any Act incorporated therewith, or by any Bye Law in pursuance thereof, in respect of any Offence which shall take place within the Metropolitan Police District, shall be recovered, enforced, accounted for, and, except where the Application thereof is otherwise specially provided for, shall be paid to the Receiver of the Metropolitan Police District, and shall be applied in the same Manner as Penalties or Forfeitures, other than Fines upon drunken Persons, or upon Constables for Misconduct, or for Assaults upon Police Constables, are directed to be recovered, enforced, accounted for, paid, and applied by an Act passed in the Third Year of the Reign of Her present Majesty, intituled *An Act for regulating the Police Courts in the Metropolis*, and every Order or Conviction of any of the Police Magistrates in respect of any such Forfeiture or Penalty shall be subject to the like Appeal and upon the same Terms as is provided in respect of any Order or Conviction of any of the said Police Magistrates by the said last-mentioned Act; and every Magistrate by whom any Order or Conviction shall have been made shall have the same Power of binding over the Witnesses who shall have been examined, and such Witnesses shall be entitled to the same Allowance of Expences as he or they would have had or been entitled to in case the Order, Conviction, and Appeal had been made in pursuance of the Provisions of the said last-mentioned Act.

**CXLIX Persons giving false Evidence liable to Penalties of Perjury.**

And be it enacted, That any Person who, upon any Examination upon Oath under the Provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false Evidence, shall be liable to the Penalties of wilful and corrupt Perjury.