



Railway Rolling Stock Protection Act 1872

1872 CHAPTER 50

An Act to protect Railway Rolling Stock from Distraint when on hire. [6th August 1872]

WHEREAS it is expedient that protection from distress should in certain cases be extended to rolling stock :

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, as follows:

1 Short title.

This Act may be cited as The Railway Rolling Stock Protection Act, 1872.

2 Interpretation of terms.

In this Act—

" Rolling stock " includes waggons, trucks, carriages of all kinds, and locomotive engines used on railways:

" Rent " includes royalty or other reservation in the nature of rent:

" Work " includes any colliery, quarry, mine, manufactory, warehouse, wharf, pier, or jetty, in or on which is any railway siding:

" Tenant " includes a lessee, sub-lessee, or other person having an interest in a work under a lease or agreement, or by use and occupation, or being otherwise liable to pay rent in respect of a work:

" Person " includes a body corporate :

" Court of summary jurisdiction " means any justices of the peace, metropolitan police magistrate, stipendiary magistrate, sheriff, sheriff

substitute, or other magistrate or officer, by whatever name called, who is capable of exercising jurisdiction in summary proceedings for the recovery of penalties.

3 Rolling stock protected from distress or sale in certain cases.

Rolling stock being in a work shall not be liable to distress for rent payable by a tenant of the work, if such rolling stock is not the actual property of such tenant, and has upon it a distinguishing metal plate affixed to a conspicuous part thereof, of a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the actual owner thereof.

4 Remedy in case distress proceeded with.

Where any such rolling stock as aforesaid is distrained, a court of summary jurisdiction may make against the landlord such summary order for restoration of the rolling stock or for payment of the real value thereof, and respecting costs or otherwise, and may make against the person distraining such order in the matter, and respecting costs, as to the court seems just.

5 Not to extend to protect tenant's interest in rolling stock.

This Act shall not extend to protect from distress the interest which any tenant may have in any rolling stock, otherwise protected under this Act, but such interest may be distrained upon by the landlord and disposed of in the same manner as the whole interest of such tenant, if he had possessed the same; and in case of disagreement between the landlord and the parties claiming such rolling stock as to the mode of disposing of such interest, the same shall be settled by the court of summary jurisdiction; and the court shall, on the application of either party, make such order therein as to the court shall seem fit.

6 Appeal to quarter sessions.

If any party thinks himself aggrieved by any order or adjudication of a court of summary jurisdiction under this Act, or by dismissal of his complaint by any such court, he may appeal therefrom, subject to the conditions and regulations following; (that is to say,)

- (1) The appeal shall be made to some court of general or quarter sessions for the county or place in which the cause of appeal arises holden not less than fifteen days, and (unless adjourned by the court of appeal) not more than four months after the decision of the court of summary jurisdiction:
- (2) The appellant shall, within seven days after the cause of appeal has arisen, give notice to the other party and to the court of summary jurisdiction of his intention to appeal, and the ground thereof:
- (3) The appellant shall immediately after such notice enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or give such other security, by deposit of money or otherwise, as the justice thinks fit to allow.

7 Exclusion of certiorari.

No order or conviction of a court of summary jurisdiction tinder this Act shall be quashed for want of form, or be removed by certiorari or otherwise (at the instance either of the Crown or of any private party) into any superior court.