



As to Rodgers goods
a registered cattle
See No. 250/1882

Ref: No. 442 U
S. I.

ANNO VICESIMO QUINTO ET VICESIMO SEXTO

VICTORIÆ REGINÆ.

A.D. 1862.

No. 14.

An Act for regulating the Sale of Goods distrained for Rent.

[Assented to, 21st October, 1862.]

WHEREAS it is desirable to settle certain doubts which exist Preamble.
as to the law of distress for rent in arrear in the Province
of South Australia, and to make better provision for the sale of
goods distrained for rent—Be it therefore declared and Enacted by
the Governor-in-Chief of the said Province, with the advice and
consent of the Legislative Council and House of Assembly of the
said Province, in this present Parliament assembled, as follows:

1. An Act made and passed in the first Session of the second Applicability of
year of the reign of their Majesties King William the Third and II. Wm. and Mary
Queen Mary, intituled "An Act for enabling the sale of goods Sess. 1., cap. 5.
distrained for rent, in case the rent be not paid in a reasonable
time," has been, ever since the foundation of the said Province,
and still is in force in the said Province, and part of the law
thereof; and wherever in the said Act the Sheriff of the County
is mentioned the same shall, so far as may concern any distresses
hitherto levied in the said Province, be held to mean the Sheriff
or Deputy Sheriff of the said Province.

2. The said Act shall no longer apply to the said Province, but The said Act not to
any proceedings already commenced under the said Act shall and continue in force.
may be continued and completed under the provisions hereinafter
contained: Provided always that nothing herein contained shall
affect the rights or remedies of any person or persons with respect
to anything heretofore done or omitted to be done under color of
the said Act.

Y

3. Where

Distress may be sold.

3. Where any goods or chattels shall be distrained for any rent reserved and due upon any demise or contract whatsoever, and the same goods or chattels shall not be replevied within five days next after notice of the taking of such distress, with the cause of such taking, shall have been left at the dwelling-house or other most notorious place on the premises charged with such rent, in every such case, after such distress and notice, and expiration of such five days, every person so distraining may, subject to the provisions hereinafter contained, sell the goods and chattels distrained for the best price that can be reasonably gotten for the same.

Sale must be by auction.

4. The sale of any goods and chattels distrained as aforesaid, shall be by public auction, of which full and reasonable notice shall be given; and such sale may, with the written consent of the owner, be made by the bailiff levying such distress, provided no licensed auctioneer is resident within ten miles of the place where the distress is levied.

Disposal of proceeds of sale.

5. The proceeds of any such sale shall be applied in or towards satisfaction of the rent for which the distress shall have been made, and of the charges of such distress, and sale, and the overplus (if any) of such proceeds shall be paid into the hands of the Sheriff of the said Province or his Deputy, or the Clerk of the Local Court nearest to the place where such distress is levied, for the use of the owner or owners of the goods and chattels sold.

Corn loose, &c.

6. Any person or persons, having rent in arrear and due upon any such demise or contract as aforesaid, may seize and secure any sheaves or cocks of corn, or corn loose or in the straw, or hay lying or being in any barn, granary, hovel, stack, or rick, or otherwise upon any part of the land charged with the said rent, and may lock up or detain the same in the place where the same shall be found, for or in the nature of a distress, until the same shall be lawfully replevied, and in default of replevying the same within the time aforesaid, may sell the same, subject to the provisions hereinbefore contained; so as such corn, grain, or hay so distrained be not removed by the person or persons distraining, to the damage of the owner thereof, out of the place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied or sold as aforesaid.

Treble damages for pound breach.

7. Upon any pound breach, or rescue of goods or chattels distrained for rent, the person or persons grieved thereby shall, in a special action upon the case, for the wrong thereby sustained, recover his and their treble damages and costs of suit against the offender or offenders, any or either of them, or against the owner or owners of the goods distrained, in case the same be afterwards found to have come to his or their use or possession.

Double damages against wrongful distrainer.

8. In case any distress and sale as aforesaid has been, or shall be

see 11 G. II, C. 19, S. VIII

be made for rent pretended to be in arrear and due where in truth no rent is in arrear or due to the person or persons distraining, or to him or them in whose name or names, or in whose right such distress shall be taken; then the owner of the goods or chattels so distrained and sold, his executors or administrators shall and may, by action of trespass, or upon the case to be brought against the person or persons so distraining, any, either of them, his or their executors, or administrators, recover double of the value of the goods or chattels so distrained and sold, together with full costs of suit.

9. This Act may be cited as "The Distress for Rent Act, 1862." Short title.

In the name and on behalf of the Queen I hereby assent to
this Act.

D. DALY, Governor.