

ADAMSON (Inspector of the Poor of Glasgow),	}	APPELLANT.
EDINBURGH AND GLASGOW RAILWAY COMPANY	}	RESPONDENTS.

Scotch Poor Law Act, 8 & 9 Vict. chap. 83.—Assessment of Railway Company.—Stations.—Station-houses and buildings accessory thereto are, for the purposes of poor law assessment in Scotland, to be regarded as parts of the railway, and the value is to be apportioned among all the parishes on the line of the railway.

1855.
June 7th and 11th.

In this case the Court of Session had found “That in assessing the railway, the stations were not to be assessed separately in the several parishes in which the same were respectively situated, but were to be valued as forming parts of the whole railway, the value whereof was to be apportioned under the forty-fifth section of the Scotch Poor Law Act.” The *Lord Ordinary*, in the note which he annexed to his interlocutor, explained, that in his opinion the word railway, as used in the forty-fifth section of the Poor Law Act, “was not the mere line of rails, but the whole undertaking as an *unum quid*.” The First Division confirmed the decision of the *Lord Ordinary*. The inspector appealed to the House.

Mr. *Rolt* and Mr. *Anderson* for the Appellant. The stations with the buildings annexed to them ought to be rated distinctly from the railway itself, which is a separate subject of assessment, common to all the parishes through which the line passes. The terminal station at Glasgow, in particular, is clearly not a

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constituent portion of the line at large. A hotel, refreshment rooms, stores, warehouses for goods, which may be let to carriers; these, surely, are not according to any reasonable or ordinary interpretation to be accounted parts of a railway, although they may be in juxtaposition, and may be convenient to passengers and others making use of the railway. What is called the mileage principle of rating is not absolute; it is subject to qualification. Thus in *Anderson v. The Union Canal Company* (a), it was held that buildings occupied by the Company in connexion with their canal were to be assessed separately. The same view is taken in England, *The Queen v. The Great Western* (b), *The Queen v. Grand Junction* (c).

The *Lord Advocate* (d) and the *Solicitor General* (e) for the Respondents, urged that under the forty-fifth section of the Scotch Poor Law Amendment Act, the railway comprehended the stations, and their value was not to be referred to the particular parishes in which they were locally situated, but to be rateably apportioned among all the parishes on the line of the railway.

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The LORD CHANCELLOR (f):

My Lords, this is an appeal to your Lordships from a decision of the Court of Session, by which they have sanctioned a particular mode of rating a railway; several questions were raised in the Court below, but the only question raised upon this appeal is, whether the Court have come to a right conclusion in finding "that in assessing the railway, the stations at each end thereof, and also along the line, are not to be assessed

(a) 7 March 1839, 1 D., B., & M. 648; and 12 Jan. 1847, 9 D., B., & M. 402.

(b) 4 Rail Ca. 28.

(c) 4 Rail. Ca. 1.

(d) Mr. Moncreiff.

(e) Sir R. Bethell.

(f) Lord Cranworth.

separately, but are to be valued as forming a part of the railway, the value whereof is to be apportioned under the forty-fifth section of the Poor Law Act libelled.”

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The forty-fifth section of the Scotch Poor Law Act says this, “That in cases where any canal or railway shall pass through or be situate in more than one parish or combination, the proportion of the annual value thereof on which such assessment shall be made for each such parish or combination shall be according to the number of miles or distance which such canal or railway passes through or is situate in each parish or combination, in proportion to the whole length.”

Now we are not at all called upon to give our opinion as to whether or not that is a mode of assessing which is well calculated, in ordinary cases, to do justice—probably that matter must have been very well considered at the time of the passing of the Act; and, although it is open to the observation that it may work injustice in particular instances, I suppose, that, looking at the nature of the case and at the difficulties which had occurred in this country, of which the two cases that have been cited are a very good illustration, the Legislature thought that it was absolutely necessary to cut the knot, and to do, if not absolute justice, yet that which should be as near an approach to justice as the circumstances would admit of; and the Legislature having made that enactment, it now remains for your Lordships, as the ultimate Court of Appeal, to put a construction upon it, and to say what was really intended.

It appears that assessments to be made in Scotland are to be made in a variety of different modes, as the parishes or districts shall select one mode or another; but in this particular case they were to be made by assessing the owners and occupiers equally;—

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each was to pay half, and in order to ascertain what that amount was to be, section thirty-seven says, that in assessing the annual value of the lands and heritages which were to govern the amount of the assessment, both as to the owner and occupier, "the same shall be taken to be the rent at which, one year with another, such lands and heritages might, in their actual state, be reasonably expected to let from year to year, under deduction of the probable annual average cost of the repairs, insurance, and other expenses (if any) necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges."

Now, let us carry this with us to the construction of the forty-fifth section, which I have just read, "that in cases where any canal or railway shall pass through or be situate in more than one parish or combination, the proportion of the annual value thereof on which such assessment shall be made for each such parish or combination shall be according to the number of miles or distance which such canal or railway passes through or is situated in each parish or combination in proportion to the whole length." First, before you can ascertain the proportion you must ascertain what the whole is—that is quite certain. Therefore, what you have to do, in the first instance, is to assess the value of the railway, and then we come to the question, What is the meaning of "railway" in that clause?

There is great force in the argument of Mr. *Rolt*, that the expression "railway" is an equivocal term—it may mean merely the way with the rails, or the way with the rails and a little necessary siding on each side—or the word may have that which is the more common meaning in popular parlance when you speak of a railway. If, for instance, you speak of the Great Western Railway, you mean

the whole concern ; or if you speak of the Great Northern Railway, you mean the whole concern. It may mean either the one or the other ; the question is, what does it mean here—in what sense has the Legislature used the expression “railway or canal” ? and when I come to consider that the Legislature in contemplating something which is to be looked at with a view to see at what annual sum it would let from year to year, I cannot but come to the conclusion that it means something which might be so let that the tenant taking it might make a profit to himself. If you take literally the railway, only the lines of rails without anything else, it would let for nothing at all, for the tenant would have no power of getting on or off, unless according to the old principle, by which it was said that when you let something in the middle of your property you always necessarily let a right of way to get to it ; but that of course could not be what was contemplated. Then the “railway” must mean something more than the actual lines of rails. What more ? I can come to no more reasonable conclusion than that it must mean in addition all which is *necessary* for the using of those lines of rails.

But it is said, and so Mr. *Rolt* has argued, that it does not necessarily include the stations at each end of the line ; I am at issue with him upon that. If the meaning is to be taken to be only what is absolutely necessary for the railway itself, you might, to be sure, have a railway, and people might come to it in the open air, and use it in that way without any place for shelter, either for themselves or for their luggage. But when we speak of anything being necessary for a railway, we mean by “necessary” that it will always be found connected with it, and must be so connected in order to its being properly used. This is very well illustrated by what takes place in actions against

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infants by persons having supplied them with necessaries. I remember a case of a gold shirt-pin being supplied to a nobleman's son, which, considering his social position, was held to come under the head of necessaries. How did the Court reason upon that subject? It is necessary, they said, for a young nobleman to have clothes, and according to the rule of law under the head of necessaries would come such clothes as persons in his situation ordinarily wear. You could hardly say that two or three coats in a year were absolutely necessary. Certainly, he might get on with one coat in a year, or with one coat in two years, though it might be very ragged and shabby. But there can be no doubt that such a number of coats, or of other matters of apparel as are ordinarily used by persons in that particular situation in life, would come under the name of necessaries. Just so in the case of the shirt-pin, some such fastening was necessary; and for a person in his condition a gold pin was a reasonable sort of fastening.

Now, applying that doctrine here, I think that even if there were no legislative authority for the construction that I put upon this word "railway," namely, as including the stations, it would be very reasonable to say that a station giving more or less of accommodation, according as the railway is of more or less importance, can fairly come under that head, as being necessary for the occupation and convenient use of the railway.

But I think we are not driven to mere speculation on this subject. The Scotch Poor Law Act passed in the year 1845, and received the Royal Assent in the month of August of that year. In the previous month of May had passed the Statute of 8th and 9th of Victoria, chapter 20, for consolidating into one Act certain provisions usually inserted in Acts authorizing the making

of railways, and I find that in that Act, in the interpretation clause it is said, "the expression 'the railway' shall mean the railway and works by the special Act authorized to be constituted." Then what are the works which are authorized to be constructed? The 16th section says, subject to the provisions and restrictions in this and the special Act, and any Act incorporated therewith, it shall be lawful for the company, for the purpose of constructing the railway or the accommodation works connected therewith hereinafter mentioned, to execute any of the following works, (that is to say,) they may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences as they may think proper."

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That is a legislative exposition that it is no unreasonable construction of the word "railway" to hold that it includes stations which are constructed for the accommodation of the persons using it, and I further find in that same Act of Parliament, in the 112th section, that "where the Company shall be authorized by the special Act to lease the railway" certain things are to follow. The "railway" there clearly means the railway and the works connected with it. That, again, is a great help in considering what is meant by the annual value of the railway, because applying the construction of this Act, which is not necessarily to be applied, but may very reasonably be applied, to the Act which passed a few months afterwards, we find that the word "railway" included all the works erected by the Company for the accommodation of the persons using it.

It appears to me, therefore, that taking a very common sense view of the case, inasmuch as the Poor Law Amendment Act with reference to the assessment

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was to be construed by those who had every day to bring it into use, there ought to be no refined reasoning upon what may be abstractedly the right meaning of the word "railway;" but what we are to look at is the way in which it is popularly used, and not only popularly used, but used by the Legislature in abundance of other Acts, in which we find that the word is so used as to include that which is necessary or so convenient as to be fairly brought within the meaning of the words "necessary for the convenient use of the railway." That includes the stations erected at each end and along the line.

But, then, Mr. *Rolt* says that your Lordships ought not to adopt this interlocutor, but that you ought to lay down some rule, or to give some definition of what you include in the word "station." I think that would be extremely dangerous, because what would be included would probably be different in the case of each railway. To take the illustration I alluded to before, a very different sort of station may fairly come within the definition of the word "station" at the Great Western Railway or at the Great Northern Railway, from what would be adapted to the case of a minor railway. It would be a much more expensive erection in the one case than in the other. There is no doubt that the word "Station" ought not to be extended to include anything more, and I see nothing in the interlocutor which ought to lead to the inference that it was intended to include anything more than what is necessary for the convenient use of the railway as a railway. The word "station" is a perfectly well understood term, and any definition would be open to the observation that it was *clarum per obscurius*. Everybody knows what the word Station means—that it is a place to which every person using the railway may come on foot or in carriages, and bring their

luggage, and it probably has connected with it a room where persons may wait, if it is a railway for taking various descriptions of passengers—1st, 2nd, and 3rd class passengers, and all that description of accommodation, without which a railway cannot be conveniently used. It certainly will not include a hotel and other matters not necessary for the occupation and convenient use of the railway. I think it may properly include a directors' room; it is exceedingly important that there should be at a station a directors' room, to which persons having complaints to make may resort for that purpose. I do not think there can be any practical difficulty upon the subject. I think that that which Mr. *Rolt* invited your Lordships to do, namely, to insert some definition such as he went through, would be infinitely more likely to give rise to litigation than to lead to any good result.

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With respect to the cases that were relied upon, they were English cases, and have no application to this case, because what the Respondent rests upon is the construction of this Scotch Poor Law Act. But there was no such Act in England, and the assessment in the English cases referred to having been made upon the land which was occupied by the railway in the particular parishes upon the best principle that the parties could arrive at, and they having done it very elaborately, and perhaps very reasonably (if you please, more reasonably than under the Scotch Poor Law Act, I am not interested in contesting that), the Court of Queen's Bench thought it a very reasonable mode, and refused to interfere with the rate. That is wholly inapplicable to this case, which rests, not upon any abstract discussion as to what would be the more expedient or the more just or reasonable way of assessing a portion of a railway

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which passes through a particular parish, but upon the construction of this special Act of Parliament.

I therefore move your Lordships that the interlocutor of the Court below be affirmed with costs.

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The Lord BROUGHAM :

My Lords, both as to the result and as to the argument, I take exactly the same view of this case as that of my noble and learned friend. I therefore agree in his proposition, that the Interlocutor of the Court below be affirmed.

It is a very great mistake to suppose, and I say this now once for all, that those noble and learned Lords who do not deliver their opinions and their reasons in detail, have not applied their minds during the argument closely and constantly to the case. I have from the beginning, for example, of this case taken most anxious care that every one part of the argument urged in the Court below and at your Lordships' bar should receive, as far as I was able to give it, my fullest attention and most deliberate consideration; and if I do not repeat any of the arguments in joining in the judgment moved by my noble and learned friend, it is not because I have not attended to those arguments—quite the contrary,—but because I feel it to be superfluous to go over the same ground again which has been so ably and distinctly gone over by my noble and learned friend.

I have at different times had some little doubt upon this case, but in one particular alone; I mean as to whether or not we ought to attempt to lay down some definition of the word “station,” so as to preclude the necessity of further litigation, ending, in all probability, in a further appeal to your Lordships' house. But, on further consideration, I am of opinion with my noble and learned friend, that it would be not only difficult,

to the extent of impossibility, for us to make any satisfactory definition in this respect; and I can hardly imagine our making any attempt at such a definition that would not be sure to lead to other questions not raised by the law as it stands at present.

My Lords, some reference has been made to various provisions in the Act of Parliament, to the 37th and 42nd sections of the existing Scotch Poor Law Act, and to another Act to which my noble and learned friend's attention was drawn, and from which he read a passage; all of which provisions call to my mind very many cases before your Lordships, and in other Courts of Justice, illustrating the faulty manner in which our Acts of Parliament are drawn; but I do not mean upon the present occasion, sitting in my judicial and not in my legislative capacity, to say more than this, that I heartily wish I could see a better system laid down and pursued for more fully, carefully, and accurately framing our legislative measures.

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