

Divisional Court.]

[Jan. 20.

ROSS v. CORPORATION OF EAST MISSOURI.

Municipal Corporations—Townships—By-law permitting cattle to graze on highways—Validity of—License fee to cover expense of tags, etc.—Divisional Court—Right of appeal to.

A by-law passed by a township council, under s. 546 (2) R.S.O. 1897 c. 223, prohibiting the running at large of cattle, horses, sheep, swine or geese, and for impounding those contravening the by-law, was amended by a by-law subsequently passed, whereby milch cows, heifers and steers under two years were permitted to graze on the public highways of the township, on payment of an annual fee of \$2.00 for each animal, such animal to have securely fastened thereon a tag bearing a registered number, furnished by the clerk at the township's expense, the township also furnishing a book to contain such registered numbers; all moneys received to be the common property of the township. The by-law also contained a provision for the appointment of inspectors.

Held, by ROSE, J., and by the Divisional Court, that the amending by-law was valid; that the sum named as a license fee was not excessive, and was merely for the purpose of meeting the expenses of carrying out the by-law, and not for raising a revenue; and that the permission to graze on the highways was not ultra vires of the corporation.

Re Fennell and Corporation of Guelph (1865), 24 U.C.R. 238, considered and distinguished.

An appeal from the decision of a Judge in Court refusing to quash a by-law, lies either to the Divisional Court or the Court of Appeal; but the appellant must elect his tribunal, and can have only one appeal.

J. M. Jackson, K.C., for appellants. *Aylesworth*, K.C., for respondents.

Divisional Court.]

REGINA v. PLAYTER.

[Jan. 21.

Nuisance—Public Health Act—Hospital for consumptives—Conviction for keeping—Ejusdem generis—Legislative grouping of sections.

Section 72 of the Public Health Act, R.S.O. 1897 c. 248, which prohibits, under a penalty, the establishment, without the consent of the municipality, of "any offensive trade, that is to say, the trade of blood boiling or bone boiling," or, setting out a number of similar trades, "or any other noxious or offensive trade, business or manufacture, or such as may become offensive," etc., does not apply to a house or hospital for consumptive patients; for not only is it excluded under the doctrine of ejusdem generis, but also by virtue of the legislative grouping of the Act, s. 72 being under the subdivision dealing with nuisances, while