

by the High Court in a proper case. If the railway is under federal legislative jurisdiction, being situated within the province, the like jurisdiction, in the absence of federal legislation providing otherwise, is possessed by the High Court to that which it has in regard to railways under provincial legislative jurisdiction. There being no such federal legislation, it is unnecessary to consider under which legislative jurisdiction the railway falls. . . . [Reference to *Grey v. Manitoba and North-Western R. W. Co.*, [1897] A. C. 254, and *Toronto General Trusts Corporation v. Central Ontario R. W. Co.*, 6 O. L. R. 1, 2 O. W. R. 259, 8 O. L. R. 312, 3 O. W. R. 910, 21 Times L. R. 732, [1905] A. C. 576.

In both of these cases the railways in question were under Dominion legislative jurisdiction; and no doubt appears to have been suggested as to the authority of the provincial Court to exercise even a larger jurisdiction than the Court is in this case asked to exercise, where the railway lies wholly within the province.

I am not to be understood as expressing any opinion as to the power of the Parliament of Canada, in the case of a railway under its jurisdiction, to take away the power of the provincial Courts to exercise the jurisdiction exercised in this case.

Order made as asked.

BOYD, C.

JANUARY 30TH, 1906.

WEEKLY COURT.

NELLIS v. McNEE.

*Landlord and Tenant—Breach of Covenant to Repair—Tenant's Fixtures—Alteration in Premises—Breach of Covenant not to Assign or Sublet—Waiver—Acceptance of Rent—School Taxes—Action—Scale of Costs.*

Appeal by plaintiff from report of local Master at Ottawa in an action by landlord against tenant for rent and cost of restoring building where altered by defendant, and for damages for breach of covenant to repair and covenant not to assign or sublet without leave. The Master found plaintiff entitled to \$75 for rent and \$2 damages for non-repair of a hot air register and to costs on the Division Court scale,