

A finding by the jury that "the deceased voluntarily accepted the risks of shunting" was held to mean that he accepted the ordinary risks, and not risks arising from negligence.

Judgment of the Queen's Bench Division, 25 O.R. 209, affirmed.

*W. Nesbitt and H. E. Rose* for the appellants.

*McCarthy, Q.C., and G. E. Kidd* for the respondent.

Co. Ct. Lincoln.]

[April 5.

ZUMSTEIN v. SHRUMM.

*Action—Negligence—Damages—Highways—Turkey.*

The owner of a turkey cock which, without negligence on his part, strays upon the highway is not liable for damages resulting from a horse taking fright at the sight of the bird and running away.

Judgment of the County Court of Lincoln affirmed.

*Moss, Q.C., and E. A. Lancaster* for the appellants.

*H. H. Collier* for the respondent.

Co. Ct. Wentworth.]

[April 5.

KENNEDY v. AMERICAN EXPRESS COMPANY.

*Carriers—Damages—Non-delivery of animals.*

Where dogs were delivered to an express company to be carried to a city for the purpose, made known to the company, of being exhibited at a dog show and were not delivered at the address given until ten hours after their arrival in the city, and were thus too late to compete, their owner was held entitled to damages against the company.

Judgment of the County Court of Wentworth reversed.

*G. Lynch-Shaunton* for the appellant.

*Bruce, Q.C.,* for the respondents.

Co. Ct. Haldimand.]

[April 5.

SHERK v. EVANS.

*County Court—Jurisdiction—Removal of action—54 Vict., c. 14 (O.)—Court of Appeal—Practice—Certificate of judgment—Summary order for payment of money.*

An action cannot be removed under 54 Vict., c. 14 (O.), from a County Court to the High Court after a judgment in the County Court in favour of the plaintiff has been set aside for want of jurisdiction, so as to leave that judgment in force, with the right to either party to move against it in the High Court.

*Re McKay v. Martin*, 21 O.R. 104, considered.

Judgment of the County Court of Haldimand reversed.

Where the certificate of judgment of the Court of Appeal by inadvertence directed the dismissal of a County Court action with costs, instead of merely setting aside the judgment in the County Court for want of jurisdiction, the certificate was on summary application amended and repayment of costs taxed and paid under it directed.

*W. F. Walker, Q.C.,* for the appellants.

*C. W. Colter and Geo. Kappeler* for the respondent.