

"lands held and used for farm purposes." As this latter has not been done, other than as stated, there is no other course than to make it applicable to the whole assessment.

The judgment then proceeded to amend the by-law and the percentages of rebate.

*J. F. Farewell, Q.C., J. B. Dow, and David Ormiston* for the various appellants.

*James Routledge* for the respondents.

## Notes of Canadian Cases,

### ONTARIO.

#### COURT OF APPEAL.

[Sept. 25.

THOMPSON *v.* GRAND TRUNK RAILWAY COMPANY OF CANADA.

*Railways—Highways—Cattle—"At large"—51 Vict., c. 29, s. 271 (D.)—Non-suit—Jury.*

Cattle are "at large" within the meaning of s. 271 of 51 Vict., c. 29 (D.), when the herdsman, in following one of the herd that has strayed, gets so far from the main body that he is unable to reach them in time to drive them over a railway crossing when he sees a train approaching.

The question whether cattle are at large or not need not, under all circumstances, be submitted to the jury, if the case is being tried before one. The judge is entitled to hold that there is no evidence that the plaintiff is not within the prohibition of the Act.

Judgment of the County Court of Wentworth affirmed.

*D'Arcy Tate* for the appellant.

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

[Sept. 25.

BROWN *v.* LENNOX.

*Lease—Assignment without consent—Assignee's liability to indemnify assignor.*

Where a lease containing a covenant against assignment, without the consent of the lessors, is so assigned, the assignment containing a covenant by the assignee to pay the rent and indemnify the assignor, and the assignee goes into possession of the demised premises, he is bound by his covenant, and is liable, notwithstanding the non-assent of the lessors, to repay to the assignor rent accruing due after the assignment, paid by the assignor to the lessors under threat of legal proceedings.

Judgment of the County Court of York reversed.

*E. D. Armour, Q.C.*, for the appellant.

*J. H. Denton* for the respondent.