

in the last and new sub-section, there may be recovery for an animal at large killed upon the property of the railway company by a train, though the animal was not in charge of a competent person. This large and liberal meaning has been given to this new sub-section in various cases—some being in the Divisional Court, such as *Bacon v. Grand Trunk R. W. Co.*, 7 O. W. R. 753, and *Arthur v. Central Ontario R. W. Co.*, ib. 527, and also 11 O. L. R. 537, and we see no reason to disagree with such a reading.

This plaintiff's case was made out upon the evidence. His horse escaped from the enclosure by jumping a gate without the owner's knowledge. The animal thus got on a public street, and going down the street came to an opening which led down to the track. This opening was furnished with a gate, but the gate was left open by the company, and through this open gate the horse got on to the track where it was killed by the train.

There was a case of negligence made as against the company by the failure to have the place fenced or properly protected through which the horse reached the company's track, under the Act, sec. 199, which could not have been withdrawn from the jury.

Upon the submission before us that no further evidence could be given, and that we were to dispose of the controversy as it now stands, we think plaintiff should have judgment for the amount agreed upon as the value of the horse—with costs of action and appeal.

TEETZEL, J.

OCTOBER 15TH, 1906.

ELECTION COURT—CHAMBERS.

REPORT ARTHUR AND RAINY RIVER PROVINCIAL
ELECTION.

PRESTON v. KENNEDY.

Parliamentary Elections — Controverted Election Petition — Particulars — Scrutiny — Supplemental Particulars after Scrutiny Begun and Adjourned—New Charges—Controverted Election Rules 20, 24—Costs.

Motion by respondent for leave to add further particulars of votes which he intended to object to on the scrutiny.

H. M. Mowat, K.C., for respondent.

I. F. Hellmuth, K.C., and W. J. Elliott, for petitioner.