

Ontario.]

24 June, 1895.

ROBERTSON V. GRAND TRUNK RY. CO.

Construction of statute—Railway Act, 1888, s. 246, (3)—Railway Co.—Carriage of goods—Special contract—Negligence—Limitation of liability for.

By s. 246 (3) of the Railway Act, 1888, 51 Vic., c. 29 (D), "every person aggrieved by any neglect or refusal in the premises, shall have an action therefor against the company, from which action the company shall not be relieved by any notice, condition or declaration if the damage arises from any negligence or omission of the company or of its servants."

Held, affirming the decision of the Court of Appeal (21 Ont. App. R. 4) and of the Divisional Court (24 O. R. 75), that this provision does not disable a railway company from entering into a special contract for the carriage of goods and limiting its liability as to the amount of damages to be recovered for loss or injury to such goods arising from negligence. *Vogel v. Grand Trunk Ry Co.* (11 Can. S. C. R. 612), and *Bate v. Canadian Pacific Ry. Co.* (15 Ont. App. R. 388) distinguished.

The G. T. Ry. Co. received from R. a horse to be carried over its line and the agent of the company and R. signed a contract for such carriage, which contained this provision: "The company shall in no case be responsible for any amount exceeding one hundred dollars for each and any horse," etc.

Held, affirming the decision of the Court of Appeal, that the words "shall in no case be responsible" were sufficiently general to cover all cases of loss howsoever caused, and the horse having been killed by negligence of servants of the company, R. could not recover more than \$100 though the value of the horse largely exceeded that amount.

Appeal dismissed with costs.

Moss, Q. C., & Collier, for appellant.

Osler, Q. C., & W. Nesbitt, for respondent.

Ontario.]

24 June, 1895.

TOWNSHIP OF COLCHESTER SOUTH V. VALAD.

Practice—Reference—Report of referee—Time for moving against—Notice of appeal—Cons. Rules 848, 849—Extension of time—Confirmation of report by lapse of time.

In an action by V, against a municipality for damages from injury to property by the negligent construction of a drain a,