

damages committed, (c) and, within twenty-four hours after having made the view, shall deliver to the poundkeeper a written statement signed by at least two of them of their appraisal and of their lawful fees and charges. R. S. O., 1887, c. 215 s. 20.

22. If the fenceviewers decide that the fence was not a lawful one, they shall certify the same in writing under their hands, together with a statement of their lawful fees to the poundkeeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof, but if not claimed, or if such fees and charges are not paid, the poundkeeper, after due notice, as required by this Act, shall sell the animal in the manner before mentioned at the time and place appointed in the notices. R. S. O., 1887, c. 215, s. 21.

Proceedings where fenceviewers decide against the legality of a fence.

24. Any fenceviewer neglecting his duty as arbitrator as aforesaid, shall incur a penalty of \$2. to be recovered for the use of the municipality, by summary proceedings before a Justice of the Peace upon the complaint of the party aggrieved or the treasurer of the municipality. R. S. O., 1887, c. 215, s. 23.

Penalty for neglect of duty by fenceviewers

cattle to run at large by negatively providing that certain other classes of animals should not be allowed to do so, the plaintiff was liable at common law, and under R. S. O., 1877, ch. 195 (now R. S. O. 1897, ch. 284) for the damage done, irrespective of any question as to the height of the defendants' fences. *Crowe v. Steeper*, 46 Q. B. 87.

(c) A master is liable for the acts of his farm servant in impounding cattle in his absence, the servant acting within the general scope of his authority. *Spafford v. Hubble*, E. T. 7, Will. IV.

A by-law enacting that certain animals shall not run at large does not impliedly allow other animals not named to do so, contrary to the common law. *Jack v. the Ontario, Simcoe & Huron Railway Co.* 14 Q. B. 328.

Animals cannot be impounded unless they are running at large, within the strict construction of the statute. It has been held that sheep-grazing on private, unenclosed property in charge of a boy are not running at large. *Ibbottson v. Henry*, 8 O. R. 625, Q. B. D.

Cattle are at large within the meaning of the Act when the herdsman, in following one of the herd which has strayed, goes so far away from the main body that he is unable to reach them in time to prevent their loitering or stopping on the highway at its intersection with a railway when he sees a train approaching. The question as to whether cattle are at large or not need not, under all circumstances, be submitted to the jury. It is for the judge in that case, as in others, to say whether there is any evidence for the jury that the cattle were in charge within the meaning of the Act. *Thompson vs. Grand Trunk Railway Co.* 22 A. R. 453.