

—**Agistment.**] — An agister of cattle who has indemnified the owner for lost or missing cattle has a special property therein to entitle him to maintain an action respecting them in his own name. A denial by a defendant that he "unlawfully took . . . or unlawfully detained the plaintiff's steer," is merely a plea of non cepit, and non detinet, and does not put in issue any right of property.

*Simpkinson v. Hartwell*, 6 Terr. L.R. 472.

—**Runaway horse — Art. 1055 C.C.]** — A person who leaves on a public street a horse harnessed to a carriage, unhitched and uncared for, is liable for any damages caused by the horse if he runs away, and it does not matter if the person injured, who is riding in a carriage, was so injured while endeavouring on foot to avoid the runaway, if it appears that he would not have escaped even if he had remained in his wagon.

*Laflamme v. Staines*, 18 Que. S.C. 105 (S. C.).

—**Driving on the wrong side of the road — Collision.]** — In an action on the case for negligence in driving the defendant's horse whereby his wagon came into collision with and damaged that of the plaintiff, it is not sufficient to prove merely that the defendant was driving on the wrong side of the road, especially as it was shown that the defendant just before the collision had crossed from the left side of the road for the purpose of speaking to a man sitting on a doorstep on the other side and that the plaintiff's horse at the time of the accident was running away and beyond control.

*Stout v. Adams*, 35 N.B.R. 118.

— **Keeping vicious dog — Scienter — Remoteness of damage — Permanent disfigurement—Financial position of parties.]** — In an action brought to recover damages from the owner of a dog, which had bitten the plaintiff, a child a little over five years of age, the jury, in answer to questions put by the learned trial Judge, found that the dog had attempted to bite one G. B., and the defendant had knowledge of this before the plaintiff was bitten; that the dog had never, before the injury to the plaintiff, evinced a cross, savage or vicious disposition to the knowledge of the defendant; that the dog was in the habit of jumping upon or against people, and in such acts scratching them, and the defendant knew this before the plaintiff was injured; that one of the acts of jumping on or against people referred to one W. B.; that the defendant knew of it before the plaintiff was injured, and that the dog did not do it playfully; that they considered that if G. B. had left the dog alone he would not have attempted to bite him. Upon an application by the defendant to have a verdict entered for him:—Held (per Tuck, C.J.,

*Landry, Barker, VanWart and McLeod, JJ., Hanington, J., dissenting*), that, as the answers established that the defendant had kept the dog after he had knowledge that he was apt to do injury to mankind, the application should be refused. The learned Judge, in charging the jury, told them that if they thought the scar on the plaintiff's face, caused by the bite, were likely to be permanent, and that such lasting disfigurement might affect her prospects of making a good marriage, they might consider such possible loss of marriage in assessing the damages. Held, per totam curiam, misdirection, as such damages were too speculative and remote. The jury were further directed that in assessing the damages they might take into consideration the financial position of the defendant and the condition in life of the plaintiff. Held, as before, misdirection.

*Price v. Wright*, 35 N.B.R. 26.

— **Highway — Horse straying upon.]** — The defendant's horse strayed from his field to the highway, the fence being defective, and, being frightened by a boy, ran upon the sidewalk and knocked down and injured the plaintiff. A municipal by-law made it unlawful for any person to allow horses to run at large:—Held, that the horse was unlawfully on the highway and that the defendant was liable in damages for the injury suffered by the plaintiff, the injury being the natural result of, and properly attributable to, his negligence. Judgment of a Divisional Court, 1 O.L.R. 412, affirmed.

*Patterson v. Fanning*, 2 O.L.R. 462 (C.A.).

—**Action for price of horse—Acceptance.]** — *Knight v. Hanson*, 3 W.L.R. 414 (Terr.).

—**Animal — Evidence of identity — Misdescription.]**—

*Pearce v. Hart*, 1 W.L.R. 476 (N.W.T.).

—**Sale of animals — Defective title of vendor — Appropriation of contract of sale after discovery of defect.]**—

*Primeau v. Mouchelin*, 1 W.L.R. 434 (Man.).

—**Warranty — Horse's pedigree and age.]**—

*Griffen v. Ruller*, 3 W.L.R. 374 (Terr.).

—**Wilfully killing a dog—Compensation to owner.]**—1. On a summary conviction under Code s. 537 for wilfully killing a dog, the whole penalty, which is not to exceed \$100 "over and above the amount of injury done," belongs to the Crown, and there is no jurisdiction to award damages to be paid to the owner of the dog. 2. Where the adjudication was that the defendant pay a fine of \$1 and costs and further pay the owner \$20 damages for the loss of the dog, the summary conviction will be amended by striking out the award of damages. 3.