

being that the action was defended by a medical protection society, the plaintiff was relieved from payment of the costs of the defence upon condition of the proper fees of the defendant for the treatment being paid.

*T. G. Meredith*, K.C., for plaintiff. *J. M. McEvoy*, for defendant.

Meredith, C.J.C.P., Britton, J., Magee, J.] [May 1.

BACON v. GRAND TRUNK R.W. CO.

*Railway—Animal killed on track—Railway Act, 1903, s. 237—Negligence—Burden of proof—Jury.*

In an action for damages for the loss of a horse killed by a train upon the defendants' track, the jury found that the horse was killed upon the property of the defendants, and that the defendants were responsible for that.

*Held*, that upon the proper construction of s. 237, sub-s. 4, of the Dominion Railway Act, 1903, a finding that the horse was killed upon the property of the defendants was sufficient to entitle the plaintiff to recover, unless it was shewn by the defendants that the animal got at large through the negligence of the owner or custodian, and such negligence was sufficiently negatived, in view of the judge's charge, by the finding of the jury that the defendants were responsible.

Judgment of the County Court of Simcoe, reversed.

*R. D. Gunn*, K.C., for plaintiff. *W. A. Boys*, for defendants.

Meredith, C.J.C.P.] [May 2.

RE ARMSTRONG AND JAMES BAY R.W. CO.

*Railway—Expropriation of land—Compensation—Award—Increase on appeal—Damages from severance of farm—Access of cattle to springs—Farm crossing—Offer to provide—Statutory right—Railway Act, 1903, s. 198—Costs of arbitration.*

The railway company took for the purposes of their railway 3.09 acres of a grain and dairy farm of about 195 acres. The railway crossed the farm severing from the front part of it about 24 acres, including a field of 18 acres, which contained springs affording a supply of water for the cattle and horses