

the agent's report. The jury found that F. inserted the description of the premises and apportioned the insurance.

*Held*, reversing the judgment appealed from (17 B.C. Rep. 517), that the company was affected by F.'s knowledge of the premises and of the property insured; that the question as to who had made the apportionment was properly left to the jury, and that the evidence justified the jury in finding that it had been made by F., and that the insured, therefore, had made no valuation as to the stock or the apportionment thereof and could not have misrepresented its value.

*Held*, *per* Davies, and Duff, J.J.:—That the evidence justified the jury in finding that F. had described the premises as a dwelling-house and that the company was bound by his act in doing so.

*Per* Davies, J.:—A dwelling-house does not lose its character as such from the fact that it is occupied by one or more lodgers.

*Held*, *per* Duff, J.:—As, under the conditions of the policy in question, notwithstanding an overvaluation, the company would still be liable for a certain proportion of the actual value of the property insured, the policy could not be avoided.

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Ont.]                      BELL v. GRAND TRUNK RY. Co.                      [Dec. 23.]

*Evidence—Onus—Railway company—Negligence — Excessive speed—Railway Act, s. 275.*

By 8 & 9 Edw. VII. c. 32, s. 19, amending section 275 of the Railway Act, no railway train "shall pass over a highway crossing at rail level in any thickly peopled portion of any city, town or village at a greater speed than ten miles an hour," unless such crossing is constructed and protected according to special orders and regulations of the Railway Committee or Board of Railway Commissioners or permission is given by the Board. In an action against a railway company for damages on account of injuries received through a train passing over such a crossing at a greater speed than ten miles an hour.

*Held*, reversing the judgment of the Appellate Division (29 O.L.R. 247), that the onus was on the company of proving that the conditions existed which, under the provisions of said section, exempted them from the necessity of limiting the speed of their train to ten miles an hour or that they had the permission of the Board to exceed that limit.