

Mulock, C.J.Ex., Riddell, Sutherland  
and Leitch, JJ.]

[12 D.L.R. 390.]

TOWN OF WATERLOO v. CITY OF BERLIN.

*Courts—Jurisdiction—Matters under jurisdiction of Railway  
and Municipal Board.*

The courts will not entertain a suit for an accounting of profits from the operation of a railway by two municipalities under a formal agreement executed not voluntarily but in conformity to an order of the Ontario Railway and Municipal Board, since the matter was one exclusively within the jurisdiction of the Board.

*Town of Waterloo v. City of Berlin*, 7 D.L.R. 241, affirmed.

M. K. Cowan, K.C., for plaintiffs. Du Vernet, K.C., and Sims, for defendants.

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## Province of Manitoba.

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### COURT OF APPEAL.

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Full Court.]

[12 D.L.R. 402.]

GREENLAW v. CANADIAN NORTHERN RY. CO.

*Railways—Liability for damages—Killing animals—Defective  
fence—Animals at large under by-law.*

Cattle turned out to graze on the highways as authorized by a municipal by-law are not "at large through the negligence or wilful act or omission of the owner" so as to relieve a railway company, under sec. 294(4) of the Railway Act, R.S.C. 1906, ch. 37, as amended by 10 Edw. VII. ch. 59, sec. 8, from liability for running down animals that came upon its right-of-way at a place other than a highway crossing, by reason of defects in the fencing which the railway company was under a statutory obligation to maintain.

G. H. Clark, K.C., for defendants. C. L. St. John, for plaintiff.