

Province of Manitoba.

COURT OF APPEAL.

Full Court.]

[April 12.]

HUNT v. GRAND TRUNK PACIFIC RY. CO.

Railway—Obligation to fence right of way—Injury to crops caused by cattle straying from railway line not fenced.

The duty of a railway company to provide, under s. 254 of the Railway Act, R.S.C. 1906, c. 37, fences and cattle guards suitable and sufficient to prevent cattle and other animals from getting on the railway, is prescribed only to protect the adjoining land owners from loss caused by these animals being killed or injured on the track; and, notwithstanding the general language of s. 427 of the Act, which gives a right of action to any one who suffers damages caused by the breach of any duty prescribed by the Act, an adjoining owner whose crops are injured by cattle straying on to his land from the railway track, in consequence of the absence of fences and cattle guards, has no right of action against the railway company in respect of such injury.

James v. T.T.R., 31 S.C.R. 420; *Gorris v. Scott*, L.R. 9 Ex. 125, and *McKellar v. C.P.R.*, 14 M.R. 614, followed. *Winterburn v. Edmonton Ry. Co.*, 8 W.L.R. 815, not followed.

RICHARDS, J.A., dissented.

Card, for plaintiff. Symington, for defendants.

Full Court.]

PICKUP v. NORTHERN BANK.

[April 12.]

Bills of exchange and promissory notes—Partnership for non-trading purposes—Holder for value without notice—Alteration in indorsement of promissory note—Estoppel in pais.

Judgment of CAMERON, J., noted ante, p. 49, varied by giving plaintiff judgment in respect of the two notes on which the special indorsement to the Home Bank of Canada had been changed without the knowledge of the plaintiff to an indorsement in blank by striking out the words, "Pay to the order of the