

against the Transcontinental Railway Commissioners and also against a contractor for construction of any portion of the eastern division.

*Held, per ANGLIN, J.*, that it applies also to an action against a contractor for constructing a railway for a private company incorporated by Act of Parliament.

Appeal dismissed with costs.

*F. R. Taylor*, for appellant. *Tred, K.C.*, for respondents.

Ont.]

[May 6.]

ROBINSON v. GRAND TRUNK RY. CO.

*Railway Co.—Carriage of Passenger—Special Contract—Notice to Passenger of Conditions—Negligence—Exemption from Liability.*

P. at Milverton, Ont., purchased a horse for a man in another town who sent R. to take charge of it. P. signed the way-bill in the form approved by the Board of Railway Commissioners, which contained a clause providing that if the consignee or his nominee should be allowed to travel at less than the regular fare to take care of the property, the company should not be liable for any injury to him whether caused by negligence or otherwise. R. was not asked to sign the way-bill, though a form endorsed provided for his signature and required the agent to obtain it. The way-bill was given to R., who placed it in his pocket without examining it. On the passage he was injured by negligence of the company's servants.

*Held*, that R. was not aware that the way-bill contained conditions.

*Held*, also, Fitzpatrick, C.J., dissenting, that the company had not done all that was incumbent on them to bring notice of the special condition to his attention.

Judgment of the Court of Appeal (27 O.L.R. 290) reversed, and that of the trial judge (26 O.L.R. 437) restored. Appeal allowed with costs.

*McKay, K.C.*, and *Haight*, for appellant. *D. L. McCarthy, K.C.*, for respondent.