

III. DEATH OF EMPLOYER OR INJURED EMPLOYÉ, HOW THE RIGHT OF ACTION IS AFFECTED BY.

12. Scope of this Sub-title.
13. Death of employer, effect of.
14. Death of plaintiff, pending action abated by.
15. Suit by executors or administrators.

I. LIABILITY FOR THE NEGLIGENCE OF CERTAIN SPECIFIED RAILWAY EMPLOYÉS.

1. *Generally.*—The English Employers Liability Act of 1880, and the Colonial and American statutes which are modeled upon similar lines, contain a provision for the especial benefit of railway servants.

By sec. 1, sub-sec. 5, of the original Act, a servant may recover, where his injury is caused by reason of the negligence of any person in the service of the employer who has the charge or control of any signal, points, locomotive engine, or train upon a railway.

The Acts of Newfoundland and the Australian Colonies are to the same effect.

The Ontario Act gives a remedy where the injury is caused "by reason of the negligence of any person in the service of the employer who has the charge or control of any points, signal, locomotive, engine, machine, or train, upon a railway, tramway, or street railway." (Rev. Stat. 1897, sec. 3, sub-sec. 5.)

The Acts of British Columbia and Manitoba are to the same effect as that of Ontario from which they are copied.

Under the corresponding clause of the Alabama Act a servant may recover damages when his injury "is caused by reason of the negligence of any person in the service or employment of the master or employer, who has the charge or control of any signal, points, locomotive, engine, switch, car, or train upon a railway, or of any part of the track of a railway." Code, sec. 2590, sub-sec. 5.

The employés for whose negligence the employer is made liable by the Massachusetts Act are those who have the charge or control of any signal, switch, locomotive engine, or train upon a railroad. (Sec. 1, sub-sec. 3.)

The words of the Colorado Act are the same as those of the Massachusetts Act. (Sec. 1, sub-sec. 3.)

In Indiana servants of corporations may recover for the negligence of any employé who "has charge of any signal, telegraph office, switch yard (a), shop, round-house, locomotive engine, or train upon a railway." (Rev. Stat. 1894, sec. 7c83, sub-sec. 4.)

(a) As to this phrase, see sec. 2, note (c), post.