

not count for much because of lack of information as to where he measured and how.

6. Considerable stress was laid upon the fact that the edge of the guard rail presented a very sharp edge to those crossing from the west and it was negligence to have it so. I cannot accept this view. I find it could not be otherwise. the friction of the wheels of necessity sharpened it, and the longer it is in use the sharper it becomes. The fact however of its being so sharp, and therefore very liable to take a strong grip of a sleigh shoe crossing it, so strong as often to impede the sleigh's progress entirely, makes it imperative in the interests of public safety when sleighs are in use, to have the guard rail as low as possible consistent with the reasonable and efficient operation of the tramway.

7. That unless a person drove with extreme care over the curve and brought both runners on the guard rail at the same instant of time, he was very liable to be upset. This at night would be practically out of the question; and even in the day time would necessitate turning the horse almost, if not altogether, directly across Quinpool road; and in order to do that the driver would require, in order to get enough room for that manœuvre, to cross at, or very close to, the apex of the curve having his horse heading across Quinpool road. There are very few drivers skilful or observant enough to accomplish that task even in day time successfully. Of course if there were much snow near the outer side of the main rail the difficulty and danger would be greatly reduced, perhaps altogether removed.

8. All the accidents spoken of in the evidence happened to sleighs coming into the city and none to those going out. The shape and condition of the guard rail only made it dangerous to those coming towards the city. I am unable to believe that the track at that point could not with ordinary skill and care be so laid and maintained as to enable sleighs driven with ordinary care and skill as the plaintiff's certainly was, and crossing it almost at any angle, except a sidewise direction, to pass in safety over that curve.

The winter was well advanced at the time of the injury, the frost had ample time to do its work; and had thrown the rail up somewhat and this was assisted in the same direction by the accumulation of earth, snow and dirt under