

suffering from bodily injury and for the family or relations of deceased members. Each member had to contribute to the fund and the Railway Department gave the annual sum of \$8,000 in consideration of which it was to be relieved of all claims for compensation for injury or death of any member. C. was killed by a railway train and his widow was paid \$250 out of this fund. She then brought an action under Lord Campbell's Act

Held, affirming the judgment of the Exchequer Court (14 Ex. C.R. 472), that as by his contract with the Association C. could not have maintained an action had he lived the widow's right of action was barred.

Appeal dismissed with costs.

Power, K.C., for appellant. *Rogers*, K.C., for respondent.

Railway Board.]

[March 23.

CANADIAN PACIFIC RY. CO. v. GRAND TRUNK RY. CO.

Railways—Crossing lines—Overhead bridges—Contract for maintenance—Future traffic.

A railway company wishing to cross the line of another contracted with the latter for four crossings, three by an overhead bridge and one by a subway under a bridge of the other company. The contract contained this provision: "The said several crossings . . . shall all be maintained at the cost of the Ontario Company (junior road) and shall each always be maintained in a good and safe state, and so as in no way to endanger the property, fixed or movable, of the Midland Company (senior road)." The said bridges were to be constructed according to plans and specifications settled and approved by the Chief Engineer of the senior road and if the junior failed to maintain them to the satisfaction of said Chief Engineer the senior could cause the necessary work to be done at the cost of the other company.

Held, that the obligation of the junior road was not merely to keep the crossings in good and sufficient repair in the condition they were in when the contract was made, but they could at any time be ordered by the Railway Board to make them fit for the heavier traffic caused by the increased business of the senior road.

W. N. Tilley, for appellants. *Lafleur*, K.C. and *Chisholm*, K.C., for respondents.