

also that the boxes were leaking and the fluid from the boxes had leaked and was still leaking down through the bottom of the car—4 or 5 of the boxes being out of place. The boxes were righted, but no pains taken to wash the floor or the axles, bolsters, or running gear of the car. The barrel of oil and iron pipe were taken out of the car, and 5 or 6 pieces of freight were put in. The car was placed next to the engine, and, after being moved about for a time, the cracking noises continuing loudly, a terrible explosion took place, killing two men on the spot, and more or less seriously injuring about 40 others.

Some of the expert evidence tends to shew that, had the boxes been so loaded that they could not get out of position, and so that no other freight could strike them, there would not have been so much danger. No care seems to have been taken by the company to see to it that those in charge of this high explosive knew how to deal with it—no one was sent with the shipment to attend to it; but this fearfully dangerous substance was shipped with no more care and precaution than a carload of potatoes. It makes one's blood run cold to consider the history of this car—an ordinary car, leaky, loaded partly with dynamite and partly with other freight, shunted into the yard at St. Thomas, left there all night, taken the next day to Essex, shunted there in the afternoon, and after staying there a day and a half shunted backwards and forwards with detonations like pistol shots—and no one taking the slightest care.

It is true that there were placards shewing that the car was laden with high explosives, and that is the reason apparently why the Board of Railway Commissioners declined to allow a prosecution under the Railway Act. Had it not been for this refusal, I should have thought that so to placard an ordinary freight car would not be sufficient to make such a car "designated for the purpose" as required by the Railway Act. It may be well to say a word or two as to the right of railway companies, under circumstances like the present—to see how far the defendants were called upon to act as they did. At the common law it is clear that no carrier could be compelled to carry such goods as these, dangerous in their nature. Common carriers "are not bound to receive dangerous articles such as nitroglycerine, dynamite, etc.:" "Cyc.," vol. 6, p. 372 B; 3 Wood's Railway Law, sec. 426; Hutchinson on Carriers, sec. 113; California Powder Works v. O.