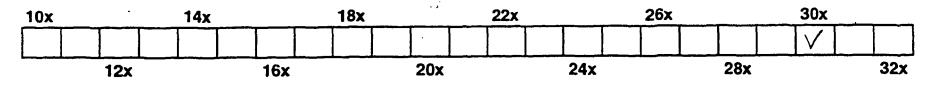
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No.173.

4th Session, 8th Parliament, 29th Victoria, 1865.

BILL.

An Act for the better regulation of the traffic on Railways and Canals:

Received and read, first time, Thursday, 24th August, 1865. Second reading, Friday, 25th Aug., 1865.

Mr. MAOFABLANE.

QUIBBEC: PREISED DY HUNTER, RODE & CO., CT. URDUED CICLUT. No. 173.]

BILL.

[1865-2nd Sossion.

An Act for the better Regulation of the Traffic on Railways and Canals.

WHEREAS it is expedient to make better provision for regulating Preamble: the traffic on Railways and Canals: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Asembly of Canada, enacts as follows:

- 9
- I. In the construction of this Act "the Board of Trade" shall so far Interpretaas applies to Upper Canada, mean the Board of Trade of the City of tion of works Toronto, and so far as applies to Lower Canada, mean the Board of Trade of the City of Montreal; the word "Traffic" shall include not only passengers and their luggage and goods, animals and other
- 10 things, conveyed by any Railway and Canal Company, but also carriages, wagons, trucks, boats, and vehicles of every description adapted for the purposes of any such Company; the word "Railway" shall include every station of or belonging to such Railway, used for the purposes of public traffic; and the word "Canal"
- 15 shall include any navigation wherein tolls are levied by authority of Parliament, and also the wharves and landing places of and belonging to such canal or navigation, and used for the purposes of public traffic; the expression "Railway Company," "Canal Company." or "Railway and Canal Company." shall include any per-
- Company," or "Railway and Canal Company," shall include any per-20 son being the owner or lessee of or any contractor working any Railway or Canal or navigation constructed or carried on under the powers of any Act of Parliament; a station, terminus, or wharf shall be deemed to be near another station, terminus, or wharf when the distance between such station, termini, or wharves shall not exceed one 25 mile.

O. Every Railway Company, Canal Company, and Railway and Railway and Canal Company, shall, according to their respective powers, afford all Canal Comreasonable facilities for the receiving and forwarding and delivering paries to afof traffic upon and from the several Railways and Canals belonging reasonable

- 30 to or worked by such Companies respectively, and for the return of facilities for carriages, trucks, boats and other vehicles, and no such company traffic. shall make or give any undue or unreasonable preference or advantage to or in favor of any particular person or company, or any particular description of traffic, in any respect whatsoever, nor shall any
- 35 such company subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever, and every Railway Company and Canal Company and Railway and Canal Company being or working railways or canals which form part of a continuous line of
- 40 Railway or Canal or Railway and Canal communication, or which have the terminus, station or wharf of the one near the terminus, station or wharf of the other, shall afford all due and reasonable faci-

lities for receiving and forwarding all the traffic arriving by one of such Railways or Canals by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such Railways or Canals or Railways 5 and Canals, as a continuous line of communication, and so that all reasonable accommodation may by means of the Railways and Canals of the several Companies, be at all times afforded to the public in that behalf.

Bemedy for parties complaining ngainst any Bailway or Canal Company.

3. It shall be lawful for any company or person complaining 10 against any such company or companies of any thing done, or of any omission made in violation or contravention of this Act, to apply in a summary way, by motion or summons in Upper Canada, to Her Majesty's Courts of Queen's Bench or Common Pleas at Toronto; or in Lower Canada, to any of Her Majesty's Superior Courts in Lower 15 Canada, as the case may be, or to any Judge of any such Court, and upon the certificate to the Attorney General for Upper Canada, of the Board of Trade of the City of Toronto when the case arises in Upper Canada, or the Attorney General for Lower Canada, of the Board of Trade of the City Montreal when the case arises in Lower 20 Canada, alleging any such violation or contravention of this Act by any such company or companies, it shall also be lawful for the said Atterney General (as the case may be) to appoint in like manner to any such Court or Judge, and in either of such cases it shall be lawful for such Court or Judge to hear and determine the matter of such com-25 plaint, and for that purpose, if such Court or Judge shall think fit, to direct and prosecute in such mode and by such engineers, barristers or other persons as they shall think proper, all such enquiries as may be deemed necessary to enable such Court or Judge to form a just judgment on the matter of such complaint; and if it be made to 30 appear to such Court or Judge on such hearing, or on the report of any such person, that any thing has been done or omission made, in violation or contravention of this Act, by such company or companies, it shall be lawful for such Court or Judge to issue a writ of injunction or interdict, restraining such company or companies from 35 further continuing such violation or contravention of this Act, and enjoining obedience to the same; and in case of disobedience of any such writ of injunction or interdict, it shall be lawful for such Court or Judge to order that a writ or writs of attachment, or any other process of such Court incident or applicable to writs of injunction or 40 interdict, shall issue against any one or more of the Directors of any Company, or against any owner, lessee, contractor, or other persons failing to obey such writ of injunction or interdict; and such Court or Judge may also, if they or he shall think fit, make an order directing the payment by any one or more of such companies, of such sum of money 45 as such Court or Judge shall determine, not exceeding for each company the sum of two hundred pounds for every day, after a day to be named in the order, that such company or companies shall fail to obey such injunction or interdict; and such moneys shall be payable as the Court or Judge may direct, either to the party complaining or 50 into Court to abide the ultimate decision of the Court, or to Her Majesty; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by jndgment or decree of jndgment of any Sape-55 rior Court in Lower Canada, or of such Court of Queen's Bench or Common Pleas in Upper Canada; and in any such proceeding as aforesaid, such Court or Judge may order and determine that all

or any cost thereof or thereon incurred shall and may be paid by or to the one party or the other, as such Court or Judge shall think fit; and it shall be lawful for any such engineer, barrister, or other persons if directed so to do by such Court or Judge, to receive evidence 5 on oath relating to the matter of any such enquiry, and to administer such oath.

4. It shall be lawful for the said Court of Queen's Bench and Comf Courts may mon Pleas in Upper Canada, or any three of the Judges thereof, of make rules or

- whom the Chief Justice for Upper Canada shall be one; and it shall procuring in 10 be lawful for the said Superior Courts in Lower Canada or any three carrying out of the Judges thereof, of whom the Chief Justice for Lower Canada this Act. shall be one, from time to time to make all such general rules and orders as to the forms of proceedings and process and all other matter and things touching the practice and otherwise in carrying this Act 15 into execution before such Courts and Judges respectively, as they
- may think fit.

5. Upon the application of any party aggrieved by the order made Party agupon any such motion or summons as aforesaid, it shall be lawful for grieved by such order the Court or Judge by whom such order was made to direct, if they may apply for 20 think fit so to do, such motion or application on summons to be re-rehearing. heard before such Court or Judge, and upon such rehearing to rescind or vary such order.

6. No proceeding shall be taken for any violation or contravention Mode of proof the above enactments, except in the manner herein provided, but ceeding re-25 nothing herein contained shall take away or diminish any rights, re-stricted. medies or privileges of any person or company against any Railway or Canal, or Railway and Canal Company under the existing law.

7. Every such company as aforesaid, shall be liable for the loss of Company to or for any injury done to any horses, cattle, or other animals, or to be liable for 30 any articles, goods or things in the receiving, forwarding or deliver. injury or, loss ing thereof, occasioned by the neglect or default of such company or resulting from its convents, potsible tending any portion condition or declaration meglect. its servants, notwithstanding any notice, condition or declaration made and given by such company contrary thereto, or in any wise limiting such liability; every such notice, condition, or declaration being

35 hereby declared to be null and void: provided always, that nothing Proviso; herein contained shall be construed to prevent the said companies Company from making such conditions with respect to the receiving, forward- may make ing and delivering of any of the said animals, articles, goods or reasonable things, as shall be adjudged by the Court or Judge before whom any conditions as 40 question relating thereto shall be tried to be just and reasonable; forwarding

- provided always, that no greater damages shall be recovered for the sc. loss or for any injury done to any such animals, beyond the sums Proviso; hereinafter mentioned, (that is to say) for any horse fifty pounds; for Damages for any neat cattle, per head fifteen pounds; for any sheep or pigs, per mais limited. head whether live or dressed when dead, two pounds; unless the Whenanimals
- 45 person sending or delivering the same to such company shall, at the are declared time of such delivery, have declared them to be respectively of higher to be higher value than as above mentioned, in which case it shall be lawful for value. such company to demand and receive, by way of compensation for Proof of value the increased risk and care threby occasioned, a reasonable percent in case of loss
- 50 age upon the excess of the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge, and such percentage or increased rate of charge shall be notified in the manner prescribed in the Statute Eleventh George Fourth, and First William Fourth, chapter fifty-

eighth, and shall be binding on such company in the manner therein mentioned; provided also, that the proof of the value of such animals, articles, goods and things, and the amount of the injury done. thereto, shall in all cases lie upon the person claiming compensation for such loss or injury; provided also, that no special contract between such company and any other parties respecting the receiving, forwarding or delivering of any animals, articles, goods or things as aforesaid, be binding upon or affect any such party unless the same be signed by him or by the person delivering such animals, articles, goods or things respectively for carriage; provided also, that nothing 10 herein contained shall alter or affect the rights, privileges, or liabilities of any such company under the said Act of the Eleventh George Fourth, and First William Fourth, chapter sixty-eighth, with respect to articles of the descriptions mentioned in the said Act.

Name of Act. S. This Act may be cited for all purposes as "The Railway and 15 Canal Traffic Act, one thousand eighteen and sixty-five.