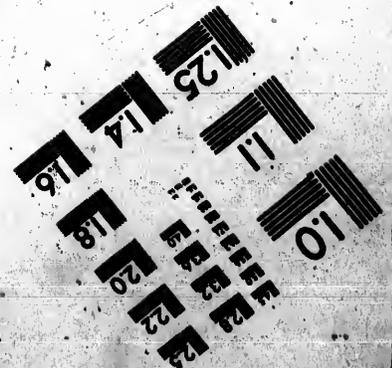
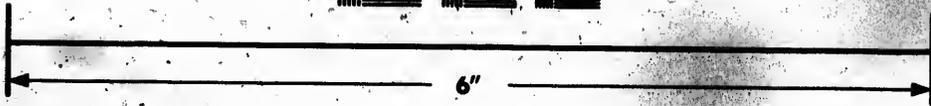
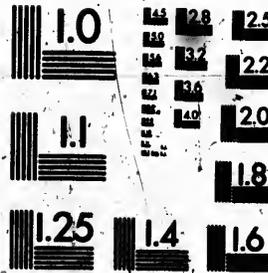


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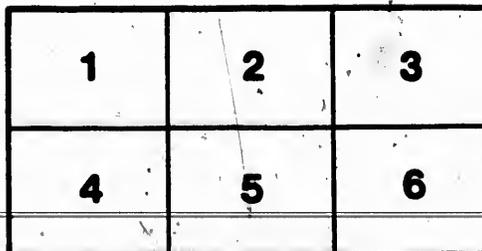
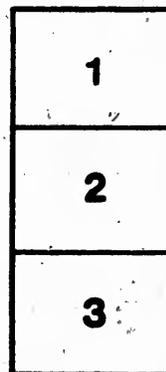
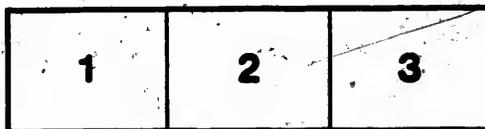
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Mr Barnett
G. S. R.
Shelburne
Ont.
D. N. M. P.

No. 101.

2nd Session, 4th Legislature, 44 Vic, 1891.

BILL

An Act to make provision for the safety of
Railway Employees and the Public.

First Reading, 7th February, 1891.

Mr. FRASER.

TOBACCO:
PRINTED BY C. BARNETT ROBINSON.

An Act to make provision for the safety of Railway Employees and the Public.

WHEREAS frequent accidents to railway servants and others are occasioned by the neglect of railway companies to provide a fair and reasonable measure of protection against their occurrence; and whereas a proper construction of railway bridges and certain precautions in the construction and maintenance of railway frogs, wing-rails, guard-rails, and freight cars would greatly lessen, if not entirely prevent, the happening of such accidents;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "The Railway Accidents' Act, Short title. 1881."

2. This Act and the respective provisions thereof apply to every railway and railway company in respect of which the Legislature of Ontario has authority to enact such provisions respectively; and, in this Act, the expression "Railway Company" includes the owner or lessee of any such railway, and the contractor working or operating the same.

3. In this Act the word "packing" shall mean a packing of wood or metal, or some other equally substantial and solid material, of not less than two inches in thickness, and which, where by this Act required to be filled in, shall extend to within one and a-half inches of the crown of the rails in use on any such railway, and shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

4. Every highway or other overhead bridge, or other erection or structure over any railway, existing at the time of the passing of this Act, of which the lower beams or members of the superstructure are not of a sufficient height from the surface of the rails to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then running on such railway and the bottom of such lower beams or members, shall, within twelve months from that date, be re-constructed to that effect, with suitable approaches thereto, if a bridge, by and at the cost of the railway company, municipality or other owner thereof, and shall, at all times thereafter be maintained at such height; and every such railway company before using higher freight cars than those running on their railway at the time of the passing of this Act, or of the re-construction as aforesaid of

Preamble.

Application of Act.

"Packing," meaning of.

Existing bridges to be altered so as to leave a space of 7 feet between such bridges and the tops of freight cars.

any such bridge or other erection or structure, as the case may be, shall, after having first obtained the consent of the municipality, or of the owners of such bridge or other erection or structure, raise every such bridge or other erection or structure over their railway and the approaches thereto, if necessary, 5 at the cost and charges of the railway company, so as to admit as aforesaid an open and clear headway of not less than seven feet over the top of the highest freight car then about to be used on the railway.

Where new bridges are built or old ones re-built, space of 7 feet to be left between such bridges and the tops of freight cars.

5. Whenever a highway bridge or any other erection 10 or structure shall hereafter be constructed over a railway, or whenever it shall become necessary to re-construct any highway bridge, or other erection or structure already built over a railway, or to make large repairs to the same, the lower beams or members of the superstructure of any such highway or over- 15 head bridge, or of any other erection or structure over any railway, and the approaches thereto, shall be constructed or re-constructed by and at the cost of the railway company or of the municipality or other owner of the bridge, erection or structure, as the case may be, and shall at all times be main- 20 tained at a sufficient height from the surface of the rails of the railway to admit of an open and clear headway of not less than seven feet between the top of the highest freight cars then running on the railway and the lower beams or members of such bridge or other erection; and thereafter, any railway 25 company, before using higher freight cars than those running on their railway at the time of the construction or re-construction of, or large repair to, such bridge or other erection or structure, shall, after having first obtained the consent of the municipality, or of the owners of such highway bridge, 30 or other erection or structure, raise the said bridge or other erection or structure, and the approaches thereto, if necessary, at the cost and charges of the railway company, so as to admit, as aforesaid, an open and clear headway of not less than seven feet over the top of the highest freight car then 35 about to be used on the railway.

Special provisions against accident.

6. To make further provision against accidents, it is hereby further enacted that

- (1) On every railway aforesaid, and at all times after the lapse of three months from the passing of this Act, the space between the rails in each railway frog extending from the point thereof backward to where the heads of such rails are not less than five inches apart, shall be filled in with packing; and the space not so filled in between the heads of wing-rails and every 45 such frog, and between the head of any guard-rail and that of any other rail fixed and used alongside thereof on any such railway, shall not be more than one and one-half of an inch in width;
- (2) On every such railway, and at all times during every month 50 of April, May, June, July, August, September and October after the passing of this Act, (but not including the months of April and May next after the passing hereof), the space between any such wing-rail and railway frog, and between any such guard-rail and any other rail fixed 55 and used alongside thereof as aforesaid, and between all

wing-rails where no other rail intervenes, shall, save only where such space between the heads of any such wing-rail and railway frog as aforesaid, or between any such guard-rail and other rail fixed and used alongside thereof as aforesaid, or between any such wing-rails where no other rail intervenes as aforesaid, is not more than one and one-half of an inch in width, be filled in with packing;

- (3) The running-board on the roof of each box car used for freighting purposes on any such railway, shall at all times after the lapse of twelve months from the passing of this Act, be of a sufficient thickness and strength, and not less than thirty inches in width, and shall, with proper and safe supports, extend the whole length of such car and beyond each end thereof to a point not more than two inches less than that to which the dead-wood or bumpers at each end of such car likewise extend;

And every railway company owning, working or operating within this Province any such railway, shall on and throughout said railway so make, arrange and construct and re-arrange, re-construct and maintain all railway frogs, wing-rails, guard-rails and other rails forming part of such railway or used therewith, and every such space as aforesaid, and the filling in thereof with packing as aforesaid, and the running-board on every such box car as aforesaid in such manner and at such time that the same shall respectively conform to and comply with the requirements in that behalf of this section.

7. Where within this Province personal injury is caused to a railway servant, whilst in the employment or service of a railway company, on any railway owned, worked or operated by said railway company, or to any other person lawfully in, upon or about said railway, or any train or car thereon, and such personal injury has been occasioned or arose either wholly or partly

Railway company neglecting provisions of the preceding sections to be liable for injury occasioned by such neglect.

- (1) By reason of the lower beams or members of the superstructure of any highway, or other overhead bridge, or any other erection or structure over said railway, not being at all times after the lapse of twelve months from the passing of this Act, of a sufficient height from the surface of the rails to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then running on such railway, and the bottom of such lower beams or members; or,
- (2) By reason of the space between the rails in any railway frog, extending from the point of such frog backward to where the heads of such rails are not less than five inches apart, not being at all times after the lapse of three months from the passing of this Act filled in with packing; or,
- (3) By reason of the space between any wing-rail and any such railway frog, and between any such guard-rail and any other rail fixed and used alongside thereof as aforesaid, and between all wing-rails where no other rail intervenes, save only where such space between the heads of any such wing-rail and railway-frog as aforesaid, or between any such guard-rail and other rail fixed and used alongside thereof as aforesaid, or between any such wing-rails, where no other rail intervenes as

aforesaid, is not more than one and one-half of an inch in width, not being at all times during every month of April, May, June, July, August, September and October, excepting the months of April and May next after the passing hereof, filled in with packing; or

- (4) By reason of the running-board on the roof of any box car used for freighting purposes on any such railway, after the lapse of twelve months from the passing of this Act, not being of a sufficient thickness and strength, and at least thirty inches in width, and with proper and safe supports, extending the whole length of such car and beyond each end thereof to a point not more than two inches less than that to which the dead-wood or bumpers at each end of such car shall then be likewise extending,

such railway servant or other person, or in case the injury results in death, the legal personal representatives of such servant or other person, and any persons entitled in case of death, shall be entitled to recover from such railway company compensation for all damages and loss sustained from or by reason of such injury; and where any such injury has been so caused to or suffered by any such railway servant, the right of compensation and the remedies against the railway company shall be the same as if such railway servant had not been a servant of, nor in the employment of the railway company, nor engaged in its work.

When railway not liable for default.

8. A railway servant shall not be entitled, under this Act, to any right of compensation or remedy against the railway company of which he is such servant in any of the following cases, that is to say;

- (1) Unless the default, matter, or thing occasioning either wholly or partly the personal injury referred to in section seven of this Act, arose from or had not been discovered or remedied, owing to the negligence of such railway company, or of some person in the service of and entrusted by the railway company with the duty of seeing that such default, matter or thing did not happen, occur or exist;
- (2) In any case where the railway servant knew of the matter, default or negligence which caused the injury, and failed within a reasonable time to give, or cause to be given, information thereof to the railway company or some person superior to himself in the service of the railway company, unless he was aware that the railway company or such superior already knew of the said matter, default or negligence;
- (3) In any case where such matter, default or negligence was occasioned by his own act, omission or negligence.

Limit of compensation for injury.

9. The amount of compensation recoverable under this Act, in the case of injury to any railway servant as aforesaid, shall not exceed such sum as may be found equivalent to the estimated earnings, during the three years preceding the injury, of a person in the same grade, employed during those years in the like employment, and within this Province.

Limitation of actions.

10. An action for the recovery, under this Act, of compensation for an injury, shall not be maintainable unless the action is commenced within six months from the occurrence of the accident causing the injury, or, in case of death, within twelve months from the time of death.

