

GREAT
WESTERN
RAILWAY
ACCIDENT
COMMISSION
NOVEMBER, 1854

C.H. RIFF

REPORTS

(13)

OF

THE COMMISSIONERS

APPOINTED TO INQUIRE INTO A SERIES OF

ACCIDENTS AND DETENTIONS

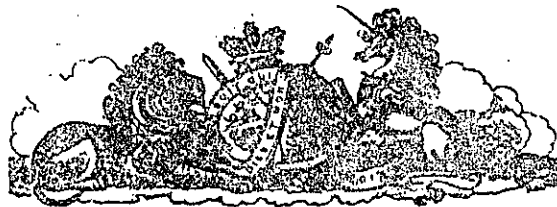
ON THE

GREAT WESTERN RAILWAY,

CANADA WEST,

BY COMMISSION BEARING DATE NOV. 3, 1854.

Laid before the Legislative Assembly by order of His Excellency the Governor General.



QUEBEC:

PRINTED BY STEWART DERBISHIRE & GEORGE DESBARATS,

Printer to the Queen's Most Excellent Majesty.

1855.

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PROVINCE OF CANADA.

By His Excellency The Right Honorable JAMES, EARL OF ELGIN AND KINCARDINE, Knight of the Most Ancient and Most Noble Order of the Thistle, Governor General of British North America and Captain General and Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick and the Island of Prince Edward, and Vice-Admiral of the same, &c., &c., &c.;

To all to whom these Presents shall come, or in anywise concern—

GREETING:

KNOW Ye, that under and pursuant to the provisions of an Act of the Legislature of the Province of Canada, passed in the ninth year of Her Majesty's Reign, intituled, "An Act to empower Commissioners for inquiring into matters connected with the public business, to take evidence on oath," the authority in me thereby vested, and by and with the advice and consent of Her Majesty's Executive Council for the said Province, I have nominated, constituted and appointed, and by these Presents do nominate, constitute and appoint *William Foster Coffin*, of the City of Montreal, Esquire, and *Matthew Crooks Cameron*, of the City of Toronto, Esquire, Barrister at Law, to be Commissioners to examine into and report upon the causes and circumstances of and attending the recent fearful collision on the Great Western Railway in that part of Canada called Upper Canada, which has resulted in the immediate death of upwards of fifty persons; and further to examine into and report upon the origin of all previous accidents or detentions on the said line of Railway, which may have been attended by personal injury or loss of life. And I do hereby authorize and empower them, the said *William Foster Coffin* and *Matthew Crooks Cameron*, as such Commissioners, to summon before them any person or persons as witness or witnesses, and to require such person or persons to give evidence on oath, orally, or in writing, and to produce such documents and things as they, the said *William Foster Coffin* and *Matthew Crooks Cameron*, may deem requisite to the full investigation of the matters and things aforesaid.

To have and to hold the said office of Commissioners for the purposes aforesaid, unto them, the said *William Foster Coffin* and *Matthew Crooks Cameron*, during pleasure; and I do hereby require that the said *William Foster Coffin* and *Matthew Crooks Cameron* do report the result of the above-mentioned investigation with all convenient speed to the Governor, Lieutenant Governor, or person administering the Government of the said Province for the time being.

Given under my hand and Seal, at Quebec, this third day of November, in the year of Our Lord one thousand eight hundred and fifty-four and in the eighteenth year of Her Majesty's Reign.

ELGIN AND KINCARDINE,

By Command.

E. A. MEREDITH,

Assistant Secretary.

COMMISSION OF ENQUIRY,
November 3, 1854.

*Accidents and Detentions particularly enquired into and referred to
in the Evidence :—*

- 1st—Accident at Lobo, 2d June, 1854.
- 2d—Accident at Baptiste Creek, 27th October, 1854.
- 3rd—Accident at Princeton, 27th June, 1854.
- 4th—Accident at Thorold, 6th July, 1854.
- 5th—Detention at Baptiste Creek, 2d July, 1854.
- 6th—Occurrence at Thorold, 7th December, 1854.

REPORTS

Of the Commissioners appointed to inquire into a series of Accidents and Detentions of the Great Western Railway, Canada West, by Commission bearing date Nov. 3, 1854,

ACCIDENT AT LOBO, JULY 2, 1854.

HAMILTON, CANADA WEST,
December 5th, 1854.

To the Honorable
the Provincial Secretary,
Quebec.

SIR,—In the course of the investigation confided to us under Commission bearing date the fourth day of November last past, certain facts have come to our knowledge which we feel it to be our duty to bring under the notice of His Excellency the Governor General in a separate and preliminary Report.

It appears that on the second day of June last past, at about half past two o'clock P. M., a fatal accident occurred on the Great Western Railway, in the Township of London, a few yards beyond the line which separates the said Township from the Township of Lobo. At this spot the rail road Track runs for some distance on the top of an embankment averaging 30 feet in height. On the day above mentioned, and at this spot, the Express Train proceeding East ran down a cow; the Locomotive and Tender and two Baggage Cars passed over the carcass of the animal without injury; the next, a Freight Car, one Second Class Passenger Car and one First Class Passenger Car were displaced from the Rail; the Second and First Class Passenger Cars were in different degrees both partially thrown down the embankment without serious injury to the inmates; the Freight Car, laden with Emigrants and their baggage, was hurled to the foot of the slope and there broken up, killing five of the inmates; one other passenger was killed by leaping off the platform of a Car, having been thereby crushed beneath a wheel.

On the third day of June an inquest was held upon the bodies of the victims of this accident by Dr. Wanless, the Coroner of London. It was shown that the deceased were, with one exception, Norwegian emigrants destined for Chicago, that they and their baggage were being conveyed to that destination, on the Great Western Railway, in a Freight Car; that by an inexcusable error of

the part of the officers of the Company, on reaching Chatham instead of being carried onward, they had been transported back towards London, and had encountered the accident which caused their death; it was shown further that the fences of the Company were not put up at the scene of the disaster; that in consequence of this omission many cattle had been already killed by the Trains in that vicinity, but in this particular instance nothing appeared to inculpate the Driver of the Engine in any charge of carelessness or wantonness in running down the cow which caused the catastrophe that ensued.

The Jury rendered the following verdict: "That the deceased persons came to their deaths in consequence of the Car in which they were passengers having been thrown down an embankment situated on section 4 of the Western Division of the Great Western Railway, whereby they received certain injuries on their bodies of which they died; the Jury would thereon remark that the road not being fenced upon its entire route is a matter much to be deprecated, and are of opinion that the Great Western Railway Company should take immediate steps to have it securely and completely fenced forthwith. They are also of opinion that the practice of placing emigrants in the same Car with their heavy baggage is accompanied with much danger, and should be discontinued."

We give the verdict at length to show that the most important feature or first cause of this accident to which we shall presently advert more fully, does not appear to have attracted the attention of the Jury.

The investigation entrusted to us embraces this among the other accidents which unhappily have occurred on the Great Western Railway. To enable us to understand the case thoroughly, we personally visited the scene of the accident, made enquiries on the spot, subsequently took evidence on oath which is herewith submitted, and upon which we respectfully offer the following observations:

The cause of the accident was the destruction of a cow, but the question of course suggests itself whether the destruction of a cow was an unavoidable accident or the careless, the wanton, or the wilful act of the engine driver. Undoubtedly, the primary cause of the accident was the absence of fencing, but the want of fences does not relieve the engine driver from liability in knowingly encountering any avoidable object on his track.

At the Inquest the persons who spoke to the appearance and position of the cow on the track, were Thomas Horton, the engine driver, Thomas Bostwick, his fireman, and Thomas Kennedy, or rather, as appear by deposition herewith transmitted, John Kennedy, a farmer residing at the place.

Horton, the engine driver, and Bostwick, the fireman, say that two cows got upon the track. The first says: "before coming to the spot where the accident happened," but he does not say how far they were off when he saw them; The second says: that "a short distance from where the accident occurred, he saw two cows standing by the side of the track," which ran ahead &c." Kennedy says: that he "saw a cow on the railway track about twenty minutes before the train came up on Friday afternoon, and thinks she stayed there till the train did come up."

It is necessary to state here that the track, as seen from the front of a train approaching from the west is, for at least two miles, and to the eastern extremity of the embankment, perfectly straight, that an object of the size of a cow can be seen with ease on the track at the distance of a mile, that from the dangerous

narrowness of the top of the embankment at that time and place (a narrowness that had rendered a caution signal necessary at the spot and the consequent slow running of trains over it) the cow, if there at all, must have stood conspicuously on the track; and to remark also that the engine driver in his evidence before the Coroner's Inquest says: that "he could pull up the engine" at that part of the road within 350 yards going at the rate they were."

Our observations led us to investigate this matter further. We sent for Mr. John Kennedy and took his deposition now transmitted (No. 2.) He swears distinctly (what did not appear at the Inquest) that the cow came in on the top of the embankment at the eastern extremity thereof, and walked down the track westerly, never having been off the top of the embankment at all, until she turned to run away from the train, and then her fore feet could only have gone, for a little distance, and a very short time, down the slope; the sides of the embankment are in fact too steep for any animal spontaneously to run up or down. If this evidence be true, the cow must have been conspicuously in sight of the train for at least five minutes of the time occupied in running two miles at the rate prescribed to trains at that spot.

The evidence of Kennedy on this point is corroborated by the testimony of James Buchanan, a witness, at the Inquest, erroneously called "the son of Kennedy", and from whom upon that occasion "nothing of importance was elicited."

We would now direct attention to a part of the testimony of Mr. John Gamble Horne, which in this connection is significant. This gentleman in his deposition (No. 4) says: "For a short time previous and up to the time of the accident, the train had proceeded more rapidly than in the earlier part of the day." This gentleman remarked the fact to a fellow passenger almost instantaneously before the accident took place. And yet this increase of speed must have taken place precisely at the time and place where a decrease was required, both on account of the dangerous narrowness of the embankment and the evident obstruction of the cow.

We infer, therefore, from this evidence that Thomas Horton, the engine driver, must have seen the cow; that he could have stayed his speed or stopped the train before striking her; that he purposely accelerated his speed to strike and throw the animal off the track; that, reckless of consequences, he did a most dangerous thing at a most dangerous place, and that he should be made accountable for the fatal result.

It is to be observed that Horton did not blow his steam whistle, either to frighten and drive away the animal in approaching her, or to notify the Brakesmen on the train to "tighten up" and thereby simultaneously slacken the speed of the various parts of the train, (a most important precaution to prevent, in the case of any sudden slackening or stopping of the locomotive, the abrupt collision of the cars in the rear, one with the other,) the omission of which indicated a predetermination to rid himself violently of the obstacle in front, and which by the sudden jerk of the collision, in conjunction with the rolling up of the carcase of the animal beneath the wheels, most probably combined to cause the accident in question.

Horton explains, in his evidence "that he did not blow the whistle because he found from experience that it only irritated the cattle." He probably meant that it confused or bewildered them. But the use of the whistle at this conjuncture was not so much to frighten away cattle, as it was a warning to

slacken, preparatory to stopping the train. It may be questioned whether the noise of the whistle could "irritate" or bewilder cattle more than the roar of the engine and the rush of the train itself.

The fact is, and it has been exemplified in the worst results on all Rail Roads that there is no more common nor more dangerous practice than that in use by engine drivers of "*running stray cattle off the track.*" In the first instance the driver may have done it by accident, unavoidably; without injury to himself or train. Impunity and impatience of the annoyance induce a repetition of the experiment, until a fatal occurrence takes place, and it must be remembered that even then he is almost always the only witness in his own case. The fireman may or may not have witnessed the occurrence, he may have been occupied with his own work, or chooses to make it so appear, the cattle are dead or dumb witnesses, and no other is present to confute or correct the statement which may be made. The driver is, in fact, while his train is in motion, the sole, and almost the irresponsible Arbiter of the fate of all those entrusted to his care. It is most important for the future safety of human life, on every possible occasion and in every legitimate way, to teach this class of men, that they cannot always elude responsibility and punishment, and that the Government is determined on all future occasions, as on this, to supply defects in the Administration of Justice, arising from the inadvertence or inexperience of Coroners Juries.

It is right, also, to mention here, a fact well known and understood upon Railroads. In *running down* cattle, injury rarely happens to the Locomotive or Tender. The great weight of either, carries it safely over the obstacle. The cars in the rear of the train are thrown off, partly from their comparative lightness, partly from the body of the animal killed, getting rolled up beneath the wheels, and partly by the absence or imperfect application of the brakes; wrenching thereby the coupling rods asunder, and jerking the trucks and wheels off the track. Thus, therefore, a train of passengers may be grievously injured, while the author of the mischief, in most cases, will escape unhurt.

It is in this view of the matter that we have deemed it to be our duty to bring this particular case, especially and promptly, under the notice of His Excellency the Governor General. We conceive that the evidence taken before the Coroners Jury, elucidated further by that which we have the honour to submit, establishes strong presumptions that the accident of the third day of June last past, and the loss of life resulting therefrom, were caused by the reckless driving of engine driver Thomas Horton; and we beg leave to suggest respectfully that such proceedings be taken in the premises as the law and the occasion require. We are satisfied that, whatever may be the result, the interposition of justice, however tardy, cannot fail to exercise a moral effect on the class of engine drivers conducive to public safety for the future.

The only safe and sure means of avoiding collisions with cattle when permitted to reach the track of the Railroad is, in all cases, to slacken speed, to put on brakes, and to be prepared, if necessary, to stop the train rather than run down an animal. When the Company is in fault, from the absence of fences, these precautions are doubly imperative. We do not find in the Rules of the Company, as printed, any provision for this case, but we do not consider that the omission can in any way exonerate an engine driver from taking all necessary and self-evident precaution. It is a part of the business for which he is hired and paid.

We do not intend here to make any further observations on the want of fences, the insufficiency of rules, the insecure state of the embankments, the frequent killing of cattle, the conveyance of emigrants and their baggage together in freight cars, or the unhappy and fatal misdirection of emigrants on the present occasion. These subjects we reserve with others for future report, and have,

Sir, the honour to be,

Your most obedient servants,

WILLIAM F. COFFIN,

M. C. CAMERON,

Commissioners.

JOHN WANLESS, of the City of London, Canada West, Esquire, Surgeon, states: that he is Coroner of the County of Middlesex and City of London. That in his capacity of Coroner he presided at an Inquest held at London on the third day of June last past on the bodies of six persons killed by an accident which occurred to a train running on the Great Western Railway, between Lobo Station and London. That he has read an account of the said Inquest and recapitulation of evidence taken thereat as contained in a number of the London Free Press Newspaper, bearing date the 8th June last past, and submitted for his perusal. He has every reason to believe that the said Newspaper contains a correct statement of the circumstances of the accident and of the evidence taken at the Inquest.

JOHN WANLESS,

Coroner,

City of London, County of Middlesex.

*Transcript of evidence taken at an Inquest held at London on Friday,
the 2nd June, 1854.*

On Friday afternoon a feeling of painful anxiety was excited in town in consequence of the arrival of an engine and tender, which brought the unwelcome intelligence that a serious accident had occurred on the Great Western Railway, to the Express Train, which had been coming East, and which was due here at 2-30' P. M., at a place 7 miles distant from London.

The Officers of the Company lost no time in securing the services of as many of the Medical-Men, who could be found, and Drs. McKenzie, Wanless, Brown and Anderson, were quickly despatched to the scene of the disaster. We availed ourselves of the occasion to visit the spot, and upon arrival a most painful scene presented itself. The bodies of five Men and one Woman were stretched in death, bearing marks of having come to a violent and a fearful end. Further on, beneath the shade of some trees, were the wounded, whose sufferings were being assuaged as far as possible by the Officers of the Company, the passengers and others who had collected at the spot. A little further on lay the wreck of the train. The accident had occurred at a most unfortunate place; it was on an embankment which had been raised in a swampy hollow between two cuttings, and, which was some thirty-five feet high. Three carriages had been thrown off the track at this place, and consisted of a, 1st, 2nd, and a baggage car. The first was in an upright position, partly on the bank and partly on the track. This was not much damaged, and the passengers escaped without injury except one Page who jumped off at the time of the accident, and was drawn under the wheels in accordance with the well known laws of momentum and mangled to

death. The next lay on its side, about half-way down the embankment. This car was not much broken, but the concussion had been sufficiently violent to start all the seats from the floor, and to hurl them, together with the passengers, to the downmost end of it; strange to say, but a few passengers in the car were hurt, and those not very severely; the last was the baggage car. This was shattered into a hundred pieces, the frame of which was lying floor upwards at the bottom of the embankment; it was in this car that five of the deceased were at the time of the accident, together with a large quantity of heavy baggage, which belonged to them and their fellow countrymen, who had gone on in a previous train; parts of this car, and its contents had been hurled to considerable distances, and the boxes of the poor people, which contained all their goods, and the little mementos of the home they had left, were lying scattered about in all directions; the immediate cause of the accident was a cow, which had got on to the track, and seemed to have selected the most dangerous place for the exercise of her unfortunate stupidity; for, if the accident had occurred elsewhere, the slow rate at which the train was proceeding, (15 miles per hour) would lead to the supposition that no loss of life would have ensued, but the baggage car having rolled over and over down an embankment of 30 feet, is of itself a sufficient explanation of the lamentable loss of life; the passengers in these cars, which did not roll down were comparatively uninjured, but it is surprising that any who were in the baggage car escaped with their lives; the cow itself lay mangled at a short distance from the car, and was nearly severed in two; the train seems to have run about a hundred yards after the cow was first struck, and the rails were torn up for about the same distance. As soon as the necessary arrangements could be made, the poor unfortunates living and dead, were brought on to London, (the passengers had been previously sent) the wounded were placed by the Agents of the Company under proper treatment, and the deceased were taken to the Fireman's Hall to await the Inquest. Four of those killed were members of one family, and comprised the father, mother and two sons, named Aslak Thorbjorgen, Hari Terjes Dalten, Thorbjoren Aslakjen, Tijer Aslakjen, and were from Egosen, in the District of Sonogadold, Norway; the fifth was a friend named Telless Oljen, who had emigrated with them; and the last a person named Page, who had formerly been a constable in Delaware, and who became involved in the fatal effects of the accident by jumping off the train. Upon the arrival of the bodies hundreds of people were awaiting them, and a feeling of intense commiseration was evinced by the crowd upon seeing the remains, but the good sense of the people prevented any hindrance to the painful task which the Company's servants had allotted to them.

The Coroner's Inquest.

Shortly after 8 o'clock P. M., the Jury which had been summoned assembled in the Fireman's Hall, and after having been duly sworn proceeded to view the bodies which were lying in the Engine House, beneath. The first one was that of an aged woman who bore several marks of severe injury on the face, and many of her ribs were found to be broken; all other bodies were more or less disfigured, but death would seem to have been very sudden as their countenances did not present any symptoms of their having suffered much pain. After the usual preliminaries, Henry Brunstead was sworn and acted as interpreter to the Norwegians. Turlockson Thorbjoren, who stated that he was a farmer, was next sworn. Had left, Hamilton on Thursday night, and was taken up some distance

West of London, when the car in which himself and the deceased was unhitched from the train. On the morning of Friday, another train came and their car was attached to it, and they were brought back again East, to the place where the accident occurred; their luggage was in the car with them; the deceased was his mother, and at the time of the accident was sitting on the floor between two boxes; the boxes were piled at both ends of the car; he felt a jolting after which he got hurt by the boxes, and does not recollect more as he became insensible. Upon coming to himself he saw his mother lying on some pillows; some one came to him and told him that she was dead; the passengers' cars were full at Hamilton, and they were told by a man named Tillis, to go into the baggage car; Tillis was an interpreter who had been employed at Quebec to take them up the country to Chicago; They had paid their fare at Quebec, through to Chicago.

NEIL SWOLSHRIM, was next examined. Was a farmer. Paid his passage at Quebec to Chicago; paid it to one Holdbelt. They reached Hamilton at about 9 o'clock on Thursday night, and their baggage was taken up to the cars. There was no room for them in the passenger cars, and Tillis told them to go into the baggage car. Cannot say how far they went west before they were brought back again. Was in the same car with the deceased; was lying on a box when the cars commenced shaking and turned over; was not much hurt himself. The car tumbled down the embankment, and when he came to himself he saw some men bearing the dead from the cars; saw the deceased carried out of the car. When they arrived at Hamilton they did not pay any more fare except on their luggage.

THOMAS KENNEDY, is a farmer in the township of London. Saw a cow on the railway track, about twenty minutes before the train came up, on Friday afternoon, and thinks she stayed there till the train did come up. When they did come up, the cow ran off the track, and then when the cars were within about twelve yards of her she went on again and ran in front of the engine for about 200 feet, when the engine struck her and passed over her. The cars then got off the track and went partly down the embankment; the bank at that place was about 30 feet high. The engineer did not blow his whistle. He thought the cars were going rather faster than usual. The line is not fenced in at the place where the accident happened; believes it is the duty of the Railway Company to fence in the road; several cattle and sheep have been killed within half a mile of the same place. The Company had put up the fences on some other parts of the line. When the accident occurred he went down to render assistance.

THOMAS HORTON, was engineer driver of the Rein Deer. Before coming to the spot where the accident happened, he saw two cows, one on each side of the track; one of the cows attempted to cross the track, but before she could do it the engine struck her and knocked her down on the track, when the engine and two baggage cars passed over her; the third car was thrown off the track, as also the fourth and fifth; he stopped the engine as quickly as possible; it was not more than 150 yards after the cow was struck before the engine was stopped. One of the cows was on the side of the bank and then ran up on to the track; the cow was only some ten or fifteen yards in advance of the engine when she came on to the track; he was driving at the rate of about 15 miles per hour; was going slower than usual in consequence of the engine having been disabled for the previous 36 miles; it was an up-grade where the accident occurred; if he

had been going faster the cow would have been knocked clear out of the road, and the accident would not have occurred. A Juror here asked if it was not the practice to run down the cows on the railway, instead of stopping the engine? Witness replied that they valued their necks too much. After the accident the conductor and himself did all they could to alleviate the sufferers. Had been accustomed to drive engines for the last 16 years, and had been on the Great Western since October last. So far as he was concerned the accident was unavoidable; it was impossible to have pulled up the engine in so short a space. The reason why he did not blow the whistle was that he had found from experience that it only irritated the cattle, when they were almost sure to run on the track; it was better to get past them as silently as possible; had passed hundreds in that way; he could pull up the engine at that part of the road within 300 yards going at the rate they were; the brakes were in good order. If the accident had occurred on a level portion of the country, the loss of life would not in all probability have been so great; the track was in perfectly good order. The engine struck the cow on her side; if she had been running in front of the engine the cow-catcher would most likely have thrown her off.

THOMAS BOSTWICK, is fireman to the Rein Deer. A short distance from where the accident occurred, he saw two cows standing by the side of the track; as they neared them, the one on the left side attempted to run ahead, and on their coming up tried to cross the track at about 12 yards ahead of the engine. As soon as he saw this he went across to the right side of the engine and saw the wheels go over her; two baggage cars also went over it, but the third, fourth and fifth cars went off the track. He called to Horton, the engineer, and went himself to the brakes; when the engine stopped, he went down to give assistance to the passengers; in the first place he lifted some children out of a window, and then assisted a man (Page) who was under a wheel; the accident was quite unavoidable; did not see the deceased woman taken out of the car.

C. J. BRYDGES, Manager of the Great Western, was next examined. It was no unusual thing in America to put the emigrants in the baggage car; emigrants preferred generally to travel with their baggage, and it was to their interest to do so. They had their food, which they always brought with them in their trunks, and it was more convenient for them to be where they could get it. A different ticket was given to the emigrants at Hamilton, which carried them over the Great Western and Central Michigan, to any place which they might wish to go. Does not think that there was more danger in travelling in the baggage cars than in the second class; the only difference between them is that the latter have seats in them; the emigrants are more comfortable in the baggage cars, as they take out their bedding at night and sleep upon their baggage; if the emigrants had objected to go into the baggage cars they would have gone by the next train, in the second class; since the night express train has been put on, the emigrants have been taken by it; before that time the emigrants have often entreated to be sent on by the baggage cars, instead of waiting over. Mr. Brydges also stated that he appeared for the purpose of affording the Jury every information touching the matter, and if they wished to examine any other officers of the Company he should secure their attendance.

It being now nearly one o'clock on Saturday morning, the Jury adjourned till eight o'clock. At the appointed time the enquiry was continued.

M. C. J. BRYDGES was again examined. There was no doubt the greater the weight of the car the less was its liability to leave the track; this was proved

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from the fact that the engine and tender almost invariably run over any obstacle and it was the lighter cars behind which were thrown off; the heavy baggage in the car in which the emigrants were would have a tendency therefore to cause it to keep the track. There was no doubt that the cow became rolled into a heap by the action of the wheels of the engine and tender, and thus a greater obstacle was presented to the wheels of the baggage car, and it was thrown off. The seats in the second class cars were very cumbersome, and had many nails and sharp points; in this case they were all torn up, and together with the passengers, to the farther end of the car; he thought that they would be as likely to inflict serious injury as the boxes of the passengers; the baggage car had rolled completely down the bank, and had fallen, bottom upwards, and the concussion in that car must have been much more violent than in the second class car, which had only gone partly down the bank.

Another witness, the son of Kennedy, was also called to speak as to the relative position of the cow and the train, but nothing of importance was elicited.

The Court having been cleared, the Jury proceeded to consider their verdict, when after a most patient examination of the whole of the evidence, which lasted some hours, the following verdict was rendered:

That the deceased persons came to their deaths in consequence of the car in which they were passengers, having been thrown down an embankment situated on Section 4, of the Western Division of the Great Western Railway, whereby they received certain injuries on their bodies, of which they died. The Jury would thereon remark, that the road not being fenced up on its entire route, is a matter much to be deprecated, and are of opinion that the Great Western Railway Company should take immediate steps to have it securely and completely fenced forthwith. They are also of opinion that the practice of placing emigrants in the same cars with their heavy luggage, is accompanied with much danger, and should be discontinued.

Statement with reference to accident near Lobo, June, 1854.

WILLIAM McMULLEN, of the Town of Sandwich, Esquire, Attorney at Law, stated that in the early part of the month of June, 1854, he was travelling in the Car of the Great Western R. R. Company from Chatham to London; he was seated in the second first Class Passenger Car of the Train; ahead of that Car was another first Class Car preceded by a second Class Car containing German Emigrants which had been taken on at Chatham; shortly after leaving Lobo Station, while running on a high embankment of from 70 to 80 feet in height, the train suddenly stopped, his attention was instantly attracted to the first class and second class passenger Cars which preceded the Car he occupied; both had become detached from the train, and both were at that moment falling down the embankment; one had reached the bottom, the other was tumbling over, got out of the Car instantly, and helped to extricate the inmates of the fallen Car. Found one man crushed under the first class Car; took half an hour to dig him out; he was not an Emigrant. The second class Car before referred to was not in fact a second class Car, it was an ordinary freight Car containing second class passengers and their baggage together. This car was hurled down the embankment; I helped to get out the passengers who were therein; we found six killed in the said Car crushed by their baggage, and about a dozen wounded. The cause of the accident was a cow or ox which had encountered the train on the track on the top of the embankment; the embankment extended for at least 100 yards clear.

ahead of the point where the Locomotive stopped on the occurrence of the accident; the hour at which the occurrence took place was about two o'clock in the afternoon; the day was fine and clear. The name of the Conductor was Halford; the Engine Driver, I do not know.

WILLIAM McMULLEN.

Signed and acknowledged before WILLIAM F. COFFIN.
15th November, 1854.

Deposition of John Kennedy, London, 30th Nov., 1854.

JOHN KENNEDY, of the Township of London, in the County of Middlesex, yeoman, being duly sworn, deposeth and saith; that he lives with his father Andrew Kennedy on his farm, being the west half of lot number thirty, in the fourth concession of the said Township. That the Great Western Railway passes through the said farm; he remember an accident which occurred on the said Railway on the second day of June last past, by which certain passengers in the train lost their lives. At about the hour of half past two P. M. of the day last mentioned, this deponent was employed planting potatoes on a part of the said farm about forty rods from the track of the Railroad; could see the Railroad track from where he stood; at this place the Railroad track went for a considerable distance on the top of an embankment; about the time last above mentioned deponent heard the rush or noise of a Railroad train coming from the west; had before then noticed several cows on the track of the road and among other a red and white cow; had seen this cow come upon the track at the easterly end of the embankment, and proceed along the embankment westwards; at the time deponent heard the train approaching, the cow was upon the top of the embankment, moving to the west; saw the cow as if looking at the approaching train; witness ran down from where he was at work in the direction of the Railroad, supposing that the cow would be struck; on arriving at about one hundred yards from the embankment, as deponent judges, he observed that the said red and white cow was near the end of the embankment, but not off or beyond the embankment; at this time the train was near and rapidly coming up; the cow turned and ran on the top of the embankment in an easterly direction; deponent believes that she must have run along the track as the edges of the embankment beyond the ends of the ties or sleeper were very narrow; deponent at this moment could not see the train on account of the woods and of a natural bank forming the ascent to a bridge which cross the Rail track about one hundred yards to the west of the spot where the cow was struck by the train. The cow had turned and had run some short distance easterly before she was struck; deponent thought that at this time the train was travelling faster than usual at that locality; from some defect in the road at this place, a green flag had been put up on the embankment, and the train had been used to slacken its speed at this spot; I was under the impression that when the cow was struck the train was travelling faster than it usually did at this part of the road, but cannot say that it was travelling faster than it usually did on other parts of the road; saw the cow struck by the engine, and then saw the Car behind shaking, and two or three Cars went off the track, one of them a freight Car fell down the embankment on the side opposite to where the deponent stood, and the other two went partially down the bank. Seven persons were killed by this accident; five minutes must have elapsed from the time that deponent first heard the train approaching and the striking of the cow. Deponent only saw one cow on the track at the time the engine came up, and for some few

minutes before ; some short time before had seen several cows about the track. The fences of the Railway Company had not been put up, and cows were in the habit of crossing from the south to the north side of the embankment for the purpose of drinking at a place on the north side of the embankment ; deponent does not know who owned the cow ; it was a stray animal which had been feeding among the cattle of deponent ; he gave evidence before the Coroners inquest held on the bodies of those who fell victims to the accident ; in stating at the inquest that the cow ran off the track, deponent meant to say that she ran from off or between the rails on to the edge of the road ; he did not mean thereby that she ran down the embankment ; considers the average height of the embankment to have been thirty feet. The Railroad to the west of where the cow was struck was a straight line for at least a mile, and to the east was straight for half a mile ; the line was quite straight from the place where she entered on the track to the place where she was struck. A cow standing on the track could be seen, to deponent's judgment, for at least half a mile distance ; when the cow turned, her fore feet may have been down the embankment, but she did not run down the embankment, she was near out of deponent's sight.

And the deponent having heard the above deposition read, declare the same to contain the truth, and has signed the same.

JOHN KENNEDY.

Taken and acknowledged before me, at London, this 30th day of Novr. 1854.

WILLIAM F. COFFIN,
M. C. CAMERON.

Deposition of James Buchanan, London, 1st Dec., 1854.

JAMES BUCHANAN, of the township of London, in the county of Middlesex, yeoman, being duly sworn, deposeseth and saith : I am sixteen years old, and live on John Kennedy's farm, in the fourth concession of the township of London ; do not know the number of the lot ; the Great Western Railway runs through the farm. I recollect an accident which occurred on the Great Western Railway, where it passes through Kennedy's farm, by which some persons were killed. It was sometime in the month of June or July last, and is the same accident that John Kennedy and myself gave evidence upon before a Coroner's Jury, and is the only accident resulting in loss of life that occurred to my knowledge on the Great Western Railway at that place. It was occasioned by the locomotive running over a cow on the track. I saw the accident take place ; I was standing on the right hand side of the track, looking to the west (north side), at the distance of about a quarter of a mile to the east of the bridge crossing the railway at the west end of the embankment. I was standing on a level with the track about two o'clock in the afternoon ; I saw two cows upon the railway track on the embankment ; they were nearer to the west end of the embankment than the east ; I did not see them go upon the track ; they were proceeding westward when I first saw them ; one was between the rails and the other was on the outside of the rail on the edge of the bank on the side opposite to where I was standing ; the bank was about the same width as the ties, in some places a little wider. I saw the train coming from the west for about a mile and a quarter ; the cow between the rails was red and white, the other was black and white ; the black and white cow went off the track before the engine came up, and the red and white cow proceeded towards the cars ; she continued on the track all the time, and turned and ran back towards the east when the cars were

within five or six rods of her ; she had run back about three rods when the engine struck her, and almost immediately afterwards I saw three cars run off the track ; one rolled right down the embankment and turned over and was smashed, this was the third car from the tender ; the locomotive, tender and two forwarded cars remained on the track ; the fourth car also went down the bank, and the fifth part of the way down ; the people who were killed were in the third car ; they were foreigners, but of what country, I do not know. I did not see the red and white cow go off the track from the time I first saw her until she was truck by the locomotive ; the engine did not slacken speed on coming up ; I am quite sure this cow did not go off the track and come on again from the side of the bank at the west end of the embankment after I first saw her, or at any time after the cars were within a mile of her. From the position of the cow on the track, I am sure she could have been seen from the locomotive of the approaching train, at least a mile off ; the line of railway is quite straight for about four miles to the westward of the place where the cow was on the track ; the cow when she turned to run back was, I should think, at least one hundred yards from the bridge easterly. I was sick with the ague, at the time and was not at work. After I saw the cars coming, I was afraid to go on to the track to drive the cow off ; I used to drive the cows of the track when I saw them on, and on one occasion I did so when a gravel train was coming, and I only got the cow off when the train got within a few rods of me, and a person on the train told me not to run such risks for the sake of a cow. I did not hear the whistle of the engine as it came up, and I do not think the whistle was sounded, or I should have heard it.

his
JAMES + BUCHANAN.
mark.

Taken, sworn and acknowledged
before us, at London, this 1st
day of December, 1854.

WILLIAM F. COFFIN,
M. C. CAMERON.

Statement of John Gamble Horne, London, 25th Nov., 1854.

JOHN GAMBLE HORNE, of the town of London in Canada West, Esquire, states : that on or about the second day of June, 1854, he was in a train of the Great Western Railway Company, proceeding easterly towards London, when an accident occurred to the train between Lobo and London, about half way ; believe the time to have been about one o'clock, P. M. The first intimation he had of the accident arose from the abrupt stopping of the train. For a short time previous and up to the moment of the accident, the train had proceeded more rapidly than in the earlier part of the day ; on the check taking place he saw from the seat he occupied that certain cars forming the front part of the train had gone off the track ; went out after a short time and inquired into the circumstances of the accident ; found one car, a freight car, at the bottom of the embankment, which at that spot was about forty feet high ; this car was quite broken up, and its contents, consisting of boxes, chests and bedding, such effects as generally constitute the baggage of emigrants, were broken up and scattered about. Five men and one woman who had occupied this car were killed ; one other man named Page was also killed. He saw the remains of a cow much

within five or six rods of her; she had run back about three rods when the engine struck her, and almost immediately afterwards I saw three cars run off the track; one rolled right down the embankment and turned over and was smashed, this was the third car from the tender; the locomotive, tender and two forwarded cars remained on the track; the fourth car also went down the bank, and the fifth part of the way down; the people who were killed were in the third car; they were foreigners, but of what country, I do not know. I did not see the red and white cow go off the track from the time I first saw her until she was struck by the locomotive; the engine did not slacken speed on coming up; I am quite sure this cow did not go off the track and come on again from the side of the bank at the west end of the embankment after I first saw her, or at any time after the cars were within a mile of her. From the position of the cow on the track, I am sure she could have been seen from the locomotive of the approaching train, at least a mile off; the line of railway is quite straight for about four miles to the westward of the place where the cow was on the track; the cow when she turned to run back was, I should think, at least one hundred yards from the bridge easterly. I was sick with the ague, at the time and was not at work. After I saw the cars coming, I was afraid to go on to the track to drive the cow off; I used to drive the cows off the track when I saw them on, and on one occasion I did so when a gravel train was coming, and I only got the cow off when the train got within a few rods of me, and a person on the train told me not to run such risks for the sake of a cow. I did not hear the whistle of the engine as it came up, and I do not think the whistle was sounded, or I should have heard it.

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mutilated, lying on the track ; it evidently had been the cause of the disaster. The whole train, of which the car deponent occupied was the last, had passed over the body of the animal ; the deponent cannot say how far the cow had proceeded on the track after getting thereupon, before she was struck. There was a bridge, just passed by the train, so situated athwart the railroad with its abutments, as to prevent the driver of the approaching train from seeing any objects beyond, except such as were actually upon the track. While he remained at the scene of this catastrophe, saw many cattle straying about, and observed that the fences dividing the railroad property from the contiguous farms, had not been made.

The foregoing having been read to deponent, he declares the same to contain the truth, and hath signed.

J. G. HORNE.

Acknowledged and sworn before
us this 25th day of November,
1854.

WILLIAM F. COFFIN,
M. C. CAMERON.

*Extract from evidence of William Scott, of Windsor, Canada West, Civil Engineer,
taken before the Commissioners on oath, 25th November, 1854.*

The accident called the Lobo accident, was occasioned by a cow getting on the track ; there was no fencing for some miles of both sides of the place where the accident occurred. It was on the 3d June, 1854. Three cars ran off the track, one first class, one second class, and one baggage car. It was on an embankment, the top of which was very little wider than the ties ; this bank was considered dangerous, and a green flag was placed there to indicate the car should run slow in crossing ; the bank was about eleven feet wide ; all the banks should be fourteen feet wide, according to instructions ; in the old country embankments are always at least eighteen feet wide for a single track as far as I have seen. The cars would have run off down the embankment if it had been eighteen feet wide ; the embankment is from twenty-five feet to thirty feet high. I do not think a cow could stand between the edge of the embankment and the cars.

True Copy.

WILLIAM F. COFFIN.

Hamilton, December, 1854.

A.

Schedule of Accidents on the Great Western Railway, from the opening of the Road, 10th November, 1853,, to 10th November, 1854.

I.

ACCIDENT AT LOBO,—JUNE 2, 1854.

Separate Report thereupon, with Documents enclosed, transmitted to Quebec, 5th December, 1854.

II.

ACCIDENT AT BAPTISTE CREEK,—OCTOBER 27, 1854.

Evidence examined or taken and referred to in the Report.

- No. 1—Evidence taken before two Coroners' Juries, 28th Oct. and 4th Nov., 1854.
- 2—Evidence of C. J. Brydges, Esquire.
- 3—Deposition of John Hogan.
- 4—Statement of Thomas Mason.
- 5— " of Henry Taylor.
- 6— " { of Charles Quentin.
- " { of George Barnhardt.
- 7—Deposition of Charles Gallagher.
- 8— " of John Smith.
- 9— " of John Kettlewell.
- 10— " of T. C. Gregory, with Appendices A and B.
- 11—Deposition of William Scott, Civil Engineer, with Appendix A. Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.
- 12—Extract from Ballasting Contract between the Great Western Railway Company and George F. Harris.
- 13—Diagram and Plan of piston-head, shewing position of screw bolts, locality of fracture, and present contrivance to prevent a recurrence of a like accident.

III.

ACCIDENT AT PRINCETON,—JUNE 27, 1854.

- No. 2—Evidence of C. J. Brydges, Esquire.

IV.

ACCIDENT AT THOROLD,—JULY 6, 1854.

- No. 2—Evidence of C. J. Brydges, Esquire.
- 14—Deposition of Frederick William Watkins.
- 15— " of John Galbraith.
- 16— " { of Lindsay Crawford.
- " { of Levi Beemer.
- 17— " of Dr. Mack.
- 18— " of Charles F. Woodward.
- 19—Diagram and Plan of proposed improvement in the construction of Cars prevent the truck from slewing round when the wheels get accidentally the track.

V.

DETENTION AT BAPTISTE CREEK, AND FATAL CONSEQUENCES,—
JULY 2, 1854.

No. 2—Evidence of C. J. Brydges, Esquire.

20—Deposition of Alexander Bartlett, Coroner.

21—Evidence at Inquest held on Cholera cases at Windsor.

22—Inquest and finding of Jury on Cholera cases at Windsor.

23—Deposition of Samuel Smith McDonell, Reeve of Windsor.

24—“ of Alfred L. Dewson, M. D.

25—“ of Alexander Gordon.

26—“ of Isaac Askew.

27—“ of John Wright Blackadder.

28—“ of Daniel Allan.

29—“ of Charles Baby, Esquire.

30—“ of David Chapman, G. W. R.,

31—“ of James Fisher, G. W. R.

32—“ of William F. Andrews, G. W. R.

33—Report of accident which befel Locomotive Engine near Rochester, 1st July, 1854.

And note William Bowman, G. W. R.

Also, vide

3—Deposition of John Hogan.

7—“ of Charles Gallagher.

8—“ of John Smith.

Also,

Letter from Board of Health, Windsor, to C. J. Brydges, Esquire, 4th July, 1854.

Letter from C. J. Brydges to Board of Health, Windsor, 6th July, 1854.

MISCELLANEOUS EVIDENCE AND DOCUMENTS.

No. 34—Deposition of John H. Greer.

35—“ of John Finkle, Esquire, Reeve of Woodstock.

36—“ of George H. Whitehead.

37—“ of William Gray, Esquire.

38—Statement of Hon. Malcolm Cameron.

39—“ of William F. Coffin, Esquire.

40—“ of Col. Dibble, of Detroit, corroborated by

B. C. Whittemore, State Treasurer, Michigan,

J. H. Harmon, Collector Customs, Detroit.

C. C. Trowbridge, President Michigan State Bank.

O. M. Hyde, Mayor, Detroit.

M. A. Cook, Recorder, Detroit.

41—Letter from J. F. Broadhead, Postmaster, Detroit.

42—“ of Matthews, Conductor G. W. R., to C. J. Brydges, Esquire.

43—Article from New York Tribune, 17th November, 1854.

44—Letter from John T. Clarke to C. J. Brydges, 17th October, 1853.

45—“ from C. J. Brydges to John T. Clarke, 28th October, 1853.

46—“ from John T. Clarke to C. J. Brydges, 28th October, 1853.

47—“ from John T. Clarke to President and Directors Great Western Railway
21st November, 1853.

48—Extract of Proceedings Board of Great Western Railway Company, 7th December, 1853.

49—Letter from C. J. Brydges, Esquire, 25th December, 1854, inclosing document
Letter S.

50—Deposition of William Bowman, Mechanical Superintendent G. W. R. Company.

21
DOCUMENTS PRODUCED AND FILED BY C. J. BRYDGES, ESQUIRE.

- A. Notice to Gravel Train Conductors, 18th March, 1854.
- B. Notice to Gravel Train Conductors, 27th March, 1854.
- C. Letter from R. C. Gregory to T. D. Twitchell.
- D. List of Engine Drivers Great Western Railway, November, 1854.
- E. Time Table, October 23, 1854.
- F. Great Western Railway Company, Report to September, 1854.
- G. Connections made Niagara Falls for six months.
- H. Testimonials.
- I. Testimonials.
- K. Testimonials.
- L. Addition to previous Evidence No. 2.
- M. Letter from Richard Madigan.
- N. Return of Staff Great Western Railway.
- O. Letter from Alexander Macfarlane, Station Master, Wardsville.
- P. Statement shewing number of Road-crossings.
- Q. Rules of the Road to November, 1854.
- R. New Rules of the Road from November, 1854.
- S. Accidents upon Michigan Central Railroad, 1854.
- T. Letter from ——— Cumberland, of Toronto, Esquire, Civil Engineer.

REPORT.

MONTREAL, 7th February, 1855.

To The Honorable
The Provincial Secretary,

SIR,—On the third day of November last past, we had the honor to be appointed, under Commission from His Excellency the Governor General, hereto prefixed, as Commissioners “to examine into and report upon the causes and circumstances of and attending the recent fearful collision on the Great Western Railway in that part of Canada called Upper Canada, which has resulted in the immediate death of upwards of fifty persons, and further to examine into and report upon the origin of all previous accidents or detentions on the said line of Railway, which may have been attended by personal injury or loss of life.”

2. In execution of this trust, we repaired without delay to Upper Canada, and having visited the whole line of the Great Western Railway, from the Falls of Niagara to Windsor, we gave our immediate attention to the attainment of so much and such preliminary information from disinterested persons, as would enable us to shape our subsequent enquiries in the manner most likely to effect the object of our Commission.

3. We could not fail to perceive, from the very first, that an enquiry instituted into the origin of divers accidents which had occurred within a late period on a great line of public communication, could not fail to give rise to questions affecting the remote as well as the immediate management of the enterprise, and that in the actual state of public feeling, it would be impossible to arrive at any just or clear conclusion if sought, in the first instance, through the contradictory and perplexing medium of local prejudice or personal predilection.

4. In this view, therefore, and with these objects, we visited Detroit twice, and at a later period, extended our enquiries to Buffalo and Utica, and Albany in the State of New York. To meet the convenience of numerous parties, we found it necessary to examine in Canada, as well as to spare all avoidable expense, after opening our Commission formally at London in Upper Canada, on the 28th Nov., we repaired to Chatham, to Baptiste Creek, to Windsor, and to Sandwich. From thence we returned again to London, proceeded thence to Lobo, to Woodstock, to Hamilton, and to Thorold, visiting personally the scene of each of the accidents hereinafter referred to, taking evidence on the spot in each particular case, and investigating carefully all the circumstances which could throw any light upon them.

5. Our thanks are due to many leading citizens of the States of Michigan and New York for information, and for the expression of opinions and of practical views on the subject of enquiry, which are, to a great extent, embraced in the Report which we have now the honor to submit for the consideration of His Excellency the Governor General.

6. We obtained from the Managing Director of the Great Western Railway, the following schedule or statement of the accidents which had occurred on the line of road from the opening of the first section thereof, on the 10th day of November, 1853, to the first day of November, 1854:—

- | | |
|------------------|--|
| No. 1—1853, Dec. | 12—Hamilton : One man killed. |
| 2— " " " | 26—Cape Town Creek : One man killed. |
| 3—1854, March | 13—Chatham : One man killed, two men hurt. |
| 4— " " " | 23—Stoney Creek : One man killed. |
| 5— " April | 22—Woodstock : One man killed. |
| 6— " " " | 26—Niagara Falls : No one hurt. |
| 7— " June | 1—Chatham : One man killed. |
| 8— " " " | 2—Lobo : Six persons killed, fourteen injured. |
| 9— " " " | 10—Chatham : One man hurt. |
| 10— " " " | 12—Woodstock : One man killed. |
| 11— " " " | 27—Princeton : Two men killed, six injured. |
| 12— " July | 6—Thorold : Seven persons killed. |
| 13— " August | 22—Capetown : One man killed. |
| 14— " Sept. | 30—Woodstock : One man killed. |
| 15— " October | 11—Beachville : One man killed. |
| 16— " " " | 27—Baptiste Creek : Fifty-two killed, forty-eight wounded. |
| 17— " " " | 29—London : One man killed. |

7. Our investigation into the causes of all the accidents enumerated in the above schedule led us to the conclusion, that in the cases Nos. 3, 4, 5, 10, 13 and 17 the deaths of the persons killed were to be ascribed to their own rash exposure, while under the influence of liquor, or, under circumstances, which in no way implicated other parties.

8. In the case No. 2, the engine and tender had left the track, thereby hurting one man who died in consequence. From the conflicting opinions entertained at the time of the occurrence, and the interval which has elapsed since, it has not been in our power to ascertain or assign a cause for this accident.

9. In the case No 9, the injury done resulted from the breaking of one of the axles of the tender to the engine of the train. Mr. William Scott, formerly one of the Engineers to the Company, in his evidence, states "that on examination the iron of the axle appeared to be very bad—the worst that he had ever seen, and that he believes, but is not positive, that there must have been a visible flaw before the occurrence."* If such had really been the case, it ought to have been detected in the daily and close examination of all the rolling stock in use enjoined by the regulations of the Company ; but on the other hand, the usual examination is declared to have taken place, and no flaw to have been discovered, and as to the pre-existence of the flaw, Mr. Scott is himself doubtful. It is the interest as well as the duty of every Railway Company to see that the material of their rolling stock is of the best description. They pay for the best, but it is difficult and, in some cases, impossible to anticipate or divine defects. The reputation of the manufacturer is, generally, the best guarantee for the excellence of the work. No amount of reputation in the maker, however, should relieve the Company from proper care and circumspection in accepting work done to order, or from constant and minute examination of such machinery while in use, but it does not appear to us, that, in the present instance, the servants of the Company had been remiss in this particular.

10. In the case No. 7, Worthington, a conductor, fell a victim to his own zealous, but somewhat incautious, act in the discharge of his duty.

11. In the case No. 14, the person killed, fell, from want of sufficient precaution, from an engine while in motion, and died from injuries received in the fall.

12. In the case No. 15, the accident arose from the common and most dangerous practice, against which it is equally difficult to provide and useless to argue—the practice of attempting to get on a train at a station after it is once set in

* Vide evidence of William Scott,—No. 11.

motion. In this instance, the man killed made the attempt, missed his hold or his footing, fell, and was crushed beneath the wheels of the train.

13. In these three cases the parties were victims to their own inadvertence or want of proper precaution.

Accident at Princeton.

14. In the case No. 11, the accident which caused the death of two and serious injury to six persons, is to be ascribed to the act of one Beemer, a track-layer, who had removed rails and part of the track near Princeton for the purpose of making repairs, without using the ordinary precautions or sending out the signals provided by the rules of the Company. The consequence was that the engine of an approaching train rushed into the gap, and the above mentioned casualties resulted therefrom.* As Beemer, the track-layer, was tried for the offence and acquitted by a Jury of his countrymen, it is not for us to express any further opinion on the subject. We conceive it, however, to be very desirable for the security of the public as well as for the just protection of Railroad Companies, that all cases affecting such Companies or of individuals against such Companies, or in which the public safety and interests may be involved, should be removed to the jurisdiction of tribunals remote from the operation of local or personal influences.

15. The fatal results of case No. 1, which occurred near Hamilton, 12th Dec., 1853; No. 8, which occurred near Lobo, 8th June, 1854; and No. 12, which occurred near Thorold, 6th July, 1854, are to be ascribed to the same cause—the presence of cattle on the track of the Railroad, arising from the deficiency or the insufficiency of fencing, which, under the provisions of the Act, 4 Will. IV., c. 29, the Great Western Railway Company ought “to erect and maintain “during the continuance of that Corporation.”

Accident near Hamilton.

16. The first fatal accident, indeed, which took place on the Road (Case No. 1) occurred on the 12th December, 1853, within a mile of the City of Hamilton. A train proceeding West encountered three cows on the track. The engine, tender, three passenger cars, and one baggage car, were thrown off, and much damaged. The fireman of the locomotive was so badly crushed that he died the next day. The cows which caused the accident had strayed upon the track from the want of proper fencing on that part of the line of road.

Accident near Lobo.

17. The case No. 8 has already been made the subject of a Special Report, transmitted to the Government from Hamilton on the 5th December last past, accompanied by documents in corroboration. We will briefly recapitulate the circumstances to enable us to advert to other subjects of consideration referred to therein, as reserved for present notice. On the 2nd day of June, 1854, an express train of the Great Western Railway proceeding East, was thrown off a high embankment in the Township of Lobo, by the engine striking a cow. The occurrence took place in open day-light. The road was perfectly straight at that part of the line. From the evidence we obtained and transmitted we are satisfied that the cow was for many minutes prominently conspicuous on the track. At this spot, the top of the embankment was dangerously narrow and steep. The instinct of the animal deterred her from venturing down a descent of such conformation and so situated. The space outside of the track, or outside of the extreme ends of the sleepers or ties scarcely afforded foot-hold. If upon the top of the embankment at all, at this particular spot, the cow must have been seen clearly and distinctly by the driver of the engine, and he could and should have stopped his train rather than have run the animal down. We believe him

* Evidence of Mr. Brydges,—No. 2.

to have been guilty of great recklessness, and that he should be made responsible for the consequences. To this object our first report was specially directed. Six of the passengers on the cars were killed on the spot, and fourteen wounded. Of the killed, five proved to be Norwegian Emigrants. They had been conveyed in a freight car with their baggage, consisting, as is usually the case, of casks, strong chests, and other ponderous packages. The car, with its contents, was hurled down the embankment, a descent of at least 35 feet. It is, of course, impossible to affirm the immediate cause of the death of these unfortunate persons: whether they were killed by the fall and demolition of the car, or crushed by the weight of their own baggage, or overwhelmed by the truck of another car, which, it is stated, fell upon them.* It is probable that death ensued from a combination of these causes. But it is our duty to call attention to the improper use of freight cars for the transportation of emigrants, and the still more improper use of such means of conveyance when passengers and their baggage are accumulated in the same vehicle. Even under the best organization and the most favorable circumstances, it cannot fail to aggravate the risks inseparable from Railroad travelling. We find, in this particular instance, that the car which next followed the freight car down the embankment, was a second-class passenger car, such a car, in fact, as emigrant passengers ought to have been conveyed in. This car was partially thrown down the declivity. Had it been a freight car laden with passengers and baggage, the crushing weight of the detached masses would, most probably, have proved fatal to the greater part of the inmates. As it was, although all the seats of the second class car were torn away, and the whole contents, animate and inanimate, were "shot together in a heap" at the lower end of the car, and, although many of the passengers were hurt, no person was killed. We conceive that when a Railroad Company publicly notifies its intention of operating its road, and professes ability to transport passengers, it conveys and intends to convey to the public mind the assurance that each class of passengers will be transported in usual and appropriate carriages. Each class pays for, and is entitled to proper accommodation. If a Company is unprepared to do any particular description of business, it should be so stated. It should not make the attempt until it is so prepared. We have been told, and we may be told again, that the conveyance of passengers in freight cars is a common practice on roads on this continent. We believe this statement to be correct, but we cannot accept it as an excuse or palliation of the practice. We look upon it as a bad and an inhuman practice, leading to greater abuse and still more cruel consequences, as we shall have occasion to show even more strongly in another case hereafter.

18. It appears, moreover, from the evidence, that these unfortunate emigrants were, in this instance, the victims of a double fatality. Had they been conveyed upon their journey in the usual manner and in due course according to the engagement and undertaking of the Company, they would, at the time of the accident, have been many miles from the scene of the catastrophe. It is shown in the evidence† that the car containing this party of Emigrants, destined for Windsor and the West, had, by the carelessness of a conductor—Matthews, by name—been "cut off" and separated from the train of the preceding day at Chatham, going West, and had been ordered back to London. In explanation we are told, that, on the arrival of this train at Chatham, an Irish Emigrant complained that he had been brought past his destination, which was London, and that the conductor, Matthews, without further enquiry, either into the character or nature of the contents of the car, or as to the destination of the other passengers, caused the car to be "cut off" or removed from his train, and ordered it to

* Evidence of Mr. Brydges.

† Evidence accompanying Report of December 5th.

be conveyed back to London by the first train proceeding East. The foreign emigrants, ignorant of the English language, unused to this mode of conveyance, and perhaps unaware of the change in their route, made no remonstrance, and thus instead of proceeding to their destination returned to the scene of the lamentable catastrophe. We find also, that although the car containing these emigrant passengers remained at the Chatham Station from the one day to the next, neither the Station Master nor the Porter, the two resident officials of the Company at the Station, made any enquiry into the case, and we are told that the Conductor, the Station Master and Porter were punished for their negligence. We are informed that the Conductor was suspended for ten days—that the Station Master was mulcted in a week's pay, and the Baggage-master or Porter dismissed. Whether the omission on the part of these officials arose from forgetfulness or indifference or, as has been suggested by an apprehension of the disease prevalent among emigrants during the past season, we consider these acts of negligence, leading as they did to the most fatal consequences, to have been derelictions of duty in all the parties concerned, for which, the punishment inflicted was incommensurate. We do not understand upon what principle of discrimination the Conductor was only "suspended for ten days" and the Porter "discharged." We conceive that the higher the station of the officer, the more aggravated is the offence in a case such as this. It appears to us that all the parties implicated in this transaction should have been dismissed at once, and that every publicity should have been given to the circumstances and to the promptitude of the punishment.

19. The subject of punishment for offences committed by Railroad officers, is one of great importance to the public at large. Railroad conveyance is rapidly superseding all other means of conveyance on many lines of communication, and the public safety is necessarily confided to a vast number of individuals, invested with an ill understood and ill defined degree of responsibility, and not always taken from the most intelligent classes of society. There is not a man employed by a Railroad company who may not, by one act of carelessness, endanger the safety of a whole train. A negligent conductor or a wilful engine-driver or a thoughtless switchman, (who, because he has the least to do on the road, does it, probably the worst,) holds the lives of hundreds in his hand. The captain of a steamboat divides his charge, if not his responsibility, with his watchers a-loft and a-head, with the man at the helm and his officers on deck, but the engine-driver is the sole arbiter of the fate of a whole train, while in motion. It is idle to say, as we have often heard it said in the course of this investigation, that the engine-driver has too much regard for his own safety to commit a rash act. All who are familiar with railroads, know to the contrary. What may be a rash act in the eyes of other men, is not always a rash act in the eyes of the engine-driver. He may be of a perverse and desperate nature, and habit may have deadened a sense of danger in him. In this particular ease of running at and over cattle found upon the track, the practice is notorious; it is most dangerous, yet persisted in, in despite of all rule to the contrary. It may be repeated here as has been stated in our former Report, that accidents arising from this cause, rarely injure the locomotive or tender, the great weight of either, carrying them respectively over the obstacle. It is the passenger cars which suffer. If occasionally a reckless driver falls a victim to his own perversity and perhaps an attendant fireman, the deaths of these men are no reparation for the lives of hundreds, sacrificed at the same time, but it should be held in mind that in the event of his surviving, the engine-driver is almost always the only witness in his own case. The fireman is too much occupied, to observe what is going on, and in most cases it would be found difficult to prove the facts.

20. The punishments and penalties employed on a railroad should, as for the discipline of all other large bodies of men, be clearly defined and invariable. As the matter now stands, they are arbitrary, uncertain, partial and ineffective. The

man who is suspended for a fortnight or mulcted of a week's pay, may, if he is a favorite at head quarters, have all his arrears made good at the end of the month. The dismissed man is the only man who is really punished. There is, it must be admitted, a great and natural aversion to dismiss a valuable man for a first offence, which may, perhaps, even admit of palliation or excuse, but principle and the necessity of example demand a sacrifice, which will be made with less repugnance, when it is held in mind that, in this particular, the lives of thousands may depend upon the firmness and vigor of a system, and the known invariableness of a rule. We are convinced however, and we respectfully submit the opinion, that it is of the greatest importance, for the proper control of men employed on railroads, as well as for the future safety of the public, that the Legislature should prescribe rules and regulations for the government of railroads, and of the men employed thereon, any violation of which, should be made a misdemeanor punishable with fine or imprisonment, independent of instant dismissal from the service of the Company.

21. We close our observations on this unfortunate occurrence at Lobo, by remarking that, whatever may have been the proximate cause, the remote and original cause of this catastrophe, was the want of fences on the road of the Company, and we reserve for future consideration, in connection with the want of fencing, the narrow and insecure state of the embankment at the place where the disaster occurred.

Accident at Thorold, 16th July, 1854.

22. The case (No. 12,) to which our attention was next directed, occurred near Thorold, on the night of the 16th July, 1854. It appears that on the night in question, about midnight, the express train from Niagara Falls, proceeding west, came in contact with two or three horses, at a place about a mile east of the bridge over the Welland Canal at Thorold. The locomotive engine, tender and baggage car passed on safely. The first of two second class passenger cars was thrown partially off the track, two wheels of the forward truck being displaced. The track at this place, had not been ballasted, the sleepers or ties were consequently laid on the surface of the road bed. The two right wheels of the forward truck of the car jumped from tie to tie, the left wheels encountering no such impediment, swung round and brought the whole truck at right angles with, and across the track, stopping suddenly; the body of the car, hurled forward by the impetus of progression, was torn from the king bolts, and cast diagonally across the track in a cutting of no great height, but jamming from side to side. The second class passenger car next following, dashed into and through it, killing seven of the inmates, all Norwegian Emigrants, and wounding and otherwise injuring about fourteen. The locomotive, tender and baggage car broke away from the train, and proceeded forward, in the direction of the bridge.

23. This accident calls for notice in many particulars.

24. In the first place, the road, although fenced at the spot where the horses were struck, was devoid of fencing a little further on, and the cattle-guards were unfinished at the place where they are supposed to have come in on the track.*

25. Secondly. The road was not ballasted, and the track or ties were exposed in an insecure state so far as the ordinary running of the road was concerned, but under the circumstances of the accident, this fact, if rightly employed, might have greatly mitigated the effects of the disaster.

26. Thirdly. Although it is stated in the evidence appended to the schedule of accidents that "it being night of course prevented the engine driver from seeing the horses," and although the Managing Director, Mr. Brydges, from his state-

* Evidence of Mr. Brydges,—No. 2.

* Evidence of Mr. Brydges. No. 2; of W. W. Watkins, No. 14; of J. Galbraith, No. 15; of Levi Boomer, No. 16; of Dr. Mack, No. 17; of Charles Woodward, No. 18.

ment, evidently entertains the same impression, it is shewn by the testimony of all the witnesses that the night was clear moonlight.* The track was perfectly straight for a long distance, and the driver admitted that he saw the horses.

27. Fourthly. From the difficulty which ensued in arresting the progress of the train (if the attempt was made at the proper time) and the fact of one part of the train having separated from the other, we infer that the train was proceeding at an excessive rate of speed at a place where, by law and by the rules of the Company, the whole train should have slackened speed, to wit, on approaching a bridge over a canal and a station.†

28. Fifthly. It appears that on the occurrence of the accident, the tools which by the rules of the Company the Conductor is bound to have with him on the train, were in a very inefficient state, and that the tools usually supplied for the use of the Engine and Tender are by no means sufficient for an emergency. Matthews, before mentioned, was the Conductor also upon this train.

29. We cannot avoid the conclusion, from the facts, as they appear before us, that the engine driver, (Collinson,) saw the horses, and made a rush either to pass them by or run them down. That having struck them he either did not, or could not slacken the rate of speed at which he was going. We are inclined to the former opinion, for had he "braked up" on striking the horses, the immense drag of the displaced truck against the exposed sleepers or ties would have brought the train instantaneously to a stop, before the car broke away from the king-bolts and the lives of those within would most probably have been saved. Had he been running at the rate at which he ought to have approached the station and bridge, little injury could have resulted to any one.

30. It is our opinion therefore that the engine driver could and ought to have stopped his train on approaching the horses and have driven them off the track, or having struck them, he should instantly have shut off steam and have "braked up," and thereby have avoided the consequences which ensued. In our opinion, we hold him to have been culpable in either or both of those cases, and that in either or both of those cases, his culpability was aggravated, either by having maintained too high a rate of speed, or by having increased his rate of speed at a spot where, under any circumstances, that rate ought to have been lessened. Had he been proceeding at a proper rate of speed he could have stopped the train almost instantaneously after the collision took place and before the car became displaced, and crushed as before described. It is right, however, to add that our impressions in this case are of an inferential and circumstantial nature; that the occurrence having taken place at night, no witnesses, bystanders, as in the case at Lobo, could be found to substantiate these impressions, and that the Coroner's Jury had pronounced by their verdict that the horses were straying accidentally on the track, and had exonerated the Company from blame, merely adding a hope that the fencing would be speedily completed throughout the whole line.

31. We would add, however, in connection with this accident and the suggestions to which it gives rise, that as in the State of New York the proprietors of steam-boats are by law compelled to provide axes, fire buckets and life preservers, as a proper precaution against accident, so the Legislature should enjoin upon Railroad Companies in Canada a proper provision of axes, saws, hammers, screw-jacks and crowbars, to be borne on a convenient part of every train, independent of any or like implements which are now usually carried on the Locomotive or Tender. Had this extra supply of tools existed on the present occasion, as well as at the later accident of Baptiste Creek, much suffering would have been spared to those who, crushed and mangled beneath a mass of ruins, died, after hours of protracted agony, before they could be extricated. In connection also with this subject, we beg leave to call attention to a simple and cheap device invented by

† Vide Act 16 Vict. c. 169, sec. 6, Rule 19, p. 26.

Mr. W. Bowman, the Locomotive Superintendent of the Great Western Railway, to obviate the "slewing" of trucks when accidentally displaced from the track, the use of which, we believe, would greatly conduce to the public safety under circumstances similar to those above narrated.*

Occurrence at Thorold, 7th Dec., 1854.

32. In the instances under notice, we have not been favourably impressed with the temper or humane or discreet judgment displayed by the engine drivers of the Great Western Railway Company. In the course of our enquiry into the accident at Thorold we were informed of an occurrence which had taken place the preceding day (the 7th Dec.) exhibiting on the part of another Engine Driver a cruel and most reprehensible indifference to human suffering. A little boy, named John Donally, had been struck by the cow-catcher of an engine, his leg broken and himself otherwise much hurt. The scene of this occurrence was the eastern approach to a heavy tressle work, erected temporarily by the Company, at a place called Twelve Mile Creek, within a short distance of St. Catherines. At each extremity of the tressle work is a short and sharp curve, which makes it necessary that trains should approach and proceed slowly, and with great caution. The Company had a body of men at work on the western extremity of the tressle work, and this boy—a child of about twelve years of age—was employed in conveying water to the party. He had left his father's house, at the eastern extremity of the tressle work, with his water bucket, at about 8, A. M. The morning was very cold and the flaps of his cap were tied over his ears. He did not hear the approaching train. He had reached the point where the embankment terminates and the tressle work begins, just at the commencement of the curve, where his only footing, in fact, was upon the track, when he was overtaken by the locomotive and thrown down the embankment. The engine must necessarily have been running slowly at the time and place. The engine driver ought to have been looking out a-head. *That is his first duty.* If performing this duty he must have seen the boy. If he did not see him he neglected his duty grossly. He neither stopped, which he could have done with ease, nor blew his whistle, nor, having struck the boy, did he pause to inquire into the mischief done, nor to inform the men employed at the other end of the tressle work, nor did he send assistance when he reached Thorold, but passed on with the utmost indifference. Either, therefore, he did not see the boy at a spot where a combination of circumstances should have exacted from him the greatest circumspection, or seeing him, he struck him inhumanly, and still more inhumanly left him to his fate; for had not a woman accidentally passed the spot where he lay, about three-quarters of an hour after, the child would have perished from cold. This case was represented by us forthwith to Mr. Brydges, the Managing Director of the Great Western Railway Company, and it is to be presumed has been properly dealt with. The driver should have been discharged at once, and prosecuted for the assault. It shows still more forcibly the necessity of close scrutiny and constant supervision of the men selected to fill the situation of engine driver.

33. In connection with the above occurrence, we think it right to call attention to the fact that the Locomotive Engines of the Great Western Railway Company are not provided with Bells. We have been told that it is not the custom on English Railways, and has, therefore, been discontinued here. On the Railroads on this Continent Bells are universally in use. The practice and the use are well understood by all persons travelling on Railroads or coming in contact with trains. At Stations and in Depot Grounds where much changing of Cars, and "shunting" of Engines, and the making up of Trains, take place, and where the men employed and the public become, from habit, careless of danger, the con-

tinuous peal of the Bell more readily attracts notice, and tends more to the protection of life and limb, than the sudden and intermitted scream of the whistle. It is moreover an additional means of precaution. By the Railway Clauses Consolidation Act the use of the Bell is enjoined on all Companies incorporated after the passing of that Act. The Act does not apply to the Great Western Railway Company. It should be made so to apply in all its material clauses.

34. We must also call attention to the fact and it may be as well to do so in this connection, that the Great Western Railway Company is not by law compelled to put up or maintain, at level crossings, the sign-boards, indicative of danger, universally in use on this Continent. The practice of leaving level crossings unprotected, *except* by a sign-board, is sufficiently dangerous. It is unknown in Europe. There gates and gate-keepers are required at all points where a Railroad crosses a highway on a level. In this country the great expense of maintaining gates and of a consequence, men to take charge of gates, and an unwillingness on the part of the Legislature to discourage Railway enterprises by the exaction of any avoidable expenditure, has in this, as in many other instances, proved to be mistaken policy both in the interest of Companies and of the public. On the Great Western Railway will be found a larger proportion of the best description of road-crossings,—those which pass over the Railroad on a Bridge,—than is usually met with on American Railroads; but the Great Western as well as all other Railroads should be compelled both to use Bells and to maintain sign-boards at all level crossings. We ought not to endanger the life of one single traveler on the Queen's Highway, or an inanimate man, of a deaf man, or a child, by the omission of a precaution so easily attainable. We think that in view of probable loss of life and injury to limb and property, and of the consequent pecuniary damages and of the disrepute resulting from accidents, it is, and it is intended to be, a compulsory duty on the Company, but the former should be compelled to protect the public on all possible occasions, and in no case more emphatically than at road and street crossings, in towns, and at localities where increasing intercourse and travel indicate the necessity.

35. We now proceed to consider the case of accident No. 6, as stated in the Schedule, which happily and fortunately was unattended by fatal result. It is noticeable, however, as a proof of the danger of operating Railroads before the earthworks of the road bed or permanent way are complete, or at least so far advanced towards completion as to afford a reasonable guarantee for the public safety. In this instance "a large stone had fallen upon the track from the side of the cutting." An Engine and Train encountered the obstruction. Fortunately no lives were lost. From what we have seen of the present state of some of the cuttings, as well as of the actual condition of several of the embankments, we would ~~draw more particu-~~ particularly and, as an example, to the embankment in Lobo, and from the information we have received of the state of like parts of the work at the time of opening the road, we are satisfied that the Railway was opened for public use before either the cutting or the embankments were so far matured as to secure, to any reasonable extent, the safety of the public.† The Road was first opened from Hamilton to Niagara Falls on the 10th November, and from Hamilton to London on the 21st Dec., 1853. From London to Windsor it was opened to public use on the 27th January, 1854. All these occurrences took place in the winter season, when the vicissitudes of frost and sudden thaw, and heavy beating rain could not fail to affect alarmingly, the rugged and precipitous sides of incomplete cuttings and the newly formed slopes of embankments, detaching from the first, stones and stumps of trees and masses of earth and precipitating the same upon the track, on curves, or at night, and perhaps immediately before the arrival of a train; and in the second case, leading to the abrasion and subsidence of the embankments, to the displacement of the

† Vide Schedule of accidents, No. 6.

† Vide Report of the Great Western Railway [Letter B] Engineer's Report.

ties or sleepers, to throwing the track out of line and level, and thereby causing the most disastrous results.

36. We are well aware that the practice of operating Railroads in an unfinished and unsafe condition, in the above and in other respects, has been common on this Continent, but we also know that many accidents, of the most frightful description, have resulted therefrom; the Great Western Railway has thus far escaped, as far as we could learn, any serious accident from these particular causes; but the risk incurred may be estimated from a statement made in evidence, that in the spring of 1854 "the mud was three feet deep in some of the cuttings,"* and the occurrences which have given rise to these remarks, sufficiently show the dangerous nature of a practice which should be checked, as in other cases, by the direct interference of the Legislature.

Accident at Baptiste Creek, 27th October, 1854.

37. We now approach the accident to which our attention has been specially called by the Commission, as "the late fearful collision on the Great Western Railway in Upper Canada, which resulted in the immediate death of upwards of fifty persons." This appalling calamity is the case No. 16 on the Schedule. It arose from a collision which took place between an express train and a gravel train at a place known as Baptiste Creek, in the Township of East Tilbury, and situated fifteen miles west of Chatham, in Western Canada. At Baptiste Creek, the Great Western Railway Company have a station consisting of a wood shed, water tank and sleeping quarters or a switch tender. The Railroad track, in this part of the country, passes for a long distance through an inhospitable swamp. There is but one resident inhabitant within a mile—few beyond for many miles—and the locality is devoid of resource or means of succour. At a distance of, perhaps, a mile in a direct line across the swamp, but of five miles by the Railroad route of communication, upon the shore of Lake St. Clair, the Company owns a sand-bank or gravel-pit, which, at the time of the accident, was in process of excavation by Contractors in the employ of the Company for the purpose of ballasting the Road. It appears that on the morning of the 27th day of October last past, at the hour of 5.10 A.M.,—the darkness of the morning, at that season of the year, being increased by an unusually dense fog,—the express train—many hours behind time—moving West, at a rate of about twenty-five miles an hour, came in contact with a gravel train about five hundred feet on the eastern side of the Bridge over Baptiste Creek. The darkness and the fog were so great, that the light upon the express train (although a large American lamp of the best description) and the smaller lights on the gravel train were not visible, respectively, until the collision took place. The engine, upon the express train, not being able to blow the alarm-whistle, his engine dashed, with terrific force, into the foremost cars of the gravel train approaching or "backing up" from the opposite direction. The engine, tender, two second-class passenger cars, and part of a first-class passenger car were shattered to pieces and, with the mass of human contents, living, wounded and dying, were heaped upon the gravel cars, broken up and hurled together in frightful ruin and confusion. Forty-eight persons were either killed on the spot, or died before, or subsequent to, removal. Nine died in the hospital at Chatham, to which place the surviving victims were transported as speedily as possible, and of the wounded forty-six survived in various conditions of mutilation and injury.

38. In the attempt to trace the causes of this catastrophe to the proper source, we will first deal with the remote and original cause to which it is to be ascribed. The remote cause of the accident was, doubtless, the delay which occurred to the express train. Had this train kept its proper time, the gravel train, although on the track at an improper season, and therefore still, most culpably, would have been there with impunity.

* Evidence of Mr. William Sprague, Esq. &c.

39. The mail express train had left the Suspension Bridge, Niagara Falls, at its usual time at 2, P.M., on the 26th October, and by Time Table was due at Baptiste Creek at 10, P.M., of the same day. It did not reach the scene of the collision until 5.10, A.M., of the 27th October. and was, consequently, seven hours behind time.

40. It had, upon this occasion, been delayed, first, by a gravel train which had got off the track near St. George's. The effect of this detention had been, in the second place, to throw the mail express in the rear of a freight train, which retarded it still more; and lastly, after leaving London, about two-and-a-half miles, the engine broke down, and three hours and forty minutes were lost in despatching a messenger on foot for another engine, in bringing this engine to the scene of the detention, in drawing back the disabled locomotive and train to London, and in making the necessary arrangements for a new start. This delay of three hours and forty minutes was the most material delay on the trip. If it had not taken place, the express train would have passed Baptiste Creek at least three hours before the gravel train—ignorantly or otherwise—could have left the siding, or have taken possession of the main track. It became, therefore, desirable to ascertain what was the precise cause of the detention at London? It appeared that, suddenly, at the spot mentioned, without any previous indication of weakness or danger, one of the cylinder heads of the engine had burst out, rendering the machine useless. On subsequent examination, it was found, that one of four screws, which are counter-sunk into the external surface of the piston, had broken off where the square head unites to the thread. The square head of the screw becoming thus detached, had fallen into the interior space between the piston and the top of the cylinder. The size of this square head was one inch and a quarter, while the interval between the cylinder head and the piston, when driven home at each stroke of the engine, was only half-an-inch. It becomes evident, therefore, that the existence of a solid foreign body of a one inch and a quarter square in a contractile space of half an inch must have resulted, instantaneously, either in the destruction of the piston head or in the compression of the screw head, or in the bursting out of the cylinder head. The weakest of the three conflicting forces being the cylinder head, of course, gave way first. We have been thus minute, because, in addition to our desire to trace all the causes of this most afflictive accident to their true sources, we feel that the best way to avert misfortunes, hereafter, is to draw every possible advantage from present experience. No delay can occur on a Railroad which is not productive of greater delay. Few accidents which are not the precursors of other and worse accidents;—but, at the same time, there is no accident, the most remote cause of which is not, at once, worthy of enquiry and suggestive of remedy, and which may not thereby be made practically conducive to the safety of thousands on future occasions. We may not always be able to avoid accidents, but we can always profit by them. We may learn how to diminish the number and to mitigate the severity of the effects. In this particular instance we were much pleased by a simple expedient introduced by Mr. William Bowman, the locomotive superintendent of the Great Western Railway, and by him adapted, to all the locomotives on the line, by which, in the event of a screw head parting as before, it is retained in its place until the machine is, in due course, examined and the defect rectified.* We close, therefore, these observations by remarking, that although the delays of the express train were, doubtless, the remote cause of the catastrophe, they account for partially, but in no way excuse it. The notable irregularity of the trains on this line of road should have given rise to greater circumspection on the part of those interested with the charge of the gravel train.

41. We now approach the immediate cause of this accident, namely, the presence of a gravel train on the main track, before day-break, in a dense fog, and

*Vide Diagrams and Plans Nos. 13 and 19.

without any knowledge on the part of those to whom it was entrusted, whether "due" trains had or had not passed by. It is clear from the general tenor of the evidence that the person in control of this train, having on previous occasions caused the gravel train to run out at improper times, had become emboldened by impunity, and relied once more on the fatal presumption of safety, with aggravated risk. The name of this man was T. D. Twitchell, he was the conductor of the train. In all matters connected with the movements of the train, he was the sole arbiter, all subordinates were bound to obey him. Under the rules and regulations of the Company, or (in the absence of rules and regulations,) under the dictates of common sense and judgment, the whole responsibility devolved upon him. With him rests the blame. He ordered out the train, not only in violation of rules and regulations, but in defiance of every dictate of common prudence and sound judgment. It is difficult to understand how a man of the ordinary degree of intelligence selected for such an office could have committed so perverse and desperate an act, and we are bound to inquire what fault of system, what laxity of discipline or impotency of rule could have led to such fatal dereliction on the part of this man.

42. We have before adverted and we shall again have occasion to advert to the fact that the Great Western Railway had been prematurely opened. Among other material deficiencies arising from this cause, the road was not ballasted, that is to say, no sufficient quantity of gravel had been placed upon the road-bed to secure the position of the ties, adequate drainage, and the general solidity of the superstructure. To supply this deficiency, the Company had determined to ballast their road by contract, and at this time an agreement to that effect existed between the Company and one George F. Harris. We can hardly conceive a more dangerous practice, or one more pregnant with future disaster, than the attempt to work ballasting trains simultaneously with trains for ordinary traffic. In the best hands, and under the most careful management, this would be perilous; but the operation became doubly hazardous when placed in the hands of contractors. Under circumstances such as described, the interests of the Company and of the contractors must necessarily conflict. It is the interest of the contractor that he should be *on*, at the very time when it is the interest of the Company that he should be *off*, the track. To earn money, the contractor must do work: to work advantageously he must employ his men uninterruptedly. The opportunity and the temptation to disregard rules and risks are great—escapes often—the employees of the Company and of the contractor become alike indifferent to danger and precaution, and an appalling calamity is the result. Expedients may be, and doubtless are, devised to protect the Company and the public. Compensation may be provided for delays, but no such provision really can compensate for the profit of work, and it should be kept in mind that the very servants of the Company, appointed to superintend the safe performance of the contract, from an eagerness to see the road in good running condition, are inclined to connive at imprudences which indicate activity and progress. That a necessity for precaution existed is admitted by the terms of the contract between the Company and Mr. Harris, but the precaution taken proves practically to have been of little use. By the contract, the Company agree to furnish the contractor with engines and cars for the prosecution of the work. Further, it is provided, doubtless, for the proper care and charge of the property of the Company, and it is to be presumed, also, with a view to unity of action and due concert in all running operations of the road, that the Company should nominate and appoint the conductors, engine-driver, fireman and switchman in connection with the gravel train. Furthermore it is agreed that the contractor shall pay these servants and defray all the running expenses of the trains. Under this provision we deem it to be of little importance who nominated the conductor, the engine-driver, the

fireman or the switchman. These men, under remote and imperfect supervision, far from the sight of the higher officers of the Company, were practically appointed, retained and controlled by their paymaster. There was manifestly, as the language and conduct of Twitchell, the Conductor, shows, greater risk of punishment in disobliging the contractor than in disobeying the Company. There is moreover proof that the higher officers of the Company did not exercise their supervision or their authority with becoming vigour. We find that when Kettlewell, the engine-driver of the gravel train, with a degree of moral courage equally rare and commendable in a man of his class, informed Mr. Gregory, the Resident Engineer of the Western Division of the Great Western Railway, that on the 13th October, Twitchell had run his train dangerously close upon express-train time—this startling piece of intelligence only led to an admonition. Twitchell should have been dismissed on the spot in the most public and exemplary way. Had Twitchell been so dismissed at the time, his successor would never have ventured out of the gravel pit before day-light and in a fog, and without knowing positively that both express trains had passed. Kettlewell was told by Mr. Gregory, that Twitchell was responsible for like risks, and relying on this responsibility, ran out twice on the time of other trains between the 13th and the fatal 27th October. It certainly was not for him, under the very peculiar circumstances of the case, to question the order of his superior, who might have received instructions or have been acquainted with facts of which he was ignorant. He did but obey orders, and in obeying orders, followed the instructions of one who, ostensibly the servant of the Company, was practically the instrument of the contractor. By the articles of contract, the Company were also empowered to nominate and appoint the switchman, whose duty it was to attend the switch connecting the gravelling track with the main track. Had this employee been appointed by the Company, and properly instructed both to attend the switch and watch for trains with the key of the switch in his possession, this accident never could have occurred. He would have been an effectual check on the conductor himself, who, whatever his inclination, could not have passed his train through the switch, while secured under lock. We discard entirely the idea that the man employed to clean the engine was also bound to watch the approaching or passing trains. His duty was to clean or, as it is often called, "to watch" the engine, but this duty in no way, necessarily involved attention to passing trains. He might or might not have mentioned the fact; but he was in no way liable for the omission. The Company ought to have had, as was evidently contemplated, a regular switchman and watcher at the spot properly instructed, with the key of the switch in his keeping. It appears moreover, as if in the eagerness for doing work, the contractor and his subordinates, whether the servants of the Company or his own, had lost sight of the advance of the season,—that a train running out at 5 o'clock, A. M., in August, ran out by day light, but that a train run out at the same hour in October, worked in the dark. Apart from the question of risk, there should have been in this case, two switchmen and watchers, one for day service and one for night. But it is shown that in fact, there was no regular switchman at all. We are told that such a person had been employed but that he had "left" and that he ought to have been replaced, but had not been, by the conductor or by the contractor, the latter of whom, certainly had no interest in increasing the wages or any other working expenses of the gravel pit. Consequently any body attended to the switch, the last person who performed that office previous to the collision having been a common labourer on the train, a coloured man, who lost his leg by the accident.

43. On considering all the circumstance of this most disastrous occurrence, we feel that it is much to be deplored that the Great Western Railway Company should, as a condition and consequence of the premature opening of the road,

have been induced to intrust the ballasting of the same to contractors. If by the force of circumstances they were compelled to open the road before ballasting, they should have taken the ballasting into their own hands. In this respect they should have followed the advice of their Assistant Chief Engineer, William Scott, Esquire, as conveyed to C. J. Brydges, Esquire, the Managing Director of the Company, in a letter bearing date 18th November, 1853. But the contract made and the manner in which it was observed, disregarded equally the public safety and the interests of the Company. Had a proper conductor been appointed by the Company at first, or had the man appointed been dismissed on the commission of his first serious offence; had he and all others been taught to know their dependence on the Company, no violation of the rules of the Company would have taken place. It is to be regretted that these rules had not specially prohibited the running out of gravel trains after dark, or before daylight, or in a fog. The necessity for such provision appears to have been overlooked. And it is also unfortunate that a proper switchman had not been regularly maintained by the Company and furnished with instructions, within the scope of which he would have been independent of the conductor, however perverse or however influential. Proper attention to any one of these particulars would have prevented the appalling catastrophe of the 27th October.

44. Having to the extent of our humble ability thus far examined into and reported upon a series of eighteen accidents which have occurred on the line of the Great Western Railway, we shall now proceed to another branch of enquiry intrusted to us, namely to investigate the "detentions on the said line of Railway which may have been attended by personal injury or loss of life."

Case of Detention at Baptiste Creek, July 2, 1854.

45. Detentions do not always lead directly to loss of life or personal injury. Indirectly they may be, and often are, the remote causes of great misfortunes. One case presents itself upon this road which demands attention. If it does not exhibit all the shocking features of a collision or of a plunge down the side of an embankment, it possesses peculiar horrors of its own. We refer to a detention or combination of detentions which occurred on or about the second day of July last past, during the prevalence of the cholera in this Province, and which partly led to, and was partly attended by great loss of life and the further spread of that terrible visitation.

46. On the afternoon of Tuesday the second of July, the inhabitants of the Village of Windsor, in the County of Essex, in Upper Canada, were informed that a train of the Great Western Railway had arrived, bringing with it a large number of emigrants, some of whom were then dead, others dying, and others ill of cholera. One case of the epidemic had presented itself in the Village on the preceding day, and much anxiety existed on the subject. But the inhabitants of Windsor behaved with great humanity and spirit. The medical gentleman of the place, the municipal authorities, and many volunteers, both ladies and gentlemen, repaired, without hesitation, to the relief of the sufferers.* They proved,

*No. 2.—Evidence of C. J. Brydges.

21.—" taken at Inquest.

22.—Deposition of L. L. McDonell.

25.—" Alex. Gordon.

27.—" J. W. Blackadder.

29.—" Chas. Baby.

31.—" James Fisher.

33.—Report of accident near Rochester, 1st July, 1854, with note. W. Bowman.

No. 20.—Deposition of Alex. Bartlett.

22.—Inquest and finding of Jury at Windsor.

24.—Deposition of A. N. Dawson, M. D.

26.—" Isaac Askew.

28.—" Daniel Allan.

30.—" David Chapman.

32.—" W. V. Andrews.

Also—

No. 3.—Deposition of John Hogan.

8.—" John Smith.

No. 7.—Deposition of Chas. Gallagher.

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by a remarkable fatality, to be again Norwegian emigrants. One man was dead when the cars arrived, others were in a dying state, many were laboring under various stages of the disease. Three women in an advanced state of pregnancy were delivered—one prematurely in the cars, the other two in the course of the night and the following day. In the midst of a scene too shocking for description, beyond the records of evidence, the inhabitants in concert with the resident officials of the Company laboured most nobly. Means were immediately taken to provide an hospital and hospital assistance and comforts—the dead were buried, the sick removed and cared for. Twenty-eight of these emigrants died, and others who reached Windsor subsequently augmented the number of deaths from this disease to fifty. It was remarked that a large number of these passengers had been conveyed to Windsor in freight cars, temporarily fitted for their reception, and it was reported that the mortality had been aggravated by unnecessary delays and mismanagement on the part of the Company's servants; that in fact a large number of these emigrants had been detained for many hours, improvidently, in the heat of the month of July, at a place of disastrous reputation—the station at Baptiste Creek—without food or the means of obtaining food, and without water to drink, excepting such as was to be obtained from the neighboring swamp. These statements led us to make further enquiries, of which the following is the result. It appears that a large number of Norwegian emigrants had reached Hamilton on Friday, the 30th of June, and had taken passage to Detroit in the cars of the Great Western Railway. The number is variously and not very clearly stated. They were placed in two second class passenger cars, and in, at least, three freight cars, and on the Saturday morning were forwarded to their destination. It unfortunately occurred that an embankment at the crossing of the Desjardins Canal had subsided, the track had consequently been thrown out of line at this point, and it had been necessary to arrest the trains at either side of the impediment and exchange passengers and baggage. These emigrants, after passing this obstacle, were transported on to Paris, whence a part of them only, those contained in the second class passenger cars, were sent forward by the day express train. This train reached Rochester, about 19 miles from Windsor, at 9, P. M. It there found a graveling engine, off the track, at the switch, an accident ascribed to expansion of the rails from the heat of the weather. This occurrence of course precluded all passage on the road until the obstacle could be removed—very often, and it so happened in this case, a tedious operation. At this point, and at either side of the obstruction, the night express proceeding east from Windsor met the day express proceeding west, and the two conductors agreed to exchange passengers and return, or “back up” each to Windsor and Chatham respectively. The exchange of the first class passengers was made, but the second class passengers, including the emigrants in question were not, in like manner transferred, in consequence of the night express or train from Windsor not having any second class passenger cars attached to receive them. The conductor or Mr. D. Chapman, the Local Superintendent of the Company, who was present, directed the train to be backed to Baptiste Creek, a distance of 11½ miles, with the intention of taking the whole train back to Chatham; but finding that, from the delay, both wood and water were failing, resolved to leave part of his train, to wit, the emigrant cars, on the siding at Baptiste Creek, and thus lightened to proceed to Chatham, leaving orders that the cars containing the emigrants should be conveyed on to Windsor by the next train, due at Baptiste Creek about 5, A. M., next morning. It was then near midnight. The night express going west, which ought to have reached Baptiste Creek at 5, A. M., the next morning, did not arrive at that spot until 2.30, P. M. Had this Train reached Baptiste Creek at its proper time, all would have been

done that could have been done under the circumstances to remedy the evil of the detention, and to forward the emigrants thus left to their destination at Windsor; but the night express moving west could not leave Hamilton until the night express moving east had approached the Desjardins Canal, and the obstruction at that point, while the night express moving east was in reality detained at Rochester, and by the stoppage at Baptiste Creek. Thus one delay entailed a series of delays, and the irregularity of the night express train going West was the proximate cause of much of the suffering endured, and, with a certain allowance for predisposition to disease, of the consequences which ensued.

47. The night express train going West, having taken on the car left as above stated, reached Windsor about 4, P. M. (on Sunday.) It had also brought on from Paris the remainder of the party of emigrants left there the preceding day. The cholera had already declared itself among them. Two sick emigrants had been removed from the train at London, but the situation of the latter party was perhaps better than that of the remainder. They had remained at stations where food and wholesome water could be obtained, and they were with their baggage and the resources thereby afforded them. But the party on the siding at Baptiste Creek were separated from their baggage, had been on the track since the preceding morning, and had been confined to the cars, in intensely hot weather, at a desolate place, where little, indeed for the supply of such a party, no food could be procured, and where the only water to quench thirst was the stagnant water of the swamp. Nevertheless for thirty hours at least all these people had been immured in the atmosphere of second class passenger and freight cars, the only difference of suffering, in reality, being a difference of degree. As the whole party both from Paris and Baptiste Creek reached Windsor together, it has been difficult to distinguish between them at this point, or to ascertain satisfactorily to which section of the party the victims belonged, but it matters little. It is shown in evidence that one individual died at Paris—that two as before stated were removed from the cars at London. That a child died and was buried at Baptiste Creek, that two men laid under the wood shed at Baptiste Creek the whole Sunday, supposed to be dying. That a woman on the departure of the cars from that place was lifted into them in a state of great exhaustion. That one man was dead in the car on their arrival at Windsor, and it cannot be doubted but that individuals of both sections succumbed to a disease to which they were predisposed from the effects of a long voyage, but which must have been aggravated by the exposure and privation they had encountered on the latter part of their journey.

48. We have found it difficult at this distance of time, in view of the confusion and dismay which then existed, of the death of some and the departure of other witnesses, and of the impossibility of obtaining direct evidence or explanations derived at the time from people who only spoke the Norwegian language—to arrive at any safe conclusion upon this distressing occurrence; but, as far as we can see, the detention at Baptiste Creek and its fatal effects are to be ascribed to a combination of circumstances over which the servants of the Company could exercise no control. We believe that under these circumstances, as they occurred, all was done that could be done to alleviate the effects of the delay, but we cannot avoid noticing in this instance, as in others, the indifference generally shown to the comfort of emigrants, both in their treatment and accommodation, which calls loudly for Legislative interference and remedy. We have before animadverted on the conveyance of emigrants or second class passengers in freight cars, and have shown the fatal consequences on the occasion of the Lobo accident. In the present case the want of ventilation from the peculiar structure of the freight or, as it is sometimes called the "box," cars, speedily converted these receptacles into moving pest houses. In the course of our investigation

into the catastrophe at Baptiste Creek on the 27th October, our attention was again drawn to the want of proper accommodation in the second class cars, the want of lights which increased the horror and difficulty of the scene, and the neglect with which travellers of this class have been treated. On examining the second class car we found the seats in many to be very slightly and insecurely fastened. The effect of their insufficient fastening in the event of an accident was exemplified at Lobo. There the second class passenger car being thrown partially down the embankment, the whole contents of the car, human beings and wreck of the seats were "shot" together to the lower end of the car. The injuries inflicted in this car was caused chiefly by splinters and broken ends of the detached seats. Had the seats been properly fastened, the passengers would, to a great extent, have retained their places and the injury done would have been much lessened. Accidents may, in some cases, be unavoidable notwithstanding every exertion of foresight, but no precaution should be omitted which may tend to mitigate the effects. The Legislature should provide forthwith for the proper transportation of all second class passengers in safely constructed, well ventilated, adequately provided cars, always accompanied by, but never conveyed with, their baggage. Emigrants, foreigners more especially, are accustomed to carry their food with them, and often, having expended their last shilling in payment of fare, are exposed to great privations if separated from their baggage.

49. Our attention was called by the Reeve of Windsor to the expenses imposed upon that Municipality in providing for the medical charge and the burial of a large number of the passengers of the Great Western Railway Company, thrown suddenly upon the resources and the humanity of the Municipality. We look upon this case, as it arose, and as it now stands, as a question of law between the Corporations, but we would respectfully submit to Her Majesty's Government, whether, in view of the not improbable recurrence of such cases, on a line of road likely to be much frequented by emigrants *in transitu*, it would not be expedient and right to appoint an Agent of Her Majesty's Emigration Department, during the summer season, to supervise the whole line, and to make such provision as could, on a sudden emergency, be made available for the reception and treatment of emigrants, suddenly seized with contagious disease. The expense might be equitably divided between the Government, the Railroad Company and any Municipality within the limits of which any such case should arise, local sympathies and local resources would neither be overtaxed nor overtried, and the interests of humanity would be judiciously protected without exacting unfair self-sacrifice from individuals.

50. In closing our remarks upon the above occurrences, it becomes our duty, in accordance with the commands of His Excellency the Governor General, to express our opinion on the "origin" of the accidents and the detention hereinbefore referred to.

51. Accidents, as we have before stated, may and will occur upon a Railroad, which defy explanation and baffle research. No human foresight could anticipate or precaution avert them. Other accidents originate in causes more or less remote,—in defective arrangements and imperfect control, in a want of proper organization and discipline in the servants of the Company, or they may be traced to incomplete construction; to insufficient, overwrought, and unsafe machinery; or to any one of the unexpected casualties originating in a single act of inexperience or imprudence. It is from accidents such as these that the public, at the outset of a great railroad system, require to be protected. It would be criminal to temporize with such a subject as this. The lives of thousands may depend on plain speaking and prompt action.

52. Three of the most fatal accidents which have happened on the Great Western Railway, namely, the accident of the 12th Dec., 1853, near Hamilton, the

accident at Thorold, and the accident at Lobo, arose from the absence of fencing and the presence of cattle on the track in consequence, and are all incidental to the premature opening of the road.* The accident at Baptiste Creek, (27th Oct., 1854,) is to be ascribed to a combination of causes, but may be ultimately traced to the same cause, the premature opening of the road, and to the necessity, therefrom arising, of pressing on the ballasting in unsafe hands and in an incautious way. We find that at the opening of the road, the embankments and the cuttings were in a dangerous state, that the ties or sleepers were laid without the stay or support of gravel on the surface; at Subgrade; the road-crossings and farm crossings and cattle guards were unfinished. The tressle-works in some cases substituted for embankments, were notoriously insecure, and in fact, neither grading nor superstruction were in a fit state to hazard the prosecution of traffic in the face of the contingencies of the coming winter and spring in this climate and country.

53. We find that on the 17th Oct., 1853, John T. Clark, Esquire, the Chief Engineer of the Great Western Railway, and now State Engineer and Surveyor-General of the State of New York, in a communication addressed to C. J. Brydges, Esquire, the Managing Director of the Great Western Railway, protested formally against the contemplated opening of the road, as a "premature movement, and which, if carried out, would be attended with hazard to life and property."† And yet, in defiance of this protest, the road was opened. We are well aware that roads have been opened and operated on this continent, in an unfinished and unsafe condition, but we have never heard of any road which had been opened and operated in defiance of the protest of the Chief Engineer, and that Engineer a gentleman of the character and professional standing of Mr. Clarke.

54. It is true that in his protest, Mr. Clarke makes no specific mention of the want of fencing, as a cause of danger. We know not whether the omission was intentional or unintentional, or whether among other grave grounds of objection, this one may not have been deemed secondary at the moment, but it is a want which should never be permitted to continue;—the omission does not, in our estimation, diminish the weight of the objection. As a feature in the premature opening of a road, it is pregnant with danger, and productive of feelings which lead to dangerous practices. It places the Company at the mercy of its own servants. A wilful or desperate engine driver destroys cattle on the track, and the Company is justly blamed, because, directly or indirectly, it is blameable. An enterprize which exists by popular favor and support, becomes an object of popular hostility, along the whole line. Every farmer who loses cattle and has his claim for compensation questioned or resisted, becomes at once an enemy of the enterprize, and a rail taken up, or a sleeper removed, or an obstruction placed on the track, bears dangerous testimony to the character of this hostility. Such conduct is indefensible, but in the interest of the Company and of the public it should never be provoked. No road, prudently managed, would incur such a risk. No Company should be permitted to do so.

55. That the want of fencing increased still more the insecurity of the line, "the hazard to life and property" thereupon, cannot be doubted. That the want of ballasting led finally to a most lamentable catastrophe, is equally certain; but it is difficult to say how much of subsequent misfortune may not be attributed to the want of ballasting, and consequent roughness of the road at the outset. When we consider the delicate structure and immense weight of the machinery on a

* *Vide* Report of Director. 29th September. 1854: letter E. Evidence of C. J. Brydges. No. 2; Evidence of William Scott. No. 4; Evidence of William Bowman. No. 50.

† *Vide* Letter from John T. Clarke to C. J. Brydges. 18th October. 1853. No. 44. Letter from C. J. Brydges to John T. Clarke, 18th October, 1854. No. 45. Letter from John T. Clarke, to C. J. Brydges, 18th October, 1854. No. 46. Letter from John T. Clarke, to President and Director of the Great Western Railway, 21st Nov. 1854. No. 47. Extract of proceedings of the Board of Directors of the Great Western Railway Company, 7th Dec. 1854.

railroad, the nice adjustment and brittle strength of the parts, it is easy to understand that one single trip on a rugged track, would not only damage springs and dislocate joints at the time, but prove, in fact, the latent cause of a long series of delays and stoppages and irregularities, and an attendant train of disappointment, dissatisfaction and danger. The danger, and the amount of damage conducive to danger, was forcibly shown in the Report of the Directors of the Great Western Railway, of the 20th Sept., 1854, wherein Mr. Bowman, the Mechanical Engineer, states that the cost of maintaining and repairing engines and cars have been heavy, that they had, on an average, six first-class passenger cars out of thirty, under repairs, daily, and he ascribes the casualties to "the unevenness of the track, on the frost breaking up," or in other words, to the want of ballasting and drainage, and to "accidents arising from cattle being on the track." That much disappointment and dissatisfaction have been felt on the line, and by parties in connection with the line, is undeniable. That some share of these feelings may be ascribed to undue and over-exacting expectations is doubtlessly true, but much is also to be attributed to disorder incidental to the premature opening of the road and to a system of management unusual on this continent, and ill adapted to the circumstances and magnitude of this enterprise.

56. From information derived from C. J. Brydges, Esq., the Managing Director of the Great Western Railway Company, it appears that the system of management in force in the Great Western Railway Company is unknown to those familiar with the administration of Railroads in America. The whole machinery of a complicated enterprise is not only superintended or directed, but is actually and practically worked out, or attempted to be worked out, by one man. The Managing Director is not only the head but the hand to which every important duty is confided. That officer, whose natural talents, industry and zeal are universally admitted, has assumed or has had imposed upon him more duties than any one man can possibly accomplish.

57. Under the American system of Railroad management, the chief officers of the Road are the President and Superintendent. To the former, in concert with the Board, is practically confided the administrative functions of the Corporation. The latter is the executive officer upon whom devolves all details of execution and management. The duties and the qualifications of the two officers are so far dissimilar, that the man fitted to make a good President might prove to be a very indifferent Superintendent, or *vice versa*, but it is hardly within the competency of man to act at the same time as President and Superintendent. On a Road such as the Great Western—the connecting link between two great systems of American Railroad communication—the services of an experienced Superintendent are as indispensable as they would prove to be invaluable. Such men it is not easy to find, but they are to be found, and should be sought for, without reference to country or extraction. What a Company wants, what the interests of the community require, is the best man who can be obtained. To organize a system on a new Road he must bring to bear much experience—good knowledge of business—great knowledge of men—and the power and habit of command; and to reduce to order the heterogeneous mass with which he has to deal, he must devote himself unintermittingly to the task. No President or Managing Director, supposing these offices to be analogous, could, if properly occupied, give time and attention to these duties. It is questionable if he would succeed, even if he tried. No man becomes a Superintendent by intuition. To use the illustration employed by Orville B. Dibble, Esq., of Detroit, in discriminating between the qualifications of a Railroad President and Superintendent, we would say that the man most competent to organize a packet service, "might be quite unable to command one of his own ships."* Too much has, in fact, in the case before us,

* Vide statement of O. B. Dibble, Esquire, of Detroit, No. 42. Evidence of C. J. Bridges, Esquire, No. 2; and Letters H. J. K. L.

been assumed without sufficient practice in much that has been assumed; multiplied occupation has prevented proper attention to details; laxity of discipline has prevailed in consequence, disorder and irregularity have ensued, and temporary discredit is the result.

58. The people of Canada have a large interest in the success of the Great Western Railway. Six hundred thousand pounds of the Provincial Funds are, at this present moment of time, invested in this enterprize. The value of the security must ever be influenced by the character of the management. The credit of the enterprize will deeply affect the credit of all like Canadian enterprizes. We conceive it, therefore, to be our duty in discharge of the trust confided to us, to call the attention of Her Majesty's Government to the subject, and respectfully to suggest remedies, while remedy is still within reach.

59. In corroboration of the views hereinbefore expressed, and in fact as having suggested many of the above remarks, we beg leave to call attention to an instructive statement received from Orville B. Dibble, Esq., of Detroit, and confirmed by the opinions of B. C. Whittemore, Esq., State Treasurer of the State of Michigan, J. H. Harmon, Esq., Collector of the Customs of the Port of Detroit, C. C. Trowbridge, Esq., President of the Michigan State Bank, O. M. Hyde, Mayor of Detroit, and M. A. Cook, Recorder of Detroit. This document will be found in the Appendix.* At the same time, and in the same relation, and to avoid the necessity of extending still more this already protracted Report, we refer to the statement of the Hon. Malcolm Cameron and of William F. Coffin, Esq., with reference to an occurrence which took place on the Great Western Railway on the night of the 10th November last past; which will further illustrate the preceding observations.

60. It is, we may be permitted to presume, the wish and the intention of the Government of the Province to supply the omissions of the past and to provide for the future by Legislative enactment, and in this view we approach the conclusion of our subject.

61. We conceive that the time has at length arrived when it is both necessary and expedient to provide, by adequate legislation, for the public safety on Railroads in this Province. We consider that by wholesome legislation the interests of the public and of Railroad Companies will be equally consulted. That by the provisions of such a law the public and the Companies will be protected from the influence of public opinion demanding and obtaining indiscreet concessions from Public Corporations. The public and the Companies will, in fact, be protected from themselves. We would respectfully suggest that the provisions of the Act 14 and 15 Vic., cap. 51, being an Act to consolidate and regulate the general clauses relating to Railways, and the Act 16 Vic., cap. 169, being "An Act in addition to the General Railway Clauses Consolidation Act," be extended to apply to all Railroads in the Province of Canada, and that the following additions be made to the same:—

62. A Railroad Inspector or Surveyor to be appointed in connection with the Board of Railway Commissioners, the same to be a professional Civil Engineer of years standing.

63. This officer periodically and at uncertain periods to visit and inspect all existing Railroads in Canada and report on the condition of every such road and the sufficiency of equipment in the interest of public safety and convenience.

64. On Report of Railroad Inspector transmitted through Board, the Governor to be empowered to order such Companies to complete road, or supply defects in the same, or to do anything authorized to be done under this Act within a given period; under a penalty for the omission of any day beyond that period.

65. Six months at least before the opening of any new road, the officers and Engineers of the Company should invite the attendance of Railroad Inspector, and in

* Vide Evidence, No. 38, 39, 40, 41, and Letter O. Also, Evidence and Explanation of C. J. Brydges, Esquire, No. 2.

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concert with him agree upon the character of the line and the quantity and quality of rolling stock required at the opening of the same. Inspector to report this agreement with reason for particulars therein contained to the Board of Railway Commissioners, at the same time and in the same manner, the Engineer and other officers of the Company to concert and agree with the Railway Inspector, as to the way in which every public road crossing on the line shall be constructed—whether over the road on a bridge or under the road by a tunnel—or, if on a level, whether to be protected by gates or by men bearing flags, or by road signs.

66. Railway Inspector to prescribe, likewise, at which (if any) curves, in cuttings more especially, flagmen shall be regularly and invariably stationed, provided with flags by day and lamps for night use.

67. Inspector to visit works in progress, at irregular and unexpected times, to see the same are carried out in the manner provided. If not to report the same to the Directors of the Company, and transmit copy of Report to Railway Commissioners.

68. No road to be opened before it is thoroughly fenced.

69. No road to be opened until ballasted to such extent and at such localities, as may appear to the Railroad Inspector to be necessary to secure the public safety.

70. One month before the opening of every new road, at least, on notice given, the Inspector to visit the works on the line, to report thereupon, and certify that the fencing is complete according to law, that the ballasting is sufficient, that the superstructure is in all respects secure, and that the said works are in such condition and in such a state of progress as to be safe for public use at the time of the proposed opening of the road and thenceforward. Copy of said Report and certificate to be forwarded to the Board of Railway Commissioners.

71. No Railroad to operate without such certificate under a penalty for every day of such illegal operation, and no passenger to be liable for fare.

72. Inspector to prepare a uniform code of rules for the government of all the subordinates of all Railroads in running said roads in this Province, such code to be submitted through the Board of Railway Commissioners to the Governor General, and on receiving his approval, notified through the Official Gazette, to have the force of law.

73. Any violation of such rules to be punished with discharge from the service of the Company, and further to be declared a misdemeanour punishable on summary conviction, before one magistrate, by fine or imprisonment, fine not to exceed at discretion, or in default of fine, imprisonment not to exceed one month.

74. Any Company taking back any such discharged or convicted servant into its employ, in the same or any other capacity, to pay a fine of for every day the said servant may be so employed.

75. Railroad Inspector to embody in his aforesaid certificate that the rolling stock of the Company is conformable to agreement and sufficient for present purpose consistently with the comfort, convenience and safety of the public.

76. Passengers other than first class passengers to be conveyed in properly and strongly constructed cars, covered, provided with glass windows and lamps and stoves at proper seasons. The cars to be of specified dimensions, containing a certain number of seats properly and firmly secured. A certain number to be accommodated on each seat, adults and children. Second class passengers paying not more than per mile for conveyance to be entitled to carry lbs. luggage each. Luggage to be conveyed on the same train with the passengers, but in separate cars.

77. Railway Inspector to visit all roads hereafter at irregular and uncertain periods and to report in duplicate to the Board of Railway Commissioners and to the Board of Directors all deficiencies or defects that may exist in superstructure

or rolling stock, however required or from whatever cause arising, coupled with a recommendation that the same should be supplied immediately or within a reasonable time, and assigning reasons for such recommendations.

78. Should such recommendations not be complied with, the Railroad Inspector further to report to the Board of Railway Companies to that effect, who, with the approval of the Governor, may order the said road to make good such deficiencies within a given time, or in default thereof to desist from running.

79. Any road operating after the service of such order on the proper officer of the Board of Directors, and after the expiry of the period therein mentioned, to be liable to a penalty of per diem for each and every day of infraction of order.

80. Railway Inspector to cause all infractions of this Act coming within his cognizance to be prosecuted, and, to this effect, to have the advice and assistance of all Law Officers of the Crown.

81. All accidents on Railroads, attended by injury to persons or damage to property, to be reported within hours of the occurrence to the Railroad Inspector, by Telegraph if possible, under penalty for each omission.

82. On receiving such intelligence, Railroad Inspector to repair to the scene of the accident, enquire into and report upon the facts to the Board of Railway Commissioners, and upon any legal proceedings which may ensue.

83. All accidents requiring legal remedy which may affect poor persons, or emigrants, or the safety of the public generally, upon being reported to the Board of Railway Commissioners, to be by them referred to the Officer of the Crown for proper action thereon.

84. In all cases for or against a Railway Company which may involve trial by Jury (except in the case of a Coroner's Jury) the proper tribunal may, upon suggestion and proper proof by affidavit, made by either party that a fair and impartial trial cannot be had within the usual jurisdiction, cause the trial of the said case to be transferred to such other jurisdiction as to the said tribunal may seem best.

85. All persons trespassing or walking on the track of the road liable to a fine not exceeding or imprisonment not exceeding one month, at the discretion of one Magistrate.

86. Servants of the Company to be authorized to arrest any person violating the provisions of the said clause last above written and to detain and convey such person before the nearest Magistrate.

87. Section men or man having charge of sections to be compelled by law to proceed from one end of the section to the other the first thing in the morning, examining carefully the fencing and track, and repairing or reporting instantly all defects; and to retrace their steps in the course of the day. Disobedience or neglect punishable by fine.

88. Policemen to be furnished every Company as required, from any Police force to be hereafter established in this Province, the Company paying such price as may be agreed upon for the daily and nightly service of each man, clothed and accoutred.

89. The expense of Police and all expense connected with the Office of Railroad Inspector to be defrayed by a milage rate to be imposed on all Railways.

90. As a compensation for such rate or tax all Railroads should be exempted from school taxes or local taxation.

91. Speed of trains to be regulated. Punctuality of departure to be exacted under penalty.

92. Railways realizing a certain average amount of gross earnings should be compelled to construct a double track on the whole, or such part of the road, as may be agreed upon between the Managers of the Company and the Inspector of Railroads.

93. The use of bells as well as steam whistles on locomotive engines should be required of every Railroad Company.

94. Any person having the control of an engine, who may run upon the time of another train, to be made liable, in case no injury should ensue, to a fine of and imprisonment until paid, in case of death to be guilty of manslaughter and punishable accordingly.

95. All proposed Acts of Railroad Incorporation and all proposed Amendments to existing Acts to be submitted to the Railroad Inspector three months before the Session of Parliament in which it is intended to introduce such measure or measures, who shall report thereon to the Railroad Committees of the Legislature, whether all preliminary conditions have been fulfilled, whether the powers and privileges and rights asked for do or do not interfere with the powers, privileges and rights granted to other parties, and whether those powers and privileges and rights can be exercised under each Act in a manner calculated to secure the public credit and safety.

96. Bellon Engine to be rung invariably before starting a train; to be rung without intermission while in slow motion, and always for 80 rods before passing open road crossing on a level.

97. Disobedience of orders on the part of any servants of the Company to be a misdemeanor punishable, independent of discharge from the service of the Company, by fine and imprisonment upon summary conviction before a magistrate.

98. Intoxication on the part of any servants of the Company to be a misdemeanor punishable by fine or imprisonment upon summary conviction before a magistrate, independent of dismissal from the service of the Company.

99. In making the preceding suggestions we do not pretend to offer more than an outline of the provisions which we conceive ought to be embraced in any Bill which it may be deemed expedient to submit to Parliament for the further regulation and more safe conduct of Railroads in this Province. The details of such a measure would require to be worked out with care and consideration, and at a greater length than we should feel justified in employing at the close of this protracted Report. Our present object is rather to show the necessity which exists for adopting here, in connection with Railroads, the same principles of legislation which have been invoked with great practical benefit in England and in the United States, believing that in the final elaboration of such a measure much that we have suggested may be advantageously modified and many additions made which have escaped our notice.

All which is respectfully submitted by,

Sir,

Your most obedient servants,

WILLIAM F. COFFIN,
M. C. CAMERON.

sent out red light ahead; went back to London on foot to get another engine; got one; came down to the cars and pulled them back to London; this was the cause of my detention at London; lost by this break down three hours and forty minutes; had a clear way to Windsor, except freight train waiting for me at Ekfired; nothing occurred until we came to Baptiste Creek; after taking breaksman in (Martin) jumped out of car and ran against one fireman, James Finny; Breaksman Cole said it was fireman; asked for engineer Thomas Smith; person asked did not know where he was; fireman was in the water; Breaksman helped me to raise fireman; asked again for the Engineer; at this moment he came up. A gentleman, Mr. Skell, came to me and asked who the fireman was; I told him; he assisted me in removing a child from the ruins, and built a fire with the fragments of the Car. Mr. Thomas F. Meagher came up and assisted as much as he could; then enquired cause of the accident; one of the breaksmen, Wm. Cole, said we had run into a gravel train. I supposed some cars of Gravel had got loose from others, and that the parties on the Gravel train were not aware of it; could not think a gravel train was out at that time. Let the men at work to extricate the dead and wounded when fire brightened up. Went to the forward end of my train, and met a person, the engineer of the gravel train, John Kettlewell. I asked him in God name why he was there; he said he was ordered there; dispatched a messenger to Chatham for assistance, and continued extricating dead and wounded; found out from fireman that he was moving east; backing his engine, saw situation of engine. After day light, between 10 and 11 o'clock, went to Kettlewell, and asked him who had ordered him out; D. W. Twitchell; he said he had refused, but was compelled by a party higher than him in authority, and that they would be personally responsible. Mr. D. W. Pollard was fireman of the Gravel pits; then asked where conductor and Mr. Pollard were; he said conductor had gone to the house, and Mr. Pollard to Windsor. I then asked fireman of the pit; he said fireman was assisting in removing the dead and wounded. I wrote a note to conductor to come with his men and assist in clearing the track; again asked engineer why he had disobeyed orders; he said he had asked Mr. Gregory at Windsor, who told him the conductor had their instructions, and that they must be obeyed. I asked him whose duty it was to report when the trains passed; he said we have a wiper to wipe our engine, and probably to look after the trains if he does not go to sleep after he gets his engine wiped; did not tell witness who that person was. Asked if he thought the train had gone by; he answered, and was confused in his answers; said that watchman gave him to understand that express train had passed from what watchman had said to him, and he burst into tears and left me. Watchman was standing there, and was pointed out to me. I said: is that you watchman, he said he was. Asked him if he saw the train go past; said yes, a friend of his said, and he said yes. About 8 o'clock the evening previous, I asked him which way it was going, he said east; did not learn his name then; none there present knew it; he went off, and did not see him since; had all the usual lights about my train with large reflector in front; could be no possibility of witness or engineer being aware of the proximity of gravel train; flags were to notify me not to pass; tail or red light behind is to warn other trains that may be following; as soon expected to meet a brick house or Steam boat as a gravel train, where I did on this or any other part of the track; asked my engineer if he saw gravel train lights, and he said he did not. By engineer of gravel train, John Kettlewell, did I not tell you that watchman had informed me that express train had passed at one o'clock. Witness says that he has no recollection of being told so, yet he might have said so.

By superintendent of Mr. Harris, T. D. Randall, do you consider it the duty of every man on gravel train to set up and wait to a certainty that the express train

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SCHEDULE

Of Accidents on the Great Western Railway, from the
Opening of the Road, 10th November, 1853, to
10th November, 1854.

ACCIDENT AT BAPTISTE CREEK, 27TH OCT., 1854.

Evidences examined or taken and referred to in the Report.

COUNTY OF KENT, TO WIT :

Information of witnesses severally taken at an adjourned inquest and acknowledged on behalf of Our Sovereign Lady the Queen touching the death of J. B. Bodfish, Peter Gallagher and others now lying dead at the Great Western Railway Depot in the Town of Chatham, Township of Raleigh and County aforesaid, on the 28th day of October, in the year of Our Lord one thousand eight hundred and fifty-four, before Edmund B. Donnelly, one of the Coroners for the said County, on an inquisition then and there taken on a view of the bodies of the said J. B. Bodfish, Peter Gallagher and others then and there lying dead, as follows, to wit :

J. T. NUTTER, of Stamford, Canada West, being sworn, says : that he is a conductor of the Mail Express train on which the collision took place on the morning of the 27th October, 1854 ; has been conductor of that train since Monday last ; has been in the employ of the Company since February ; left falls at 2 o'clock of the afternoon of the 26th instant, and arrived at Chatham at 4.30 minutes of the morning of the 27th. After leaving this and after collecting tickets, sat down to assort them some fourteen miles near Baptiste Creek, heard a noise and crash. The morning was densely foggy and dark ; the seat gave way, and the cars stopped suddenly, heard dreadful cries, and going out saw John Martin lying in a helpless state, and pulled him in the car : this was at 10 minutes past five A. M. Martin survived about two hours and a half ; train was going between 22 and 25 miles an hour, was behind time, and gave engineer instructions to go slow as the night was dark and they could not connect. Instructions from Mr. Bridges tells us to run slow ; started on time and ran on time as far as Fairchild's Creek about sixty miles ; was delayed at St. George's one hour and eighteen minutes by Gravel train being off track, then followed freight train which was ahead of me to Paris and then to Princetown ; this train was 20 or 30 minutes more delay ; passed them and the next train at Princetown ; took over a London, still behind time, telegraphed to conductor going east ; that witness would keep out of his way to Wardsville ; left London at 9.30 p.m. ; ran some 3½ miles, when my engine broke.

has passed. Answer—Not from personal knowledge, but by keeping a proper watchman to keep look out and get information from train.

(Signed,) J. T. NUTTER.

Chatham, 28th October, 1854.

Then the jury proceeded to view the body of Caroline Crandell who died in the car after her arrival at the G. W. R. W. station at Chatham, after which the jury proceeded with further evidence.

(Signed,) E. B. DONNELLY, Coroner.

JOHN KETTLEWELL, of Sandwich, County of Essex, being duly sworn, sayeth; that he is engineer on the gravel train; my engine was fired up and steam on at 4½ A.M. of the 27th instant; then inspected my engine and head lamps; weather was very foggy. Waited orders from conductor; after hitching on cars and enquiring from the watchman Patrick Pine, whether the Express train going west; he told me it had about one o'clock got on to the main track, and proceeded to go Eastward of Janel's Creek by the conductor's orders. The conductor is Mr. D. W. Twitchell; proceeded about two miles driving cars; before engine had one red globe lamp and one revolving signal lamp on the furthestmost car; did not see the Westward Mail Express train, nor fell till we ran right into her; by a Juryman, was under pay from Mr. Harris; since 10th July were in the habit of starting from 4 to 6 o'clock in the morning. 6 o'clock is the proper time for starting in the morning; had confidence in watchman Pat Pine; he had always been regular and attentive to his duties, of sober habits; take my instructions from conductor only said to Mr. Nutter, that Pine; he had wiper for engine who was also watchman, if he had not gone to sleep, alluding to that night, he had either been asleep or he had lied about the train passing; has no reason to suspect any one for inducing the watchman Pine to abscond; was going from about ten to twelve miles an hour when collision took place; watchman Pat Pine was employed by M. Harris. Have full instructions from the Company in the shape of a pamphlet; engine going West should have passed a little after 10 o'clock the evening before; watchman had watched from the 9th instant; he had gone out as much as four times in a day time, when Express train had not yet passed; by orders of Mr. Pollard is employed by Mr. Harris; cars went out when Pollard was in charge, and the other three times when Twitchell was there. Remonstrated against the course with Twitchell as being contrary to the printed rules of the Company, and on the 13th complained to Mr. Gregory at Baptiste Creek; gave no answer positively, but on the 14th gave me one letter to Mr. McKenzie, the time keeper for the Company; Mr. Gregory remarked to me that I incurred no responsibility when ordered by the conductor; considered myself exempt from the rules laid in book by Mr. Gregory's answer. To the witness's knowledge this was the first time any Officer of the Company had any knowledge of this breach or deviation from the rules laid down for their guidance, and of which he was in possession, also the time table of Monday last. The two last times he was on the track; was on the 25th and 26th instant. Mr. Harris pays me \$70 per month; is acquainted with the general regulation No. 1, by which the engineer knows the duty of the conductor; therefore, witness knew that conductor was guilty of a breach of duty; heard Twitchell say he had received a letter from Mr.

Gregory, and accused witness of having reported him; does not know the content of the letter; knew that what Mr. Gregory said did not entirely exempt me from blame for going out in train time.

(Signed,) JNO. KETTLEWELL.

Chatham, 28th Oct., 1854.

JOSEPH HOLMES, being duly sworn, saith: that he resides at Clayton, Cty. Joa, Town of Gottenburg; was a passenger in cars when collision took place; took cars at Suspension Bridge on his way to Detroit; was in second car of 1st class when collision occurred; was thrown by side of a stove; got up; went to front door, and could not get out by that, went to back door, and got out. It was very dark, but yet could discover that 2nd class cars were mashed up when near to them; by a faint light from locomotive could discern people lying about here and there, some dead, some wounded and some endeavoring to assist the wounded; the dead were laid aside the track in a row, and covered up, and the wounded were placed in the cars as soon as possible; assisted the conductor Mr. Nutter in relieving the wounded; knew six of the parties killed; two of his aunts, two of his uncles and two of his cousins, Peter Bodfield, Martha Bodfield his wife, Nathaniel Oaks, Orelia Oaks, his wife, Cornelius Oaks, their son, and Daniel Oaks, also their son; these are the parties the Coroner's Jury examined in witness's presence; the treatment shown by the conductor Mr. Nutter to the wounded and passengers, was very kind.

(Signed,) JOSEPH HOLMES.

Chatham, 28th October, 1854.

EDWARD JAMES McLEAN, of Rochester, in the County of Essex, being duly sworn, saith: that he belongs to the gravel train employed by the G. W. R. W. Co., to take count of the quantity of gravel taken from pit, and the distance it is run; was on gravel train yesterday morning about 5 o'clock, when collision took place, between it and express train going West first noticed engine blowing off steam, and felt jerk, and was thrown on the wood and back again towards fireman; got on train at gravel pit before five in morning; switched on train track; there was a man in charge of the switch; does not know him; saw engineer and conductor at gravel pit; the latter told engineer he was to go east of Janet Creek with the loaded train; thinks he was a watchman employed by Mr. Harris; the gravel contractor; this watchman called deponent up the morning of the accident, viz: 27th October instant; did not hear watchman say that track was clear, or that train had passed; was in their employ only since day previous; felt no apprehension in going out that morning; thought all was right; had no control over gravel train when going on track; there is a switch to the main track, and two branches from that in the pit; the pit is on the Lake shore. By Mr. Twitchell, was awake all the time after starting gravel cars had run each about 2½ miles.

(Signed,) E. J. McLEAN.

Chatham, Oct. 28, 1854.

D. W. TWITCHELL, of Tilbury West, being duly sworn, saith: that he is conductor upon the gravel train at Baptiste Creek, and was acting as such on the morning of collision; is in the employment of G. F. Harris; the gravel contractor gave order to engineer to go out on the morning of the 27th October instant;

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witness was told upon particular enquiries by watchman that the train had passed west; knew watchman Pat Pine for the last two months; said Pine was to witness's knowledge always sober and steady; watchman had particular instructions to watch each and every night; usual hour is from six in the morning in summer for starting, and latterly, as trains were irregular, adopted the custom of going out earlier in the morning, say from 4 to 5½ o'clock A. M.; have been on train since the 26th September; proceeded about 2¼ miles when collision took place; was on front car easterly; saw the express train approaching; turned the red light of the revolving lamp to my engineer to stop, and jumped off; as he alighted splinters from express train, flew over me; it was very dark and foggy; the man standing next to me was killed, he was a colored man; would have carried the light even if I had seen the express train go by myself; do not recollect that engineer remonstrated with me for running on train time, but after Mr. Gregory's letter said to engineer, Jack you have reported me; his answer was somewhat to this effect, no body denies it; since receiving Mr. Gregory's letter, Mr. Muir wrote to the effect that, when the mixed and freight trains were half an hour late the gravel train might go; the letter was addressed to Mr. Pollard; on the 25th instant, ran about 1500 ft. from the switch; saw the watchman yesterday morning about 10 o'clock, and said, Pat, I thought you told me the train had gone by; he said he thought it had at 11 o'clock evening previous. A few days before had cautioned him to be careful, and not to go to sleep, for it would be a dreadful thing to meet the express train; his business was to watch and call us; in the morning saw Pine. Kettleworth's watch, a watchful guardian, could not fail hearing the train pass a long time; had I found him guilty of an untruth, I should have reported him and discharged him; on one occasion that he went out on express train time, Mr. Bunker, Mr. Pollard and witness had consulted together to start to dump; this was on the 25th and 26th instant; Mr. Banker wanted gravel, and said he might go out as it was near at hand and there was plenty of time to dump, and there was no use in laying idle, and gravel was wanted so near at hand; have a book of instruction; but those contained in the red book and those he is well acquainted with; went out in the morning on the express train once or twice; knew it was his duty not to do it; and if he did it he was not aware of it at the time; by my watch was never out on express train to my knowledge before Mr. Gregory's letter; have often asked J. Hogan for the true time (at Baptiste Creek Station); thought that watchman had deceived me; did not arrest him, had so much to think of in the confusion at the time; Pine was engaged by me and instructed in his duties; was instructed by Mr. Pollard to do so; *watchman was paid by Mr. Harris, and not by the G. W. R. W. Company.*

(Signed,) D. W. TWITCHELL.

Chatham, 28th October, 1854.

D. W. POLLARD, of Baptiste Creek, in Tilbury West, being duly sworn, sayeth: that he was in charge of the ballasting at Baptiste Creek under Mr. Harris; has control over gravel train so far as to tell them when to go out and when not to go, *when trains are not due*; was not at gravel pit yesterday morning; when accident occurred was at Windsor; watchman was in the employ of Mr. Harris; his duties were to watch the train, keep engine clean and watch the regular trains at night; conductor has no other means or cannot do otherwise than trust the watchman; never to his knowledge ordered Mr. Twitchell to go out on the track

on express train time ; made enquiry from the watchman P. Pine ; this day was and is in possession of Red covered book of instructions and time table of Monday last ; received a letter from Mr. Muir when mixed and freight trains are half an hour late to go out with the gravel train ; it was talked of between Mr. Bunker, Mr. Twitchell and myself with regard to the gravel trains going out to dump at a short distance ; do not know whether what Mr. Banker said had reference to the time they should dump ; does not think if they go out after the express cars pass Baptiste Creek going east, it would be against instructions, because the express train going west cannot come on for an hour or more, and under the circumstances could not be due ; my principal duties were to furnish every thing necessary for the work being carried on, and had no instructions from Mr. Harris to put the gravel train on during other than regular train time, or to violate any of the Company's rules ; had no other instructions besides those contained in red book whilst he was conductor of gravel train on other end of the route.

(Signed,) D. W. POLLARD.

Chatham, 28th October, 1854.

THOMAS C. GREGORY, resident engineer of the western division of G. W. R. W. of Windsor, in the County of Essex, being duly sworn, sayeth : that he was informed both by Mr. McKenzie and Mr. Kettleworth that the gravel trains ran on main track during express train time, and that they were infringing on the Company's rules ; told Kettlewell that he considered the conductor responsible, and shortly afterwards wrote to Mr. McKenzie, letter marked No. 6, enjoining upon him to see that Mr. Twitchell did not run on express time, and strictly adhere to the rules to be off the main line twenty minutes before the train is due ; had no intimation of any dereliction of duty since writing the letter to Mr. McKenzie until this day ; considers the printed rules perfectly good if they are followed out by the employers of the Company, as they indicate great care in framing, and there is no fault to be found with them in any particular ; the management of this railroad is conducted with care in the conduct of its trains, and that all due care is taken towards the safety of the passengers ; knows of no instance of want of care or attention on the part of Mr. Brydges or any other person in power on the Board regarding the safe conduct of the train and safety of the passengers ; there is danger when a fence is down, and horses and cattle get on the track ; Mr. Pollard did not notify witness that gravel trains were arriving earlier than usual.

(Signed,) THOMAS C. GREGORY.

Chatham, 28th October, 1854.

WILLIAM SCOTT, of Windsor, in the County of Essex, being duly sworn, sayeth : that on the evening of the 26th left Windsor on train time at 7.10, or as near to it as possible ; we passed the train at Rochester 19 miles from Windsor ; asked the conductor whether we had any other trains to pass, said yes ; we should pass another train at Thamesville, had left Ingersol at 8.20, just two hours late according to the time table at Wardsville ; understood there was a message from the conductor of the western train to the effect that he would keep off the track. At Eckfrid, we passed other train that had left Windsor, four hours before us ; went to Lobo ; news was circulated through the train that the Western express engine had broken down five miles this side London ; went on slowly to London, and arrived about one o'clock a. m. ; about half past one heard the train leaving to go west, nearly

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seven hours late, trains travelling so much out of time the Company should have watchmen at every switch on the main line, and not trust to watchmen employed by conductors; it is the practice of all Railway Companies to appoint watchmen of their own, and when I was late division Engineer, I had instructions from Mr. Brydges that the traffic department would attend to placing men at all the switches; there is great carelessness in sending out an engine to break down in 4 or 5 miles without looking into the matter, if it was but one instance it would not matter so much, but it is a frequent occurrence; the present engines now used for gravelling are not fit for long hauls, and if this course is pursued, there will be frequent accidents. Thinks this is the worst conducted road in America. After accident of the 3rd of June in London, Mr. Brydges told me to urge on the fencing, if it cost a year's revenue. Sent to Lake Huron for lumber; did not get the money; I wanted one thousand pounds £1000 to commence completing up the fences, and put them in good repair. The system on American roads is to give a train the right of the roads after another train has been a certain time late; considers working by Telegraph a bad system; I recommended that sidings should be made every seven or eight miles to ensure the safety for a long track; knows nothing about the immediate collision; a person stationed over a Railway should be cognizant of all the irregularities in the various departments, it is never excusable for a conductor to come out against the rules of the Company; some three weeks ago I was coming up, and when within four miles or so of Chatham, we met another express train, and it was obliged to go back to Chatham. It is almost impossible for a train to pass a watchman without his being aware of it, no matter how dark or foggy the night, and even if he was asleep in his box it could scarcely pass without his knowing it; was for 16 or 18 months in the employ of G. W. R. W. Co. as division engineer; Company dispensed with my services about three months ago. Having a watchman at every crossing is universally done in England but not in the United States, with perhaps a few exceptions; had never expressed to Mr. Brydges his approval of the general management of the road.

(Signed,) WILLIAM SCOTT.

Chatham, October 28th, 1854.

CHARLES JAMES BRYDGES, of the City of Hamilton, in the County of Wentworth, being duly sworn, sayeth: that he has been managing Director of the G. W. R. W. for two years past; have devoted much time and attention to framing rules and regulations, and they are contained in the Red Book No. 1; considers them quite sufficient if carried out by the employees of the Road; have taken all precaution that his judgment and experience enabled him to do for the safety of the trains and passengers in the formation of the rules; came down here for the purpose of aiding in this investigation of this deplorable accident. A few months ago received from Mr. Scott a letter entirely spontaneous on his part speaking in the highest terms of the manner in which the business of the Railway was conducted. Mr. Scott's evidence being quite unexpected, he has not the letter here to produce, but can produce it on Monday. The New York and Erie Railroad, which is admitted to be the best on this continent, is worked solely and exclusively by Telegraph in the working of their trains. I will add to this that in my experience and judgment in the working of the large traffic of the Great

Western, that it would have been impossible to do it either safely or satisfactorily without the aid of the Telegraph. Had twelve years, experience both in the old

Chatham, 28th October, 1854.

At the Coroner's inquest held at Chatham, October the 29th 1854, the jury was called (the Court being kept open by adjournment) to view the body of Thomas Ringston, who died of his wounds at the residence of the Sisters of Charity in whose charge he had been placed: said Thomas Ringston had his leg amputated in the cars whilst on their way to Chatham after the accident of the 27th instant; the jury then retired to meet at 6 p. m. on Monday the 30th.

(Signed,) E. B. DONNELLY, Coroner.

The jury having heard of the death of Robert Mitchell, one of the wounded persons by the collision, proceeded to view the body, and retired to meet at adjournment.

E. B. DONNELLY.

Chatham, 29th October, 1854.

Two children having died, the Coroner's jury proceeded to view the bodies, one of which about 5 or 6 years old, is supposed to be Eliza Robinson; another, an infant at the breast name unknown. the jury then proceeded to hear further evidence.

(Signed,) E. B. DONNELLY, Coroner.

Chatham, October 30th, 1854.

DANIEL MORAN, of Tilbury West, in the County of Kent, being duly sworn, sayeth: that he is the tankman or pumps water at the tank the day before the brake. Mr. Pollard was at the tank; witness observed to him, you are doing big work those times; he said there were six trains out that day; witness observed that he Mr. Pollard was running on express time; he answered that it was as well for him to be discharged by the Company for doing good work on express time as to be discharged by his employer for doing bad work, this conversation took place the day before the collision.

(Signed,) DANL. MORAN.
his mark.

Chatham, 30th Oct., 1854.

WILLIAM SCOTT's examination resumed; was division engineer in the employment of the Company; considers it necessary that a watchman should be appointed at every side track coming from a gravel pit on the road; expressed his opinion to Mr. Brydges as to the necessity of having such watchman appointed; came to Chatham to see what was going on when he was asked by a jurymen to come before coroner's jury and give evidence, should have come and offered evidence at all events; considers it every man's duty in a case like this to come forward; had witness been at gravel pit should not have come out a foggy night; Switchman at gravel pit is not usually a watchman; when witness was in charge of that gravel pit he always had a watchman, whose duty it was to see that the track was clear and keep cattle off.

(Signed,) WILLIAM SCOTT.

Chatham, 30th Oct., 1854.

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The Court, at this state of the proceedings, adjourned till to-morrow evening at 7 o'clock.

Chatham, Oct. 31st, 1854. The coroner and jury met as per adjournment, and the roll being called and found correct, the Court proceeded to business.

THOS. C. GREGORY being already sworn, says, instead of saying at his first examination, that the gravel train had run upon express train time, he intended to convey that the train had run too close upon express train time; never knew there was a watchman at the pit; conductor is responsible for gravel train running upon express train time, and considers it his duty to ascertain whether express train has gone by, if not certain, should not go out, and would be supported by the Company in this course.

(Signed,) THOS. C. GREGORY.

Chatham, Oct. 31st, 1854.

PATRICK PINE, of Tilbury West, in the County of Essex, being duly sworn, sayeth: that he has been engaged at work at the gravel pits on the Lake shore, for some 24 days; did not know at the time that Mr. Twitchell was Mr. Harris's Agent; Mr. Twitchell, who sent after witness whose duty at the pit was to wipe engine and get steam up in the morning, did nothing else; did not turn switches; took about 3 hours to wipe engine; came in with engine some time after dark in the day time; slept at boarding house; engine went out at 4 o'clock; could not sleep after having cleaned the engine; had no orders to watch; had also the dredging machine to fire up previous to firing the locomotive; recollect morning on which accident occurred; had conversation with Mr. Kettlewell; called upon him to wake him up; walked to the engine, he asked me if a train had passed, I told him I heard one train going East, he did not ask him what train it was; told him train had passed about 12 or 1 o'clock. Saw Mr. Twitchell; did not call him up that morning; held conversation with Mr. Kettlewell outside the house; saw Mr. Twitchell on the dredge, he asked me if I had called up the boys, I said no; he never asked me any question concerning the train; does not know why Mr. Kettlewell asked him if the train had passed; attended switch one spell of a day when Switchman was sick; does not know his name; heard, but never saw train going by at night; could tell if he took notice which way train went. Thos. Bains was present when Mr. Twitchell engaged him; when I left on day of collision was told to do so by Mr. Pollard; did not see them start that morning; first heard of the accident shortly after turning into bed; before day light, heard a colored woman say so in the kitchen; got up and walked towards the cars, about a quarter of a mile from boarding house, met Mr. Twitchell, asked him what the matter was, he said he could not tell; after short time told him, witness, that express train had run into them; Twitchell was alone; it was just getting light; then; he asked witness whether he knew about the occurrence; was answered not; had no time table nor book, nor had ever had any. Did not know there was a train due from the East; Mr. Twitchell asked me to go along with him and get some of the Company's men to take him on a hand car to Windsor; the men would not go; Twitchell did not say why he wanted to go to Windsor; saw the conductor next time at Baptiste Creek; had no conversation with engineer there; Mr. Kettlewell said to me, Pat you rascal, why did you tell me the train had passed; witness said he had told him the train had passed, meaning it had gone East. Saw Mr. Pollard about 4 P. M. I was going towards Mr. Mason, and being tired, sat down there; returned towards boarding house, when Mr. Pollard

followed me, and said Pat, you had better clear out ; witness asked him what for, Pollard said you will be arrested ; witness answered he was not afraid, did not suppose they could hurt him ; Mr. Pollard said if they caught him they would ; this did not frighten me ; I told him I could not go as I had no money as far as Detroit without it ; he then said, here is two dollars, and that will carry you to Detroit ; witness took the money, went up stairs with Mr. Pollard to get his clothes ; when Mr. Pollard said, leave your bag and I will send it to you to-morrow, and drop a line to witness in Post Office with his money to witness ; supposed the two dollars to be part of my wages ; went to Detroit ; had conversation with Mr. O'Conner at Windsor on saturday, and told him I would give myself up ; did this, because he saw his name mentioned in the papers as a watchman ; Mr. O'Conner said they could not hurt witness any ; went back to Detroit and came back this morning ; hearing some person was looking for him ; saw Mr. Kettlewell at Windsor this morning ; went to Detroit on foot ; Mr. Pollard said if I did not hurry, the cars would be after me ; never saw any man setting up at night ; they used to call me watchman ; never told Mr. Nutter that he had informed Mr. Kettlewell that the train had passed about eight o'clock evening previous ; Mr. Nutter asked witness if he was watchman, witness said he was ; he was awake till one evening before the accident ; met Mr. Mason in the morning ; told him about the break down, and that he was blamed for it ; witness said he was not to blame ; Mr. Mason said he thought not ; Pollard urged witness to go for about $\frac{3}{4}$ of an hour ; supposed he was advising me as a friend ; remained in Detroit until this morning. The men who refused to go to Windsor, were Mick Conlin, Matthew Innis and Pat Golden, they all spoke ; received instructions from Mr. Twitchell and from Mr. Kettlewell concerning engine.

(Signed,) PATRICK PINE.

Chatham, Oct. 31st, 1854.

THOMAS MASON, of Tilbury West, in the County of Essex, being duly sworn, sayeth : that on his return from the ruins, met Mr. Twitchell, walked to witness's house about 300 yards from Dredging machine ; when at witness's house had some conversation with Mr. Twitchell, during which he asked witness to conceal him until such time as he could hear how things were ; witness told Mr. Twitchell to stand his own ground, and look up like a man, not to run away on any consideration whatever ; asked permission to stop at witness's house for two or three hours ; witness consented ; on witness returning from ruin the second time, Mr. Twitchell observed to him : Mason, good God, what shall I do : witness answered, Twitchell go to your own boarding house, and there stop, don't move a foot ; Mr. Twitchell left the house, witness accompanied him part of the way to his boarding house, persuading him to stand his own ground ; constables from Chatham came to witness's house enquiring for Mr. Twitchell ; this was about six o'clock P. M. ; witness gave them all the information he could, and sent a man along with them to find him ; there was no one present when the conversation took place between Twitchell and myself ; Twitchell observed to witness : in the name of God what shall I do, I killed 40 or 50 poor souls, who never did me any harm ; whatever will they do with me, they'll hang me I suppose ; he kept crying all the time ; Mr. Pollard and Mr. Twitchell were together a short time in witness's house up stairs ; Twitchell sent for Mr. Pollard to see what he should do ; if it was after Pollard and Twitchell had been together, that Pollard went towards the dredge where Pine was ; had no difficulty in inducing Pine to come

over the river to Windsor; last winter witness had a contract on the gravel pit, and had a switchman of his own; were running only during the day, and had no watchman; saw Kettlewell on day of collision, but had no conversation with him about the accident; held the pit nearly five months; Mr. Scott was engineer at this time; held the pit during the months of January, February, March, April and part of May; during this time, neither Mr. Scott or the Company had any watchman to guard the track or keep cattle off; Mr. Scott worked the track one, two or three weeks; cannot say if Mr. Scott had a watchman during the time he worked the pit.

(Signed,) THOMAS MASON.

Chatham, 31st Oct., 1854.

THOMAS SMITH, of London, County of Middlesex, being duly sworn, sayeth: that he was engineer of the mail express train going West, on which the collision occurred on the 27th; the name of the engine is Rein Deer; night was very dark and foggy; had no intimation of a train of cars being before me; saw a kind of dim light like a shadow, and struck nearly at the same moment; had no time to blow the whistle; stuck to the car till it tumbled over, and then crept out from among the wood, steam and water; thought I had run into a train. Understood the road was perfectly clear; the dim light might have been ten or twelve yards off, when perceived; driver of gravel train came forward and enquired if any body was hurt, and observed it was a bad job, and observed they had been running out some mornings that way, and expected some accident would happen; understood they had a clear track from Eckfrid; told the track would be clear by conductor and Mr. ; witness has been eleven years running locomotives; saw engine that was backing gravel train afterwards, it was the St. Lawrence.

(Signed,) THOS. SMITH.

Chatham, Oct. 31st, 1854.

G. F. HARRIS, of Hamilton, in the County of Wentworth, being duly sworn, sayeth: that in his contract with the G. W. R. W. Company, it was not understood that the Company should have a watchman independent of the one he might have; there was nothing said about a watchman; conductor, engine driver, fireman and *switch tender* were the only officers mentioned in the contract; cannot say whether his conductor hired Pine to watch the trains as well as to wipe the engine and fire up, but should have done so, this is the custom on all witness's gravel pits, except one, which is far from the road at Stoney Creek; that it required two, one at the pit and one on the regular line of the road; took possession of the gravel pit on the 19th of May, or the 19th of June; does not know which, considers it is the conductor's duty to appoint and see after the watchman, breaksman and switchman, and is responsible for the performance of their duty; wrote to Mr. Pollard to see that Mr. Twitchell had all the Company's instructions; witness proposed that Twitchell should be appointed conductor, and Mr. Gregory consented; fireman can have no control over conductor, if the conductor does his duty according to his instructions, neither the fireman or contractor could have any control over him as to the time of his running on the main track; Company's rule would be his guide; witness had given instructions to Mr. Pollard to have watchmen at all the other pits where he had been. It was as customary for witness to have a watchman at gravel