

HOUSE No. 871.

[Bill accompanying the petition of Arthur P. Sleeper for legislation relative to the recovery of damages against railroad or railway companies for injuries resulting in death. Joint Judiciary. Feb. 4.]

Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Three.

AN ACT

Relative to the Recovery of Damages against Railroad or Railway Companies for Injuries resulting in Death.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section two hundred and sixty-
2 seven of chapter one hundred and eleven of the
3 Revised Laws is hereby amended by striking out
4 the words "nor more than five thousand dollars,"
5 in the eighteenth line, and inserting in place
6 thereof the words:— nor more than twenty-five
7 thousand dollars,— so as to read as follows:—

8 *Section 267.* If a corporation which operates a
9 railroad or a street railway, by reason of its neg-

10 ligious or by reason of the unfitness or gross
11 negligence of its agents or servants while engaged
12 in its business, causes the death of a passenger,
13 or of a person who is in the exercise of due care
14 and who is not a passenger or in the employ of
15 such corporation, it shall be punished by a fine of
16 not less than five hundred nor more than five
17 thousand dollars, which shall be recovered by an
18 indictment prosecuted within one year after the
19 time of the injury which caused the death, and
20 shall be paid to the executor or administrator, one-
21 half thereof to the use of the widow and one-half
22 to the use of the children of the deceased; or, if
23 there are no children, the whole to the use of the
24 widow; or, if there is no widow, the whole to the
25 use of the next of kin; but a corporation which
26 operates a railroad shall not be so liable for the
27 death of a person while walking or being upon its
28 road contrary to law or to the reasonable rules
29 and regulations of the corporation. Such corpo-
30 ration shall also be liable in damages in the sum of
31 not less than five hundred nor more than twenty-
32 five thousand dollars, which shall be assessed with
33 reference to the degree of culpability of the cor-
34 poration or of its servants or agents, and shall be
35 recovered in an action of tort, commenced within
36 one year after the injury which caused the death,
37 by the executor or administrator of the deceased
38 for the use of the persons hereinbefore specified
39 in the case of an indictment. If an employee of a
40 railroad corporation, being in the exercise of due
41 care, is killed under such circumstances as would

42 have entitled him to maintain an action for dam-
43 ages against such corporation if death had not
44 resulted, the corporation shall be liable in the
45 same manner and to the same extent as it would
46 have been if the deceased had not been an em-
47 ployee. But no executor or administrator shall,
48 for the same cause, avail himself of more than one
49 of the remedies given by the provisions of this
50 section.

1 SECTION 2. This act shall take effect upon its
2 passage.

