

38. In speaking of the electric cable installation, Mr. Cleary, counsel for Ballantynes, suggested that the cable was treated by the Crown and the Municipal Electricity Department engineer as something beyond reproach, but, in his opinion, it must be viewed as an object of grave suspicion because of several proved defects. As to the cable being the cause of the fire Mr. Cleary said—

- (1) Fire commenced in Congreve's basement through which the cable passed.
- (2) Immediately the fire was discovered, Roger and Ronald Ballantyne diagnosed the cable as being the likely cause.
- (3) A number of witnesses (Roger and Ronald Ballantyne, Stringer, Falkingham, Irvine, Novell, and Oakman) spoke of the smoke having a tarry, or pitchy, smell.
- (4) Mrs. Mangin (a customer) noticed a flash, which she took to be a fuse blowing in a sub-circuit, which she thought was about 3.40 p.m.
- (5) Witness Goodwin (a tailor from Beath's store opposite) noticed smoke oozing out under pressure from the bell-mouth.
- (6) Fireman Oakman referred to a square pillar of flame showing up from a position in the vicinity of the third I-bearer, which is the point where the initial combustion of vapour may have taken place.
- (7) Patches of bitumen east of the third I-bearer point to internal heating taking place, and bitumen melting and attaching to the concrete floor, before the presence of any quantity of water.
- (8) For ten minutes after the arrival of the fire brigade there was a steady increase in the volume and density of smoke in the alleyway and in the vicinity of the basement, indicating that, due to the heating of the cable armouring, vapours were pouring from the cable.
- (9) Mr. Roger Ballantyne spoke of observing a fairly bright flash and noise, accompanied by failure of some of the lights and failure of the cash-blower at a time before any significant flames appeared, so that the flash would therefore appear to have taken place well in advance of the falling of any debris.

39. Based upon the reasons adopted in *Adelaide Stevedoring Co. v. Frost*, 64 C.L.R. P. 538, he urged that the Commission should look at the facts and, having regard to the fact that the fire occurred in that portion of the building where the main electric cable passed through, and that no other tenable theory for the cause was presented, should, if it was admitted there was an accumulation of faults, set aside the opinion of experts, and come to the conclusion that some of the faulty installation—or the faults as a whole—and perhaps other faults not discoverable owing to the destruction of the premises, were the cause of the fire.

The case cited, however, was a medical case in which Judges might, having some knowledge and experience of the human body, feel able to discard the evidence of medical experts. In this case we do not feel at liberty to adopt that course.

40. Mr. Nicol, who submitted a report, and was in the witness-box for three days, dealt with each fault and, admitting defects as proven, said nevertheless such defects could NOT have been the cause of the fire. His report is attached as Appendix D.

Mr. Nicol submitted that there was no sign of electrical burning throughout the length of the service entrance mains, and that there was no evidence of electrical breakdown either between conductors, or between conductors and their enclosing pipe. He further submitted that, in a cable such as the main electricity supply cable, experience has shown that failure of its insulation, other than at a point where it had been prepared