

had not carried out certain regulations with regard to fog-signalling. I have had considerable railway experience extending to twenty-eight years, and I say that if the home signal is not a protection to the station, then no train running in the Dominion is safe. This is one of those unfortunate cases in which the human element has failed, and there has never yet been devised a system throughout the world where it could be absolutely said that the railway running was absolutely safe. They have to depend to a very large extent upon the human element. And Mr. Kennedy has already admitted that it would have been better to have carried out the rule—to have reduced speed and stopped if necessary. That is the seat of the whole trouble. When the driver saw that there was a fog it was his clear duty under the rules to reduce his speed to such an extent as would enable him to stop his train before reaching any obstruction, whether that obstruction was 10 or 20 or 30 yards away. As far as the tablet-porter is concerned and the crossing of trains, the tablet-porter was strictly within the rules in taking that train out and backing it into the siding. Notwithstanding the fact that there is a rule to say that trains, unless otherwise directed, shall enter from the nearest end, there are some cases where this is an impossibility. I can give you an illustration. Many of you, I dare say, have been to Rotorua. It is not possible for a heavy train to come in at the nearest end in entering a station like Ngatira. If the train were to stop at the nearest end the driver could not get started again, because the near end is on the grade. It is necessary for the train to go ahead and drop back into the siding for crossing purposes. There are many stations like that, and the home signals are provided for the express purpose of protecting trains that require to work at the station at either end. The tablet-porter was perfectly justified under the rules; it has been shown by the expert evidence that has been called that he was justified in taking the train out and backing it in if necessary. The engine-driver of this train was justified in going right up to the home signal. He would not be justified in going outside the home signal, but he was justified in going right up to the home signal and backing into the siding if necessary. Unfortunately the driver of the approaching train, from some cause or other, overlooked the home signal. Mr. Kennedy has admitted that that is so. The whole text of the argument as we have heard it has been for a mitigation of the punishment. As far as the tablet-porter is concerned, I respectfully submit there is not one tittle of evidence to implicate him in any way.

1. *Mr. Dickson.*] Can you explain why the Department has altered the system of running the train into the siding?—No, I cannot explain why the Department have instructed them to take trains in from the nearest end. They think, perhaps, that it is advisable. I may say that it is quite possible to take a train in from the nearest end and find that that train is too long for the siding, with the result that a portion of the train would be standing upon the main line. If the fog was so dense that the driver could not see the signals, it is just as likely that he would crash into the rear end of that train. I can give an instance, if necessary, where such an accident did almost occur. In that case there would be a heavier loss of life than there would be under ordinary circumstances.

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R. W. McVILLY, Chief Clerk, Railways Department, made a statement. (No. 29.)

*Witness:* I will not take up much of the time of the Committee. Mr. Kennedy, in his very laudable desire to do the best he can for his client, has carefully evaded the main point—that is, what was the cause of the accident. He has looked everywhere, and he has been prepared to attribute blame to everybody except the man on whom the responsibility should properly rest—that is, the engine-driver of No. 6 train. The engine-driver of that train had at his command an absolutely efficient brake; he had a train that was quite readily controllable with the engine that he had and the brake-power at his hand. He contends that he ran into a dense fog. I submit the evidence on the other side has disproved that. You had driver Benney, who said that he could see the home signal from the tanks: that is a distance of at least 100 yards. You had Guard Carr's evidence—he was riding in a carriage on No. 6 train: he said that he looked out of the carriage and he could see 150 to 200 yards. Now, as he was on board that train I submit that that clearly disproves the contention of the engine-driver of No. 6 that the fog was so dense that he could not see ahead had he been looking. The fact of the matter is this, and it was given away in evidence by Fireman England: Mr. England said, "It is very seldom we are held up outside the stick. I considered when going along there that there was nothing unusual, and I thought we were going right in." Now, in a nutshell that is exactly the position. Either the driver was not paying proper attention and looking out as he ought to have been, or his attention was momentarily distracted and he did not see the signal when he ought to have done. His train was running faster than he thought it was, because he thought he was going into the station. There are a number of rules which govern the position, but one rule that has been quoted by Mr. Kennedy—Rule 245—I will deal with, because it has been contended to have rather an important bearing on the matter at issue. Rule 245 says, "When trains timed to cross at a flag station arrive simultaneously at the crossing-place both trains must be brought to a standstill before fouling the points at either end of the station-yard. The guard of the train that is to take the siding will then bring his train into the siding." This applies on sections where there are no tablet-porters and to stations where tablet-porters are not in charge. For all the purposes of crossing trains and for working the station the tablet-porter for the time being is a Stationmaster: he has the same responsibilities except in regard to accounting. Therefore Rule 245 does not apply to New Lynn. The rule that does apply to New Lynn is Rule 157. The rules that apply to the driver are first of all those respecting signalling. Without labouring the question at all let me say there is no doubt whatever that had he complied with Rule 82, which directs that a home signal is never to be passed at "Danger," the collision would not have occurred. So far as the other