

speed of running on portions of the road, and especially through Chertsey and towards Rakaia, was not only in excess of the time-table rate—*i.e.*, twenty-four miles per hour—but also greater than was laid down by a regulation which limits the speed of his train, as an ordinary one, to thirty miles per hour. The evidence of Mr. Thomas Danks, who previous to 1878 had sixteen years' experience as a driver on the Victorian railways, is very clear upon this point. The Stationmaster at Chertsey also expressed an opinion that the train ran through his station "pretty fast," and the guard's assistant, Burrows, who took charge of the brake when he found his guard had been left behind, expresses the opinion that the speed was that of an express train.

Engine-driver Carter, when called upon to explain his breach of the rule in not stopping outside Rakaia Station, pleaded: First, that, his guard having been left behind, the brakes in the van were not applied when called for; second, that the Westinghouse brake upon his engine did not act; third, that when his fireman, at his instruction, "cut in" the air for the Westinghouse tender-brake, that failed to act for a few seconds; fourth, that he was misled by the head-light of an engine standing on the Methven branch, which he believed to be the head-light of No. 21 south, which train he was to cross at Rakaia; fifth, that he believed the tail-lights of No. 1 excursion standing in the Rakaia Station to be much further away than they actually were; sixth, that no danger- or stop-signal was given to him until he was close to the first facing-points.

With regard to these pleas we have to state,—

First: The evidence of Burrows and of Mr. Fitzpatrick, who was in the van with him, goes to show that the brake was applied either at Chertsey or immediately afterwards, and kept on until the time of the accident; and it will also be noticed that Engine-driver Hughes saw the brakes of the van were on at the time of the collision.

Second and third: The admissions of Carter himself immediately after the accident that his brakes were in good order (*vide* Mr. Beattie's evidence), and the fact that the engine and tender have continued to run with those brakes in good order since, suffice to negative his statement that they did not act properly before the accident. On this point Carter, at the inquiry which we held, entirely failed to account in any reasonable manner for the difference between his statements immediately after the accident and his argument before us to the effect that the brakes had failed him. It is beyond question that verbally and above his signature he fully admitted, within forty-eight hours of the accident, that his brakes were in good order and had acted properly, suggesting rather that the accident had arisen either from his misjudging the distance until it was too late to stop, or from the fact that the preceding train had made, as he expressed it, "bad braking-ground." His statement "I thought I had a clear road up to the platform, and whistled for a platform-signal, but did not get one," is very significant; and we are further of opinion that it is in the highest degree improbable that a Westinghouse brake would be in good order at Ashburton, fail to act within an hour subsequently, and work well without any repairs for three months afterwards.

Fourth: We admit that Carter may have been misled by the head-light of the Methven engine in the manner alleged by him, but this does not in any way exonerate him for running into a station before he received a platform-signal in accordance with the regulations. The Methven engine was not mentioned in his working-notice, and the only lights at or near the station by which he should have been guided were the platform-signal (which he did not receive) and the tail-lights of the train in front of him.

Fifth: He also probably misjudged the distance of the tail-lights of the train in front of him; but this, far from being a valid excuse, is rather an admission of a serious error of judgment on the part of an experienced driver.

Sixth: According to the evidence of Mr. O'Neil, who showed the danger- or stop-signal, it was exhibited about 300 yards from the facing-points, a distance quite inadequate, in our opinion, for protective purposes; but, as no rule provides for the showing of such a signal, Carter had no right to rely upon its exhibition, and should have had his train under sufficient control to enable him to stop before reaching these facing-points until the platform-signal admitting him was shown in accordance with rule.

We are of opinion that this accident arose through Driver Carter maintaining too high a speed in running his train between Chertsey and Rakaia, and from his misjudging his distance from Rakaia Station when he shut off steam. There is not the slightest reason to suppose that Carter was other than perfectly sober; but, as in his evidence he has admitted his extreme desire to make up on his journey the time which had been lost in starting from