

nesses that the fog was heavier north of the station than south of it. I hope that was the case, because it would to a very great degree excuse the station staff for not putting out fog-signals. I will admit that this fog may have arisen very suddenly, and that the man in charge of the station and the signalling may have had very little warning of the fog coming on—in fact, the accident may have taken place almost before he had warning. But I think it is proved conclusively that there was on that morning a very dense fog indeed on the north side of the home signal at New Lynn. Even Driver Benney admits there was a fog, but he says he could still see the signal. Now, I want you to note this: when he pulled ahead to back his train into the siding, he says he stood three or four minutes waiting for a signal; and his fireman corroborates that and says three or four minutes; and Driver Benney says that the reason why he could not get a signal was because of the fog: that is in his evidence. Yet that man wants to say there was not much fog and that he could see the signal. You will notice, if you carefully peruse the evidence, that there is a small discrepancy between that of Driver Benney and the guard as to whether a signal could be seen when he had pulled up or whether it could not be seen. Now, I think I have shown you that the cause of the accident was that the regulations which the Department have to administer were not carried out. That was the cause of the accident; but we find that all these men on whom responsibility devolves for the safety of a train at a place like New Lynn, near the foot of a falling gradient and in time of a fog—these men have each ignored the rules; none of them have taken the responsibility that the rules put upon them. I will try to enumerate a few of them. First of all we have the tablet-porter. He does not recognize that New Lynn is near the foot of a falling grade; he says it is not. He says that Rule 158 does not apply to New Lynn. Then we will take the guard of train No. 6. We have a rule in the rule-book that a guard, when approaching a station where a train is crossed, is to allow no other duty to interfere with his looking out for signals. It is unnecessary for them to say that no other duty is to interfere with it, because we have at the top of each page this rule, "The first and most important duty of every member is to provide for the public safety." We are also told that attention to signalling is our first duty. Therefore the guard was warned doubly. He was warned in the first place by the rule directing him to look for signals and to allow no other duty to interfere with that. He was also warned by his first duty being the protection of the public safety. Now, the guard told you point blank in his evidence that he did not carry out his responsibility; he entirely ignored it. He says he had too much to do in the cars. I do not dispute that. I do not want to blame the guard, but I want to point out that there are a number of men who have a responsibility with a train entering a station: it does not all rest with the driver. You start with the man who forms the regulations, whoever that may be; then you have the men to see that the regulations are put into force; then you have men who are supposed to carry out these regulations, and a great number of these regulations are for the protection of the engine-driver. Now, I think I have shown you that these men have, each one of them in turn as we came down to them, entirely neglected to carry out their part of the business that would ensure the safety of this train on the morning in question. It then came down to the driver. There is one rule that I almost missed—Rule 245, regarding the crossing of trains at flag stations, and I think this is a flag station. Rule 245 stipulates that at a flag station the first train arriving shall take the siding. That is one more rule that confirms what we have contended all along, that No. 5 should have entered at the siding. We were told by one of our witnesses—Mr. Margan—that there have been a number of very narrow escapes from accident at New Lynn. He said that he saw one himself, where the engines stopped a few yards from one another. He stated that he was putting in five declarations made before Justices of the Peace to this effect. Now, I think you must admit, on looking at the whole of the evidence, that there must have been a very lax mode of working trains at New Lynn. If the public began to see that there was danger—and witnesses have stated that they expected an accident—I think the Railway Department should have recognized the danger, because there undoubtedly was danger. The proof of the pudding is in the eating of it, and you have come to the eating now—the New Lynn collision. If the public could see this—and they not only saw it but took action, for they warned the Minister that it was likely to occur—then surely your Railway officers should have seen it and known of it, and should have done what they now have done—instructed that the regulations be carried out. That is all they have done now: nothing more. I think, if the public could see that, there must be some blame attached to your Railway officers for not having seen it at the same time. My association wrote to the General Manager of Railways and they complained that fog-signalling was not being carried out on the Auckland Section, but I am not quite sure whether the General Manager had an opportunity, from the time we complained until the time the accident took place, of bringing the fog-signalling into effect; but it will show you that the members of the Drivers and Firemen's Association recognized that there was a danger, and they approached the General Manager with regard to it, and warned him that the regulations were not being complied with, and asked him to see that they were.

2. Was that a general statement, or in connection with New Lynn only?—It was a general statement regarding the Auckland Section. Now when the accident has taken place every man tries to clear himself. You will have noticed, as I did, that in Mr. McVilly's examination of several witnesses he was trying to find somebody else to blame than the tablet-porter; he was trying to find some one else to blame irrespective of those who controlled the signals at the station that day, and he dropped on the driver, of course. He quoted Rule 211, and he made the witness say that if that rule had been carried out there would have been no collision; and I agree with him. But is that fair to the engine-driver? Is it fair that all these men of whom I have spoken who have a responsibility with regard to the safety of the public and the working of signals should ignore their responsibility and all the blame be put on to the driver? The men who framed these regulations did not intend that. They recognized that during a fog or falling snow an engine-driver could not see the signals, and they provided a means that made it safe to run trains in