also; and so have said that they "do not upon the evidence know the name of the party." However that may be, it is clear that some one there was who was in charge of the yard in the employ of the defendant, and it is not pretended that this was the deceased. Such person would be, within the meaning of the Workmen's Compensation for Injuries Act, sec. 2 (5), a "person in the service of the employer who has the charge or control of . . . points . . . upon a railway," and therefore one for whose negligence the employer is liable.

The sub-section has received consideration in several cases. Cox v. Great Western R. W. Co., 9 Q. B. D. 106, Gibbs v. Great Western R. W. Co., 11 Q. B. D. 22, and McCord v. Cammell, [1896] A. C. 57, may be referred to as shewing the inclination of the Courts to give the widest interpretation to the words of the sub-section.

I think, too, that the jury were well justified in finding that the fact that the switch in question was open, there being no explanation as to how the switch had become open, or as to how it was still open at the time of the accident, indicated negligence in the person in charge of the place.

It may very well be that plaintiff might also succeed upon the principle of res ipsa loquitur, as to which see Meenie v. Tilsonburg, etc., R. W. Co., 5 O. W. R. 69, 6 O. W. R. 286, 955, and cases cited.

There will be judgment for plaintiff for the amount found by the jury, viz., $1,400, and full costs of suit.