

and another car of the defendants, which had preceded it on the same track, and which had been stalled or "stranded" there in consequence of the stoppage or failure of the motive power. The negligence charged and relied upon was the omission of the defendants, or their servants in charge of the first car, to notify or warn those in charge of the car following it of the danger which might be caused by the stoppage of the former.

The facts are simple. It may be conceded that there was evidence for the jury of negligence on the part of the men in charge of the first car, in failing to signal the following car of its situation, but the important question in the case is whether the plaintiff's own neglect in disobeying a clear and positive rule applicable to the condition in which he found himself, was not the cause of the collision, rather than the omission of the motorman or conductor of the other car to warn him.

That rule, with which the plaintiff was perfectly familiar, was one of a "code of rules for the government of conductors and motormen" of the company, and provides: "Rule 212. Power off line. When the power leaves the line, the controller must be shut off, the overhead switch thrown, and the car brought to a stop. The light switch must then be turned on, and the car started only when the lights burn brightly."

The accident happened about 9.30 on the evening in question. At this time the first car had been stationary for some 10 or 15 minutes. It was about 300 feet west of a place on the overhead wires where there was what is called a circuit breaker. From that point west the power was off, and of course the lights out along the line, by reason, as it seemed, of a broken wire. Whether it was off at the time that car passed the circuit-breaker, and the car had rolled along from thence to the place where it was standing, or whether it went off after the car passed the circuit-breaker, is unknown. The power had been weak and intermittent for some little time before the plaintiff's car arrived at the place referred to, but there, according to the plaintiff's own evidence, the power went off and the lights went out. He did act upon the rule so far as to shut off the controller, and thus prevent the action of the power upon the car on its return to the line, until he opened the controller, but, instead of bringing the car to a stop by applying the brakes, he allowed it to roll on by the momentum it had acquired