

Q. At the time you looked, and the car was two lengths east of the east side of Margueretta street, where was Mr. Herron's rig? A. He was coming across the track turning north-east.

Q. How far had he got? A. Well, he would be about between the two tracks, I would imagine.

Q. What do you mean by that? A. Between the east and west track.

Q. The devilstrip? A. Yes.

Q. Did the motorman do anything? A. He rang the bell once.

Q. In addition to the ringing of the gong, what else was done? A. I heard the motorman put the brakes on, and I was almost thrown off my feet, that was all, I heard the crash, of course."

On cross-examination, he said:

"Q. When did you first see Mr. Herron? A. Well, as I said, about two car lengths east of Margueretta."

William J. Rashleigh, was the conductor on the car in question. He says:

"Q. What was the first that attracted your attention? A. Ringing of the gong and the sudden applying of the brakes.

Q. Where was the car relatively to Margueretta street at the time you heard the gong ring? A. Just about on the east side of Margueretta street.

Q. And brakes you say put on? A. Yes."

Walter McRae, a master mechanic swears the car in question was 40 feet in length. He says that the car could be stopped, going at the rate of 10 or 12 miles an hour, in about two car lengths. He also says that going 8 miles an hour it could be stopped in two car lengths.

"His Lordship: Do you want this jury understand that it could not be stopped any quicker going 8 miles an hour than it could going 12? A. Yes, it would."

Then he further says that going 12 miles an hour it could be stopped at 90 feet.

From these witnesses it appears that there is evidence by some of the witnesses that the east and west bound cars crossed each other east of Margueretta street; that according to several of the witnesses the plaintiff's horse and rig could be seen from two to three car lengths east of Margueretta street, when he was in the act of crossing to the north. According to the plaintiff's own evidence he actually