

been in the employ of the Grand Trunk Railway Company for some 18 years; that he had frequently placed cars in this shed before the wall was built, but that he had not had occasion to place a car where this was required since the wall was built. The accident happened about 11 o'clock in the morning. The space occupied by the wall previous to its erection had been open ground, and upon this ground just back of where the wall stood the deceased had been in the habit of signalling the engine-driver when placing cars.

Plaintiff's witness McConnell, who was the engine-driver at the time the accident occurred, says: "We pushed cars ahead of us. We had to push cars in to place them. We pushed in every car that was placed in that siding. Hammill (the deceased), who was in front, was giving the signal as he went along at the side of the car to place it. I could not see Hammill, but he was walking on the ground alongside of the car as the car was going in." . . .

The engine-driver then received a signal from Wadsworth to stop and back, and it was then found that the deceased had been crushed between the car and the wall. Wadsworth, who had left Canada, was not called. . . .

For the defence it was shewn that there was nothing unusual about the construction of the wall; that the distance between the rail and the wall is about the average of loading platforms; that these switches and loading platforms are constructed so that persons handling material could get it unloaded quickly, and if cramped for space the platform is closely crowded, leaving sufficient clearance for the width of the car that will go through it; that this wall or platform was used for unloading bricks and lumber on the one side and coal on the other. It is described as a stone retaining wall (to retain the earth of the dock) 2 feet wide and 70 feet long and about 3 feet 6 inches above the top of the rail. The earth is filled in behind this wall, forming a dock for unloading materials of all kinds of freight, principally brick.

The witness Laffin, an engineer on the Toronto, Hamilton, and Buffalo Railway, stated that these receiving platforms are not constructed with any idea that a brakeman or anybody else should ever get between these platforms and the rails; that the primary reason for putting the plat-