eastern track and those going south on the western track; that this was the general practice and one to which the public were used and accustomed; that on arriving at Dupont street, a street running westerly from Avenue road, and in order to turn the car for the purpose of its return trip south, it would cross into that street for a short distance and then go backwards into Avenue road, the tracks over which it thus passes on re-entering that road forming what is called a Y. Instead, however, of passing over to the track on the east side of Avenue road and continuing its northerly journey thereon to the end of the line, and then switching over to the west side on arriving there to begin its southward journey, it proceeds backwards for rather more than a quarter of a mile to the end of the line on the western track, which having reached it starts again in the opposite direction. The car is thus, while going northward from Dupont street, not only reversed but is going northward on a track on which the cars usually go when travelling southward, and there is neither fender nor headlight on what has thus temporarily become the front end of the car, and the motorman and gong are not at that end, nor is it usual to sound the gong while going the short distance from Dupont street to the end of the line. There was evidence that all this was likely to be very confusing to persons crossing the street, and that at night it was not easy, in the absence of headlight or gong, to say whether a car proceeding reversely was coming towards one, or going in the opposite direction, and that the system on which defendants managed their cars at this place—for it was not a matter of occasional breach of duty or negligence on the part of the servants of the company in charge of the car—was a source of danger to the public, and was probably the cause of the death of the person mentioned in the indictment. There was, no doubt, evidence both ways, but there was evidence on which the jury were justified in finding against defendants.

Mr. Bicknell urged that the absence of the fender at the rear end of the car could not be considered as evidence of neglect or want of care in the management of the car, or as an element of the criminal negligence defendants are charged with, because the statute only requires them to have a fender on the front end of the car, that their cars were so furnished, and that in any case the statute affixes a penalty to default which exonerates them from further responsibility.

The answer, however, to this objection is that the statute is not dealing with the question of criminal negligence; that