

questions, ainsi que sur celles de la déduction du montant de la police d'assurance :

*St-Pierre, J.* — "Heather may have contributed to the accident by running his train at too great a speed, though as I have just said, the thing is by no means certain; but herè the chief cause of the collision was manifestly the invitation he had received from the signal-man who, by putting up the green light, had thereby intimated to him that his road was clear. In consequence of this wrong invitation, the Company-Defendant, even if their own version be accepted, must be held responsible for the accident which followed. I need not state that I am here reasoning on the assumption that Heather was running under steam and that he had full control over his engine.

"The other alternative is that owing to some defects in the hand-brakes, or to the fact that they were not properly applied, Heather was put to the necessity of reversing his power, it being the only means he had within his reach to control his speed. And here again I will ask: Whose fault was it if the hand-brakes did not work properly, or if Desjardins was neglectful or unfit for performing the duty he was called upon to as brakesman? Clearly it was the Company's. They therefore, in this last alternative as well as in the first one, must be held responsible for the accident.

"It has been contented that if Heather had delayed the train, and taken the time required to mend the pipe of his engine, the air-brakes might have been used and that by the use of the air-brakes, the accident might have been avoided.

"This pretension would, at first sight, appear to be a reasonable one; but several answers may be given to it. In the first place, there is no proof that Heather could,