

THE CROSSING Chapter 8

Transcript of a hearing
held on Dec. 14, 1961,
by the Weld County
District Attorney's Office.

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COUNTY OF WELD)		

REPORTER'S TRANSCRIPT of Statements under Oath of Witnesses to a Train-Bus Collision occurring near Greeley, Colorado, on December 14, 1961, said Statements commencing at the hour of one forty-five o'clock p.m. on Thursday, December 14, 1961, in the District Court Room, Weld County Court House, Greeley, Colorado, and the said witnesses interrogated by MR. KARL R. AHLBORN, Assistant District Attorney, Eighth Judicial District, State of Colorado; and Mr. Edward G. Knowles, Attorney at Law, also present and interrogating on behalf of the Union Pacific Railroad.

AND THEREUPON the following proceedings were had, to-wit:

MR. AHLBORN: We would like to take sworn statements from the members of the train crew. Any of you can refuse to make a statement if you so desire, but we'll make a record on it; we want to know what happened. I'd like to have the engineer testify first. I don't know which gentleman it is. Are you the engineer? Will you come forward and be sworn, please.

HERBERT F. SOMMERS,

called as a witness herein, being by the Clerk of the District Court Robert W. Rhodes first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. AHLBORN

- Q Will you state your name, please?
- A Herbert F. Sommers.
- Q What is your occupation, Mr. Sommers?
- A Locomotive engineer.
- Q By whom are you employed?

A Union Pacific Railroad.

Q How long have you been an engineer?

A About twenty-two years.

Q How long have you worked for the Union Pacific?

A Forty-two years.

Q What run were you on this morning?

A I was on train No. 111, known as the City of Denver.

Q And you were going from where to where?

A Sterling to Denver.

Q What time did you leave Sterling?

A Six forty-one a.m.

Q How long have you been on this particular run?

A A little over three months.

Q Do you make the run daily or otherwise?

A One way each day.

Q What time was it when you arrived at the intersection where the accident occurred?

A Seven fifty-nine a.m.

Q At what speed were you traveling immediately prior to the accident?

A Seventy-nine miles an hour.

Q What type of locomotive were you operating?

A A diesel locomotive, three units.

Q Was it a passenger or freight train?

A Passenger.

Q How many cars were on the train?

A Sixteen.

Q Do you know approximately how many passengers might have been on the train?

A No, sir, I do not.

Q Did you observe a bus which was later struck by the train at the intersection?

A Yes, sir.

Q How far were you from the intersection when you observed the bus?

A I can't tell you exactly but I seen that bus about three hundred feet before they got to the intersection.

Q You mean you were three hundred feet from the intersection or the bus was three hundred feet?

A The bus was three hundred feet.

Q What type of bus was it?

A It was a school bus.

Q What was the color of the bus?

A Yellow.

Q Was it clearly marked a school bus?

A Yes.

Q Now you say that the school bus was about three hundred feet from the intersection when you first observed it?

A Yes, sir.

Q And approximately how far were you from that intersection?

A Oh, approximately a quarter of a mile. It might have been a little more.

Q When you observed the bus what was it doing? Where was it going?

A It was slowing down.

Q What direction was it traveling?

A What direction are the hills from here?

Q West.

A The bus was traveling west.

Q It was traveling west?

A Yes, sir.

Q Was it directly west or was it on a road that was at an angle?

A On an angle.

Q In other words, the road did not cross the railroad track at a right angle?

A No.

Q And would you describe the angle and the manner in which the bus was traveling?

A About a sixty degree angle.

Q And that placed which side of the bus closest to the train?

A Repeat that, please.

Q That placed which side of the bus, the right or the left side of the bus, closest to the train?

A It would be the right side.

MR. AHLBORN: It might clarify things here if we would make a rough drawing of this on the blackboard to show where the tracks were and the roadway; so if you'll excuse me we'll get the blackboard.

Let the record show that Don Girnt of the highway patrol is going to sketch on the blackboard the tracks and the road, showing the ~~measurements that he took on it, if you would, Don.~~

MR. DON GIRNT (While drawing at blackboard): Right at the railroad track there's a slab of blacktop back down the road from the railroad track. Here's your grade marks and they came out twenty-six feet wide.

MR. AHLBORN: Did you see what the surface of the road was there?

MR. GIRNT: This is a gravel-dirt road on both sides of this track but right at the track there's a strip of blacktop on either side of the track.

MR. AHLBORN: Did you measure it to determine how wide the blacktop was?

MR. GIRNT: From the track back, no, sir, I did not. It's a very jagged edge.

MR. AHLBORN: Do you know approximately how far back it is?

MR. GIRNT: As a rough guess I'd say that that's about twelve to fifteen feet back of the track, is blacktop.

MR. AHLBORN: All right, now will you indicate the direction in which the bus was going?

MR. GIRNT: The bus was coming from this direction here and the train was coming from this direction here.

MR. AHLBORN: You've got "north" here and "south" here, "east" here and "west" here. That can't be right.

MR. GIRNT: No, that's wrong. This is south. The train was coming in from an easterly direction, like this. The bus was coming in this direction, headed west, the same way with the train.

MR. AHLBORN: Tell us the direction that the train was coming from.

MR. GIRNT: The train was coming from the east, going west, on the railroad track.

MR. AHLBORN: And the bus was going where?

MR. GIRNT: The bus was coming from the east, going to the west also.

MR. AHLBORN: What town is the railroad crossing close to?

MR. GIRNT: Well, the closest town would be about two and a half miles away, which would be LaSalle.

MR. AHLBORN: Was there anything that you discovered at the scene of the accident or found at the scene of the accident that would be of any assistance to us here?

MR. GIRNT: What do you mean by that, Mr. Ahlborn?

MR. AHLBORN: Was there any physical evidence at the accident that might be of benefit to us here?

MR. GIRNT: Well, the point of impact was seven feet from this edge of the road over here.

MR. AHLBORN: Seven feet from which side of the road?

MR. GIRNT: That would be from the east side of the road.

MR. AHLBORN: That would be from the east side of the road?

MR. GIRNT: Where it intersects with the railroad, the first rail of the railroad track.

MR. AHLBORN: What part of the bus was struck?

MR. GIRNT: The rear part of the bus was struck, right on the rear dual wheels or rear end part of the bus. It's a single rear end axle bus. It was struck right on the rear end.

MR. AHLBORN: Where was the bulk of the wreckage found?

MR. GIRNT: The main part of the wreckage was found here (indicating). That was 192 feet.

MR. AHLBORN: In what direction from the point of impact?

MR. GIRNT: From the point of impact to the east on the north side of the tracks.

MR. AHLBORN: On the north side of the tracks?

MR. GIRNT: West. I'm sorry. On the north side of the tracks.

MR. AHLBORN: All right.

MR. GIRNT: Then the back section of the bus was found up here on the south side of the tracks, and from the point of impact was 455 feet.

MR. AHLBORN: Is there anything else that you know of that would be of any assistance?

MR. GIRNT: We could find no skid marks from the bus prior to

the crossing; no skid marks at all.

MR. AHLBORN: I think that's all, Don, unless you have something, Ed, you'd like to inquire about.

MR. KNOWLES: When did you get there?

MR. GIRNT: We received a call at 8:09 and we arrived at 8:15.

MR. KNOWLES: Were you among the first cars there or were there some others?

MR. GIRNT: There were several cars there when we arrived. We were among the first, I guess you'd say.

MR. KNOWLES: And when you got there where was the train?

MR. GIRNT: There's another crossing about a quarter of a mile west of this crossing here. This crossing a quarter of a mile west is a blacktop county road crossing and the tracks intersect with it, and the train was about half way across that intersection. It was stopped when we arrived.

MR. AHLBORN: Do you know whether the train had been moved after the accident?

MR. GIRNT: No, sir, I do not. They did move of course on their okay to clear the intersection; but whether it had actually been moved prior to the time that it was okayed to clear the intersection I don't know. That would be this intersection up here that's a quarter of a mile away. They had that intersection blocked.

MR. AHLBORN: West of the scene?

MR. GIRNT: Yes.

MR. AHLBORN: Have you got anything further, Ed?

MR. KNOWLES: Was there any interrogation of the driver while you were at the scene of the accident?

MR. GIRNT: No, sir, there wasn't.

MR. KNOWLES: And the driver survived?

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MR. AHLBORN: I think that's all, Don, unless you have something, Ed, you'd like to inquire about.

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MR. GIRNT: Yes.

MR. AHLBORN: Have you got anything further, Ed?

MR. KNOWLES: Was there any interrogation of the driver while you were at the scene of the accident?

MR. GIRNT: No, sir, there wasn't.

MR. KNOWLES: And the driver survived?

MR. GIRNT: Yes, sir, he has.

MR. KNOWLES: What is his name?

MR. GIRNT: His name is Diane--that's spelled D-u-a-n-e. His middle name is Russell, and his last name is Harms. That's H-a-r-m-s.

MR. AHLBORN: I think that's all.

MR. KNOWLES: That's all.

(Questioning of Mr. Sommers was resumed as follows:)

Q (By Mr. Ahlborn) Now you just testified that the right side of the bus was nearest to you?

A (By Mr. Sommers) Yes, sir.

Q And you were about a quarter of a mile away when you first saw the bus?

A Yes.

Q What position did you have in the cab of the locomotive? What side of the locomotive?

A I'm on the right side.

Q On the right side?

A Yes, sir.

Q You say the bus was slowing down at the time you first observed it?

A Yes, he was.

Q And then what happened after that? What did he do?

A He slowed down, apparently like he was going to stop, and he got right up to the shoulder of the track and appeared like he slowed down to about five miles an hour and stepped on the gas and drove right in front of us.

Q Now are you certain, Mr. Sommers, that the bus driver did not at any time come to a complete stop prior to entering the intersection?

A Absolutely certain.

Q And to the best of your knowledge he slowed down to about five

miles an hour?

A Yes, sir.

Q What did you do?

A I put the whole train brake system into emergency right now, put on the sand.

Q And what would you estimate your speed to be at the time that you struck the bus?

A Seventy-nine miles an hour.

Q It was seventy-nine miles an hour at the time?

A Yes, sir.

Q I asked you a while ago--perhaps you misunderstood me--how fast were you traveling prior to the time that you put the emergency brake system into effect?

A Just prior to that we were making around about eighty-one but at that point we ease off on our power preparatory to setting the brakes and slowing down for the yard limits of LaSalle.

Q How far were you from the bus, would you say, when the emergency brake went into effect?

A Fifty or seventy-five feet.

Q And in that space there would be very little decrease in speed--is that right?--of the locomotive?

A There would be no decrease at all in that space.

Q So that the train was traveling at its full speed of around seventy miles an hour when the accident occurred?

A Yes, sir.

Q After the accident occurred what did you do?

A After the train come to a full stop I put on my coat and went back to talk to the train crew and tell them what had happened.

Q Where did your train come to a full stop?

A About one mile past the scene of the accident.

Q You heard the patrolman, Don Girnt, mention another crossing which is to the west of the place where the accident occurred. Where was your train in relation to that crossing?

A The whole train was past that second crossing.

Q Prior to the time that the patrol arrived was the train moved?

A Yes, sir.

Q In what direction and how far?

A It was moved backwards. After talking with the conductor of our train he suggested we back the train up so he could get over to a farmhouse and get to a phone as soon as possible.

Q How far did you back up, Mr. Sommers?

A We backed up a little distance past the crossing before the scene of the accident.

Q Now, Mr. Sommers, what time was your train due at this particular intersection?

A We're due at LaSalle, on time, at 6:18 a.m., and on time it would be around about fourteen.

Q So your train was running late then?

A Yes, sir.

Q And about how late was it running?

A About an hour and forty minutes.

Q Normally you say you make this run one way each day of the week. Are you normally on time or--

A No, sir, not normally on time and, due to our Christmas rush now, we won't be on time until after the first of the year.

Q How late do you normally run or have you been running, say, the last sixty days or ninety days?

A Oh, about five minutes.

Q Do you know of any time in the last thirty or sixty days when

you have been as much as an hour and forty minutes late?

A Yes, sir.

Q How often has that occurred?

A I can't give you the date but about two weeks ago we were nine hours late.

Q Has there been any time in the last thirty or sixty days that the train has crossed this crossing at around eight o'clock in the morning, as it did this morning?

A You said "this train"?

Q Any train that you have operated through there on this particular run.

A On the train that I was on, there hasn't been.

Q Do you know whether there are other trains that have had that same schedule that have run late during that period of time?

A According to our train register, the engineer on the other side has been later.

Q Do you have any idea how frequently?

A Yesterday was the thirteenth. They got out of Sterling at 7:35 a.m.

Q And crossed this crossing then approximately when?

A It would be around about 8:40, approximately.

Q What I'm getting at, Mr. Sommers, as a normal proposition is there a train crossing that track along about eight o'clock in the morning?

A Yes, sir.

Q Ordinarily there is or ordinarily there isn't?

A Ordinarily there isn't.

Q But there have been a few times since school started, for example, that the train has been late and that there has been a train

crossing there, say around eight o'clock or so; is that right?

A Yes, sir.

Q Who was in the locomotive with you, Mr. Sommers?

A A fireman by the name of Swanson and also a maintainer; as we call them sometimes, an electrician.

Q Immediately prior to the accident and at the time of the accident where was Mr. Swanson?

A He was on the left side of the locomotive, in the front end, in the cab.

Q In other words, he was on the side of the locomotive closest to where the bus was?

A Yes, sir.

Q And where was the maintainer?

A He was in the center seat, in the cab of the locomotive.

Q And what is that gentleman's name?

A You'll have to ask Mr. Swanson.

Q All right. As I understand from your statement that the train did not slow down, you did not use the emergency equipment until after the bus came down to, say, five miles an hour and then started up again; is that right?

A Yes, sir.

Q In other words, you had anticipated that the bus was going to stop and wait for the train to clear?

A Yes, sir.

Q Did you use the whistle or horn, as the case may be?

A Oh, yes; I was blowing for the crossing in the ordinary manner, and when I seen him start up I started giving a short toot. Sometimes that helps attract their attention.

Q Had you started using the signal for the crossing prior to

the time you saw the bus?

A Yes, sir.

Q So that the bus was, according to your estimates, at three hundred feet or more from the intersection at the time you started signaling for the crossing?

A Yes, sir.

Q After you observed that the bus was not going to stop but going to continue crossing the crossing, then you gave short blasts on the horn; is that right?

A Yes, sir.

Q That was about the same time that you put the emergency equipment into effect; is that correct?

A Yes, sir.

Q Did you have time or could you from your position observe the condition of the windows in the bus?

A Yes, sir.

Q What was their condition?

A You could look down in that bus and you could see that the windows were slightly frosted and you could see the children in there--their shoulders and heads. You could tell that there was lots of children in there. You couldn't see them real plain because it was slightly frosted up, but you could see them.

Q Were the windows evenly frosted from the bottom to the top or was a certain portion of them frosted?

A I couldn't tell you.

Q Was that true of all of the windows you observed or was it more intense towards the rear of the bus or towards the front of the bus?

A It was that condition of all that I observed.

Q Did you go to the wreckage of the bus after you got out of the train?

A No, sir.

Q What was the weather condition generally at this time?

A It was really very clear; a slight haze.

Q Normal bright, sunshiny day; is that correct?

A No, no; there was a little haze.

Q Was the sun shining?

A The sun was up. I can't tell you whether it was shining or not.

Q Was the weather such that it would impair your visibility to any extent?

A No, sir.

Q And from your observation do you believe that it could have impaired the bus driver's visibility?

A I don't think so.

Q After the bus slowed down to, say, five miles an hour and then started up, was there any hesitation from that point on, or did he simply come straight in front of the train?

A He come straight in front of the train.

MR. AHLBORN: Do you have any questions you'd like to put in the record, Ed?

MR. KNOWLES: Yes.

EXAMINATION BY MR. KNOWLES

Q At this crossing were there any obstructions to vision?

A No, no obstructions at all.

Q To your vision?

A No obstructions to my vision.

Q And from the position where the bus was, from that three hundred foot point on, were there any obstructions to the vision?

A No obstructions.

Q No trees, no houses?

A No. I think all there is is maybe a few weeds.

Q And your locomotive had a headlight burning, did it not?

A Yes, sir.

Q And what type of a headlight is that?

A It was on bright.

Q Was it an oscillating light?

A No, no, it's--

Q Steady?

A --a stationary headlight.

Q The same as you would have had all night long?

A Yes, sir.

Q As you looked at the bus were you able to see the driver at all as you approached?

A I didn't see him. You might have been able to but I didn't see him.

MR. KNOWLES: I think that's all I have, Mr. Ahlborn.

MR. AHLBORN: If you wouldn't mind staying there for a moment I'd like to read the statement that was taken from Mr. Harms. Maybe you'd like to read a copy. There may be a few more questions that I'd like to ask of you. I'd like to read this before I interrogate the rest of the witnesses.

(Whereupon a short recess was taken.)

Q (By Mr. Ahlborn) Mr. Sommers, do you recall whether the bus driver who was approaching the crossing, when he came down to this five miles an hour speed, whether he opened the door or not, the right door?

A I never seen him open the door.

Q Were you observing the bus during that time?

A Yes, sir.

Q And would you state that he did not open the right door of the bus?

A I could state safely that he did not.

Q He did not open the door of the bus?

A Yes, sir.

Q Now was there anything that you know of between the train and the bus that would have obstructed his view of the train?

A Not a thing.

Q It is true, is it not, that because of the position of the train and the position of the bus, that in order to observe the train the driver would have had to have looked to his right and to his rear; isn't that correct?

A Yes, sir.

Q But there was nothing in between there to keep him from seeing the train?

A No, sir.

Q Would you give us your address, please, Mr. Sommers?

A 475 Xavier Street, Denver, Colorado.

Q Have you ever been involved in any other train accident prior to this time?

A Yes, sir.

Q How long ago was that?

A Approximately, it might be a year or two off--but about six years ago a butane gas truck at Atwood, Colorado.

Q That was a crossing accident?

A Yes, sir.

Q And that was the only other accident you have had?

A No, sir.

Q What other one?

A About four years ago, about one o'clock in the morning a car with three men in it run into the side of our train, a freight train, westbound freight train, at Firestone, Colorado.

Q Were there any fatalities in either of these accidents?

A Yes, sir.

Q In which accident and how many?

A At Atwood the driver was killed, and at Firestone there was two in that car that was killed.

Q Have you had any other accidents that involved fatalities?

A No, sir.

Q What time does this train go through or go by this crossing in the evening?

MR. KNOWLES: There's a different schedule one time of the year over another. You mean right now?

MR. AHLBORN: This time of the year, yes.

A When she's on time we leave LaSalle at 4:43 p.m. and by the time we get up our speed and get out to this particular crossing it would probably be around 48 or 50.

MR. AHLBORN: Do you have any further questions, Ed?

MR. KNOWLES: No, I don't. Well, I would like to ask just this:

Q (By Mr. Knowles) Those other accidents of which you have made mention, were the conditions in any way similar to those that you encountered this morning?

A The one at Atwood was rather similar.

Q What time of day was that?

A That was around about eight o'clock in the morning; approximately eight a.m.

Q It was this same No. 111 train?

A No, no, it was a work train.

MR. AHLBORN: Just one more question:

Q Did you observe whether or not there were any flashing lights on the bus?

A No, I didn't.

Q Is the crossing protected by any signal lights?

A I don't think there's any signal lights there.

Q None that you observed?

A I'm not sure; I don't think so.

MR. AHLBORN: All right, thank you.

(Witness excused.)

MR. AHLBORN: Call Mr. Swanson.

MELVIN C. SWANSON,

called as a witness herein, being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. AHLBORN

Q State your name, please.

A Melvin C. Swanson.

Q Where do you reside, Mr. Swanson?

A 1284 Columbine Street, Denver.

Q What is your occupation?

A Diesel fireman.

Q By whom are you employed?

A Union Pacific Railroad.

Q Have you been employed by the Union Pacific--how long?

A Nineteen years, approximately.

Q In what capacity?

A Fireman and engineer.

Q Were you working this morning?

A Yes, sir.

Q On what train, on what run, and in what capacity?

A Well, No. 111, the City of Denver, as a locomotive fireman.

Q What time did the train leave Sterling; do you know?

A At 6:41 a.m.

Q Now as it approached the intersection or crossing where the accident occurred, where were you in the train?

A I was on the left outside seat.

Q In the locomotive?

A In the locomotive, in the cab of the locomotive.

Q Prior to the accident did you observe a bus approaching the crossing?

A Yes, sir.

Q Where was the bus when you first observed it?

A Well, it was within perhaps three hundred feet of the crossing, over to my left.

Q Before that time had any signal been given by the train because of the crossing you were approaching?

A Yes, sir; the engineer was blowing the steady crossing signal for any crossing that we come to.

Q And where would the train be in relation to the crossing when that signal started?

A Well, it would be back of the crossing approximately eight to nine pole lengths, back of the crossing, prior to the crossing.

Q Do you know approximately what that would be in feet?

A Five to six hundred feet.

Q At that time the train was traveling approximately how fast?

A Seventy-nine miles an hour.

Q Now do you know about how fast the bus was traveling?

A Slowly.

Q Could you give us an estimate of the speed?

A No, sir.

Q Twenty-five miles an hour, would you say, more or less?

A I'd say less than that.

Q Less than twenty-five miles an hour?

A Yes, sir, when I first observed it.

Q Mr. Swanson, if the signal started five or six hundred feet, when the train was five or six hundred feet from the crossing and the train was traveling seventy-nine miles an hour, the bus was traveling less than twenty-five and was three hundred feet from the crossing, they wouldn't have met, would they?

A I said the signals started there.

Q The signals were started where?

A The crossing--he blows a whistle for the crossing, prior to crossing these road crossings.

Q Yes. That is, I'm not trying to confuse you; I'm trying to get at the point where the train was in relationship to the crossing when the signals started. You said that the signals started before you first observed the bus; you first observed the bus three hundred feet from the crossing.

A Well, I think it was less than that actually.

Q How much less would you say?

A Well, it's just a guess but I'd say about two hundred feet maybe when I first seen it.

Q So according to your best estimate then the bus would have traveled some two hundred feet after the signal had started for the crossing?

A All I know is that this is approximately when he blows that whistle, at a sign on the right of the tracks out there.

Q Do you have any recollection of this particular thing now, this particular morning? That's what we're talking about; not when he usually does it.

A Well, all I know is, he starts that whistle signal at a point out there, and that was being done as we approached this intersection.

Q He was in the process of giving the signal when you first observed the bus which was some two hundred feet from the intersection?

A He was blowing the whistle, that's for certain.

Q That's for certain?

A Yes, sir.

Q You were closer to the bus than the engineer, were you not?

A Yes, sir.

Q You were on the left side of the train?

A Yes, sir.

Q Tell us what you observed about the bus as to its condition, the windows, and so forth. You have testified it was going less than twenty-five miles an hour--whether it stopped. Just tell us what you saw.

A Well, I seen the bus approaching the right of way there and he slowed down. I thought he was going to stop and was hoping he was going to stop, and to my surprise he went right in front of us.

Q You heard the engineer's testimony that he slowed down to approximately five miles an hour, then started up again?

A Yes, sir; that's my observation.

Q That's the way you observed it?

A Yes, sir.

Q You are positive that the bus did not stop prior to the crossing

of the tracks?

A Not to a full stop.

Q What is your best estimate as to its lowest speed?

A Around five miles an hour.

Q Did you keep your eyes on the bus from the time you first saw it until the time of the accident?

A I most certainly did.

Q You never took your eyes off the bus during that time?

A No, sir.

Q At any time did you see the right door of the bus open prior to the accident?

A I did not.

Q Would you testify that the driver did not open the door prior to the accident?

A I would say no.

Q That he did not open the door prior to the accident?

A Absolutely not.

Q What was the condition of the windows as you could observe them from your position?

A They may have been steamed over or frosted over.

Q What did you see?

A Well, about the time I knew he was going in front of us there I could see these children in there.

Q Could you see them clearly or--

A No, sir; I knew the bus wasn't empty though.

Q So there was enough steam or frost on the windows so that it made the children indistinct; is that a correct statement?

A Yes, sir, that's it.

Q Did you observe any flashing lights or anything of that nature, any type of signal around the bus?

A No, sir.

Q Do you know whether that particular crossing is protected by signal lights?

A To the best of my knowledge, no.

Q Was there anything that would have obstructed your vision of the bus immediately prior to the accident?

A Well, between the windshield and the left door, or the window, where the windshield cuts in there, there's a partition in there.

Q You're talking about the locomotive now?

A Yes, sir. But I had my eye on that bus from a fairly good distance.

Q Was there anything between the train and the bus that would have obscured the bus driver's view of the train?

A No, sir.

Q Was there any conversation in the cab of the locomotive between you and the engineer or the maintenance man prior to striking the bus, after the bus was observed?

A Not that I know of.

Q You don't recall the engineer making any statements, so far as you know?

A Well, I made one statement. I said, "I hope he stops." And then when he went across ahead of us I says, "There's children in that bus."

Q You made those two statements?

A Yes, sir.

Q Prior to the time that the train struck the bus?

A Yes, sir.

Q Was the emergency equipment used to stop, as the engineer testified?

A Yes, sir.

Q And how far was the train from the crossing when the application of that equipment was made; do you know?

A Well, I couldn't testify to that because I was concerned about what was happening over there on that left side, whether that man was going to stop or not.

Q Did you yourself take any act towards stopping the train?

A No, sir.

Q That was the engineer's job; is that right?

A Yes, sir.

Q In other words, there was nothing that you could do or did do?

A There was nothing I done.

Q Just sit there and watch it happen; is that correct?

A Yes, sir.

Q Did you go back to the wreckage of the bus?

A No, sir.

Q What did you do after the accident occurred?

A Well, we inspected the front of the train and underneath, the units.

Q Was there anything found there, any debris, wreckage, or anything of that kind?

A Some broken air hoses or some broken connection hoses.

Q Which were a part of the train?

A Yes, sir, the head end of the train, the unit.

Q Was there any part of the bus on the train or under it?

A No, sir.

Q How long have you been on this particular run, Mr. Swanson?

A Well, I've been--I've worked with both engineers for close to two months. I was on the other side with the other engineer for about

a month, but with Mr. Sommers I imagine about three weeks at this spell.

Q During the last three weeks, you say?

A Last three weeks, yes, sir.

Q Has the train arrived at this crossing around eight o'clock in the morning any time during the last three weeks that you recall?

A Not that I remember, no, sir.

Q Generally you are through there an hour or so earlier?

A Yes, sir.

Q The train did have its headlights on, as testified to by Mr. Sommers?

A Yes, sir.

Q It was a reasonably clear day; is that right?

A Yes, sir.

Q Nothing in the condition of the weather that would interfere with your observing the bus?

A No, sir.

Q Or his observing the train?

A I don't know about the driver, but I seen the bus plainly enough.

Q Insofar as you know, and I know you can't tell what the driver saw, but so far as you know there was nothing--

A Oh, the condition of the weather--yes, sir, it was clear.

Q Do you know of anything else, Mr. Swanson, that might be of benefit to us here in this matter?

A No, sir.

MR. AHLBORN: Do you have any questions, Ed?

EXAMINATION BY MR. KNOWLES

Q Those signals that you speak of that were given for the crossing, there were more signals given, weren't there, than the ordinary crossing

signal?

A Yes.

Q He was tooting?

A That's right, sir.

Q And that's when you were observing this bus coming up to the track?

A Yes, sir.

Q So that there were many whistle signals given?

A As far as I know. I was observing that bus, hoping the best, that he would stop that bus.

Q The actual application of the brakes when you felt them was when? At the point of impact or afterwards?

A I couldn't say. I was very interested in what was taking place over there.

MR. KNOWLES: That's all I have.

MR. AHLBORN: Thank you, Mr. Swanson.

(Witness excused.)

MR. AHLBORN: I'd like to call the conductor.

R. W. COURTNEY,

called as a witness herein, being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. AHLBORN

Q Would you state your name, please?

A R. W. Courtney.

Q Where do you live, Mr. Courtney?

A 4640 Reed Street, Wheat Ridge.

Q What is your occupation?

A I'm a conductor.

Q For whom do you work?

A Union Pacific Railroad.

Q How long have you worked for the Union Pacific?

A Thirty-four years.

Q And in what capacity have you been working recently?

A Conductor.

Q You have been a conductor how long?

A About twenty-six years.

Q You were on this train as a conductor that was involved in the accident this morning?

A Yes, sir.

Q Where were you in the train immediately prior to the accident?

A Well, I was in about the sixth or seventh car from the units, back in the coaches.

Q How many coaches, how many cars were on the train?

A Sixteen.

Q How many of them were passenger cars?

A Well, we had six coaches, two diners, and three pullmans.

Q Were any of these vista-dome coaches?

A Two of them, yes.

Q Do you know whether there were any passengers riding in the vista-dome?

A No, I don't, not right at the time, but most generally that time of the morning there's passengers up in there.

Q Was any effort made to ascertain whether there were any passengers there and get their names and addresses?

A Well, I asked several people as I came up through the train if they seen anything and no one seen a thing. Of course looking out the window going at that speed, you know, something that close you wouldn't get much of a chance to tell what was going on out there.

Q So the passengers that you talked to did not see the bus or see anything connected with the accident?

A No. In fact, there was very few of them on there that knew anything happened.

Q Will you tell us just what you observed and what you know about the accident?

A Well, when the engineer stopped I went to the door and looked out and I seen we had green block signals and I couldn't figure out why he had stopped, and he got off the unit and came back to meet us and told us we'd hit the school bus back there at that crossing.

Q Was there any noise or anything that would indicate to you that the train had been involved in an accident?

A No, sir, I never heard or seen a thing. I didn't know myself anything had happened till I talked to the engineer.

Q So you have no knowledge of anything that happened in connection with the bus or otherwise prior to the accident?

A No.

Q What did you do after the accident occurred?

A Well, I looked around for a farmhouse, to see if there was a telephone close, and there was none close there, so I told the engineer, I says, "Let's back up to this crossing where there was a farmhouse there pretty close," and as I got off the train to go to this telephone I met some gentleman there and he said that everybody had already been called, that they had been notified; so I went on back to the accident then from there.

Q And where did you go? Did you go to the wreckage or did you go back to the train?

A I went back to the wreckage.

Q On the board here--I believe you observed the patrolman draw it--it shows the bulk of the wreckage on the north side of the tracks. Did you go to that point?

A Yes, I did.

Q And what did you observe there?

A Well, the rear wheels of the bus was, I'd say, a hundred feet from the main part of the bus on west up the track, and the rear end of the bus was on the other side of the track.

Q On the south side of the track?

A Yes; I'd say approximately four hundred feet from that crossing.

Q Did you see any children or other people around there?

A Yes, I seen them--lots.

Q How many children did you observe there, either alive or their bodies?

A Oh, I seen about fifteen of the bodies there and several of them that was pretty badly mangled and unconscious.

Q That was on the north side of the tracks?

A Yes, most of them was on the north side. We found two, I believe it was, on the south side.

Q And you went over onto the south side and observed the wreckage there?

A Yes, sir.

Q What did you see there?

A Well, there was one little girl back of the bus, and I think there was one little boy laying in between that part of the bus and where it--the crossing.

Q Now before you approached the crossing did you hear the train signal before the crossing?

A You can't hear the train whistle back there inside the coaches with the doors closed.

Q How long were you at the scene of this wreckage, would you say?

A We was there just fifty-seven minutes.

Q And the train remained there fifty-seven minutes?

A Yes, sir.

Q And you were looking at the wreckage for all that time or just a part of that time?

A Well, I was right around there; I was helping what little bit I could.

Q You helped those that came there?

A Helped pick up the children and done what I could there.

Q You were there when the patrol arrived?

A Well, I think that one car might have beat us there. I'm not for sure, but if not we both got back there about the same time. There was one patrol car there that got there and it got there awful shortly after we got there. I'd say he was just a little bit behind us.

Q And the sheriff's car arrived about that time too?

A Yes; the sheriff's car was just a little bit behind him.

Q Do you know of anything else, Mr. Courtney, that would be of any benefit to us in this investigation?

A No, I don't. I can't say much more than I've already told you that would help.

MR. AHLBORN: Do you have any questions, Ed?

EXAMINATION BY MR. KNOWLES

Q About how many minutes was it before the train was backed up from where it stopped?

A Well, we backed up, I'd say in about three or four minutes. The engineer walked back and met the head brakeman and the head brakeman came on back, he and the engineer both, and told me about it and I told the engineer, I says, "Well, let's back up. That will be the quickest way to get help, get to a telephone."

Q You were the one in charge of the train in its movement?

A Yes, sir.

Q So that you got back there after just the time necessary for the engineer to come back to where you were and then to take a look at the train?

A Yes.

Q And then moved back?

A Yes; we backed right up. We was back to the scene of the accident--I think I looked at my watch and it was 8:11 when we got back there to the scene of the wreck.

Q By that time quite a number of cars had come, I suppose?

A Well, I'd say there was probably five or six cars around there by then.

MR. KNOWLES: I think that's all I have.

Q (By Mr. Ahlborn) What other members of the train crew are here, Mr. Courtney, in court?

A The flagman and the head brakeman are both here.

MR. AHLBORN: All right, thank you.

(Witness excused.)

MR. AHLBORN: I'd like to call the head brakeman.

RALPH W. MURPHY,

called as a witness herein, being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. AHLBORN

Q Will you state your name, please?

A Ralph W. Murphy.

Q Where do you live, Mr. Murphy?

A Lakewood.

Q What is your occupation?

A Brakeman.

Q How long have you been a brakeman?

A Twenty-five years.

Q By whom are you presently employed?

A Union Pacific Railroad.

Q How long have you been employed by the Union Pacific?

A Thirty-four.

Q You were on this train that was involved in this accident this morning?

A Yes, sir.

Q Where were you on the train?

A I was on the head coach, head coach of the train.

Q And what cars, if any, were between that and the locomotive?

A Well, I think we had three baggage cars. I'm not for sure about that--and then three units.

Q Now when did you first become aware that an accident had occurred?

A When we started to slow down and stop I opened the door and went out and the engineer was coming back and I walked up to meet him and he said he'd hit a school bus, so we got back on the train to find the conductor and told him, and he decided to back up; so the engineer went to the engine and the conductor and me went to the rear end.

Q You were not aware that any accident had occurred prior to the time that the engineer told you?

A No, sir.

Q And from where you were on the train could you hear a signal given for the crossing?

A No.

Q You couldn't?

A No; I never can.

Q And what did you do after the accident occurred?

A We all--the conductor and I walked back to the wreckage; we helped pick up what we could, and we got blankets and carried them out to help cover up the bodies.

Q So you were with the engineer or with the conductor about all the time after the accident occurred; is that right?

A Well, no, not all the time. We pulled the train up and then we got more blankets and they took them down in automobiles and the conductor went up, stayed up with the wreckage.

Q And what did you do?

A I was watching the crossing to see that people didn't run into other cars at the rear end of the train.

Q Did you observe anything or do you know of anything that would be of benefit to us herethat you haven't testified to or that hasn't been testified to?

A No, sir.

MR. AHLBORN: Have you any questions, Ed?

MR. KNOWLES: No.

MR. AHLBORN: That's all then; thank you.

(Witness excused.)

GEORGE C. CAMPBELL,

called as a witness herein, being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. AHLBORN

Q Will you state your name?

A George C. Campbell.

Q Where do you live, Mr. Campbell?

A 2320 West Thirty-fourth Avenue, Denver, Colorado.

Q What is your occupation?

A Brakeman.

Q By whom are you employed?

A Union Pacific Railroad.

Q How long have you been employed by them?

A A little over twenty years.

Q And how long have you been employed in your present capacity as a brakeman?

A Oh, I've been braking on a passenger about four years.

Q You were on this train that was involved in the accident this morning?

A Yes, sir.

Q Where were you on the train when the accident occurred?

A Well, I was just getting up and putting on my coat and I was in roomette one in the rear pullman.

Q In the rear pullman?

A Yes, sir.

Q Were you aware of the fact that there was an accident until after you were told by the engineer or somebody else?

A No, sir.

Q You didn't feel anything or see anything that would indicate an accident?

A No, sir.

Q Were you in a position where you could have heard the crossing signal given by the train?

A No, sir.

Q Just tell us what you did observe and what you did then after the train stopped.

A Well, I was with the flagman on there and when the engineer come to his full stop I got off and had my flagging equipment. I was

the flagman. And he whistled out a flag and I looked up the side of the train and I saw Mr. Sommers, the engineer, coming back alongside of the train, and immediately I figured something was wrong and I looked around and I started flagging, and I looked around the rear end of the train and I never saw any marks or any indications of anything dragging or anything like that, and about that time--it wasn't a very few minutes till Mr. Courtney come running back and he said we had hit a school bus; so we backed up and I went out flagging.

Q Was the stop that the train came to anything out of the ordinary other than the place where you stopped?

A Not other than an emergency stop.

Q You could tell it was an emergency stop?

A Well, I knew that. I looked at the brake pipe pressure gauge on the second rear pullman and I knew he had the train in emergency.

Q Is that the only way you knew it, or was there something about the manner in which the train stopped that you could tell?

A No, it was no rough stop or anything like that.

Q It wasn't a rough stop?

A No.

Q In other words, it was the same kind of a stop you would make coming into a yard or something of that kind?

A Well, it was a little more sudden than that.

Q Well, that's what I'm getting at.

A Well, yes; it was an emergency stop.

Q It didn't jolt you around or throw you around?

A No, there was no rough handling of any kind.

Q Do you know of anything else that might be of benefit to us here?

A No, sir.

MR. AHLBORN: Do you want to ask him any questions?

EXAMINATION BY MR. KNOWLES

Q As far as you know there was no one disturbed on the train or no one injured on the train in connection with this stop?

A No.

Q Then after the train had backed to the crossing and cleared the crossing, you were way out in back flagging, weren't you?

A Yes, sir, I went back flagging.

Q So that you weren't up there assisting the conductor?

A No, no.

MR. KNOWLES: That's all.

MR. AHLBORN: That's all; thank you, Mr. Campbell.

(Witness excused)

ALBERT W. BINDEL,

called as a witness herein, being first duly sworn, was examined and testified as follows:

EXAMINATION BY MR. AHLBORN

Q Will you state your name, please?

A Albert W. Bindel.

Q Speak up loud enough so the reporter can hear you, Mr. Bindel. Where do you live?

A A quarter of a mile east of where the wreck was.

Q What is your postoffice address?

A Route 4, box 266, Greeley.

Q What is your occupation, Mr. Bindel?

A Farming.

Q At about eight o'clock this morning where were you?

A I was at home, fixing to take my school children to school.

Q And what occurred after that?

A As I was getting them rigged out to go to school I saw the school bus pass by, and also hearing the train coming down the track I stepped around the corner of the house and the bus pulled up to the railroad track and its red lights were on and--

Q What red lights are you talking about now?

A The back part of the bus is all I saw and, as near as I saw, the bus was stopped still. Of course I was a quarter of a mile on behind the bus, and the train was blowing its whistle, and when I turned around it was blowing its whistle, and I took my three children, got them in the car and when I drove out I saw the bus had been hit.

Q Did you actually see the bus hit?

A No.

Q How far was the bus from the railroad crossing when you first observed it?

A You meant from my point of view?

Q Well, as near as you could tell, how close was the bus to the crossing when you first saw the bus?

A Well, from my rear view, from what I had from the rear view of the bus, it was in stopping distance of the railroad track.

Q Just a matter of a few feet?

A Well, from that distance it's hard to judge how far it was.

Q I realize that, but I say, from the best you could observe it was within a few feet?

A It hadn't turned the curve yet.

Q Mr. Bindel, you were not here when we sketched a drawing on the blackboard. If you will turn around, this is the road on which the bus was traveling; it was traveling in this direction, from east to west. This represents the railroad tracks. Now could you indicate on here where your house is and where you were at the time you first observed

the bus? Just come forward and take a piece of chalk and tell us.

A If this is east--

Q That's east; this is north over here.

A My house sets a quarter of a mile back.

Q Would you draw it in there, please?

A I don't know how far you're figuring your distance here.

Q It's not a scale drawing.

A I'd say the house sets right here. This is your road?

Q That's the road, yes.

A All right; we'll have to put the house over here.

Q So it's on the north side of the road on which the bus was traveling?

A That's right.

Q The bus went by your house and then traveled on about a quarter of a mile to the crossing; is that correct?

A It made one stop; it made one stop and then went to the railroad track from my house.

Q You can just sit down there again. And your children were in your car at the time you observed it?

A That's right.

Q You weren't in the car, were you, at the time the bus passed your house?--or were you?

A No, I was not in the car nor none of the children were in the car. I got them from the house after the bus had stopped, so that give me time enough that I didn't get to see it and for it to stop and pick up the Baxter boy, my neighbor boy, and then to go on.

Q It just made one stop and that was for the Baxter boy?

A That's right.

Q Between your house--

A That's right. They live across the road.

Q --and the crossing.

A Yes.

Q Then when you got your children into the car you could see the bus and that's when you saw it with the lights?

A I turned out from my driveway and come into the road.

Q Into the same road on which the bus had just traveled?

A Yes.

Q And you saw the bus and there were some red lights on the back of it?

A No. Get me correctly now.

Q Yes, that's what I'm trying to do.

A The bus--I saw the bus before I put my children in my car.

Q Where was it then?

A Well, when I stepped around the corner of the house it had its red lights on at the railroad track.

Q So you were still out of your car at that time?

A Yes, I was still out of the car.

Q What were these red lights? Were they brake lights?

A They were on the back part of the bus.

Q High on the back or low or in the middle or where?

A They were up on the back part, that I could see them good. I saw red lights up there.

Q How far off the ground would you estimate they were?

A Well, they were up on the edge of the bus, up towards the top part. That's what I noticed; it was red. I noticed the red light where he had stopped, and I said to myself, "Well, the bus has stopped." But the bus maybe didn't stop. I won't leave that word "maybe" out. From where I was and what I could see the bus had stopped, and I still

say that's right.

Q You're basing that on the fact that it had red lights come on, when they applied the brakes; is that correct?

A Yes.

Q Did you see those red lights come on?

A No.

Q When you first stepped around the corner of the house and observed the bus those lights were on?

A Correct.

Q Did they remain on so long as you were looking at the bus?

A I turned around immediately, as soon as I saw those red lights were on, and the bus to my appearance had stopped.

Q For what length of time do you suppose that you were looking at the bus?

A Rather short.

Q Just a few seconds, would you say, or was it longer than that?

A Not over a half minute.

Q All right. Do I get it correctly that you stepped around the corner of the house and you looked up there and you saw this bus and it had the red lights on?

A Yes.

Q Now are you basing your statement that you believe it stopped from seeing the bus in a stationary position or from the fact that it had these red lights on?

A Just what was your question?

Q You have stated that you believe that the bus was stopped. Now are you basing that on observing the bus standing still or simply the fact that you saw some red lights, some brake lights on?

A As I said, as near as I can recollect the bus was stopped, but it could have been maybe gradually rolling. I won't argue that point down.

Q Nobody is going to argue here; we're just trying to find out to the best of your recollection what you saw.

A Yes; to the best of my recollection the bus had stopped, but it was not in the curve that swings--there's a slight curve as you get on the railroad track. It was not in that curve.

Q Now you are familiar with that curve and the road and the tracks, are you not?

A That's right.

Q If it wasn't in the curve then how far would it have had to have been before it got to the railroad tracks?--how much distance?

A There's quite a little distance. I won't judge it myself but there's some distance in there, according to your picture and your diagram.

Q Well, now, if you'll just look at this, Mr. Bindel. The patrolman has shown that there is a black mat that comes back from this track, which has a jagged edge here, about twenty-five feet, say. Would the bus have reached that blacktop at the time you saw it with these red lights on?

A Well, the blacktop starts just slightly beyond the curve, if I'm not mistaken.

Q A little beyond the curve?

A Yes.

Q So that the bus would not have reached that point at the time you saw it; is that correct? Do I understand you right?

A Yes, sir, as near as I can tell from the rear.

Q Yes; I realize your vantage point was not particularly good; but you do feel that if the bus was standing still it would have been

stopped then some--what?--thirty, thirty-five feet short of the track or a little more than that?

A Well, whatever distance there is in there I wouldn't--I just wouldn't base that, because I was taking it from the rear and that was too far for me to judge where he was exactly, if he had applied those brakes and when those lights was on and if he was moving. If he was moving it was very slow.

Q Now in negotiating this little curve, from where you were standing would the bus have been turning to your right or to your left?

A It would be turning right.

Q To your right?

A Yes.

Q And it hadn't quite gotten into that curve when you saw it?

A Not enough to be noticeable, what view I took when I turned around, because I don't know why I looked at the bus, but just the impression caused me to look at that bus when I heard the train. I quite often do that with a lot of cars that go by pretty fast when a train's on the track; and what caused me to observe that this morning I don't know.

Q So, in any event, if this curve, say, is back here thirty or thirty-five feet and the bus was stopped when you saw it, then it stopped some thirty-five or more feet short of the tracks, didn't it?

A Yes, sir.

Q Now would that be the normal position for the bus to stop?

A Well, I never have been up there when they stopped, to see where they stopped. I never have been there, but it's a poor view if you get in one place at that crossing so that the light poles and telephone poles in that place, and that signal light box that's down there--you have a very poor view of the tracks.

Q So there are some obstructions then?

A At a certain angle.

Q At a certain angle in the nature of poles and signal box?

A That's right.

Q Do those run along the right of way of the track, or along the road, or do you remember?

A Well, your obstruction is along the right of way of the railroad track.

Q There are poles that are put here in a line parallel to the railroad track?

A That's right.

Q And where is the signal box that you spoke of?

A Well, it's down the track next to my irrigation well.

Q Down to the northeast of the--

A Of the crossing.

Q Of the crossing?

A Yes. I have an irrigation well with a house on there. It might be some obstruction, but it's down across--almost half way across that strip of ground.

Q Now is this particular railroad crossing protected by any signal lights?

A Your railroad crossing?

Q There is no electrical signal or any other kind of device to warn traffic that a train is there?

A There's no electrical signals; only your yellow--you know, your railroad crossing--what I mean, where it says "Railroad crossing," as well as your yellow one that says "Railroad crossing."

Q In other words, just stationary signs?

A That's it.

Q There is the regular round yellow sign for a railroad crossing

that has crossarms?

A Yes.

Q But no electrical device to protect the crossing?

A No.

Q As I understand it, you got into your car with your children, went out into the road and then you realized that the train had hit the bus?

A That's right, and we drove up to the crossing and saw what happened and I turned around and went back home and told the children to get out of the car so I could help aid up there, and told my wife to call for help.

Q And then what did you do at the scene of the accident?

A I left immediately from home and went to my neighbor, Joe Brantner, across the road and got him and we both went up there and started to put our--I took him up there first. I took him up here and he jumped in the car and we went up there and saw what was there and he said, "Just take me back home and get my station wagon," and I took him back and we both come back up there and we started putting them in, in my car and his station wagon. And then there was a patrol drove up there about the time we were putting them in the car. I don't know who the patrolman was; I didn't look.

Q Now to get back to these lights just once more; as I understand it--and you correct me if I'm wrong--the lights at all times you observed them were on, they were on constantly; they were not flashing off and on or they didn't come on after you saw them?

A At the period of time that I saw them they were just on red.

Q They were on when you first observed the bus and they were still on when you looked away from the bus?

A Yes.

Q And they didn't flash?

A But that was a short period of time.

Q A matter of a few seconds?

A Yes.

MR. AHLBORN: Any questions you would like to ask?

MR. KNOWLES: Yes.

EXAMINATION BY MR. KNOWLES

Q Wasn't the light on when the bus made that stop to pick up the Baxter boy?

A I did not see him pick up the Baxter boy.

Q Oh, you didn't? I thought you had seen him stop and then go down to the crossing.

A No, I did not say that.

Q And then when you speak of the Baxter boy you were just saying that that's where he makes a stop?

A That's his regular stop, yes.

Q And then the lights as you saw them were well toward the top of the bus?

A They were red lights fairly well to the top of the bus, just by glancing at a bus from your distance.

Q And they could very well have been the ordinary markers of a bus, showing the corners, upper corners of the vehicle?

A I wouldn't argue that point. All I saw was red lights and they were up off the ground. I'll base it that way.

Q I see. Now at the time that you were making this observation where would you say the train was? Did you look at the track?

A I did not look at the train. It was on east of me, back behind the track.

Q It was a quarter of a mile or more away, was it?

A Oh, yes; it was more than that. It was in beyond the other crossing; but I can hear it plainly at my place when it comes in through there.

Q So that there were a number of whistle signals given after you had observed the bus?

A When I observed the bus I heard that train coming and I heard its whistles blowing clearly when I went to get in my car.

Q Do you remember that some of them were short staccato type of tooting of the whistles?

A Well, I'm living along the railroad and I'm so accustomed to hearing those train whistles that I wouldn't say what type of whistle was blowing, but they were blowing.

Q Now you were speaking of looking up toward the east along the railroad track or along the railroad right of way. There's a line of telegraph poles that you can see down there?

A Yes.

Q And you spoke as if those were an obstruction.

A At a certain place you get it's hard to see a train coming down the track.

Q But you don't know just where that point is?

A No, not just right--

Q And of course that row of telegraph poles is quite a distance from the track; that is, it's twenty-five or more feet from the track?

A Why, yes; they're not--

Q They're not right next--

A No, they're not right next to it.

Q But you didn't observe the bus when it passed your place?

A I saw it, yes.

Q You noticed it go past?

A Yes.

Q And then your next noticing of the bus was when you observed these red lights down there?

A Yes, because that's when I heard the train coming.

Q I see. And that's what called your attention to looking down at the crossing?

A That's right.

MR. KNOWLES: Thank you, Karl.

Q (By Mr. Ahlborn) Did you notice whether or not those windows were fogged over when the bus passed you, passed in front of your house?

A I did not recollect it. They usually are every morning. They're fogged up so bad you can't see the school children in the bus. They usually are but I never recollected it this morning at all.

Q All right. Now I am advised that on this particular bus the flashing lights, flashing red lights that they used when they stopped, which come on alternately, first on the right and then on the left, are at the top of the bus, and the brake lights are further down on the back of the bus. Now would these have been the brake lights or these lights up above that you observed?

A Like I told you, they were not flashing; they were red; and wherever they were on that bus, I saw that red light up there and it wasn't flashing when I glanced at it, and that's what I still say.

Q It could have been a couple or three feet from the top of the bus; is that right?

A They could have, but they was not flashing.

MR. AHLBORN: I think that's all. Thank you very much for coming up. First, let me just ask this: You two gentlemen that went to the crossing there must have been the first cars, were you?

A I was the first car there. I had my girl--my two girls and my one boy in the car with me.

Q And the train had gone on?

A The train had gone on across. It was about stopped or stopped at the time then.

MR. AHLBORN: All right, thank you very much.

(Witness excused.)

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C E R T I F I C A T E

STATE OF COLORADO)
) ss
COUNTY OF WELD)

I hereby certify that I reported stenographically the foregoing proceedings and statements at the time and place hereinbefore set forth; that the witnesses were sworn by Robert W. Rhodes, Clerk of the District Court, Weld County, Colorado, to testify to the truth, the whole truth, and nothing but the truth; that their testimony was taken down by me in shorthand and thereafter reduced to typewritten form, and that the foregoing is a true, full and correct transcript of my shorthand notes.

R. Forrest Brenner
R. FORREST BRENNER
Certified Shorthand Reporter

Greeley, Colorado
December 16, 1961.