

conduct in such a case. The drivers should first have informed the guard of their intention to detach the engines. Had they done so the guard would have been responsible for seeing the train was properly braked. I have heard the evidence of Mr. Bannerman. The conclusion to which I came was that he did not know what he was talking about—that is, as to conditions on New Zealand railways. I have seen the wagons damaged on the 3rd August. The brake-gear has been carefully examined, and, so far as can be ascertained, apart from breakage due to derailment, the equipment was in good working-condition at time of accident; but, of course, I cannot say anything as to continuity of the train-pipe, as to whether cocks were open or shut. I have not examined them in detail, but I have done so generally, and have the assurance of those that did examine them in detail. A loaded wagon does not skid so readily as a light one, but if it does skid the effect is much greater. I do not think there was more advantage in one engine than two going after the train. I do not think they had any chance whatever of catching it. There was an advantage in the two engines being together if they had caught it. Three hand-brakes and one van-brake would certainly not hold the train without the help of the Westinghouse brake. In my opinion the Westinghouse brake was not operative throughout the train. I believe there was a train-cock shut somewhere towards the front of the train. I have examined the broken valve-yoke, and it is quite possible that a breakage in it was the cause of the engine going off its beat. [Plan of yoke, showing fractures, put in. (Exhibit No. 39).] The breakages are hard to account for. It might have been let fall or damaged at the time they were re-erecting the engine recently. A crack would cause it to open and shut. It may have got injured in various ways. It is unlikely if it was perfect when on the engine that it could have been broken there. It has been in use a good many years.

*Court:* I do not know whether the by-laws as to interference extend to interference by people with the brake-cocks. A method of communication between the engine-driver and guard is established on many railways restricted to passenger-trains—that is, by a cord and gong at each end. In New Zealand we run mixed trains and cannot have such cord communication. At the particular place where the train stopped, which was on a curve, I think the driver could not see the guard, but I am not sure. The driver might have whistled and the guard would go to the engine after putting on his brake. The advantage of communicating with the guard would be that he could have had a brake-test and discussed the question of putting on hand-brakes.

*Baume:* The driver and guard would have come face to face. When the train was at Putaruru the shunting would probably be under the control of the guard, who would satisfy himself that the couplings were all right, but not necessarily by personal inspection. He would satisfy himself by the coupling he himself had done and by the assurance of the person assisting him in the coupling, and he would be justified in so satisfying himself just as the captain of a ship delegates certain duties to officers under him. I have heard the evidence as to how the brake-test was conducted. If done as stated it was a perfectly satisfactory test. The guard would be justified in taking the proper application of the brake on the van as proof that the couplings right through were properly connected. The engine-drivers also would have every reason to believe that the brake had been properly applied throughout the train, and was in proper working-order. There was no duty imposed upon the guard or driver to make a fresh test at Ngatira, and no part of the regular practice. Their belief in the continuance of the state of things that existed at Putaruru would be perfectly justified. The engine-driver was perfectly justified in stopping the train at 48-mile peg, and so far he had no reason to doubt that the condition of things as at Putaruru remained the same. So far they committed no fault. I believe if the Westinghouse brake had been properly on it would have held the train for half an hour. They would be justified in holding that belief also. Taylor was born September, 1881, and joined the service in 1901. I produce his record of service (Exhibit No. 40). Taylor had only been on this run about seven weeks. Two days on as driver and two days on as fireman each week. His reputation is quite good—steady, reliable, and a good worker. We should not have promoted him had we not had confidence in him. I have Cooper's record of service [produced (Exhibit No. 41)]. He also has a good record. His experience on this particular line was less than Taylor's. Cooper by going under the engine was risking his life on the efficiency of the brake. They committed an error of judgment in uncoupling without signalling to the guard. I think they committed another error of judgment in not putting down more than three wagon-brakes and one van-brake. This notwithstanding the fact that they would be justified in believing the train would hold half an hour without putting the hand-brakes on. My reading of the words "sufficient" hand-brakes is that they should have put down all the hand-brakes in order to hold the train without the Westinghouse. My reading of the words "extra precaution" means such precaution as would obviate the necessity of placing any reliance on the Westinghouse brake. It is a fact that in several small sections in the colony the Westinghouse is not affixed. The rules, however, are of general application, and framed to meet the requirements of all the sections. The regulations apply to all trains—with and without the Westinghouse brake. These trains without Westinghouse brake require to strictly adhere to the regulations as to hand-brakes and sprags. A heavily loaded train from Newmarket to Auckland not fitted with the Westinghouse would require to come down with a number of the wagon-brakes applied. With a Westinghouse the same train would not require the application of hand-brakes. If the cock had not been closed there would probably have been no accident, as the train would probably have held for half an hour. After the train ran away I am perfectly satisfied Cooper and Taylor did all they could and should have done. I consider, as far as I can judge from the evidence, they acted quickly and promptly, and in getting out on the cowcatcher Cooper did so at risk of his life. I have seen pressure-gauges in steam-boilers stick at certain points. Taking Tyer's evidence, if the 35 lb. pressure had disappeared as quickly as he said, the brakes would have applied hard. Each vehicle fitted with the Westinghouse brake carries its own brake-power, and therefore the length of the train is of no moment. Each vehicle stops on its own account.