

unfairly dealt with if this man had superseded them. Many of those men were in the service holding responsible positions when McKenzie himself was a junior porter. Well, there was the position, and the effect would have been to allow a man who joined as a junior porter to supersede men who were holding responsible positions when he was a boy in the service—to supersede capable and efficient men with good records. Such a position would be quite untenable: you could not uphold it. Now, sir, in regard to the number of vetoes since the institution of the Appeal Board: there have been 199 cases heard up to date.

3. That is the total of both divisions?—Yes. The total number of instances in which the veto has been exercised is eighteen—that is about 9·45 per cent. Four of those vetoes were exercised in cases of misconduct owing to circumstances which made it illegal to retain the men, and two in cases where there had been neglect to take necessary precautions to ensure the public safety. That is six out of eighteen, or 33 per cent. of the total. Of those cases, Sir Alfred Cadman vetoed six in 1896; Sir Joseph Ward vetoed two classification cases in 1900, and one case of misconduct; the Hon. Mr. Hall-Jones vetoed one case of misconduct. When the Hon. Mr. Millar took charge there were a number of classification cases standing over, and he was put in the unfortunate position of having to veto straight away four of those cases. I will explain the position. Some cases were taken in the South Island, and the Board there, through wrongly interpreting the Act owing to reading into the Act a word that is not there, gave a wrong decision. At that time there were, I think, five similar cases in the North Island, and they were heard about the same time as the South Island cases. The South Island Board, through reading the word “then” instead of “now,” gave a wrong decision. Subsection (3) (a) of section 49 of the Act reads, “With respect to all persons who were members of the Department on the first day of April, one thousand nine hundred and two (being the date of the coming into operation of the Government Railways Department Classification Act, 1901), nothing in this Act shall be construed to reduce the pay of any of such member below the rate *then* actually received by him, or to prejudicially affect his right to any increases of pay provided for by any regulations *then* in force.” Now, the South Island Appeal Board in dealing with the matter which was brought under the Act, instead of reading the word “then” as it is there, read the word “now,” and thus decided the cases on a wrong interpretation of the Act, because this Act provided for a man retaining what he was entitled to under the Act of 1901, and the appellants had got that, but were claiming something under this Act to which they never had been entitled.

4. *Mr. Ross.*] Did the Board report in that direction?—The Board reported exactly as I have said: they read the Act as “to reduce the pay of any such member below the rate *then* actually received by him, or to prejudicially affect his right to any increases of pay provided for by any regulations *now* in force,” which is an entirely different thing.

5. *Mr. Ramsay.*] Who was the Chairman?—Mr. Haselden. In the North Island, when the case came up, I put the very same matter before the Board, but pointed out that the men were getting all that they were entitled to under the Act of 1901 and something in addition. I submitted that the Department was taking nothing from them, but was giving them more, possibly, than they had been entitled to, and therefore it was fully justified and legally entitled to classify them in a certain position, and the North Island Appeal Board was divided as to the position; but the Chairman gave a very full ruling on it, and said it was a legal question, and that no doubt the Department was legally right. Well, there were two decisions of the Appeal Boards diametrically opposed to each other on exactly the same clause and involving legal interpretation. The reasons why the decisions were opposed to each other were apparent from the South Island Appeal Board's decision. I, personally, pointed out the position to the Chairman of the South Island Appeal Board, and the Minister wrote stating that he had vetoed those decisions, and directed attention to the wording of the Act. The Minister could not help himself: he was in an unfortunate position, and compelled to take up a legal position which necessitated the veto of those four decisions.

6. That would never happen if a Judge of the Supreme Court were Chairman of the Board?—It might have happened. Then there was a case of misconduct in 1909 which he had to veto. That case was one in which two men were involved: one gave a signal to the other to go out on the main line, and the other man without taking any trouble to look round, went out on the main line and there was a collision. We had a very considerable amount of trouble over that case. The Appeal Board upheld the decision of the Department in dismissing the shunter, but wanted to whitewash the driver. The Department wanted to know the reason why, and put the whole facts before the Minister, showing the rules bearing on the subject, and he went into the matter personally, and after carefully reviewing the facts vetoed the decision of the Appeal Board in the interests of the public safety. It is manifest that if you take up the attitude that all a driver had to do was to sit back or go forward when told or signalled regardless of the fixed signals, then you are fixing on some low-paid man all the responsibility for seeing that the line is clear before he gives a signal, whereas you pay every engineman to see before he moves his engine that the road is clear, the signals properly set, and to take a proper share of the responsibility, and to exercise care in the interests of public safety. In this case the man did not look round, nor did he take the trouble to see that the signals were properly set, and he justified himself by making all sorts of statements with regard to the conduct of that station which, I may say, were proved on the closest examination to be absolutely without foundation. The man had to go out. Those are fifteen of the cases, with the reasons.

7. *Mr. Witty.*] How many of those affected the First Division?—I think the veto was exercised in the First Division in regard to two only. Most of those classification cases in 1908 were in connection with the First Division, but I have not looked them up. On the 15th June, 1909, a full report was made on the matter, and the position then was that since the institution of the Appeal Board 168 cases had been heard, and the veto had been exercised in fifteen cases, twelve owing to a wrong interpretation of the Act, two owing to misconduct under circumstances