

97. Then the regulation does not apply?—It appears that if it is a non-stopping train it does not apply.

98. Can you quote any other regulation that the men broke on this occasion?—No; that is the only one I have any idea of.

99. *Mr. McVilly.* (as representing the Railways Department).] You admit that this regulation does not apply?—I take from the reading of it now that it does not apply.

100. Therefore you should not have incorporated it in your statement?—No.

101. You stated that the practice of crossing these trains during the time you were at New Lynn was a source of danger and contrary to regulations: did you ever draw the attention of the Traffic Inspector or the Traffic Manager to the fact?—No.

102. You continued and permitted what you consider now to be a dangerous practice to go on all the time you were there?—I consider it now a dangerous practice.

103. You did not consider it a dangerous practice when you were there?—I have stated that I was and am in ignorance of a lot of the rules.

104. This practice was either dangerous or it was not dangerous: now, which was it?—I consider now that it is dangerous.

105. What did you consider when you were at New Lynn?—I considered that in case of a fog it was dangerous.

106. But your daily practice was to permit it?—Yes.

107. What did you consider the practice—dangerous or not dangerous?—It was dangerous.

108. Why did you permit it then?—I did it in order to try to conform to the time-table.

109. You had a copy of the regulations?—Yes.

110. Do you know the rule on the top of every page—"The first and most important duty of every member is to provide for the public safety"?—Yes.

111. Then you admit that you personally daily committed a breach of this rule?—I do now. I did not look at it in that light at the time.

112. You considered the practice a safe one at that time?—No; I did not see the seriousness of it.

113. Did you ask for any instructions regarding the matter?—No, I did not.

114. You simply carried out what had been the practice?—Yes.

115. Which you now say was contrary to rule and dangerous?—It has been already pointed out to me, when I said that I considered it contrary to the rules, that I read the rules wrongly in that respect.

116. Where does the danger come in in pulling a train ahead?—I should think that when it fouls the points like that, if a train happened by any chance to overrun, there might be an accident.

117. What governs the movements of trains approaching a station?—The signals.

118. Do you know the rule which provides that no train must pass a home semaphore at "Danger"?—I believe that to be a fact.

119. Well, if this semaphore was at "Danger" the practice at New Lynn was perfectly safe?—It is if, as I pointed out, I read the instruction wrongly.

120. If a train comes into New Lynn from the north and the home semaphore is against that train, what is the duty of the driver of the incoming train?—He should look for the signals and pull up previous to getting the signal.

121. You would expect him to pull up?—Yes.

122. If you were shunting at the north end of the yard under cover of the home semaphore, you would consider you were doing the right thing and were properly protected?—I was in a sense protected. The danger was that he might overrun—that he might not be able to carry out his duty.

123. That will not do. You carried out this movement under cover of the semaphore all the time you were at New Lynn?—Yes.

124. You considered all that time that the semaphore protected you?—Yes, I would consider in a sense that the signal did protect me.

125. If a driver had overrun the home semaphore at "Danger" while you were at New Lynn and had collided with a train that was shunting at the north end of the yard, what would you have said: would you have taken the responsibility, or would you have said that the driver had acted wrongly?—I would have said that the driver had acted wrongly; yet I would have thought that by going out there I was doing what was necessary to conform to the time-table.

126. You would have done what?—I would have gone out to shunt that end, in order to keep to the time-table.

127. But would you take the responsibility for the accident?—I would not care to.

128. You would consider the driver was responsible?—Yes.

129. And that you had done everything necessary when you kept the signal up against him?—I would protect myself in this way: I would have allowed No. 5 to shunt, but I would have brought No. 5 in at the other end of the yard if the time-table permitted.

130. We are not talking about that. You are making a movement at the north end of the yard under cover of the home semaphore?—Yes.

131. An incoming train runs past that home semaphore at "Danger" and collides with your shunting train: who is to blame?—I would blame the driver in the ordinary course for running past the home signal.

132. Would you say that he was responsible and that you were responsible?—I would consider him responsible, because of running past his home signal.

133. So long as the shunting movement at the north end of the yard was protected by a home signal it was safe: that is the position, is it not?—I believe it would be safe so long as it was not at the foot of a grade. I always thought that at New Lynn there was a danger.