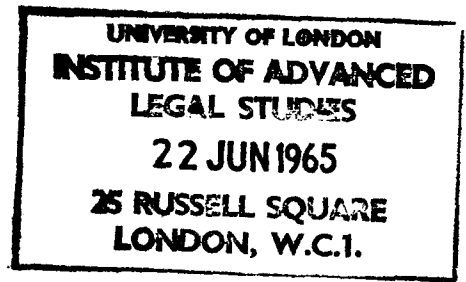


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In The Privy Council

No. 41 of 1963.

78542

**ON APPEAL FROM THE SUPREME COURT OF NEW SOUTH WALES
IN ACTION No. 5958 OF 1956**

BETWEEN

THE COMMISSIONER FOR RAILWAYS - (Defendant) Appellant

AND

FRANCIS JOHN QUINLAN (Plaintiff) Respondent

CASE FOR THE APPELLANT

RECORD:

1. This is an Appeal pursuant to leave granted by the Supreme Court of New South Wales from a Rule of that Court (Herron *CJ.*, McClemens and Wallace *JJ.*) made on 23rd November, 1962. That Rule dismissed the Appeal of the Appellant from the Judgment of the Supreme Court (Richardson *J.*) which had been entered in accordance with the verdict of a Jury in a case in which the Respondent was Plaintiff and the Appellant Defendant.

p. 176.

p. 164.

p. 164, l. 36.

p. 162, l. 6.

p. 162, l. 4.

p. 162, l. 4.

p. 162, l. 4.

p. 1, l. 8.

p. 1, l. 8.

p. 1, l. 8.

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p. 1, l. 8.

p. 1, l. 8.

RECORD:
p. 135, l. 19.

4. The said Railway extension was constructed pursuant to a Private Act of the Parliament of the State of New South Wales assented to on 13th June, 1893, and referred to herein as "Simpson's Act".

5. Section 37 of "Simpson's Act" provided that in circumstances therein set out the line might be sold to the Government of New South Wales. Pursuant thereto the line was in fact sold on 18th August, 1900, to the Government and became the property of the Crown. Later by virtue, inter alia, of the Government Railways Act, 1912 and the Transport (Division of Functions) Act, 1932 of the said Parliament the line became vested in the Appellant.

10

6. By virtue of Section 7 of "Simpson's Act", Simpson his heirs, executors, administrators and assigns were obliged to provide inter alia, "such and so many convenient gates, bridges, arches, culverts and passages over, under or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway extension shall be made".

p. 105, l. 13.

7. At a point between Telopea and Carlingford at mileage sixteen miles forty-eight chains from Sydney Terminal there was provided a passage over the said Railway for the accommodation of the Occupier of land lying on the eastern side of the line which land was owned and occupied by one Walters, the passage over being an accommodation work within the meaning of Simpson's Act and being thereafter known as "Walters' Private Crossing".

p. 101, l. 12.

p. 14, l. 8.

8. The railway between Telopea and Carlingford followed for some distance north of Telopea, the line of a ridge and running substantially parallel to it on its western side for approximately half a mile was a public road known as Adderton Road. Prior to 1955 the land on the eastern side of the line, which fell away from the level of the ridge into a broad valley known as Dundas Valley, comprised open fields and was used for pastoral purposes, there being no building on that side in the vicinity of Walters' Private Crossing except a farmhouse which had been standing for many years on an area of approximately eight acres and had been occupied by Walters. This house was located in a position about four hundred yards to the North East of the crossing. On the date of the injury to the Plaintiff the said house was occupied by a Mr. and Mrs. Carroll as tenants of the Perpetual Trustee Company Limited which was the executor and trustee of the estate of the said Walters.

p. 71, l. 18.

p. 70, l. 4.

p. 70, l. 6.

p. 71, l. 5.

p. 71, l. 9.

p. 102, l. 5.

9. On the eastern side of the crossing there was no gazetted road leading to or from the crossing, but there was a triangle of land which was part of an Old Crown Subdivisional road which existed prior to the construction of the line, but that triangle of land never became a public road,

p. 102, l. 30.

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and there had been no gazettal or notification under the Public Roads Act 1902 of the said Parliament with respect thereto. RECORD:

10. The crossing was fenced on both sides with gates in the fences on both sides at the crossing so that when the gates were open the space opened thereby was approximately seven to eight feet wide. p. 17, l. 33.

11. A "Beware of Trains" notice was exhibited on both sides of the crossing in the vicinity of the gates. p. 5, l. 17.

12. The surface of the crossing between the gates was rough with some loose sleepers lying substantially parallel to the lines and between them. p. 17, l. 29.

13. Walters' Crossing was one of 6,321 crossings in the State of New South Wales in a distance of approximately 6,108 miles of railway track. p. 103, l. 15.
p. 103, l. 16.

14. Of that total number of such crossings, 3,479 were private crossings. Prior to 1955, some private crossings had been changed in status so as to become public crossings, but no such change had at any time been made with respect to Walters' Crossing. p. 103, l. 37.
p. 101, l. 22.

15. From a point at least a quarter of a mile south of Walters' Crossing, the railway track was virtually straight but north of the crossing the track curved towards the west through well-grown timber, the radius of the curve being twelve chains and the length of it eighteen chains. p. 16, l. 36.
p. 104,
ll. 30-38.

16. The grade of the track was approximately one in thirty-seven, the grade falling to the south, towards Telopea Station. p. 104, l. 29.

17. The view of the train crew, travelling in a southerly direction from Carlingford to Telopea, of the crossing and any vehicle on and at it was restricted to approximately fifty to sixty yards, and the view of any driver of a vehicle at, near or on such crossing, of any train travelling from north to south, was similarly restricted. p. 16, l. 34.
p. 16, l. 43.

18. In the latter half of 1955 the Housing Commission of New South Wales, which had acquired a large part of the Dundas Valley for housing development, commenced to build a number of new homes, its operations first being carried out in the lower part of the valley at a considerable distance from the line. During a period not exceeding one or two months, prior to 1st January, 1956, building operations had commenced on the slope to the east of the crossing, but at the time of the accident to the Respondent no house had been constructed to a point to permit of residence therein. p. 24, l. 23.
p. 55, l. 38.
p. 14, l. 40.

RECORD:

p. 31, l. 16,
Ex. 3.

19. There was access to the Housing Commission Lands for building purposes by roads and streets and otherwise on the eastern side of the railway line, without any necessity to use Walters' Crossing for such access.

p. 131,
ll. 4-24.

20. South of, but adjoining Telopea Station and about four hundred yards from Walters' Crossing, was a public crossing over the railway track used by persons and vehicles.

p. 11, l. 7.

21. Approximately half a mile south of Telopea Station, Adderton Road passed over the railway line by way of an overhead bridge.

p. 11,
ll. 28-33.

22. At its northern end, Adderton Road joined Pennant Hills Road at a point north of Walters' Crossing, and Pennant Hills Road, at a further point north and at a distance approximately two miles north of Walters' Crossing, crossed, by overhead bridge, the railway track near Carlingford Station, which was the terminus of the line. 10

p. 4, l. 22.

p. 120, l. 8.

23. At about 5.20 a.m. on 5th January, 1956, a motor truck driven in an easterly direction by the Respondent and loaded with tiles being at a time outside ordinary business hours in the Building Industry, came into collision on Walters' Crossing with a passenger train which was proceeding from Carlingford to Clyde in a southerly direction and which had left Carlingford at 5.17 a.m.

p. 48, l. 10;

p. 53, l. 32.

p. 118, l. 25.

24. The Respondent in evidence said that he intended to convey the tiles to a site upon which Decorators Pty. Limited had commenced the construction for the Housing Commission of a number of houses. 20

p. 4, l. 11.

p. 1.

25. The Respondent in his Declaration alleged that the Appellant having the care, control and management of a certain railway level crossing and of a certain railway train travelling on the permanent way at or near the said crossing, was by its servants and agents negligent in and about the care control and management of the said train and of the said level crossing and in and about failing to take reasonable and proper steps to secure the safety of the persons using the said crossing. He further alleged that whilst he was passing across the crossing in a motor vehicle, the motor vehicle was struck by the said train and he suffered personal injuries and other damage. He did not in his Declaration allege that he was lawfully present on the crossing. The Appellant by its Plea said that it was not guilty. 30

p. 2.

26. The Respondent's action came on for hearing before Holt Acting J. and a Jury of four and a verdict for the Respondent was returned by the Jury in the sum of £6,000 0s. 0d. and Judgment was entered for the Respondent accordingly.

27. The Appellant appealed to the Full Court of the Supreme Court of New South Wales against that verdict and judgment, which appeal was heard by the said Full Court (Evatt *CJ.*, Herron and Maguire *JJ.*) and Judgment was reserved. In its Judgment later delivered and reported in 1960 S.R. (N.S.W.) 629, the Appellant's appeal was upheld and a new trial of the Respondent's action was ordered.

28. The second trial was held as referred to in paragraph 1, hereof, before Richardson *J.* and a Jury of four, when the Jury returned a verdict in favour of the Respondent for £3,500 0s. 0d. and Judgment was entered p. 162, l. 4.
10 for the Respondent in accordance therewith.

29. Against such verdict and judgment the Appellant again appealed to the Full Court of the Supreme Court of New South Wales.

30. The Respondent gave evidence at the trial, inter alia, as to the following matters:—

pp. 3-23.

- (a) that he drove alone in an International truck with a full load of tiles from a starting point located some miles away from Walters' Crossing; that he drove in a northerly direction and proceeded from the East side of the Railway line by overhead bridge to the West side and then along Adderton Road until he arrived at Walters' Crossing at the time and on the day abovementioned;
20
- (b) that he turned to his right and went up a short grade leading to the crossing, the gates being, as he alleged, open, and that he stopped with the bonnet of his truck level with the gates; that he put his truck into "low-low gear" looked to the left and to the right but did not see or hear any sign of an approaching train; that his visibility towards Carlingford was limited to about fifty yards by the curvature of the line and by timber growing in the vicinity and was also restricted by his position in the cabin of his truck; and that when he so listened the engine of his truck was running;
30
- (c) that he then proceeded forward over the line; that he heard a crash and was thrown through the air; that he did not at any time prior to the collision see the train which struck his vehicle;
- (d) that that occasion was his second visit to the locality, the first having been approximately a week before, when he had used the same crossing; that on the earlier occasion but not when in the vicinity of the crossing he had seen a train running on the line;
- (e) that he had not sought permission from the Appellant or from any other person to use the crossing and had not endeavoured to find out when trains ran on the line.
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RECORD:
pp. 23-69.

31. The Respondent also called a number of witnesses to give evidence as to alleged user of the crossing by other persons and vehicles going to or from the Housing Commission lands during the latter part of 1955, and from their evidence it was established that none of these witnesses had ever sought or obtained permission to use the crossing from the Appellant or otherwise. There was no evidence of any actual knowledge on the part of any servant of the Appellant, of such or any user of the crossing. Evidence was given that on one occasion two persons had picked up some bricks which had allegedly fallen in the vicinity of a crossing and that a train had passed while they were doing so. There was no evidence that they had been seen by any person on the train, and the evidence did not identify with any degree of certainty the crossing so referred to in that evidence. 10

pp. 37, 39,
40.

p. 179.

32. The Respondent tendered a letter dated 1st December, 1955, from the Secretary of the Housing Commission to the Secretary for Railways. The Appellant objected to the admission of this letter, but Richardson *J.* admitted a part of it which was written into the transcript.

p. 78, l. 9.
p. 78, l. 29.

pp. 80, 107,
117.

33. The Appellant at the trial called evidence of the driver, fireman and guard of the train. Such evidence showed: —

- (a) that the train whistled on leaving Carlingford and thereafter between Carlingford and the crossing at a distance from which the whistle would have been audible to the Respondent and other persons in the vicinity; 20
- (b) that it was impossible for the train driver to see the crossing until some 50 yards from it;
- (c) that on coming into view of the crossing, the driver saw the Respondent's truck on the crossing and immediately made an emergency application of his brakes;
- (d) that it was quite impossible for the train to be stopped short of the crossing;
- (e) that although employed on trains in running along the line to and from Carlingford for a number of years prior to the accident to the Respondent, they had never seen any person or vehicle using the crossing. 30

p. 122.

34. Evidence was also given by one Foster the Appellant's Sub-Inspector who during 1955 and up to the time of the accident was in control of the maintenance gang engaged in maintaining the line, that it was the duty of the Ganger or some other member of the gang, to make a daily inspection of the line over its whole length, and to report any irregularity to the Sub-Inspector; that it was also part of the Sub-Inspector's duties to make regular inspections of the line himself, which he did; that he himself never saw any person or vehicle using the crossing, nor did he receive any report of any such user from the Ganger or from any member of the gang. 40

p. 122, l. 35.
p. 123, l. 11.

p. 123, l. 25.
p. 123,
ll 33-38.

p. 126, l. 7.

35. The Appellant also put in evidence a letter dated 1st December 1955 from a firm of contractors engaged in building operations on land on the eastern side of the line on behalf of the Housing Commission in which permission for that firm to use the crossing was requested. Such permission had not been granted.

RECORD:
p. 179, l. 33.

p. 116, l. 33.

36. On the day following the accident involving the Respondent, the gates of the level crossing were chained and padlocked.

p. 152, l. 34.

37. The grounds of the Appeal as set out in the Appellant's Notice of Appeal to the Full Court of the Supreme Court of New South Wales may be grouped as follows:—

p. 162, l. 10.

- (a) that there was no evidence of negligence or breach of any duty of care owed by the Appellant to the Respondent;
- (b) that His Honour the Trial Judge was in error in his directions to the Jury as to matters concerning the running of the train and matters relating to the control and management of the crossing;
- (c) that His Honour was in error in admitting evidence adduced by the Respondent for the purpose of showing user of the crossing by other persons on other occasions;
- (d) that His Honour was in error on the issue of contributory negligence.

20

38. In his summing up, Richardson J. directed the Jury that the Respondent was neither an invitee nor a licensee. Neither at the trial nor on Appeal was any exception taken to that direction, and it was conceded by the Respondent's Counsel that at the time of the accident the Respondent was a trespasser upon the Appellant's crossing.

p. 135, l. 33.

p. 166, l. 5.

39. It was contended on behalf of the Appellant at the hearing of the Appeal:—

- (a) that the Respondent was a trespasser, and as such the only duty owed to him by the Appellant was that, if the Appellant's servants had known him to be present on the line at the time of the approach and passage of the train, they would be bound not intentionally to harm him or to act with reckless disregard of his presence;
- (b) that there was no obligation upon the Appellant to provide any warning to the Respondent of the approach of its train to the crossing by whistle or otherwise;

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- (c) that neither the driver nor the fireman of the train was aware of the presence of any vehicle on the crossing until the train was about fifty yards from it, that at that stage they took every action open to them to avoid injury to the Respondent but that it did not lie in their power to prevent the train striking the motor truck and that accordingly there was no breach of the duty referred to;
- (d) that as "Simpson's Act" placed the duty of shutting the gates at the crossing after use upon the persons using the crossing the Appellant's servants were entitled to expect that the gates would 10 be shut whilst trains approached and passed over the crossing and that motor vehicles would keep clear of the railway tracks;
- (e) that the Respondent adduced no evidence that the Appellant or any of its servants knew of any user of the crossing by persons other than the adjoining occupier and his invitees;
- (f) that the Respondent had not shown that his user of the crossing was foreseeable by the Appellant or its engine crew;
- (g) that even if some servants of the Appellant were aware that building activities had been commenced on the land lying below the railway line on its eastern side, that was no reason why that 20 fact should have raised in the minds of such servants any grounds for expecting that Walters' Crossing would or might be used by the Respondent as a way of convenience or at all. (Housing Commission subdivision plans were admitted into evidence and showed as did also oral evidence that there were ample means of access to the Housing Commission Project from public roads without using Walters' Crossing);
- (h) that neither the letter from the Housing Commission dated 1st December, 1955 to the Secretary for Railways nor any part of it should have been admitted in evidence, for the reason that 30 any knowledge of user implied in such letter was the knowledge of the Housing Commission and not of the Appellant and there was no reason why the Appellant should accept the Housing Commission's statement as correct at all or in relation to Walters' Crossing and that in any case the letter when taken in its entirety showed that the Housing Commission was not, or ought not to be understood as intending to give a warning as to existing conditions, but to ascertain the future intentions of the Appellant with regard to certain crossings;
- (i) that the Appellant owed no duty to the Respondent to provide 40 any warning devices at or methods of operation of the crossing such as had been put by his Honour the Trial Judge to the Jury in his Summing Up;

- (j) that in fact the only ground of complaint by the Respondent against the Appellant was that there had been a failure to whistle; that there was no evidence of a failure to whistle; and that in any case there was no obligation upon the driver of the engine to whistle as a warning to persons such as the Respondent who might be using Walters' Crossing.

40. The principal contentions of the Respondent at the hearing of the Appeal were: —

- 10 (a) that the fact that the Respondent was a trespasser was irrelevant as the Appellant owed a general duty of care to any persons who might be using the level crossing at any time whether lawfully or not;
- (b) that because of the user of the crossing by persons during the latter weeks of 1955 the Appellant's servants ought to have known of such user and therefore to have anticipated the possible presence of the Respondent on the crossing at the time of the accident;
- 20 (c) that the letter from the Housing Commission was admissible to show knowledge of user of the crossing in the Appellant; that because of the possibility of such user the Appellant should have taken some measures at the crossing, even though it was a private accommodation crossing, to provide for the safety of any persons who might find it convenient to use the crossing.

41. By Rule the Full Court dismissed the Appellant's Appeal and its p. 164. Reasons for Judgment were delivered on 23rd November, 1962, that being pp. 165-175. the Rule and Reasons for Judgment which are the subject matter of this Appeal to Her Majesty in Council.

42. Questions arising for determination on this Appeal are: —

- 30 1. What, if any, duty did the Appellant owe to the Respondent in the circumstances?
2. Was there any evidence of breach of such duty causing injury to the Respondent?
3. May it properly be left to the Jury to decide, in the absence of any evidence on the matter, whether the Appellant had failed in a duty of care to a person trespassing on an accommodation crossing such as Walters' Crossing by reason of not having provided methods or devices to warn of the approach of trains to such crossing or some other particular control of such crossing?

RECORD: 43. It is submitted that the Full Court of the Supreme Court in essence held that the principle of *Donoghue v. Stevenson* (1932 A.C. 562 at page 580) should be applied to impose on the Appellant a duty to a trespasser on the Appellant's premises (of whose presence the servants of the Appellant were unaware) to warn the trespasser of the approach of the train. It is p. 166, l. 44. that principle, the Court said, which is applicable in the present case "because of the evidence from which it could be inferred that it was very probable that the Commissioner knew of the use of the crossing by members of the Public".

44. In *Transport Commissioners of New South Wales v. Barton* (49 10 C.L.R. 114 at 135) Evatt J., then a member of the High Court of Australia, said (in respect of the knowledge of the presence of a trespasser) that "as a general rule, the Plaintiff must show that the occupier knew of the actual, or, at least, the very probable presence of the trespasser upon his land at the very time when some activity fraught with danger to the trespasser was being continued. But it is certainly not sufficient to prove, as has been suggested, that the driver of the Appellant's train probably knew that there would be cattle trespassing on the railway at some place or other along its length, at some moment of time during its long journey, and that he failed to keep a reasonable lookout so as to discover the trespasser and then avoid 20 injuring it".

pp. 171-172. 45. Certain matters are set out in the Reasons for Judgment of the Full Court in this case as being evidence of negligence. Such matters are: —

1. The crossing gave direct access to a public road by a gate which was not kept locked, nor was there any published prohibition limiting use to authorised persons.
2. The Appellant by its servants ought to have anticipated that vehicles would use the private crossing to get access to the new development project.
3. No lock on gates. 30
4. The notice "Beware of Trains" without prohibition may be found by a Jury to amount to permission to use.
- 5, 7 and 8. It was close to a residential area being built near a great metropolitan city with obvious signs of such development requiring delivery of materials.
6. Poor visibility because of curve in track and trees.

It is submitted that the matters 1 to 8 do not establish that the Appellant in fact did know or ought to have known of any general use of the crossing by unauthorised persons or was negligent in the circumstances.

46. The Court extracted basically from three cases a principle which it applied to the present matter. The cases are *Thompson v. The Council of the Municipality of Bankstown* (87 C.L.R. 619), *Rich v. Commissioner for Railways* (101 C.L.R. 135) and *Cardy v. Commissioner for Railways* (104 C.L.R. 274).

It is submitted that *Thompson v. The Council of the Municipality of Bankstown* (87 C.L.R. 619) and *Cardy v. Commissioner for Railways* (104 C.L.R. 274) are distinguishable from the present case and that the reasons of the Judges constituting the majority of the Court in *Rich v. Commissioner for Railways* (101 C.L.R. 135) in so far as they held that the Appellant owed to the Respondent being a trespasser the ordinary duty of care were erroneous and ought to be disapproved.

47. It is submitted that the occupier of private property or a person conducting an activity thereon which is not in itself dangerous does not owe the ordinary duty of care to a trespasser; that it may not properly be said that the persons he ought to have in contemplation are trespassers of whose existence he is unaware.

48. The problems stemming out of the Statement of the duty owed by the Appellant at private crossings are very great and there are many of them. In the multiplicity and complexity of such problems and the seemingly infinite variety of the circumstances applicable to them at different times and on different occasions, the statement of duty which the Court lays down as the Appellant's legal duty, it is submitted, is in direct contradiction to the authority of Barton's case (*supra*).

Whenever the Appellant's train passing along the rails on the Appellant's own property collides with person, beast or other property trespassing at a private level crossing, the Appellant would be faced with meeting—

- (i) a claim that a trespassing person or trespassing property of some person had been injured or damaged; and
- (ii) the view and opinion of a non-expert railway operator, namely a Jury, without any expert evidence to guide it, as to what was practicable in railway practice and experience.

In such situations it is submitted that the Appellant would be likely to be held liable for such injury or damage even though the injury or damage had been caused to a trespassing person, beast or other property who or which was present on its premises without the knowledge of the Appellant and was involved in an impact at that time at that place on the ground that by the Appellant doing something more than had been done at the particular place on the particular occasion when the injury or damage occurred, such injury or damage might have been prevented or minimised.

RECORD:

It is submitted that the result would be that no matter how remote the level crossing or how infrequent its use or how infrequent the running of trains across it and without regard to the nature of the surrounding circumstances it would always be open to a Jury to hold that simply because a trespasser or the trespassing property of someone had been injured or damaged, such injury or damage might or would have been avoided had the Appellant taken some further or other precaution.

p. 171, l. 29. The Court said "But, in any event, it is not our function but that of the Commissioner's technical and legal advisors to decide in the light of the particular circumstances of each crossing whether no, or any, and if any, what 10 precautions are appropriate, because though there may be some general overall policy applicable, the factual need for precautions would vary from crossing to crossing".

It is submitted that that statement is too wide and is erroneous.

49. It is submitted that an occupier or person conducting an activity on an accommodation crossing owes no duty of care to a person trespassing thereon to alter the nature of the crossing or of the premises in its vicinity or to add any physical feature to it.

50. It is submitted that the Full Court erred in approving the following directions given by the Trial Judge to the Jury, namely: — 20

p. 147, l. 31. "I emphasise that the issues are whether there was negligence in the driving of the train and/or negligence in the management of the crossing."

p. 149, l. 23. "The duty of the Commissioner is to do everything, which in the circumstances, is reasonably necessary to secure the safety of persons using the crossing and this would include the duty to give reasonable warning of the approach of a train where the Commissioner does not provide gates which are closed when a train is approaching."

p. 149, l. 44. "It is his duty to take every reasonable precaution to ensure 30 that the crossing will be safe for members of the public generally who act with due care while passing over it."

51. The Appellant respectfully submits that the judgment of the Full Court dismissing the Appellant's appeal in the action was erroneous and ought to be reversed and that the judgment in the action should be set aside and judgment entered for the Appellant for the following amongst other

REASONS

1. The Respondent was admittedly a trespasser on the railway track and there being no evidence that his presence there when or at any material time before he was injured was foreseeable or ought to have been foreseen by the engine crew, the Appellant did not in the circumstances owe the Respondent the ordinary or any duty of care.
2. The driving of a train along the Appellant's track not being a dangerous activity and there being no evidence that the engine crew at any stage acted with reckless disregard of the Respondent's safety the Appellant was not in breach of any duty owed to the Respondent.
3. The Respondent being admittedly a trespasser took the Appellant's current operation or activity of running a train along its railway track as he found it.
4. There was no breach of any duty owed by the Appellant to the Respondent for the reason that the Respondent's presence on the track was not known to any member of the engine crew until it was too late.
5. In the circumstances the train had the right to pass along tracks on the Appellant's premises and the Respondent ought not to have trespassed but in so trespassing ought to have seen to it that his vehicle did not foul the line when the train was approaching and came to the crossing.
6. It necessarily appeared from the Respondent's case that he failed to take due care for his own safety and was therefore guilty of contributory negligence which disentitled him to recover damages from the Appellant.

ERIC MILLER.

ARTHUR CONLON.

Counsel for the Appellant.

In The Privy Council

On Appeal from the Supreme Court of
New South Wales

BETWEEN

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(Plaintiff) Respondent

AND

THE COMMISSIONER FOR RAILWAYS

(Defendant) Appellant

Case for the Appellant
The Commissioner for Railways

LIGHT & FULTON,

24 John Street,

Bedford Row,

London, W.C.1.

Solicitors for the Appellant.

THE COMMISSIONER FOR RAILWAYS