

signals are seen to be right, or the track is plainly seen to be clear."

Rule 232 says: "Conductors and engine men will be held equally responsible for the violation of any of the rules governing the safety of their train, and they must take every precaution for the protection of their trains, even if not provided for by the rules."

And rule 233 says: "In all cases of doubt or uncertainty take the safe course and run no risk."

The printed "special instruction" as to detaching the engine before taking water reads as follows: "Freight trains of more than fifteen cars in taking water must stop before reaching the water-tank or stand-pipe, and the engine must be cut off before water is taken. The brakes must not be released on train until the engine is again coupled on and ready to proceed."

At the trial, as appears from the charge of the learned Judge, the plaintiff's case was rested entirely upon two acts of negligence, viz., the act of the conductor in giving the signal to go ahead and the acts of the bridge-tenders after they saw that the train had passed the semaphore and was proceeding towards the bridge.

The learned Judge reserved the defendants' motion of non-suit, and submitted certain questions to the jury, which, with the answers, are as follows:—

1. Was the conductor, McNamara, who was in charge of the train on the engine of which the deceased C. F. Smith was engineer, guilty of any negligence by reason of which the engineer, C. F. Smith, lost his life? A. Yes.

2. What was that negligence? and answer that question fully. A. Having passed the semaphore, if the conductor had full authority in the running of the train, he, McNamara, should have signalled the engineer to back up the train again until the semaphore was lowered.

3. Was the deceased, the engineer, guilty of contributory negligence: that is, could the engineer, by the exercise of reasonable care, have avoided the accident? A. Yes.

4. In what respect was the engineer, Smith, so guilty? A. By passing the semaphore without permission.

5. Apart from what may be said of negligence on the part of the conductor or the engineer, was there any negligence on the part of the defendants which occasioned the death of the engineer? (Referring to the bridge tender.) A. No.

6. If so, what negligence do you find these bridge tenders were guilty of? A. Nothing.