

company, it should give signals upon approaching it though it is not a legally established highway.

Where a railway crosses a highway on a trestle it owes a duty to travellers on the highway to give warning of its approach so that the traveller may take precautions to prevent his horses from becoming frightened.

The fact that safety gates are open is sometimes regarded as an implied invitation to cross, and an assurance of safety; but the weight to be given to such implied invitation depends upon the circumstances. And the fact that safety gates at a crossing are open is not such an absolute assurance of safety that a traveller can, without negligence, proceed to cross without any precautions—though the law will not hold him to the same degree of vigilance as to looking and listening as when he approaches an unguarded crossing; and whether he exercised the care necessary under the circumstances is for the jury, unless the evidence conclusively shews that he rashly went in front of the train.

Likewise while the signal of a flagman to cross will not relieve one from the duty to look and listen before driving upon a railroad crossing, he will not be expected to use the same amount of care in these respects as if no such signal had been given; and it is for the jury to say whether in a particular case a traveller is justified in relying solely upon the signal of the flagman or should take additional precautions. In one case an ingenious reason is given for requiring a traveller to look and listen for trains, though there is a flagman at the crossing, the argument being that flagmen are placed at extra-hazardous crossings, not to relieve travellers from taking ordinary precautions, but to offset the increased danger so that the precautions required of a traveller at ordinary crossings will be, together with the assistance of the flagman, effective for his protection at the more hazardous one.

The endless number of cases involving crossing accidents leave no hope for an end of them under present conditions. Safety gates, automatic signals, and flagmen, reduce the danger