

Any view of relative duties of the parties which does not take into account the tendency to recklessness which a consciousness of such a fact is apt to induce in the average human being would be altogether too optimistic for a practical science like the law. A fairer and less one-sided principle, we think, is indicated by a New York case which holds that a bicyclist riding along his own side of a road is not negligent in acting upon the assumption that the driver of a buggy which is coming towards him on the same side of the road will obey the law and turn out before they meet, and that, if a collision occurs, owing to his misplaced confidence in this regard, he may recover damages from the driver of the buggy, although he might have escaped injury if at the last moment he had turned out towards the centre of the road ; the result being the same, although he did not act with good judgment in the matter, since he is entitled to the benefit of the principle that, when a party is placed by the negligence of another in a position of danger, and compelled to act suddenly, the law does not demand that accuracy of judgment which is exacted under normal circumstances. (*k*)

A statute declaring that bicycles and like vehicles are entitled to the same rights and subject to the same restrictions in their use as are prescribed in the case of persons using carriages drawn by horses, has the effect of imposing upon a wheelman the duty of turning out for a heavy vehicle where that has previously been established as the rule of a road by earlier decisions in the country where the statute was enacted. (*l*)

Under a statute requiring a driver to turn to the right when a vehicle is met and give it half the road, there is no obligation to turn out for a bicyclist until he knows, or with reasonable care could have known that the bicyclist is approaching. And in such a case a jury is justified in finding that the driver of a vehicle used due care to ascertain the approach of a bicyclist at night, where both the driver himself and a companion testify that they were both watching the road in front of them for the purpose of seeing anyone who might be on it and were not expecting to meet anyone, and did not see or hear the bicyclist until the vehicle ran against him. (*m*)

(*k*) *Schlumpf v. Sliter* (1892) 64 Hun, 463.

(*l*) *Taylor v. Union Traction Co.* (1898) 184 Pa. 465, applying the general rule laid down in *Beach v. Parmeter* (1854) 23 Pa. 196 ; *Grier v. Sampson* (1856) 27 Pa. 183.

(*m*) *Cook v. Fogarty* (Iowa Sup. Ct. 1897) 72 N.W. 677 ; 39 L.R.A. 488.