

ing an obstruction; as, where it is so near the track that the traveller or his team will be nearly upon it before a view is afforded.

One of the favorite methods of getting hit by a train, as is shown by the analysis of a large number of crossing accidents, is by starting to cross behind a train which is going in one direction, after waiting for it to pass, without waiting until it has passed far enough to enable the traveller to see a train approaching from the opposite direction on another track. Under such circumstances the courts are inclined to refuse to make the railroad company pay the traveller or his executors for the damage resulting, such action not being considered ordinary care, especially where trains are to be expected at any moment, though it is not necessary to constitute such care, to wait until the passing train no longer obstructs the view; and the circumstances may be such that the question of negligence will be left to the jury, especially where the traveller has waited till the first train has passed some considerable distance. When smoke from a passing train obscures the view of the other tracks it is negligence per se to attempt to cross without waiting for a clear view, unless there is a conflict in the evidence as to the extent to which the view is obscured when the question of contributory negligence will be left for the jury to decide.

While the Pennsylvania courts have promulgated a rule that if the view of the track is obstructed the driver must get down from his vehicle and go forward to a point where the view is unobstructed, the seed of those decisions, so pregnant with economy for the railroads, has fallen upon barren ground elsewhere, the courts of other states holding that no such duty is imposed upon the traveller, such precaution being extraordinary care, which is more than is required. Even in Pennsylvania this rule is not strictly enforced unless a view of the track can be had in no other way. Some cases in other states recognize the Pennsylvania rule to the extent of holding that there may be circumstances under which ordinary prudence might require that