

owed him the duty, upon discovering his physical condition, to exercise reasonable care in their own conduct not to expose him to danger by sending him out from their home, and that, if defendants knew and appreciated his physical condition, their conduct amounted to negligence, and the question of their liability should have been submitted to the jury."

In the case of *Cincinnati, N. O. and T. P. R. Co. v. Marr's Administratrix*, to which the Minnesota court referred, William H. Marrs, while in an intoxicated condition, wandered into the private switching yards of the Cincinnati, New Orleans and Texas Pacific Railway Company at Lexington, Ky., and at 11 o'clock in the evening, was found by the yardmaster asleep in the labyrinth of tracks. A switching crew coming along with an engine at the time, he was aroused by the crew and the yardmaster and told to move along. This he did, cursing his disturbers as he walked into the darkness. The crew then went to their supper (a midnight lunch), and, returning in an hour, started with their engine along one of the tracks for the purpose of getting a car of stock. While proceeding at the rate of six or seven miles an hour, the engine ran over Marrs, who had again fallen asleep (this time on the track), and inflicted injuries from which he died. To recover damages, for the death thus occasioned, an action was successfully prosecuted by the administratrix of the estate of the deceased man, and the judgment which was recovered was affirmed by the Supreme Court of the State of Kentucky, to which an appeal was taken. "We fully concede," the court said, "that Marrs' being drunk did not make him any the less a trespasser when he first went into the yard of the corporation, and his intoxication added no new duty from it to him then. But when its servants actually discovered him, trespasser though he was, they owed him the duty to refrain from injuring him, and this duty was as comprehensive as the helplessness of his condition demanded to insure his safety from injury by them. The servants of the corporation, after finding him in the yard, could not shut their eyes and