

The fact that a railway company has provided an electric gong at a crossing, designed to warn travellers that a train is coming, will not justify a bicyclist in relying entirely upon the action of the gong when he is approaching the crossing through a deep cut. He must still exercise reasonable care to ascertain whether a train may not, in spite of the silence of the gong, be so near the crossing as to render it proper for him to stop. Whether he has exercised such care is a question to be determined by the jury in view of this circumstance, as well as of the rest of the evidence. (*b*)

9. Injuries to cyclists caused by street cars—The contingency that a bicyclist may attempt to turn into a side street in front of a horse-car which is approaching the intersection of the streets from the opposite direction is not one which the driver of the car is bound to provide for by slackening his speed, in the absence of some intimation of the rider's intention. Under such circumstances the responsibility of determining whether he shall cross the track in front of or behind the car rests upon the bicyclist. Hence there can be no recovery for injuries caused by the collision of a street car with a tandem bicycle where it appears from the testimony of the riders themselves that, when the car was approaching them rapidly, they undertook, suddenly and without any timely warning, to turn into an intersecting street in front of the car, and when it was so close that the front rider was the one struck by the horses. (*a*)

A bicyclist's use of the slot of a cable road is not negligence per se. The sole obligation incumbent upon him is that he shall exercise the care required of one who puts himself in a place of danger. Nor is a bicyclist under such circumstances guilty of negligence, as a matter of law, because he fails to look back. He is entitled to proceed on the assumption that he is exposed to no danger through the approach of a car from behind until he receives some warning, after which he is bound to protect himself by getting off the track. Where he testifies that the first notice which reached his ears was the rumble of the car just before it struck him, it is for the jury to say whether his failure to avoid it shewed, under the circumstances, a want of due care. (*b*)

(*b*) *Kimball v. Friend* (1897) 95 Va. 125.

(*a*) *Lurie v. Metropolitan, &c., R. Co.* (N.Y. Sup. Ct., 1896) 75 N.Y.S.R. 447; 40 N.Y. Supp. 1129.

(*b*) *Rooks v. Houston* (1896) 10 App. Div. (N.Y.) 98.