

driver nor his fireman saw the respondent until after he was struck by the locomotive. It is shown that the speed of the locomotive was slow, so that if a proper look-out had been kept by those in charge of it the respondent might have been warned or the locomotive stopped. The driver said that from the position he occupied on one side of the locomotive he could not see in front of it. I think it was culpable negligence to run a locomotive over the track in question without keeping a look-out ahead. And even had the bell been rung and the whistle sounded, the peculiar position of the track required not only a warning by the bell and whistle to parties crossing it, but the action of the driver himself by stopping the locomotive, if necessary, or by taking any other suitable means of preventing injury. Whether or not the respondent was lawfully on the track where and when he was injured, I think the appellants, under the circumstances, are estopped from saying he was unlawfully there. If, however, he was there unlawfully and as a trespasser on the track of the Vermont Central Railway Company, over which the appellant company had an easement, and the servants of the latter company, by the use of proper and necessary means, could have avoided doing him the injury complained of, the company is answerable for the negligence of its servants when causing the injury through the want of the employment of such necessary means.

For the reasons given, I think the appeal should be dismissed and the judgment below confirmed, with costs in all the courts.

CAT LEGATEES.

Even the most censorious critic must feel a certain amount of respect for the qualities of the heart of Miss Charlotte Rosa Raine, who by her will intended to provide comfortable maintenance for her dumb pets, which had probably solaced many an hour of her own life. Only a lawyer, however, can appreciate the wonderful crop of possible litigation that might have sprung out of the will had her kindly disposition moved her, instead of expressly limiting her gifts to the lives of her pets, to attempt to continue the provision to their progeny. The will makes a number of dispositions which no one can complain of as eccentric, and then, 'as regards her pussies,' she gives her dear old white puss Titiens, and her pussies tabby Rolla, tabby Jennefee, and black-and-white Ursula, to Ann Elizabeth Matthews, and she