

made the foregoing extracts. It was contended that the respondent, when injured, was a trespasser on the track of the appellants, and being so there illegally, he is therefore debarred from recovering damages for the injuries he sustained. I cannot adopt that proposition as at all applicable to the circumstances in this case. It appears from the evidence and the sketches and plans of the station exhibited on the argument that there are no gates or fences to prevent parties crossing the line. There are several railway tracks crossing two streets, and at the station there is necessarily a great deal of traffic and shunting by the two lines operating through it. The public, if not specially invited to do so, have been permitted by the railway officials to cross and recross the tracks at their pleasure, and therefore the appellants substantially, though perhaps only impliedly, undertook to use the necessary caution and diligence to prevent injury to any of the public so crossing the tracks in question. That is, under the circumstances, the necessary legal responsibility undertaken by the railway companies using that station. It may not have been satisfactorily shown that the respondent when injured was really on the public road crossing, as on that point there was conflicting evidence, and the jury did not so unequivocally find as to it.

I consider it, however, unimportant to the decision of this case whether he was on the road crossing or very near to it. The railway companies having permitted the public to cross their tracks, and having no gates or fences at the station, and having their buildings on both sides of the tracks, any one crossing them had good reason to expect the greatest possible care and caution would be observed in the use of those tracks. When the respondent was injured he was going from an office of the Vermont Central Railway Company to their freight depot, which, being on the opposite side of the tracks, required him to cross them. He was on one of the tracks, and upon or very close to the road crossing, with his back toward the direction from which came the locomotive that injured him, and which came from the appellants' engine house a short distance off. The verdict, as I have indicated, negatives, in my opinion, the contention that either the bell of the locomotive was rung or the whistle sounded, and being so there is ample proof of negligence on the part of the appellants' servants. Independently, however, of that finding, we have the fact that neither the engine