to be entitled to assume that an adult on the track in the path of the car will remove to a place of safety upon the sounding of a warning.

A PEDESTRIAN is held, in *Lerner* v. *Philadelphia*, 221 Pa. 294, 70 Atl. 755, 21 L.R.A. (N.S.) 614, to have no right to hold the municipality liable for injury received in broad daylight through a defect in a sidewalk, if there was nothing outside of himself to prevent his seeing the defect, or which will excuse his failure to observe it. An elaborate note to this case in L.R.A. reviews all the authorities on the question of contributory negligence as affecting liability of municipal corporations for defects and obstructions in streets.

ONE who intentionally points a gun at another, which is by statute made a misdemeanour, is held, in *McDaniel* v. *State* (Ala.), 46 So. 988, 21 L.R.A. (N.S.) 678, to be guilty of manslaughter in the second degree if the gun, while so pointed, is accidentally discharged, producing the death of the one towards whom it is pointed.

WHERE before the time for performance of a contract, it appears that one party will not be able to perform his agreement upon the precise date stipulated, the other party is held, in *Holt* v. *United Security L. Ins. & T. Co* (N.J.), 72 Atl. 301, 21 L.R.A. (N.S.) 691, not to have the right to repudiate his obligations in advance, unless time is of the essence of the agreement.

A REAL estate broker is held, in *Jepsen* v. *Marohn* (S. D.), 119 N.W. 988, 21 L.R.A. (N.S.) 935, not to earn his commission by producing a customer willing and able to pay the required price in cash for the property, where his authority is to sell for a certain price, payable a certain amount down and the remainder in yearly instalments, with interest.

WHILE it is a general rule that a discharge of the principle releases the surety, it is held, in *Gates* v. *Tebbetts* (Neb.), 119 N.W. 1120, 20 L.R.A. (N.S.) 1,000, that an exception to the rule exists when one becomes surety for a married woman, minor, or other person incapable of contracting.

AN employee engaged in removing earth for the foundation of a building is held, in *Rankel* v. *Buckstaff-Edwards Co.* (Wis.), 120 N.W. 269, 20 L.R.A. (N.S.) 1180, not to be a fellow servant of an expert employed for a short time to break up frozen ground