be attributed to his own negligence, and not to the negligence of the company. On the same grounds, where the conductor of a freight-train was struck and killed by the projecting roof of a depot-building, and it appeared that the deceased had lived for many years at the place of injury; that he had for a long time been familiar with the road, passing over it daily; and it did not appear that any change had been made in the building or in the road since he became an employé on the road, it was held that there could be no recovery of damages. In entering upon the service the servant assumed the risk of the premises as he found them.

Where a railroad company so constructed a side-track that all trains coming from one direction, in order to switch cars upon it, were obliged to make what is known as the "*flying switch*," and a switchman employed at the station was killed in the night-time, in attempting, when signalled, to run from the station-house to the switch in order to turn it, the company was held liable, on the ground that it had been negligent in failing to establish proper rules and regulations for making the "flying switch," and in failing to provide the cars which were attempted to be switched with good and sufficient breaks and with the proper number of lights. Where a breaksman was killed in making what is known as a "flying switch," in consequence of the fact that a particular car had no ladder on it by which he could ascend to apply the break, it was held that the following instruction, fairly construed, was not in conflict with the rule which exacts of the master, in the furnishing of machinery, only reasonable or ordinary care: "It was the defendant's duty to provide cars with such appliances as are best calculated to insure the safety of the employés; and if a ladder on the end of the car, or a handle as described by the witness, would be a better protection to life than the car which produced the accident, then it would be the defendant's duty to furnish a car with such appliances." A fair construction of this language, under the circumstanses of the case, did not warrant the supposition that it exacted of the defendant the highest degree of skill and the procuring of the very best appliances, but rather those appliances which were reasonably best calculated to answer the end proposed, as compared with those which the company did furnish. In Tennessee it has been ruled, with obvious propriety, that a statute providing that "every railroad company shall keep the engineer, fireman, or some other person upon the locomotive always on the look-out ahead, and when any person, animal, or other obstruction appears upon the road, the alarm-whistle shall be sounded, the brakes put down, and every possible means employed to stop the train and prevent an accident," did not apply to the running of engines and trains about the depots and yards of railroads, nor did it have reference to the protection of the employés of a railroad when moving across the track in the discharge of their duties.

It is also incumbent upon railway companies to use ordinary prudence in making and publishing to their employés sufficient and necessary *rules and regulations* for the safe running of their trains, and for the government of their employés. For an injury to one of its employés, arising from the want of such regulations, such a company will be adjudged to pay damages. But it being impossible for a railway company to move its trains when being made up, or when broken up, according to a time-table, the omission to provide regulations as to the time of moving trains engaged in and about the freight and engine houses and depots of the company is not negligence. But it is practicable to prescribe in what manner engineers and conductors shall give notice of the approach of an engine, with or without cars, when trains are being made up or are moving about freight-houses, depots, or engine-houses; and, if proper precautions are not taken for the protection of life and limb from negligence by such engines and trains, a person injured, who is not an employé of the company, has just cause to complain, and is entitled to recover damages for any injury sustained by reason of the omission of the company to adopt such reasonable guards against liability to injury. But one who enters into the employ of the company with full knowledge that no provision has been made for protecting its servants against injury from moving trains or engines has no claim to recover damages if he sustains injuries by reason of the company omitting to make such provisions and regulations as prudence and a proper regard for the lives of others might require. Thus, where two railway companies were in the joint occupation of a station, and a servant of one of them, while engaged under a car on the siding, repairing it, was killed in consequence of another car being shunted against the car under which he was, and it was found that there had been no negligence on the part of any of the employés, but that the accident arose from the fact that the rules were defective, it was held that the company whose servants shunted the car must pay damages. And, where a railroad company constructs a side-track so that it has but one connection with the main track, in consequence of which all trains coming from one direction, in order to switch cars upon the side-track, must make what is known as the "flying switch," it has been held incumbent on the company, out of regard for the safety of its employés, to make and publish rules and regulations to be by them observed in this dangerous operation.

The subject under consideration may be illustrated by referring to a large class of actions brought for injuries received by railway brakemen in *coupling and uncoupling cars*. This duty, as is well known, is highly dangerous, even under favourable conditions. It is therefore obvious that the rule of ordinary care already stated would place the company under a degree of care, in providing its cars with safe apparatus for this purpose, which, applied to ordinary situations, would be denominated extraordinary. Yet it is held, even here, that such a company is not liable for an injury received by a brakeman in coupling cars having double buffers, simply because a higher degree of care is necessary in using them than is demanded in the use of those differently constructed. Nor is such a company obliged to discard cars of an old pattern simply because it is more dangerous to couple them to cars of a new pattern than it is to couple new cars to each other. In all these cases care must be taken to note the distinction between a vice common to a whole class of cars, with which the brakeman may be supposed to be familiar, and a vice peculiar to a particular car,—such as a defective draw-bar, of which the brakeman may have no knowledge.