

considerably, and also increase it somewhat in other ways by leading the public to rely upon them to their greater danger when they fail to work. The only sure way to end the slaughter is to eliminate both the human and mechanical elements absolutely, by separating the grades of the highways and railroads at all crossings which are dangerous, either because of physical conditions or the large amount of travel. This is a step in progress which, like other safety devices, will probably have to be forced upon the railroads, but which, as was the case with the air brake, will in the end doubtless prove to be a real economy for them as well as the public."—*Case and Comment*.

PART PERFORMANCE.

The recent case of *Daniels v. Trefusis*, 109 L.T. Rep. 922, (1914) 1 Ch. 788, adds another authority to the long list of decisions on the question of what does, and what does not, amount to part performance of a contract in order to take the case out of the Statute of Frauds. The decision is an important one. It is proposed in this article to bring to the reader's attention the present state of this branch of the law, so that the significance of the recent case may be the better appreciated.

The doctrine of part performance is, of course, an equitable one. It is chiefly remarkable because of its having been called into being to frustrate the express and unequivocal provisions of an Act of Parliament. Most equitable doctrines were the outcome of hardship resulting from common law rules. But this doctrine grew out of, and because of, a seventeenth century statute designed to prevent fraud. It made its first recorded appearance only ten years after the Act was passed. The case of *Lester v. Forcroft* (1701), Colles 108, is generally reputed to have been the first occasion on which the court gave relief against the statute. But, in point of fact, in 1685 Lord Guilford in the case of *Butcher v. Stapely* (1685), 1 Vern. 364, decreed performance of a contract which had not been signed; while two years previously a case (*Hollis v. Edwards* (1683), 1 Vern. 159)