

ing the land had been owned by a stranger, could it be pretended for a moment that he would not have had the right to build up to the line, and does it make any difference that the city happened to own the lands upon both sides of the track? I think not. There was no duty to leave a way for the yardsmen upon the opposite side of the track from which to signal the engine-driver where to stop, and it seems to me wholly gratuitous to say that there was any such necessity. There was then, I think, no negligence whatever on the part of the city in erecting the platform in the manner they did.

But, assuming that the city, having knowledge of the usual practice of the yardsmen in placing cars and in so doing of occupying the land where the wall stands for the purpose of signalling the engine-driver, negligently placed the wall where it is so as to endanger the yardsmen when placing cars, deceased might have taken another method of signalling the engine-driver. He chose to place himself in a position of danger, with a knowledge of the facts, where injury was inevitable. He was the cause of his own injury. He stepped in the way of danger needlessly and thoughtlessly, and that was the immediate cause of the injuries which he received.

I think the judgment entered for plaintiff should be set aside with costs and the action dismissed with costs.

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