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TORTS—CONTRIBUTORY NEGLIGENCE—DUTY TO STOP, LOOK AND LISTEN.—The Supreme Court of Appeals in a recent case,¹ has corrected a false impression of the rule in West Virginia regarding the care to be exercised by a traveler before attempting to cross a railroad track. The misunderstanding arose from the language used in the syllabus in the case of Cline v. McAdoo,² which is as follows: "As many times decided, it is the duty of a traveler on a public highway, on approaching a railroad crossing, to stop, look and listen, without which, if injured, he will be guilty of contributory negligence." This statement has led at least one trial court into error³ and has resulted in West Virginia being classed with Pennsylvania, in a widely read text-book,⁴ as holding that the duty to stop, look and listen is absolute.

In the case of Bonar v. Baltimore & Ohio R. Co.,⁵ plaintiff's automobile, while crossing the tracks, was struck by defendant's engine. The defense was contributory negligence. It appeared

2 85 W. Va. 524, 102 S. E. 218 (1920).
5 Supra, note 1.