

## DODGE BROTHERS V. CENTRAL VERMONT RAILWAY CO.

### Oral Argument on Appeal

This case was among the first seven argued before the Vermont Supreme Court in May of 1918, when the new Supreme Court and State Library Building at 111 State Street was first used by the court. The day had begun with the reading of 21 decisions from the last term, before arguments began.

The Dodge Brothers farm was in Berlin, straddling the Dog River and crossed by the Central Vermont line. State law at the time required the railroad to maintain good and sufficient fences along the track and gates at all crossings.

Five colts belonging to the Dodges were killed on the night of September 30, 1915 after passing through an open gate onto the track, where the train collided with them. At trial, the jury awarded the farmers \$700 in damages. The railroad appealed, arguing plaintiffs had failed to show the gate was faulty, how the gate was opened, how the opening was the proximate cause of the injury, and how the case had been built on mere surmise and conjecture.

The issues on appeal are:

1. Whether the trial court's instructions were prejudicial to Defendant's defense by implying that an open gate is an insufficient fence.
2. Whether Defendant's exception to the supplemental instruction included a challenge to the underlying defense that an open gate is not an insufficient fence, as to hold Defendant liable for damages to the colts.

Appearing on behalf of the Appellant CVR is Michael Tarrant, II, Esq. Defending the Dodge Brothers is Stephen Coteus, Esq. The argument is set for fifteen minutes per side.

The case has been briefed, and the Chief Justice has indicated that arguments shall be heard at 4:15 p.m. on Friday, May 18.