

fact that a person is so attempting to enter, be guilty of such negligence as to render the questions of negligence and contributory negligence ones for the jury to determine.

Similarly where a boy was in the habit of entering the car at the front end on the side next to a parallel track and while waiting for that purpose the motorman of an approaching car which had slowed up said "get on kid," and as he had one foot on the step, the car suddenly started, throwing him to the pavement, the case was held to be one for the jury.

While this may be true, yet it would seem, and is undoubtedly the law, that where the company has no notice of such contemplated action by one intending to become a passenger it will not be liable for any injury sustained by a person attempting to board a car in this manner.

*Starting a Car While Boarding.*—Many injuries are sustained by passengers owing to the sudden starting of a car while attempting to board it. It is a common practice for those in charge to start not only before a passenger has become seated, but generally before he has actually entered the car and frequently as he is in the act of stepping upon the platform thereof. While it is undoubtedly true that as a general proposition it is not negligence *per se* to start before a passenger is seated, yet there are without question circumstances which would render the company liable for such a course of action if injury results. Thus this would be the case where the passenger may be so infirm by reason of infancy, old age, sickness, lameness or other cause that the carrier is chargeable with notice of such infirmity and of the consequent result of what the ordinary movement of the car would be if such person were not seated.

It would of course not be practicable to require that in all cases a street car should remain still until a passenger has become seated but "there are instances in which a car should be permitted to remain still until the passenger is seated; that is, where the passenger is old, feeble, crippled or in any condition which makes it reasonably apparent to those in charge of the car that the person needs unusual care and precaution for his or her protection."