opened for the purpose. He entered the boiler as usual, and instantly fell dead in consequence of inhaling the poisonous gas collected in it. It appeared that the ventilator in this boiler, which acted as a safety valve for the escape of the noxious gas, had been closed by the direction of the deceased. This was held contributory negligence, and a verdict for plaintiff was set aside. As there was no dispute about these facts, it was held that a nonsuit should have been granted as requested.

Ferris v. *Union Ferry Co.*, 36 N. Y. 312.—Plaintiff was a passenger on defendant's boat. On the arrival of the boat at the slip, the guard chain was let down before the boat was completely fastened, and the plaintiff proceeding to leave the boat, her foot slipped into an opening between the boat and the floating dock or bridge, and she was injured. She was held not negligent, the dropping of the chain being an assurance to passengers that the boat was properly secured and exit was safe.

Milton v. *Hudson River Steamboat Company*, 37 N. Y. 210.—Defendant agreed to tow plaintiff's boat to New York and to place it between two other boats. Defendant did not place the boat between two others, and part of the cargo was washed overboard. The referee found that the crew on plaintiff's boat did not exercise proper care over the boat, but that, if defendant had placed the boat between two others as he had agreed, the injury would nevertheless not have happened, and he reported in favour of plaintiff. This judgment was reversed.

McIntyre v. *N. Y. Cent. Railroad Co.*, 37 N. Y. 287.—Deceased was a passenger on defendants' train, and had no seat. He was directed by one of defendants' servants to pass forward, while the train was in motion, to another car where there were unoccupied seats. In attempting to do so, in some unknown manner, he fell between the cars and was killed. A recovery was affirmed, the court holding that it was for the jury to decide whether the deceased was guilty of any negligence in attempting to carry out the defendants' directions.

Davenport v. *Ruckman*, 37 N. Y. 568.—The plaintiff, who was partially blind, walking on the sidewalk, fell into an excavation suffered by defendant to exist on his premises and was injured. A recovery was approved, the court holding that the question for the jury was, "had the plaintiff sight enough to go, with reasonable assurance of safety, through the streets if they were kept in good condition?"

Wolfkiel v. *Sixth Ave. Railroad Co.*, 38 N. Y. 49.—Plaintiff was injured while getting on the front platform of a street car run by defendant. The testimony was conflicting as to whether the car was then in motion, and the question was properly submitted to the jury.

Nichols v. *Sixth Ave. Railroad Co*, 38 N. Y. 131.—Plaintiff, while on the front platform of defendants' street car, asked the driver to stop, and the driver brought his horses down to a walk when the plaintiff stepped down on the step to get off, and the car stopped; while he stood there, a sudden start of the car threw him off. The court held that the plaintiff had a right to occupy the step, and whether he was negligent while in that position was a question for the jury. They say: "While passengers have no right to jump off a car while in motion, or to make an attempt to do so, yet they are authorized to prepare to leave when there is evidence of an intention to stop or any signal given for such a purpose."

Gonzales v. *N. Y. & Harlem Railroad Co.*, 38 N. Y. 440.—Deceased, in stepping from a car, was killed by an express train on an adjoining track. It appeared that he must have been a passenger on this train, lived in sight of the station, and must have known that the express was then due. The court held that, if he did not look out for this train, he was guilty of negligence, and if he did look, he must have seen the train within a few feet of him, and his attempt to cross in front of it was reckless. Judgment for plaintiff reversed.

Wilcox v. *Rome, etc., Railroad Co.*, 39 N. Y. 358.—The plaintiff's intestate was killed at a village street crossing with which he was familiar, and where, if he had looked, he could have seen a train for seventy or eighty rods. There was evidence that there was no bell rung or whistle sounded. It was held that it must be presumed that he did not look for the train, and thus was negligent, and that the defendant's omission of signals did not excuse him.

Remarks.—Here, for the first time, we find an explicit avowal of Judge Porter's doctrine in the *Ernst* case. Judge Miller says, of that case: