

put, but really a neat way of begging the question. But it does seem that the passenger, if he knew of the warning, did not act as a commonly prudent man. He was indeed not bound to anticipate that the doors of other trains on the line would be negligently left open; on the contrary he had a right to expect that they would be kept fastened; and this reason at first sight appears to be strong in his favour. The weak point of it is that open doors on other trains are, as a matter of fact and common observation, by no means the only danger to which projecting heads or limbs may be exposed: there may be very little clear space in passing through tunnels, covered bridges, and the like; and an express warning reminds the passenger of this kind of risk if it is not already notorious. It cannot be said, therefore, that he was not bound to be cautious. Then, if the passenger does put his arm outside, he can still keep a look-out, and draw it in when another train is passing. And on the whole it seems, even without any express warning, that not to keep any look-out for possible objects of collision is recklessness in fact amounting to negligence in law. On the other hand (subject, perhaps, to mere possibilities of exceptional circumstances which, if they had existed, it was the plaintiff's business to prove) it is plain enough that the company had no means of avoiding the result at the last moment: therefore the finding for the defendant, on the ground of contributory negligence, was in our judgment correct. As to the inference of negligence against the company in the first instance from the fact that a carriage door in a moving train being left open, there is no difficulty: *Toal v. North British Railway Company*, [1908] A.C. 352."