

mentalities whose impact will inflict injury. We are not sure a jury must be told a plaintiff cannot recover for a personal injury if he did not look around before going where he was hurt, except when the accident occurred while the plaintiff was crossing a railway track, which is a warning of danger to a person about to cross it. When a man steps on a railway track, he knows he is going where danger lurks, and knows, too, whence the danger is to be apprehended; that is from the approach along the track of an engine or car. Hence the propriety and the wisdom of requiring him to look in advance to see if the track is clear, or requiring that specific act as a discharge of the duty to use ordinary care. A person crossing a railway track at a common highway crossing has no reason to rely on the railway company's having arranged the operation of trains to insure his safety, and hence must look for trains. But under circumstances which give him the right to trust to the railway company's care, the rule in regard to looking for trains before crossing a track does not prevail: *Terry v. Jewett*, 78 N. Y. 338; *Warren v. Ry.*, 8 Allen, 227, 85 Am. Dec. 700; *Klein v. Jewett*, 26 N. J. Eq. 474; *Jewett v. Klein*, 27 N. J. Eq. 550. The footboard on which the plaintiff stepped was intended, among other things, for passengers to walk to a seat on. In itself, it gave no warning that a person using it was likely to be hit by a car on the near track, but tended to produce an impression that he would be safe on the board, for it was not to be supposed the defendant would invite its patrons to expose themselves to great peril. Nor was the north track a warning to him, for he might believe, with reason, that a passing car would miss him; and, if he told the truth, that was his belief. We do not feel justified in prescribing as the measure or quantum of care to be used by a passenger in such a situation that he must look for approaching cars before stepping on a footboard. The more satisfactory test of right conduct under the circumstances that surrounded the plaintiff is the one which prevails universally, namely, did he exercise ordinary care to insure his own safety? The facts did not call for a charge to the jury that plaintiff was bound to look for another car before he stepped on the board, though failure to take that precaution would defeat his action if the jury thought it was an essential element of due care."