

him of a desire to become one. And where only one inference can reasonably be drawn from the facts it seems that the question of negligence or no negligence may be determined by the court as one of law.

*Boarding Car by Front Platform.*—The fact that a person boards a car by the front platform instead of the rear one is not negligence, *per se*, there being no apparent reason why the former way is not as safe as the latter and there being furthermore no notice forbidding such an act or any objection thereto on the part of those in charge of the car.

In fact, in many cases it is a common practice for passengers to enter a car either at the front or rear end and frequently even, though there may be gates upon the front platform which are closed upon both sides, an express invitation to enter by the front platform is extended to intending passengers by the act of the motorman in opening the gate on the proper side for the entrance of persons, thus accepting them as passengers and creating the contract relation between them and the company. Aside from this, however, in the absence of any express affirmative act on the part of the motorman a person attempting to so board a car is not guilty of negligence, *per se*, the car having stopped, if the motorman ought in the proper discharge of his duty to have been aware of his presence. Thus it has been held proper to refuse to grant request to instruct that "the defendant is not chargeable with negligence if the motorman started the car while the plaintiff was attempting to board it by the front platform, if he was not aware of the plaintiff's presence there." The court said: "This request was properly refused; it is seen at a glance that the request limits defendant's liability to the knowledge of the motorman, thus entirely excluding any consideration of the circumstances which tended to shew that if the motorman had properly discharged his duty he ought to have known of plaintiff's presence. Such rule, if adopted, would have permitted the motorman to have been guilty of gross dereliction of duty, whereby he placed it beyond his power of being cognizant of plaintiff's presence, and then allege such neg-