

ation the position in which the appellant was placed by the starting of the car after she had put out her hand to take hold of the bar, when she was but a few inches away from the step; and continuing her effort to get on the car did not amount to contributory negligence.

Getting off a car when it is in motion is not necessarily contributory negligence. Everything depends on the circumstances. It is not contributory negligence where the speed of the car is such that a reasonably prudent man, in the circumstances, would have done what the intending passenger did; and the same rule should be applied where a person is getting on a moving car.

In the circumstances of this case, the proper conclusion was, that the appellant was not guilty of contributory negligence. According to the testimony of the witness Smith, the wheels of the car "just turned before she grabbed the car," and he added, "I think the wheels just turned once." The appellant succeeded in getting one foot on the step of the car, and was thrown off owing to the speed being increased. Add to this the fact that she was in a position which required her to judge and act quickly. She had been put in that position by the failure of the conductor to stop long enough for her to get on the car while it was standing still. The principle applied where one is suddenly placed in a position in which he must act quickly—an emergency it is sometimes called—is applicable: *Wooley v. Scovell* (1828), 3 Man. & Ry. 105; *Briggs v. Union Street R. Co.* (1888), 148 Mass. 72.

The appeal should be allowed with costs, and judgment should be entered for the appellant for \$500, the amount assessed by the trial JUDGE as damages, with costs.

Appeal allowed.

FIRST DIVISIONAL COURT.

JUNE 11TH, 1920.

*REX v. POLLOCK.

Criminal Law—Pretending to be Able to Discover Stolen Goods—Criminal Code, sec. 443—"Pretends"—"Skill and Knowledge in an Occult Craft or Science"—Intent to Deceive—Honest Belief in Powers—Communication with Departed Spirits—Evidence—Conviction.

Case stated by the Judge of the County Court of the County of Huron upon the trial and conviction before him, in the County Court Judge's Criminal Court, of Margaret Pollock, the defendant, upon a charge, under sec. 443 of the Criminal Code, that she did