" mative evidence might be by which it was met; and the jurors " in this case have found that issue in the negative." Again: " If the jury (believing that the usual whistling was on this " occasion omitted) entertained the opinion that the deceased " came to his death while using the crossing for a legitimate " purpose and in a not unusual manner, I cannot say that there " was no evidence on which such a conclusion could be founded."

Lord Blackburn, in that case said: " It is said that we en- " croach on the province of the jury by saying that not to look " along the line before crossing it is a circumstance that, un- " answered, shows want of reasonable care. I can only answer " by citing the language of the judgment in *Ryder* v. *Wombell*, " L. R. 4 Exch. 32, which, I think, is sound law. It is there " said, at p. 40: 'We quite agree that the judges are not to " 'determine facts, and, therefore, where evidence is given as to " 'any facts, the jury must determine whether they believe it or " 'not.'"

Lord Gordon, in the same case, said: " I think the weight of " the evidence was on the side of the defendants, and that the " jury should have so found, but the jurors were the proper arbi- " trators, and were entitled to decide the point before them as " they did."

As to the question of contributory negligence, His Lordship said: " I think the evidence pointed pretty conclusively in one " direction, but I think the jurors were the proper persons to " deal with the evidence in regard to this issue, as they were in " regard to the first, and that the judge at the trial rightly left " the decision to the jury. I think a case of disputed facts ought " not to be withdrawn from a jury merely because the evidence " seems to the judge to point all in one direction. Whether the " evidence be strong or conflicting or weak, it is equally the " province of the jury to decide upon it, and I think a presiding " judge would be arrogating to himself functions not belonging " to him if he were, on the trial of a question of fact, to withdraw " the evidence from the jury and to decide on it himself."

The judgments I have just quoted from were delivered in 1878, and are the latest I have been able to find. The doctrine laid down I feel bound by, and it is clearly applicable to this case. The jury having expressly found on the two leading points of the case, I consider myself bound by the decision in the case so recently and unequivocally decided, and from which I have