

followed others in getting off the car at this side. In the running-board there was a hole, 4 inches by 10 inches; cut, it was said, to allow access to some parts of the truck; more probably cut for the purpose of allowing a freer motion to the truck on rounding a curve. This hole the plaintiff did not notice; and, putting her foot into it as she stepped down, her leg passed through it, and she fell forward, injuring her knee. She was suspended there until extricated. From the injury then sustained she suffered much, and may possibly have yet to undergo an operation, the cartilage of the knee being broken.

The defendants contend that there is no right to recover, as the accident happened while the plaintiff was getting off the wrong side of the car. I do not think this is a defence, because the fact that the step was down and the bar raised amounted to an invitation to alight. It is true that while the company is clearly responsible for the fact that the step was down, the reason of the bar being up may be attributed to an officious act by a passenger; but I think it was the duty of the company's officers in charge of the car to see that the bar was not raised or that the bar was so fastened as to prevent its being readily interfered with by any intermeddler.

The object of closing the one side of the car was to avoid danger to the passengers from a car approaching on the other track; and when the car was used on a single track line both sides were left open. The portion of the road where the accident happened was at this time used as a single track line, because the car had to return for some distance upon the track on which it came, before it could reach any cross-over. The accident did not result from an occurrence such as the company's regulation was intended to guard against.

The existence of this unguarded opening in the step was entirely improper, and finding as I do, an invitation to alight, the plaintiff's right to recover is, I think, clear.

The amount to be recovered has given me much anxiety. It is always difficult to assess damages when the exact extent of the injury and its permanence cannot be ascertained. I have concluded to allow \$2,000, to be apportioned \$1,600 to the wife and \$400 to the husband.