

only, their course seems to me very plainly to have been, to pass through the car they had occupied, and in which they had a right to be, and find a way out at its front door; all of which might have been done more than five times over even at the lowest estimate of the duration of the stop—a minute and a half. That car they had a right to be on and to pass through; the sleeping car they had no right to be on or to pass through under ordinary circumstances. They had not paid for passage in it; those only who had, had a right to be there; and had a further right not to be disturbed by those who had not; and especially not to be disturbed when they had retired or were retiring; only an invitation or an emergency would justify that which the plaintiff and his companion did. What excuse have they for invading that car at that hour of the night? The right to alight might justify it if that were the only reasonable way of alighting; but that is not so; the contrary is the fact; as all who travel upon our railways must know. Sleeping cars are generally if not invariably “vestibuled” as it is called; and the vestibules are more generally closed than in ordinary cars because those travelling short distances are not in the habit of travelling in sleeping cars. The protection of those occupying sleeping cars requires vestibuled car; and the safety which the closed vestibule affords might be converted into a trap if passengers from any part of the train were permitted to open them, at their will or for their convenience, without the knowledge of any of the train’s crew.

In addition to all this the plaintiff and his companion saw and passed by the porter of the sleeping car in going through it, but without asking from him to be afforded means of alighting, as I think, even if they had had a right to be there, they should have done. It was within the power of any of the train hands to stop the train and afford a means of alighting and that should and would be done, doubtless, in a proper case; the mere pulling of a signal cord with which all train hands are familiar would have stopped the train.

But having had time enough to go through their own car many times over and so far as the evidence shews not having attempted to go that way at any time, but, instead, having invaded the sleeping car at almost the last moment, and opened its closed doors, and so far as the evidence