me to be no lawful justification for the plaintiff, or any other of the servants of the other railway company, going among the tracks of the defendants for any purpose in connection with these cars. But it was said that it had been habitually done by them, and that from such conduct it ought to be conclusively presumed that it was done with the leave of the defendants. There is, however, no such evidence sufficient, in my opinion, to support even a *prima facie* case of such leave. The whole evidence is that of the plaintiff who said that he had done the same sort of thing, in the night-time, for several months; and that of a brakeman of the defendants' that he had "seen them come out different times there." Surely there is in this no reasonable evidence of any knowledge on the part of the defendants of the plaintiff's actions in this respect, not to speak of acquiescence in it amounting to even leave, much less a right. The plaintiff then being really a trespasser upon the defendants' property, it cannot be reasonably contended that there was a breach of any duty towards him.

Assuming, however, that the plaintiff had a right to be where he was, on what ground can it be said that the defendants were guilty of negligence towards him? The jury have said, in not slowing speed, and giving such warning as ringing the bell or blowing the whistle of the engine of the train by which he was injured on approach to station or yard limits. It is not proved, nor is it now contended that any "warnings" which legislation provides for were not given; the evidence is that they were given; so that that which the jury must have meant was additional warning, because the warnings required by statute and given were given on approaching the station or yard limits; it may be that they meant within the yard limits, though there is no evidence that the bell was not continuously rung. Having given all the warnings required by statute-law, and the railway being fenced, no jury has a right to be a law-maker in each particular case, and in effect overrule legislation without any peculiar circumstances requiring a reduction of speed. It ought not to be the law that each jury may in each particular case determine what ought to have been the speed of a railway train though there are no kind of peculiar circumstances in the particular case requiring a lessening of the statute-permitted speed.

Again, the plaintiff testified that if the bell were ringing he could not hear it; he said: "You could not hear a bell