

Sound to Dundalk; that the train drew up and stopped at Dundalk for 5 or 6 minutes, but not long enough for all the passengers to alight; that he determined not to get off with the crowd, but to wait until the train should stop, as he seemed to have expected it to do, nearer to a switch or highway crossing, 500 to 800 feet south of the station. The train proceeded in that direction, the plaintiff being then (apparently unnecessarily) on the platform of the car, and, as it stopped for the second time, he was in the act of getting off, standing with one foot on the 2nd step of the platform, when it gave a jerk or shunt backward, which threw him off, and the wheel of the next car went over his leg, severing his foot.

Apart from the plaintiff's difficulty in maintaining the action arising from the fact that he was standing on the platform or steps of the car while the train was in motion after the first stop, the evidence appears to me to point conclusively to the fact that the plaintiff was attempting to get off before the train had come entirely to a stop, and that the jerk or jolt to which he attributes his fall was nothing more than the usual jar or jolt which, especially in a long train of cars, is caused by the release of the brakes in the ordinary course of the management and stoppage of the train. There is no evidence that it was caused after the stop by a proceeding to move the cars reversely for the purpose of shunting or entering the switch or otherwise. The movement is not properly described as a shunt or backing-up. Brady, a witness for the plaintiff, describes it as a jolt—a jolt back a little—no more than a flutter—just a jolt. McAllister, another witness, speaks of it as a jerk, just the faintest bump back, and Thomas Wilson, who had got off at the first stop and saw the second, and the plaintiff's accident, said the people started to get off before the jolt back. He speaks of it as a little jolt; that it was just a matter of moments before the jolt took place. The train was standing just a moment or a second; it was done almost immediately. It did not stand long enough for any one to get off before the jolt came. It came almost at once, following the halt. Asked how he accounted for the jolt, he said he has seen a good many trains coming to a halt do the same thing, not so often on a train of three or four coaches, but with a long train it does it nine times out of ten, or any time jolts back along the length of the train.

From this evidence it appears to me that the proper conclusion is that the train had not come to a complete stop so as to warrant the plaintiff in attempting to alight; in other words, that there was no invitation to alight at the moment when he met with his accident, the stop not being complete.