

Notes on Exchanges and Legal Scrap Book.

A NOVEL CASE OF NEGLIGENCE.—A novel case of negligence came before the Supreme Court of Louisiana in *Clairain v. Western Union Telegraph Company*. The following are the facts, as we learn from the *Albany Law Journal*: "Clairain was employed by the company as a lineman in putting up wires on their telegraph poles. While he was engaged in this work some forty feet from the ground, it became necessary for him to force the steel spur, attached to one of his legs, into the post, throw his other leg around the pole, and lean outward on the cross-arm and wire at the end of it, for the purpose of tying the wire to the outer end of the arm. While he was in this position the wire broke near the cross-arm, the cross-arm itself broke where it was fastened to the telegraph pole and he fell headlong on the stones beneath, and received injuries from which he died in a few days, leaving a widow and three children. It was charged that the wire was of inferior quality, second-hand and full of kinks, that it had been so twisted as to weaken it, and that the cross-arm was of light material, too thin, improperly bored, and so brittle as to be utterly unfit for its purpose. It must be considered that the employment was a dangerous one; not dangerous in merely climbing or ascending the poles, and reaching out to the end of the cross-arms and fastening the wire, but dangerous from the fact that the wire and its wooden support might chance to be defective or unsound. These, necessary for his work, the employee had a right to presume were entirely safe, and he was entitled to rest on this presumption for his security: *Hanson v. Railway*, 38 La. Ann. 111. And it further follows that the employment being a dangerous one, as conceded and asserted by the defendant's counsel, the defendant company, the employer, should be legally held to the greatest care and diligence in the selection of the necessary materials, and everything else calculated to insure the safety of the employee in the prosecution of his work: *Black v. Railroad Co.*, 10 La. Ann. 38; *Railroad Co. v. Derby*, 14 How. 486. 'It is indispensable to the employer's exemption from liability to his servants for the consequence of risks thus incurred, that he should be free from negligence. He must furnish the servant with the means and appliances which the service requires for its efficient and safe performance; and if he fail in that respect, and an injury results, he is liable to the servant as he would be to a stranger.'" *Railroad Co. v. Ross*, 112 U. S. 377.