

INJURIES TO STREET CAR PASSENGERS IN BOARDING AND ALIGHTING.*

Inception of Liability.—Ordinarily the relation of carrier and passenger, in so far as railways operated in city streets for the carriage of local passenger traffic is concerned, commences when a person attempts to board a car as a passenger, those in charge of the car having indicated an express or implied acceptance of him as such.

Consequently the liability of the company for injuries sustained by a passenger owing to the negligence of its employees attaches at the same instant; that is at the inception of the contract of carriage. In this connection it must also be borne in mind that the converse of this proposition is true, viz., that until such relation is created no liability can attach. True it is sometimes difficult to determine when this relation begins, but as is said in a case in Missouri, "one test alike applies to all, and that is the relation can only be created by contract between the parties, express or implied. There must always be an offer and request to be carried on one side, and an acceptance on the other. . . . It is true that the acceptance must in many cases be implied."

So a person who is upon the street approaching a car, even though he has the intention of becoming a passenger does not, either by the mere act or intent alone, become one so as to create towards him on the part of the carrier, the obligation which the latter owes to a passenger. His status is that of a traveller to whom the company owes the same obligation which it owes to any other traveller upon the street. He is not upon the premises of the carrier, but rather upon the public highway where he may be independent of any intention to become a passenger. He has in no way become obligated to pay his fare so as to entitle the carrier to demand it or to in any way control his action. Therefore the relation of carrier and passenger not having been created the company cannot be held liable for any injury sus-

*The authorities for the propositions laid down in this article will be found in the number of the *Central Law Journal* for December 4, 1914.