Defendants constructed and are operating the municipal lighting system under authority of legislative enactment, and, in the absence of negligence, are not insurers against accidents. . . . .

[Reference to Roy v. Canadian Pacific R. W. Co., [1902] A. C. 220; National Telephone Co. v. Baker, [1893] 2 Ch. 186.]

It is equally well settled by many authorities that persons who operate or deal in dangerous material are obliged to take the utmost care to prevent injuries to the public as well as to their employees, by adopting all known devices to that end. But in this case not only did plaintiff fail to prove default, but I think the evidence offered by defendants shewed that they complied with the law.

Plaintiff sought to bring the case within the decision of Gloster v. Toronto Electric Light Co., 38 S. C. R. 27, but the judgment in that case turned upon the finding that the wires in the condition in which they were at the time and place where the boy was injured constituted a danger to those using the highway, and were, in fact, a nuisance—that the wires had become worn and defective and had ceased to be insulated. In other words, the defendants were, in that case, found guilty of negligence.

The action must be dismissed with costs, if costs are insisted upon by defendants.