

I am of opinion that in this case the defendant company are entitled to judgment. The question is whether there was evidence upon which the jury could reasonably have found that the electric wire was a nuisance to those lawfully using the highway. This, I think, must be answered in the negative, and it therefore becomes unnecessary to consider the further question, whether, if the wire could be held to be a nuisance, there was evidence that the defendant company had notice of the altered conditions which made it such.

The highway near which the wire was erected was the bridge. It extended to the width of the bridge, and no further. Everything outside of or beyond that was the property of other persons, upon or over which the public had no right to be, and upon that property the defendant company's wires were lawfully erected.

The duty of the defendant company, as established by *Barnes v. Ward*, 9 C. B. 392, and kindred authorities, was so to use the property of which they were in occupation that it should not be dangerous to persons using the highway with ordinary care.

A breach of that duty is a public nuisance, and gives rise to an action at the suit of any one who suffers a particular injury. . . .

[Reference to *Barnes v. Ward*, 9 C. B. 392; *Hardcastle v. South Yorks R. W. Co.*, 4 H. & N. 67, 74; *Hounsell v. Smyth*, 7 C. B. N. S. 731.]

If in the present case the defendant company's wire had been strung so close to the bridge that any one lawfully using the bridge by travelling along it, or leaning against or looking over the railing, might accidentally or inadvertently touch it, there would be evidence on which a jury might well find such a wire to be a public nuisance. But where, as here, it is distant at least 14 inches from the bridge, separated from it by a railing, and cannot be reached or touched by any one without intending to do so, or without stretching up through the railing beyond the side of the bridge, and therefore outside the highway, as far as the wire, I fail to see how the latter can be said to be a source of danger to any one lawfully using the highway. The use of the bridge by the public as a highway, or for any lawful purpose incidental to such use, was not impeded by the existence of the wire in its then situation, and no deviation was possible by night or by day, in the ordinary course of