

Upon the general subject of liability for accidents in highways from electricity, the courts have shown great unanimity ; but upon the exact degree of care to be exercised by those who employ this dangerous agent, they are by no means harmonious. Two divergent views have been adopted by various courts, one of them holding the company which makes use of electricity answerable in any event, whether there is actual negligence or not ; the other holding it responsible only for want of reasonable care. One of the earliest decisions upon the subject employs language indicating that the electrical company is virtually an insurer : " The law requires that they should use every way to protect and save the public from loss and injury ; they must use every means, regardless of expense, to protect and make safe the public citizens passing over the streets of the city, who are not aware of danger." By another court it was said, the electrical company owed it to the plaintiff " that his lawful use of the street should be substantially as safe as it was before the telegraph and railway plants had so occupied. It was their plain duty not only to properly erect their plants, but to maintain them in such condition as not to endanger the public." In still more positive terms it was declared that " It was a matter of the plainest duty for the defendant to see that the streets and alleys of the city along which, by permission, it was suffered to place its overhead wires for its own private gain, were at all times maintained in the same condition as to safety from the danger of electricity as they were before its overhead use thereof had begun, and a most imperative duty was placed upon the defendant in assuming the overhead use of the public alley, with its wires, to see that persons passing along and using the alley were not injured thereby ;" and in a recent discussion of this subject the court state that the electrical company must use " the utmost care," to avoid injuring others.

The great current of decisions, however, is to the effect that only reasonable care is required, according to the varying circumstances of different cases. Thus in the case of *Cook v Wilmington Elec. Co.*, 9 Houst. (Dela.) 306, the court, after laying down the rule of liability in the broadest terms, qualify it by saying, " They (the electrical companies) must use due care and ordinary diligence ;" and the Court of Appeals of Kentucky, in a decision which uses much stronger expressions, finally imposes a duty " to use the care commensurate with the danger."