

regard to the right of the other, and the right of each must be exercised in a reasonable and a careful manner so as not to unreasonably abridge or interfere with the rights of the other."

The Supreme Judicial Court of Massachusetts is committed to the same doctrine.¹³ Mr. Justice Holmes, speaking for the court, thus disposed of the railway company's argument for a paramount right: "The defendants asked for an instruction that if the plaintiff had an unobstructed view of the approaching car, and there was nothing to prevent the plaintiff turning off the track, the driver of the car had a right to assume that the plaintiff would reasonably turn off the track to avoid accident. This was refused, and we are of opinion that the refusal was correct. We do not suppose that the instruction asked was intended as a proposition of fact based on the practice and experience of the community. In some parts of the State at least, it is well known that drivers of vehicles wishing to cross a track, assume that electric cars will look out for them, at least as much as they look out for the cars. But suppose that the request was intended to embody a statement of the rights of electric cars irrespective of practice, and to put street railways on very nearly the footing of steam railroads. Whatever may be the law as to the latter, there is great difference between the two cases. Electric cars are far more manageable, and more quickly stopped than trains upon steam railroads. Their tracks are in the highway, where all vehicles have a right, not merely to cross but to travel. In view of the inability of the cars to leave their tracks, it is the duty of free vehicles not to obstruct them unnecessarily, and to turn to one side when they meet them, but subject to that and to the respective powers of the two, the car and waggon owe reciprocal duties to use reasonable care on each side to avoid a collision. See *Galbraith v. West End Street Railway*, 165 Mass. 572, 580. Neither has a right to assume that the other will keep out of the way at its peril, although the electric car has a right to demand that the waggon shall not obstruct it by un-

¹³ *White v. Worcester Consolidated Street Ry. Co.* (1896), 167 Massachusetts Reports 43.