

There must be two sides to every question I suppose, but for the reasons given I submit that it will be a happy day for the judges of the Supreme Court, when we shall be able to say in the words of James Russell Lowell:

"We sail by stars the elder seamen knew."

POWERS OF OFFICIAL GUARDIAN ON SETTLEMENT OF ACTION BY INFANTS.

Frequently in these days of motor car accidents one is obliged to attend before a Judge, with counsel for the Official Guardian, and for other parties, to obtain the approval of the Court in respect to a proposed settlement of an action for damages, in which an infant is the Plaintiff. This modern example of the exercise of an ancient power of the Court sometimes presents features which seem somewhat inconsistent. The Judge, if he is not to give a merely blind approval, must inquire into the propriety of the settlement. The infant may have suffered severe injuries, but inquiry into the evidence may shew that he is unlikely to succeed at the trial. No one can intelligently approve or disapprove of a proposed settlement without going into the merits of the action. If the Judge should believe it to be the infant's advantage to accept a proposed settlement because he would not succeed at a trial, what is his duty?

The power of the Court to interfere to safeguard the rights of infants of its own volition is not based on guardianship nor on wardship. By 12 Chas. 11 Cap. 24, the powers of the Court of Wards and Liveries were abolished. While the parent is alive the Court is not the infant's guardian. The true basis of the Court's jurisdiction in this respect is pointed out in *Butler v. Freeman* Amb. 301. In this case, where it was held to be contempt to marry a ward of the Court without leave even although the father of the infant be living, Lord Hardwicke, Chan. says: "This is the first offence which has come before me since the late statute. The Plaintiff's father is alive and nobody can have the guardianship of him by reason of the *patris potentia*, consequently this Court has not; and so this Court cannot interfere. But this Court does not act on the foot of guardianship or wardship; the latter is totally taken away by the statute