

associating themselves to travel together in one conveyance, not only put a personal trust in the skill of that one of them whom they trust with the direction and control of the conveyance, but appear to put a personal trust each in the direction of each against negligence affecting the common safety. One enters a private conveyance in some sort of free choice, voluntarily trusting to its sufficiency and safety. It appears absurd that one voluntarily choosing to ride in a private conveyance trusts to the sufficiency of the highway, to the care and skill exercised in all other vehicles upon it, to the care and skill governing trains at railroad crossings, to the care and skill of everything except that which is most immediately important to himself, and trusts nothing to the sufficiency of the very vehicle in which he voluntarily travels, nothing to the care and skill of the person in charge of it. His voluntary entrance is an act of faith in the driver; by implication of law he accepts the driver as his agent to drive him. In the absence of express adjudication, the general rules of implied agency appears to sanction this view." See *Houffe v. Fulton*, 29 Wis. 296. *Otis v. Janesville*, 47 Id. 422, follows *Prideaux v. Mineral Point*, supra, and holds that the contributory negligence of the driver of a private conveyance in which a person is voluntarily riding at the time of receiving an injury from a defective highway, is imputable to the person so injured, to prevent a recovery.

This distinction has also been taken in Michigan. In *Lake Shore, etc., Rd. v. Miller*, 25 Mich. 274, 287, a female servant was riding with her employer in his wagon, which was wrecked by a railroad train of defendant. The driver of the wagon appeared to have been guilty of negligence directly contributing to the injury against which the plaintiff warned him. This negligence was held to be imputed to the plaintiff, so as to preclude a recovery.

Iowa has also adopted this rule. In *Payne v. C., R. I. & P. Rd.*, 39 Iowa, 523, the action was for injuries received at a railroad crossing of defendant by collision of a wagon with defendants' train. The wagon was driven by a third person