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PERMITTING CHILDREN TO PLAY IN THE STREET.

In view of the constantly recurring questions as to the negligence of parents for permitting children of tender years to play in the streets, a brief reference to recent authorities on the question may be of interest.

Where an engineer saw nothing on the track, although he saw children near it and a woman running toward the train and waving her hands, and made no effort to stop the train until, within a few feet, he saw a child, too late to prevent running over it, as he might have done had he slackened his speed when he saw the woman, it was held that the company was liable, even though the child's parents were negligent in letting it play so near the track: *Donahue v. Wabash, St. Louis, etc., Ry. Co.*, 83 Mo. 543.

In an action by a father for the death of his child, which fell into an exposed excavation, evidence that the father was unable to employ any one but his housekeeper to take care of his children is inadmissible on the question of contributory negligence: *Mayhew v. Burns*, 103 Ind. 328.

It is not necessarily negligence to permit a child of three years of age to go upon the streets attended only by a child of seven: *Stafford v. Rubens*, 115 Ill. 196.

An intelligent child, between four and five years of age, had been warned not to go near an excavation. It was held that if the parents allowed her freely to run at large near the excavation, such negligence would defeat an action for damages: *Ryder v. Mayer*, 50 Supr. 220.

To permit a child sixteen months of age to go alone into a crowded thoroughfare is negligence which will defeat a claim for damages for negligently running over it and

causing its death, where it appears that the conduct of the infant would have been negligent had it been *sui juris*: *O'Keefe v. Ryan*, N. Y. Daily Reg. 9th May, 1884.

The recovery of damages for injuries causing the death of a child will not be defeated by the contributory negligence of a parent in allowing a young child to go unattended in the street, where the negligence of the driver of the vehicle which injured the child was gross: *Connery v. Slavin*, 23 Weekly Dig. 545.

It is a question for the jury whether a mother was guilty of negligence in leaving a child seventeen months old alone in a room, and protecting the door by placing a chair across it, through which the child crawled, and passing through a gate and across a lot, reached a railroad track, where it was injured: *Chrystal v. Troy & Boston R. R. Co.*, 22 Weekly Dig. 551.

It is not necessarily negligence in a mother, allowing a child to go out to play on the sidewalk, on an August afternoon, in company with her brother, a child of some seven years: *Birkett v. Knickerbocker Ice Co.*, 41 Hun, 404; affirmed, 110 N. Y. 50.

If a child of tender years, in crossing a street, exercises the degree of care and prudence required of a person *sui juris*, it is immaterial that the parents of the child were guilty of negligence in permitting it to go upon the street: *Cumming v. Brooklyn City R. R. Co.*, 104 N. Y. 669.

It is not negligence, as a matter of law, where a father of the injured child left it at the door of his store to go in and make change, cautioning the child, who was between five and six years of age, not to go far away, returning from two to five minutes later, during which time the accident had taken place. It is not, as a matter of law, wrongful or negligent to permit a child to play in the street: *Kunz v. City of Troy*, 104 N. Y. 344.

A child, three years and ten months old, escaped from his mother's house and care, and, unobserved by them, followed his elder sister and her playmates across and along defendant's track about 500 feet, to the place