judges on appeal put the case on the ground, that it was not a mere case of simple wrong, but one arising from the contract of the grandmother, on the part of the plaintiff, that the child was to be conveyed subject to due and proper care on the part of the person having it in charge. Williams, J., however, did not rely merely upon an implied contract, but emphatically laid down the rule, that the person who had the charge of the child was identified with it, illustrating his view of the case in the following terms: "If a father drives a carriage in which his infant child is, in such a way that it incurs an accident which by the exercise of reasonable care he might have avoided, it would be strange to say, that, though he himself could not maintain an action, his child could."

The doctrine has been received with disfavour in many of the States in the American Union. Fully one-half of the American Courts have repudiated it altogether. In the State of New Jersey, in 1890, it was held, in the case of *Newman* v. *Phillipsburg Horse Car Ry. Co.*, that the negligence of the sister could not be imputed to an infant so as to defeat the right of action arising from the negligence of the company when the plaintiff, a child of two years, was in the custody of a sister of twenty-two and when, by the negligence of the latter, the child got on the track of the defendant company and was run over by a horse car, the driver at the time being occupied with the collection of tickets.

The rule of imputed negligence, as laid down in English cases, does not extend beyond the class of cases, in which the parent or custodian is actually present and exercising control over the movements of the child.

In some of the States of the Union, however, the doctrine has been carried to the extent of preventing the recovery of damages by an infant for injury sustained by the negligence of a third party, on the ground of the imputed negligence of the parent or custodian of the infant in allowing it to go on the street unattended. Such was the decision of the Court of Massachusetts, in 1862, in *Wright* v. *Malden and Melrose Railroad Co.*, 4 Allen,