

gence on the part of the parents was therefore not a question.

On the question of imputable negligence we will refer to *Mangam v. Brooklyn R. R. Co.*, 38 N. Y. 455, and *Prendergast v. N. Y. Cent. R. R. Co.*, 58 id. 652; both cases of persons *non sui juris*.

We think the foregoing review comprises all the important cases on this subject in our Court of Appeals. It will be noticed, however, that we have not embraced those growing out of the relation of master and servant. Those we have reserved for separate review at some future day.

From the foregoing cases we think the following conclusions may fairly be derived:

1. One cannot recover damages from another for an injury alleged to have been occasioned by the negligence of that other, if his own negligence in any degree contributed to the injury.

2. In order to recover in such an action, although the burden is on the plaintiff to show that he himself was not guilty of such contributory negligence, yet he need not produce evidence in the first instance to show it; it is sufficient if it appears from the whole evidence.

3. Although due care on the part of a person injured is not presumed without proof, yet direct evidence is not always demanded. Where, from the nature of the case, it is manifestly impossible to give such proof, the locality and circumstances may be of such a kind, and the act producing the injury of so dangerous and reckless a nature, and the person injured of such experience, intelligence, and circumspection, that the jury may infer due care on his part from the ordinary instinct of self-preservation.

4. What is contributory negligence is a question of fact for a jury, unless the evidence adduced to prove it is uncontroverted, or is of such a character that honest and intelligent men cannot possibly differ as to its effect.

5. The test as to whether the complainant has been guilty of contributory negligence is, whether he acted as ordinarily prudent persons, of the same age and capacity, would have acted under similar circumstances.

6. In consciously approaching a place of known danger, one cannot assume that another will perform his legal duty toward him, and so

neglect to avail himself of the vigilant exercise of his own senses for protection; and if he fails to exercise such caution he is not excused by the other's neglect to perform such duty. On the other hand, in a place where no danger can ordinarily or reasonably be apprehended, no such high degree of caution is exacted, but ordinary prudence will suffice.

7. Although contributory negligence on the part of the plaintiff will permit a recovery in such cases, yet if in spite of it the defendant could by the exercise of ordinary care have prevented or avoided the injury, he is liable therefor.—*Albany Law Journal*.

NEW PUBLICATIONS.

THE CANADIAN LEGAL DIRECTORY.—A Guide to the Bench and Bar of the Dominion of Canada. Edited by Henry J. Morgan, Esq., Barrister-at-law. Toronto: B. Carswell, publisher, 1878.

Mr. Morgan describes this work "as the first attempt at bringing the Bench and Bar of the Dominion and of the several Provinces thereof under one cover;" and having some conception of the formidable obstacles which must impede the execution of such an undertaking, we confess we are surprised at the completeness of the information which has been obtained. Probably no one who had not the experience which the author has acquired in this department of literature would have persevered in the task or have succeeded half so well. The volume comprises 279 pages, and almost every page is the result of special effort in seeking the information contained in it. The Judges and officers of the Courts throughout the Dominion, with their salaries, duties, &c., are fully set out. The Bar receives equal attention. Lists of coroners, official assignees, registrars, notaries public, &c., are to be found in their proper places.

Part II. comprises 81 pages of "biographical data" respecting the Judges of all the Courts in the Dominion. This information is of an interesting character, and can be found nowhere else, the greater part having evidently been communicated by the gentlemen themselves. The Canadian Legal Directory fills a want long felt, and the editor has earned the best thanks of the profession by the painstaking manner in which he has executed the undertaking.