The Pennsylvania rule is generally followed in those states that reject the imputability of the parent's negligence to the child, but adhere to the rigid application of the doctrine of contributory negligence. *Schmitt* v. *Milwaukee R. R. Co.*, 23 Wis. 186; *Karr* v. *Parks*, 40 Cal. 193; *Meyer* v. *M. P. R. R. Co.*, 2 Neb. 337; *Lynch* v. *Nurdin*, 1 Ad. & El., N. S. 28. The Pennsylvania rule is endorsed by Mr. Wharton. Wharton on Negligence, § 310, note 3. And see Shearman & Redfield on Negligence, § 48*a*.

It is held in Indiana, in accordance with the New York and Massachusetts rule, that the negligence of the parent or guardian is imputable to the child. *Rail. Co.* v. *Vinings, Admr.*, 27 Ind. 513; *Rail. Co.* v. *Huffman*, 28 Id. 287; *Rail. Co.* v. *Bowen*, 40 Id. 545. And such is the rule in Illinois in a very mild form. *Ross* v. *Innis*, 26 Ill. 259; *Chicago* v. *Starr*, 42 Ill. 174; *Pittsb., &c., R. R. Co.* v. *Bumstead*, 48 Ill. 221; *Chicago & Alton R. R. Co.* v. *Gregory*, 58 Ill. 526; *City* v. *Major*, 18 Ill. 360. And see *Brown* v. *Rail. Co.*, 58 Maine 384.

In England, to injure an adult, or what is sometimes an equivalent, an ass, or an oyster, in a place where they have no right to be, is actionable, if the defendant by the exercise of ordinary care on his part might have avoided the consequences of the neglect or carelessness of the plaintiff. *Tuff* v. *Warman*, 5 C. B., N. S. 585; *Davies* v. *Mann*, 10 M. & W. 549; *Mayor of Colchester* v. *Brooke*, 7 Q. B. 377. But not so of an injury to a child of tender years; it can be negligently injured with impunity, provided those who ought to guard it against harm fail in their duty. *Singleton* v. *E. C. Railw. Co.*, 7 C. B., N. S. 287; *Abbott* v. *Macfie*, 33 Law J. Exch. 177; *Mangan* v. *Atterton*, L. R. 1 Exch. 239. But see *Williams* v. *Great Western Railw. Co.*, L. R. 9 C. P. 157.

The doctrine of *Hartfield* v. *Roper* is wholly repudiated in Ohio, Vermont, Connecticut, Tennessee, Minnesota, Missouri and Pennsylvania. *B. & I. Rail. Co.* v. *Snyder*, 18 Ohio, 399; *Robinson* v. *Cone*, 22 Vt. 213; *Penna. R. R. Co.* v. *Kelly*, 7 Penn. St. 372; *Daley* v. *N. & W. R. Co.*, 26 Conn. 591; *Bronson* v. *Southbury*, 37 Conn. 199; *Whirley* v. *Whittemore*, 1 Head, 620; *East Tenn. R. R. Co.* v. *St. John*, 5 Sneed, 524; *City* v. *Kirby*, 8 Minn. 169. And see *East Saginaw R. R. Co.* v. *Bohn*, 12 Am. Law Reg. (N. S.) 745; *Meyer* v. *Mid. Pacific R. R. Co.*, 2 Neb. 337; *Boland and wife* v. *Missouri R. R. Co.*, 36 Mo. 484; *O'Flaherty* v. *Rail. Co.*, 45 Mo. 70; *Rail. Co.* v. *Gladmon*, 15 Wall. 401; *R. R. Co.* v. *Stout*, 17 Wall. 657; *B. & O. R. R. Co.* v. *State*, 30 Md. 47; *Lannen* v. *Albany Gas Light Co.*, 46 Barb. 264; *Bannon* v. *B. & O. R. R. Co.*, 24 Md. 108.

Where the parent or guardian has taken reasonable precaution to restrain an infant and guard it against danger, reference being had to all the surrounding circumstances, including the parents' condition in life, and the child escapes into a dangerous place, and is injured by the negligence of another, no negligence can be imputed to the parent or guardian, and if the child exercises ordinary care for one of his years and capacity, no blame attaches to him; If, on account of his tender years, the child is incapable of exercising any care or discretion, under such circumstances, none will be required. In this view all the authorities concur. *Kay* v. *Penn. R. R. Co.*, 65 Penn. St. 269; *Pittsburgh & C R. R. Co.* v. *Pearson*, 72 Penn. St. 169; *Philadelphia, &c., R. R. Co.* v. *Long*, 75 Penn. St. 257; *City of Chicago* v. *Major*, 18 Ill. 360; *Chicago & Alton R. R. Co.* v. *Gregory*, 58 Ill. 226; *Mangam* v. *Brooklyn, &c., R. R. Co.*, 38 N. Y. 455; *Lynch* v. *Smith*, 104 Mass. 52; *Schmidt* v. *The Milwaukee, &c., R. R. Co*, 23 Wis. 186; *O'Flaherty* v. *Union Railway Co.*, 45 Mo. 70; *Ihl* v. *Forty-second St. R. R. Co.*, 47 N. Y. 317.

Whether a child is personally negligent is to be determined by his age and capacity, and not by that of a person of mature years. *Kerr* v. *Forgue*, 54 Ill. 482; *Railroad* v. *Stout*, 17 Wall. 657; *Railroad* v. *Gladmon*, 15 Wall, 401; *Coombs* v. *New Bedford Cord Co.*, 102 Mass. 572; *Lynch* v. *Smith*, 104 Mass. 52; *Gray* v. *Scott*, 66 Penn. St. 345; *Brown* v. *Railroad*, 58 Me., 384; *B. & O. R. R. Co.* v. *State*, 30 Md. 47; *Mangam* v. *Brooklyn, &c., Rail. Co.*, 38 N. Y. 455; *Sheridan* v. *Brooklyn, etc., Rail. Co.*, 46 N. Y. 39; *Ihl* v. *Forty-second St. R. R. Co.*, 47 N. Y. 317; *Costello* v. *Rail Co.*, 65 Barb. 92; *Reynolds* v. *Stout*, 2 N. Y. Supreme Court, 644; *Birge* v. *Gardiner*, 19 Conn. 507. But see *Bellefontaine, &c., Rail. Co.* v. *Snyder*, 24 Oh. St. 670, where it was held by a majority of the Court that where an infant child, intrusted to the care and custody of her sister about 20 years old, was injured through the negligence of the defendant's employe, the parents could not recover for loss of the child's services, if the elder sister failed to exercise the highest degree of care and caution, and that, too, without regard to her age and capacity. Day, C.J., and White, J., dissented on the ground that there was no negligence under the circumstances on the part of the father in sending the little girl to school in charge of her sister, and that the question as to whether the elder sister was