

where they are not invited, but merely with express or tacit permission, from curiosity or motives of private convenience, in no way connected with business or other relations with the occupant." In *Klix v. Nieman*, 68 Wis. 271, 32 N.W. Rep. 223, a case quite similar to that before us, it is said, after an exhaustive review of the authorities: "Upon the facts, we do not think the law imposes the duty upon the defendant of building a fence or guard to prevent children from reaching the pond. He is therefore not liable for the death of the child." In *Ratte v. Dawson*, (Minn.) 52 N.W. Rep. 965, an infant three years of age was by an elder sister taken for recreation to a vacant lot, and accidentally killed by the caving in of an embankment caused by excavation for sand, which had been left unfenced. In the opinion of the court it said: "The parties were clearly trespassers. They were not on the premises by plaintiff's invitation, or for any lawful purpose. He owed them no duty to fence or guard his premises to prevent them from entering and exposing themselves to danger." In *Clark v. Manchester*, 62 N.H. 578, it is said: "The plaintiff's intestate was not upon the land of the defendant where he was drowned, by express or implied invitation, for any purpose. The fact that the ground was uninclosed, and that the deceased and people at their pleasure went there without objection, was not an invitation, and from that fact alone no license can be inferred. The fact that the person who suffered injury and death was an infant child does not change the question, nor create a liability against the defendants where none would have existed in case of injury to an adult person under similar circumstances." And to the same effect see *Overholt v. Vieths*, 93 Mo. 423, 6 S.W. Rep. 74; *Gillespie v. McGowan*, 100 Pa. St. 144; *Pierce v. Whitcomb*, 48 Vt. 127; *McEachern v. Railroad Co.*, 150 Mass. 515, 23 N.E. Rep. 231; *Gay v. Railroad Co.*, 159 Mass. 283, 34 N.E. Rep. 186; *Beck v. Carter*, 68 N.Y. 283; *Cooley*, Torts, 606; *Shear. & R. Neg.*, section 505. This class of cases rests upon an entirely different principle from those cases in which the injury resulted from a lawful and proper use of the street or sidewalk adjacent to a dangerous excavation. In the latter cases the law imposes upon the owner or occupant the duty to protect the travelling public, and he will be liable for the consequences of a failure to discharge that duty; while in the former he owes no duty to the general public in that respect. We are