

son and negligently performed his work or desisted therefrom, and those in which he has refrained from aiding altogether, and to hold to a rule of liability in the former and not in the latter, is too opposed to a sound policy to merit any approval whatever. The result of the distinction would be to suppress all the instincts of humanity. It would prevent men, no matter how serious the catastrophe or great the necessity for help, from volunteering any assistance at all for fear that having once begun they could not afterwards desist. It renders one liable for negligence committed while acting humanely. It subjects one to no liability whatever if he allows the cowardly and selfish side of his nature to dominate him and refrain from helping altogether. In an age of legal refinement and of a superimposed law, such distinctions may perhaps be made and may live. They are out of place and impossible in an age of democracy in which the judge and the law-maker are every day finding it more and more necessary to keep in touch with, and to respond to, the ethical and social demands of an idealistic, aggressive and thinking constituency. So, too, the same sentiments which in the ages of the past led men to forcibly deal with the heartless recreant and the coward, will never in this day, where force and personal persuasion must give way to the law, allow that law to sanction heartlessness, and to absolve a man from the duty of rendering at least the first aids to those whom he has injured, even though he may not be legally liable for the injury itself.

One thing is certain, and that is, that the law of negligence and of tort liability has been, and always will be, progressive. It has in the past, it is true, been, and perhaps always will be largely judge-made. It has in the past hardly been popular in its origin. It has, however, though king and judge-made, largely reflected the social conscience of the king and of the judge. Though circumscribed by formalism it has had its origin and expansion in a policy of democracy and of humanity. As our democracy and humanity grow, that expansion will continue.