

The slight fault (*culpa levis*) consisted in neglecting the care which an attentive and intelligent man of business, under ordinary circumstances, habitually gave to his own affairs. (*Diligentia diligentis patrisfamilias*)”(h).

How close the English law approaches to this doctrine is shewn by the following expressions of judges and text-writers:

“Negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do. The defendants might have been liable for negligence, if, *unintentionally*, they omitted to do that which a reasonable person would have done, or did that which a person taking reasonable precautions would not have done.” Per Alderson, B., in *Blyth v. Birmingham Waterworks Co.*(i).

“Actionable negligence consists in the neglect of the use of ordinary care or skill towards a person to whom the defendant owes the duty of observing ordinary care and skill, by which neglect, the plaintiff, without contributory negligence on his part, has suffered injury to his person or property.” Per Brett, M.R., in *Heaven v. Pender*(j).

“What a man does through negligence, he does not do from a fraudulent motive. Fraud imports design and purpose; negligence imports that you are acting carelessly and without that design.” Per Fry, J., in *Kettlewell v. Watson*(k).

“Unreasonable conduct is usually called negligence in law, because in a standard man in the party's situation it could not arise from any other state of mind than negligence or intention, which latter the law is reluctant to presume.” Professor Terry in “*Leading Principles of Anglo-American Law*”(l). “The state of mind of the doer of an act is often the subject of legal enquiry

(h) Goudsmit's *Pandects*, § 76, pp. 213, 214. On this point see also *Gainus III.*, 213; *Savigny, Syst III.*, p. 388; *Heinecc, Elem. Juris. Civ. III.*, 14. 784; and a learned article by Mr. Schuater on the “*Liabilities of Bailees in German Law.*” 2 *Law Quart. Rev.* 188.

(i) 11 *Exch.* at p. 784.

(j) *L.R.* 11 *Q.B.D.* at p. 507.

(k) *L.R.* 21 *Ch. D.* at p. 706.

(l) § 217, p. 200.