

tioners, admits that "it is not the law" that an action of negligence will lie for deceit is virtually in the position of a barrister who throws up his brief and consents that judgment be entered against his client. It seems to us that a gentleman who, in an ordinary legal treatise, undertakes to show not merely that there have been erroneous applications of accepted principles in particular cases, but that the accepted principles themselves are erroneous, seems to be singularly deficient in a saving sense of humour. All practicing lawyers desire to know what the law is. Comparatively few care to know what any individual author thinks it ought to be. The inference is obvious. Any writer who is ambitious to appear in the role of a legal reformer should carefully separate that part of his book which professes to state the effect of "the authorities" from the disquisitions in which he roams into the unfamiliar, though perhaps more attractive, regions of the ideal. In the present instance we venture to think that it would be well to adopt an arrangement which would do away with that unpleasant feeling of insecurity which must inevitably result from a doubt whether the reader has before him the *ex cathedra* utterances of those professors of the law who are termed judges, or the theoretic lucubrations of the author himself.

But we do not wish to insist too strongly upon the technical advantage which our opponent has given us by signing a confession of judgment in our favour. The question raised deserved to be argued briefly upon the merits also.

In the first place we should like Mr. Ewart to explain upon what theory he deems himself entitled to assert that the citations in our former criticism prove that "we are both right." In our innocence we had imagined that the two dicta quoted would serve as a most conclusive vindication of our own view. One who undertakes to crush an adversary by the extremely agreeable dialectic manoeuvre of turning his own cases against him should at least extend to him the courtesy of indicating in what respect he has mistaken the meaning of those cases. But perhaps this assertion is intended to be a sort of proleptic condensation of the substance of the latter