

observes that he agrees with Brett, M.R., in the definition of negligence quoted in our former criticism, provided that by the word "care" he means "care for the rights of others." If the quotation had been read a little more attentively, he might have avoided the very mild inconsistency of deferring to the "authorities" even to this extremely limited extent; for he would have noticed that the learned judge twice uses the word "skill," as one which belongs to the same circle of qualities as "care." Clearly, therefore, the condition upon which Mr. Ewart agrees in this instance to accept a judicial exposition of the law cannot be fulfilled. The use of the term "skill" as one implied in or analogous to "care" shows that the conception present to the mind of the Master of the Rolls was one very different from that which is conveyed by the term "regard." The alternative expression clearly refers us to the principle, that a man may subject himself to the penalties of negligence by undertaking a duty without having the skill necessary for its proper performance; and this liability is wholly independent of the question whether he has been heedful attentive to avoid injuring the person and property of others during such performance. The futility of attempting to reach firm ground in the manner suggested by Mr. Ewart will be still more strikingly apparent when it is considered that we may, consistently with the recognized signification of words, and without tautology, speak of a "wilful," as well as of a "careless" disregard to the rights of others. This phrase, in fact, has really no juridical meaning, unless it be construed in the sense of a violation of the rights of others—a sense which is, at best, decidedly forced, and which, even if accepted, would make it nothing more than a loose and unscientific paraphrase of the familiar technical expression "tort."

But our correspondent probably will not shrink from this conclusion. It merely illustrates once more that retrogressive quality of his theories upon which we have already adverted, and brings us back again to a realization of the utter impossibility of finding any common ground upon which we