

## HANDOUT 13: Principles in Donoghue vs. Stevenson

*Donoghue vs. Stevenson* laid down or settles four main principles of law.

### 1. Negligence is a distinct tort

The decision settled that negligence as a tort or civil wrong, stood by itself and that it could be actionable in any circumstances in which one person suffered personal injury or physical damage as a direct, close and foreseeable result of the act or omission of another. Litigants do not have to rely on special relationships to prove their cases nor is negligence a dependent component of other torts.

### 2. A contract is not necessary

Ironically, while at the time of *Donoghue* plaintiffs sought to hang their hats on any contract they could, today often the opposite is the case, such as the plaintiffs suing in tort for damages in order to avoid restrictions imposed upon them by contracts they have entered into.

### 3. Manufacturer's Liability

The actual decision in *Donoghue vs. Stevenson*, or the *ration decidendi*, related to the imposition of liability on manufacturer under certain narrow (by today's standards) conditions. In the words of Lord Atkin:

*...a manufacturer of products, which he sells in such a form as to show that he intends them to reach the ultimate consumer in the form in which they left him with no reasonable possibility of intermediate examination, and with the knowledge that the absence of reasonable care in the preparation or putting up of the products will result in an injury to the consumers life or property, owes a duty to the consumer to take that reasonable care.*

### 4. The Neighbour Principle

The definition of "my neighbour" continues to be the most controversial aspect of Lord Atkin's decision, enlarging as it does, the range of persons we ought to have in mind as neighbours and hence the range of acts or failures to act and the types of damages for which we might be held liable, should someone be injured as a consequence of our activities. Lord Atkin stated:

*...acts or omissions which any moral code would censure cannot in a practical world be treated so as to give a right to every person injured by them to demand relief. In this way rules of law arise which limit the range of complaints and the extent of their remedy. The (moral) rule that you are to love your neighbor becomes in law; you must not injure your neighbour; and the lawyers' question, 'Who is my neighbour?' receives a restricted reply. You must take reasonable care to avoid acts or omissions which you can reasonable foresee would be likely to injure your neighbour. Who then, in law is my neighbour? The answer seems to be persons who are so closely and directly affected by my act that I ought to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called into question.*