Stevenson v Glasgow Corporation

Case Report: 1908 SC 1034

Facts: a small child fell into a river in a public park and was drowned.

Decision: The Court found that there had been no duty on Glasgow Corporation to take protective measures to guard against this kind of accident where the danger was obvious. It was up to the parents to ensure that the child did not come to harm.

Lord McLaren stated: "In a town, as well as in the country, there are physical features which may be productive of injury to careless persons or to young children against which it is impossible to guard by protective measures. The situation of a town on the banks of a river is a familiar feature; and whether the stream be sluggish like the Clyde at Glasgow, or swift and variable like the Ness at Inverness, or the Tay at Perth, there is always danger to the individual who may be so unfortunate as to fall into the stream. But in none of these places has it been found necessary to fence the river to prevent children or careless persons from falling into the water. Now, as the common law is just the formal statement of the results and conclusions of the common sense of mankind, I come without difficulty to the conclusion that precautions that have been rejected by common sense as unnecessary and inconvenient are not required by the law."

Lord Kinnear said (p.1043): "... there is no authority for imposing on the proprietors or managers of public parks a duty to protect children from such risks as are incident to their childhood ... The only real security is that children who are too young to take care of themselves should be taken care of by somebody else." At the end of his judgment, he said (at p. 1045): "It is impossible to lay upon the defenders a duty to protect children from risks which arise only from their own childishness and helplessness. That is the office of their parents or guardians."

Lord Mackenzie said (p. 1046) that the danger was an obvious one and that the proximate cause of the accident was that a child of tender years went there unattended: "... if the child was in a position to take care of itself the same standard must be applied as would be applied in the case of an adult. If the child was so young as not to be able to take care of itself, it should never have been allowed to go there unattended ...".

See also:

Wright v Nevis Range Development Company ([2006] CSOH 68)