
CASE ANALYSIS: GRANT V. AUSTRALIAN KNITTING MILLS [1936] AC 85, PRIVY COUNCIL

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I. Introduction

Grant v. Australian Knitting Mills case was decided by the Privy Council in 1935. Mr Grant, who was the appellant, invoked the neighbour principle established by Lord Atkin in the infamous case of *Donoghue v Stevenson*, where a decomposing snail was found in a ginger-beer bottle three years before this case was decided by the House of Lords.

This is a landmark judgement, and thus it evolved modern law of torts and jurisprudence of product liability along with the practical application of the Sale of Goods Act. Earlier, the neighbour principle established in *Donoghue* was only applicable to food and drinks. Lord Wright's judgment refused that limitation, which laid the groundwork for every product liability case that extended from defective cars to pharmaceutical recalls to faulty consumer electronics.

II. Facts of the Case

1. **Dr Richard Thorold Grant** was based in Adelaide, South Australia and was practising medicine.
2. On 3 June 1931, he bought two pairs of underpants and two singlets marketed under the name "*Golden Fleece*" and was retailed by the company "John Martin & Co. Ltd". This company owned a departmental store in Adelaide. The garments had originally been manufactured by **Australian Knitting Mills Ltd.**, based in Victoria.
3. On the morning of **Sunday, 28 June 1931**, twenty-five days after purchase, he put on the underpants. However, that evening, he was faced with itching around his ankles. The next morning, a redness had appeared on each ankle, roughly two and a half inches by one and a half inches. This was followed by severe dermatitis spreading across his whole body.

4. He was on bed rest from 21 July, 1931 for a total of **seventeen weeks** and required hospitalisation. His pain extended for a longer time and was extremely severe.
5. When the chemical test was done on the dermatitis, traces of sulphites were found that were present in the underpants' fabric. These sulphites came from the bisulfate of soda treatment that the factory used to stop mildew from growing on the fabric. The factor failed to do a proper wash and was returned in the same condition.
6. When customers wore these underpants right against their skin, the sulphite mixed with sweat reacted into sulphur dioxide and excessive harmful compounds of sulphur. This caused severe skin irritation. The issue was not something you could see at the time of purchasing.
7. Dr Grant blamed the garments and sued John Martin & Co. for breach of contract, being the statutory warranties that the goods were fit for the purpose and were of merchantable quality. Dr Grant also sued the manufacturer, Australian Knitting Mills, alleging that they had been negligent in failing to take reasonable care in the preparation of the garments.

III. Legal Issues Before the Court

1. Whether a manufacturer owes the duty of care in tort to the ultimate consumer of a non-food, wearable product to ensure it is free from hidden defects capable of causing physical injury.
2. Whether the Donoghue v Stevenson case only applies to food and drink that comes in sealed containers, or if it is a rule that applies to any product that is meant to be used by the consumer without anyone checking or changing it first.
3. Whether the manufacturer's tortious liability is reduced or extinguished because the retailer is concurrently liable to the consumer in contract.

IV. Arguments of the Parties

The Appellant's Side

The counsel argued that Donoghue had set out a general principle, not a narrow rule tied to the particular for foods and drinks. Any manufacturer who puts a product into commerce knowing

it will be used directly by a consumer owes that consumer a duty of reasonable care. A wool undergarment worn against the skin is at least as intimate in its contact with the body as a bottle of ginger beer.

Moreover, the appellant said that the chemical irritant in the fabric was proof that the manufacturing process went wrong. The plaintiff does not have to find out which specific employee, shift or machine caused the problem. The defect is clear on its own.

The Respondents' Side

Respondents argued that Donoghue only applied to food and drink products that come in sealed packages. This is because the person buying it cannot really check what is inside. When it comes to clothes, it is different. You can look at clothes before you buy them. Additionally, you usually wash them before you wear them.

Australian Knitting Mills also made a point about the evidence. They said that their factory had made millions of clothes without any problems. If Australian Knitting Mills is found to be responsible because of clothes, that would mean they have to guarantee that all their clothes are completely safe, hence making them a guarantor of absolute safety. Australian Knitting Mills said this is not how the law works.

V. Decision and Ratio Decidendi

The Privy Council decided in Appellant's favour. Lord Wright gave the judgment on behalf of Viscount Hailsham LC, Lords Blanesburgh, Macmillan, Wright and Sir Lancelot Sanderson. It was held that the company that made the product and the store that sold it would be held responsible for negligence and liable in contract, respectively.

He said that the idea from the Donoghue case is not independent of the material composition of the product. It established the relationship between the manufacturer that makes the product and the ultimate consumer who buys it. The person who buys the product, which would be in the exact condition it left the factory, and they will use the product without any anticipation of its defects. If a company sells something of everyday use and it is dangerous, then the company will be held liable. The company has to make sure the product is safe and without any faults.

Subsequently, it was held that the store that sold the product is responsible to Dr Grant as well.

manufacturer is responsible because they produced a dangerous product and failed to provide a duty of care, and the retailer is responsible because they sold a bad product to Dr Grant.

VI. Critical Analysis of the Judgment

The Privy Council's reasoning in the case was to locate the duty of care in relational facts rather than product-category rules. It did not matter that the product was wool rather than a consumable; what mattered was that the consumer was in the same position of dependence on the manufacturer's care as Mrs Donoghue had been. Once that was established, the same duty followed.

The judgment comes off as orthodox and faulty when it comes to the rules for negligence. In this case, the court said that if a product is defective, the manufacturer is to blame even if we do not know exactly what went wrong. However, this does not mean that the manufacturer is always to blame. For companies that make a lot of products, this means that if someone gets hurt because of a fault or defect, the company will be blamed.

Considering the facts, manufacturers are the ones who know the most about how their products are made. They are the ones who can check for problems and fix them. If you buy a shirt and it has something bad in it you would not know. It is fair to say that the manufacturer should be responsible because they are the ones who designed the product and know how it is supposed to work. This is consistent with the idea that the person who can control something should be responsible for it. The manufacturer of the product is the one who can best manage the risks, so they should be the ones who're responsible for negligence.

VII. Impact and Subsequent Developments

The case confirmed that the neighbour principle, which came from Donoghue, works for all kinds of products and is not restricted to food and drinks. It made clear that someone can be liable for both breaking a contract and hurting someone at the same time. The case also showed that just because there is no proof of someone being careless, it does not mean the person who was hurt cannot win their case, especially when the problem with the product is proof that something went wrong.

This was a landmark case. Its impact gave the law a way to deal with claims about things like cars, medicine, machines and electronics. It also helped change the way people think about

these issues, which eventually led to laws that make companies responsible for harming people with their products, even if they were not careless.

In the United Kingdom, the **Consumer Protection Act 1987** implemented the EC Product Liability Directive (85/374/EEC), imposing strict liability on companies for producing defective products that can harm the consumer. Hence, removing the need for burden of proof on the plaintiff. In Australia, the **Competition and Consumer Act 2010 (Cth) Schedule 2 (Australian Consumer Law)** contains equivalent provisions. Both statutes were built on the foundation of Grant and further laid where the statutes impose liability whenever the product is defective, regardless of fault.

VIII. Suggestions for Reform

The original common-law focus on the 'manufacturer' of the finished article, which can leave important gaps, such as component designers, sub-assembly producers, and quality-assurance contractors, may each have contributed to a defect without being clearly caught by the duty recognised in the Grant case.

A joint-and-several enterprise liability model would work better. This model spreads responsibility among all companies in the production chain that could have fixed a problem. These companies should have had the chance to find and correct a defect. This approach would be more realistic for today's manufacturing. Some laws already do this by making importers and own-brand manufacturers responsible. However, common law has been slower to change. The joint-and-several enterprise liability models make sense. It ensures that all companies in the production chain are held accountable. They should all be responsible for detecting and correcting defects. This way it is fairer for everyone involved. The common law needs to catch up with this approach. It should also make importers and own-brand manufacturers accountable. That way, it reflects how manufacturing really works today.

Secondly, the digital age has brought up another issue, which is called the latent defect. Products like cars, medical devices and home appliances all have software installed. Many a time this software malfunctions. Only an expert can trace the issues. A regular person would not understand. Hence, the courts had to come up with a way to figure out what a regular person should be able to find, not what a specialist can find with tools.

IX. Conclusion

The case of *Grant v Australian Knitting Mills* is very important in the area of product liability. It is important not because it did something new, like the case of *Donoghue v Stevenson*, but because it stood firm when there was a lot of pressure to change. If the Privy Council had agreed that the neighbour principle only applied to food and drink, the development of consumer protection laws in the Commonwealth would have been greatly slowed down.

The decision made by Lord Wright is notable for what it did not do, as much as for what it did. It did not create a type of liability or introduce a new idea. It simply applied the existing principle of negligence in a manner and refused to let the type of product affect the decision in a way that was not justified by the law of tort. The strength of the decision lay in its restraint.

For law students, the case of *Grant v Australian Knitting Mills* remains an example of how courts can apply established principles to new situations. They do this carefully by looking at the underlying reasons for the principle rather than just its surface appearance and by considering the practical position of the parties involved. For people who practice law and for lawmakers, the case serves as a reminder that the common law can adapt to the realities of a marketplace, over time, as long as judges have the courage to make the necessary decisions, even if legislation is eventually needed to take things further.

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