

Background Notes on the *Blieck* Case

The salient facts appear from the decision. A thorough understanding of the legal issue requires a consideration of the text of article 1384 of the French civil code. The article begins with a general statement of liability for the act of another and follows with a number of enumerated instances where liability for the act of another will be incurred. The case at hand arises from facts which do not appear to be covered by any of the enumerated instances. The legal question is: does this situation entail that there is then no liability or can there still be liability on the basis of the general statement alone? In other words, does the general statement affirm a fully-fledged principle of liability, illustrated by way of the enumerated instances in the article but not confined to those, or does the general statement merely announce the instances of liability subsequently and specifically listed, which would mean that cases of liability would be confined to those enumerated instances?

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Article 1384 of the French civil code opens with this paragraph:

“One is liable not only for the damage caused by one’s own act, but also for that caused by the act of persons for whom one is responsible or of things that one has under one’s guard”.

[“On est responsable non seulement du dommage que l’on cause par son propre fait, mais encore de celui qui est causé par le fait des personnes dont on doit répondre, ou des choses que l’on a sous sa garde”.]

The article continues with a number of brief paragraphs including the following three:

“The father and the mother, insofar as they exercise the right of guardianship, are jointly responsible for the damage caused by their minor children living with them.

Masters and employers, for the damage caused by their servants and employees in the functions for which they have been employed;

Teachers and craftsmen, for the damage caused by their pupils and apprentices during the time they are under their supervision”.

[“Le père et la mère, en tant qu’ils exercent le droit de garde, sont solidairement responsables du dommage causé par leurs enfants mineurs habitant avec eux.

Les maîtres et les commettants, du dommage causé par leurs domestiques et préposés dans les fonctions auxquelles ils les ont employés;

Les instituteurs et les artisans, du dommage causé par leurs élèves et apprentis pendant le temps qu’ils sont sous leur surveillance”.]