

## THE PAISLEY SNAIL- WHO IS MY NEIGHBOUR?

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*The classic formulation of the duty of care by Lord Atkin in Donoghue v Stevenson includes a reference to Jesus' famous parable of the Good Samaritan. Lord Atkin wrote: 'The rule that you are to love your neighbour becomes in law, you must not injure your neighbour; and the lawyer's question, Who is my neighbour? Receives a restricted reply'. That's the case in the legal realm. But what about in the rest of life? Can we so restrict Jesus' words?*

I think it would be agreed by most lawyers around the common law world that the most influential and well-known tort decision in the last hundred years is the decision of the House of Lords in the UK in the case of *Donoghue v Stevenson* [1932] AC 562. This case laid the foundations for the development of the tort of negligence, which has become far and away the most widely used tort action in the common law world. What I want to speak about today is the connections that the case has with the Bible, in particular with a story told by Jesus which is commonly called the "parable of the Good Samaritan". I will also then be asking: what implications does that parable have for our lives today?

In case for some reason there is someone here who doesn't know what a "tort" is, perhaps I should start there! No, when we lawyers use the term it is not a delicious cake- that is spelled with an "e" on the end. I do spend two whole semesters explaining the law of torts to students here at Newcastle Uni, but to summarise in a sentence: a tort refers to a legal wrong committed against someone, for which that person may bring a civil action to recover an award of money usually called "damages". In other words, torts is about "suing people for stuff"! It is in the area of civil liability, and is not a part of criminal law, which deals with things you can be prosecuted for by the government.

The case of *Donoghue v Stevenson* is about one of these civil actions. It built upon earlier tort actions and forms the basis of the tort action called negligence. This tort deals with harms committed by carelessness, rather than other tort actions which arise when there is deliberate harm of some sort. A key element of the tort of negligence is that the plaintiff (the person who claims to have been wronged) must show that the defendant (the person being sued, the alleged wrongdoer), owed them an obligation to be careful. This obligation is called a "duty of care".

Let's dive into the case a bit to see how this issue came up. The facts of the case can be seen in [my Prezi](#) with graphics taken from an excellent series of essays by Burns and Lyons. (I have provided some sources for further reading on the case at the end of this paper.)

Mrs May Donoghue seems to have been separated from her husband. She took a tram journey on August 26, 1928 from where she was staying in Glasgow to the suburb of Paisley. (Paisley of course is also famous for other things, such as a pattern of cloth. But for tort lawyers, this is its main claim to fame!)

There she met a friend at the Wellmeadow Café, which described itself as a "Real Italian Ice Cream Saloon", run by a Mr Francis Minghella, purveyor of real Italian ice-cream. Mr Minghella or one of his employees sold the friend two ginger beers, one of which was for an ice cream soda for Mrs Donoghue.

The ginger beer was supplied in an opaque bottle (some of you may have noticed that this was a mistake in the picture illustrating the seminar today- you can see the snail in the bottle! All I can say is- sometimes mistakes are made!)

Part of the ginger beer was poured over the ice-cream by the shopkeeper, and the rest of the bottle was handed over to be consumed at the table. When Mrs Donoghue came to pour the second installment of ginger beer over her ice-cream, out came the decomposed remains of a snail. She claimed to suffer both shock and gastro-enteritis, and sued the manufacturer, Stevenson.

The case succeeded at first instance but was struck out on further appeal; the Scottish appeal court thought (not surprisingly) thinking that a recent decision it had handed down in *Mullen v Barr* 1929 SC 461 (which denied liability when a mouse was found in a bottle) was binding. But for one reason or another (and it is not entirely clear why she was so determined) she appealed to the House of Lords and succeeded. There were two minority judgments (Lords Buckmaster and Tomlin) which held that there was no duty.

But it was the **majority** of Lords Atkin, Macmillan and Thankerton which prevailed, in favour of liability. Lord Atkin gave the main decision. He examined previous cases which imposed liability in various specific situations. He then said that the decided cases show a

general conception of relations giving rise to a duty of care.....based upon a general public sentiment of moral wrongdoing for which the offender must pay. ([1932] AC at 580)

But he acknowledged that the law cannot impose liability in all situations where the principles of morality would require action. Speaking from within the Christian and Biblical heritage of the English legal system, he used the parable of the Good Samaritan as a prime example of the dictates of morality. The parable of course was a story told by Jesus and recorded in the New Testament:

**LUKE 10:25-37 (NIV)**

- 25 On one occasion an **expert in the law** stood up to test Jesus.  
 "Teacher," he asked, "what must I do to inherit eternal life?"  
 26 "What is written in the Law?" he replied. "How do you read it?"  
 27 He answered: "'Love the Lord your God with all your heart and with all your soul and with all your strength and with all your mind'<sup>1</sup>; and, 'Love your **neighbor** as yourself.'<sup>2</sup>"  
 28 "You have answered correctly," Jesus replied. "Do this and you will live."  
 29 But he wanted to justify himself, so he asked Jesus,  
 "And who is my neighbor?"  
 30 In reply Jesus said: "A man was going down from Jerusalem to Jericho, when he fell into the hands of robbers. They stripped him of his clothes, beat him and went away, leaving him half dead.  
 31 A priest happened to be going down the same road, and when he saw the man, he passed by on the other side.  
 32 So too, a Levite, when he came to the place and saw him, passed by on the other side.  
 33 But a **Samaritan**, as he traveled, came where the man was; and when he saw him, he took pity on him.  
 34 He went to him and bandaged his wounds, pouring on oil and wine. Then he put the man on his own donkey, took him to an inn and took care of him.  
 35 The next day he took out two silver coins and gave them to the innkeeper. 'Look after him,' he said, 'and when I return, I will reimburse you for any extra expense you may have.'  
 36 "Which of these three do you think was a neighbor to the man who fell into the hands of robbers?"  
 37 The expert in the law replied, "The one who had mercy on him." Jesus told him, "Go and do likewise."

<sup>1</sup> Deut. 6:5

<sup>2</sup> Lev. 19:18

The parable was a powerful message that being a “neighbour” to someone involves reaching out in practical assistance even if that person comes from some group that your own group hates. The Samaritans were occupants of land to the north of the main area of Israel, which had been occupied by foreigners after the northern kingdom was exiled by the Assyrians. They were viewed with distaste and hatred by many of the Jewish people. If you substitute “Member of Hamas” for Samaritan in today’s terms, you can almost precisely get the feel of how Jesus’ Jewish audience would have been shocked by a story of respected leaders of the community passing by, while a hated enemy showed love.

Lord Atkin’s point was this: the dictates of morality as shown in this parable would require you to show courageous and costly care for others. But the law **cannot** go so far; in the legal system, we must “tone down” the obligations we owe. So, he says,

The rule that you are to love your neighbour becomes, in law, you must not injure your neighbour.. ([1932] AC at 580)

Here we see that “love” in the parable is transformed into “not injure” as a legal duty; and the persons who are neighbours are transformed from “anyone in need” (as the implication is in the parable) to a more closely defined category of person. Lord Atkin continued:

[T]he lawyer’s question, Who is my neighbour? receives a restricted reply. You must take reasonable care to avoid acts or omissions which you can reasonably 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 reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omission which are called in question. ([1932] AC at 580)

Notice the reference to “the lawyer” in the quote is not a reference to some *generic* lawyer reading this case; it is a reference to the lawyer *in Jesus’ story* who is seeking a limited answer to his question so he can carefully define his obligations.<sup>3</sup> Castle in his article notes a very interesting point, that even at the time there was a danger of people missing this allusion. Decisions of the House of Lords are of course reported in a number of different series of law reports, and at the time there was a report of the case in the “All England Reprints” at [1932] All ER Rep 1 at 11 where the editor misplaced the possessive apostrophe as if Lord Atkin was saying this was some question debated by lawyers generally!

The point was lost on the editor of the All England Reprints, who refers to ‘the lawyers’ question’ as though it was a query among lawyers generally, rather than a question which one lawyer specifically put to Christ.

Placement of apostrophes matters!

Note Lord Atkin’s strategy: facing a very recent decision of a lower but still powerful court which would deny recovery to Mrs Donoghue, he could have spent all his time pointing out why the Scottish court in *Mullen v Barr* got it wrong. But he starts from the other end, the end of morality. “Look at what we would have to support if we simply turned morality into law- the costly and outrageous love of the Samaritan. No, we won’t go that far- we’ll spell out limits to the principle of morality using the notion of foreseeability”. So instead of being

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<sup>3</sup> See Castle (2003), in Further Reading at end, at 213.

seen as the judge who *expands* liability, he looks (at least at this point in his judgment) like a judge who *limits* liability which morality would otherwise impose.<sup>4</sup>

The world-wide influence of the case has been tracked by researchers who have investigated how many court decisions around the common law world have cited the case. They report:

As of mid 2025, the project has identified **over 5,200 judicial decisions** that explicitly cite *Donoghue v Stevenson* in court reasons, whether following, distinguishing, or otherwise engaging with the case.<sup>5</sup>

In Australia alone, the case was cited 870 times in court decisions between 1932-2024! The researchers note that their data excludes the many other cases where *Donoghue* was cited by counsel in their argument but didn't end up being referred to by the court. The decision has had a massive impact.

To take some Australian examples of influence: in particular Kirby J while on the High Court vigorously defended the approach of Lord Atkin in *Donoghue* in asserting that duties are owed at law to "neighbours"; see his remarks in *Neindorf v Junkovic* (2005) 80 ALJR 341, [2005] HCA 75 at [85]

85 To the extent that the Court turns away from the earlier principles, in my respectful view it endorses notions of selfishness that are the antithesis of the **Atkinian concept of the legal duty that we all owe, in some circumstances, to each other as "neighbours"**<sup>6</sup>. This is a moral notion, derived originally from Scripture, that has informed the core concept of the English law of negligence that we have inherited and developed in Australia. It is the notion that, in the past, encouraged care and attention for the safety of entrants on the part of those who invite others onto their premises.

He reiterated this call for the courts to continue to recognize the scope of a duty to neighbours in *NSW v Fahy* [2007] HCA 20 at [132]:

132 Because, with McHugh J, I regard the communitarian notion of accident prevention as an important and desirable operative consequence of the law of negligence<sup>7</sup>, I would not myself favour any re-expression of the law that would endorse a reduced vigilance in respect of accident prevention. Parliament can, if it chooses, endorse "notions of selfishness that are the antithesis of the Atkinian concept of the legal duty that we all owe, in some circumstances, to each other as 'neighbours'"<sup>8</sup>. However, it is not a direction that, in my view, the common law of Australia has taken or should take.

<sup>4</sup> For further discussion of the background to Lord Atkin's comments and their relationship to the Biblical material, see Erika Chamberlain, "Lord Atkin's Opinion in *Donoghue v Stevenson*: Perspectives from Biblical Hermeneutics" (2010) 4/1 *Law and Humanities* 91-114.

<sup>5</sup> See <https://www.legalcitationlab.com/donoghue-v-stevenson>.

<sup>6</sup> Referring to Lord Atkin's speech in *Donoghue v Stevenson* [1932] AC 562 at 580 citing, in turn, St Matthew's Gospel. (NF note- actually as we have seen, the reference to the parable comes from Luke's Gospel. But Matthew's Gospel does on a number of occasions also quote Jesus' command to "love one another"- see Matt 19:19, 22:39. As noted in Luntz & Hambly et al 7<sup>th</sup> edition [2.2.12]. Lord Diplock in *Dorset Yacht Co Ltd v Home Office* [1970] AC 1004 at 1060 correctly identified the allusion to Luke.)

<sup>7</sup> *Woods v Multi-Sport Holdings Pty Ltd* (2002) 208 CLR 460 at 477-478 [62]-[63] per McHugh J (diss), 492-493 [107] of my own reasons; *Cole v South Tweed Heads Rugby League Football Club Ltd* (2004) 217 CLR 469 at 483-484 [38]-[41] per McHugh J (diss).

<sup>8</sup> *Neindorf v Junkovic* (2005) 80 ALJR 341 at 359-360 [85]; 222 ALR 631 at 653 referring to Lord Atkin's speech in *Donoghue v Stevenson* [1932] AC 562 at 580 citing, in turn, St Matthew's Gospel. (NF note- see above.)

Knowing the background to the allusions to the “Good Samaritan” is helpful to understand ongoing references in later cases, mostly wrestling with the question of liability for “omissions” as opposed to positive actions. Most judges, like Lord Atkin, point out that the liability imposed by the legal system stops short of the responsibility urged on his followers by Jesus.

Windeyer J in *Hargrave v Goldman* (1963) 110 CLR 40 at 66 said:

Lord Atkin's well-known generalization explains the scope of a duty of care, that is to say it states who can complain of a lack of care when an obligation of care exists. But I venture to think that it is a mistake to treat it as providing always a complete and conclusive test of whether, in a given situation, one person has a legal duty either to act or to refrain from acting in the interests of others. The very allusion shows that it has not this universal application. The priest and the Levite, when they saw the wounded man by the road, passed by on the other side. He obviously was a person whom they had in contemplation and who was closely and directly affected by their action. Yet the **common law does not require a man to act as the Samaritan did**. The **lawyer's question** must therefore be given a more restricted reply than is provided by asking simply who was, or ought to have been, in contemplation when something is done. The dictates of charity and of compassion do not constitute a duty of care. The law casts no duty upon a man to go to the aid of another who is in peril or distress, not caused by him. The call of common humanity may lead him to the rescue. This the law recognizes, for it gives the rescuer its protection when he answers that call. But it does not require that he do so. There is no general duty to help a neighbour whose house is on fire.

McHugh J, at [101] in *Pyrenees Shire Council v Day* (1998) 72 ALJR 152:

Absent consideration or its equivalent, the common law generally imposed no obligation on a person to protect or help another. As Windeyer J pointed out in *Hargrave v Goldman* (1963) 110 CLR 40 at 66, “the common law does not require a man to act as the **Samaritan** did”.

The above-mentioned passage from Windeyer J is also quoted in *The Council of the Shire of Sutherland v. Heyman* (1985) 157 CLR 424.

More recently, in a case involving the question whether a “bouncer” at a Hungry Jack’s restaurant was obliged to help a young man claiming he was being pursued by a gang, Handley JA in *Broughton v Competitive Foods Australia Pty Ltd* [2005] NSWCA 168 commented:

3 Outside these special relationships a stranger is not obliged to feed the hungry, give water to the thirsty, look after the sick, visit the prisoners, or rescue those in peril<sup>9</sup>. The moral commandment to love one’s neighbour is not enforceable by law. As Lord Atkin said in *Donoghue v Stevenson* [1932] AC 562, 580:

“The rule that you are to love your neighbour becomes in law, you must not injure your neighbour; and the lawyer’s question Who is my neighbour? receives a restricted reply.”

The idea of the “Good Samaritan” has, of course, entered legal language and even popular terminology.

Reference to the concept of a “Good Samaritan” as someone who comes to someone else’s assistance without expecting reward can also be found, for example, in *Cook v R & M Reurich Holdings Pty Ltd* [2004] NSWCA 268 at [18], [20]; *Roads and Traffic Authority v*

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<sup>9</sup> See Matthew 25:35-36.

*McGregor & Anor* [2005] NSWCA 388 at [17], and *Kalls Enterprises Pty Ltd (In Liquidation) & Ors v Baloglow & Anor* [2007] NSWCA 191 at [150]. The phrase continues to be used in the courts today- eg in *R v McDonald; Ex parte Attorney-General (Qld)* [2025] QCA 85 (30 May 2025) at [43] referring to a passing stranger who intervened to help a victim of an assault.

Indeed, in enacting legislation limiting the liability which can be imposed on people who voluntarily come to the aid of others, the NSW Parliament chose to call Part 8 of the *Civil Liability Act* 2002 “Good Samaritans”!

For the “opposite” concept (someone who fails to come to the assistance of another in need) see the passing reference to the fact that the law does not usually impose liability on “bad Samaritans” in *Burns v The Queen* [2012] HCA 35 per Gummow, Hayne, Crennan, Kiefel and Bell JJ at [106].

The interesting US article by Habar refers to “Bad Samaritans” laws in the US, imposing liability on those who do not come to the aid of others when they could easily do so, and discusses their application to internet situations where someone observes someone else being harmed on social media. {Some may recall that the final episode of the popular “sitcom” *Seinfeld* involved the stars of the show being prosecuted under a “Bad Samaritan” law!}

So the case, and the parable, are deeply embedded in law and to some extent in popular culture. But what implications does the parable have for us **personally**?

The parable is presented by Jesus in response to a question he is asked by a lawyer. Now this person would probably have been an expert in religious law, rather than a civil lawyer in the sense we would understand now. But it seems that he had some character traits similar to modern lawyers. For one thing, we read from Luke that the purpose of the question was to “test Jesus”! Lawyers love trick questions and questions that “test” people in the sense of revealing whether they are telling the truth or lying. In Luke’s account of Jesus’ public career up to now, he has been performing miracles and providing compelling teaching from the Hebrew scriptures (what we now call the Old Testament.) This has not gone down well with the established religious authorities. So it may be that this “lawyer” is acting on their behalf, perhaps hoping Jesus will say something heretical so he can be stopped.

The question he asks, of course, is one of the most important questions anyone can ask. “What must I do to inherit eternal life”? Notice of course the assumption behind the question- that whether or not I have eternal life is a result of something I **do**! But Jesus does not immediately correct him. Instead, he comes back with a question of his own, asking the lawyer what he reads in the Law (which means, the Hebrew Scriptures.)

The lawyer’s response seems perfectly correct, sourced in the first five books of Moses, the heart of the Hebrew scriptures- Love God with all you have, love your neighbour. Yes, Jesus says, that is right. If you could do those things, you would gain eternal life. But the lawyer must know, as we know, that these are huge things to ask!

But here is where the lawyer shows himself like modern lawyers again- he wants to know if there is a loophole! Maybe these requirements would be more manageable if he could reduce the scope of that word “neighbour”... Indeed, again Luke leaves us in no doubt about his motives: “he wanted to justify himself”! If “justify” here means “be declared right with God and enter eternal life”, the lawyer is keen to see if he can reduce the scope of his obligations, lower the bar. After all, he is fine loving his educated Jerusalem colleagues- but to ask that he loves all those poor people in the slums- or worse, to love the hated enemies of Israel, the Samaritans- that would surely be a step too far!

But Jesus challenges him with this story. Someone is travelling from Jerusalem to Jericho. This was of course a real location, a barren, lonely road just the place for an ambush of travelers.

It seems likely that the traveler was Jewish. There was a fair bit of coming and going along this road, and the fact that two of the passers-by were religious officials is not surprising- apparently many of the priests would be rostered on for two weeks at a time in Jerusalem and then return to their homes in Jericho.

The traveler is attacked, beaten, stripped and left by robbers. A priest comes along but does not help him, passing by on the other side. A Levite, one of those who assisted in the Temple worship, also passed by and did not help. But then a Samaritan comes along- the last person Jewish listeners would think would help. But he does, at great cost to himself. There is a very helpful study of this story by a scholar who lived and worked in the middle east for many years, Kenneth Bailey, and he notes that, in the world of this story, this man was putting himself at great risk just by helping the Jewish traveler. He not only has to abandon his own journey temporarily, he spends his resources of oil and wine, and then takes the man to an inn, which Bailey suggests would probably have to have been in Jericho.<sup>10</sup> As this was a Jewish town, the Samaritan risked his own safety by even going into the town. To be seen with a wounded Jew might leave the residents to assume he had caused the wounds and to attack him. But he risks all this and leaves a large amount of money (two denarii would probably have paid for at least a week's lodging), and promises to further risk his own safety by coming back to top up the account if needed.

Finally, Jesus turns to the lawyer and asks a penetrating question: "Which of these was a neighbour"? The lawyer cannot even make himself say "Samaritan", it seems! All he can say is: "The one who had mercy..."

Notice that in the end Jesus is not answering the lawyer's question- who had asked "who is my neighbour"? Instead, Jesus asks, in effect, who **became** a neighbour to the injured man? The challenge to the lawyer is, don't try and limit those who are your neighbours- instead, look for people you can show mercy to, and become **their** neighbours!

At one level the message of this story is clear, isn't it? To love your neighbour means to show mercy to anyone who you can show mercy to! It doesn't mean simply helping those who you like, or who like you, or who will help you back- it means looking for opportunities to show mercy to anyone who needs it!

But I think there is another message that the parable conveys. The failure of the Jewish religious leaders here is I think intended to form part of Jesus' critique of a world-view held by many of those leaders, that they could earn their way into eternal life simply by following the commands of the Jewish law.

(I found it interesting reading in the Old Testament earlier this year, to see that there is a passage with a number of connections with this story. In that story the armies of northern Israel, centred on Samaria, have captured a number of civilians from Jerusalem and Judea, and are about to make them slaves when a number of other "Samaritans" stand up for them and rebuke the leaders for hating their own people. It would take too much time to explain in detail, but I have attached an appendix spelling out the links.)

To come back to the parable Jesus tells, and his dialogue with the lawyer- the lawyer himself is part of that mind-set that thinks you can earn favour from God by obeying the law. He asks what he can do to inherit eternal life. Perhaps as lawyers you may notice the other problem here right from the beginning! You don't usually **earn** an inheritance – it is a gift.

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<sup>10</sup> Kenneth E Bailey, *Jesus Through Middle Eastern Eyes* (IVP Academic, 2008) at 295.

But as Jesus presents the demands of the Jewish law here, this lawyer, and those listening, should have realized- the bar is being set way too high! The first part of the lawyer's correct answer is: "Love the Lord your God with all with all your heart and with all your soul and with all your strength and with all your mind". Oh, is that all? I have to devote all of my own goals and desires to loving God. And then on top of that I have to love my neighbour just as much as I love myself! And then once Jesus has unpacked this, it means I have to love those who would usually be my mortal enemies, and risk my own life and property for them!

If this sounds too hard- it is, if you are going to do it on your own strength. What I really need is someone who will do it for me- I am like... someone lying on the road, naked and helpless- and I need a saviour who will risk his own life to save me and carry me home!

Yes, if you look at this parable and ask- who am I here? I think the answer is- I am the bloke on the side of the road. I am desperately in need of someone to save me. I can't do it on my own!

The great news is that Jesus offers to be that saviour! Just like the Samaritan, who was hated and rejected by the Jewish people who he came to help, Jesus came into a world which did not accept him, and put his own life and riches on the line to save people like me and you! As the story of Jesus unfolds we see him take a literal trip on this road from Jericho to Jerusalem and die on a cross, to take onto himself the cost of my healing from sin. He rose again from the tomb where had been laid, and now offers forgiveness and new life to anyone who turns away from serving themselves and their own goals, and puts their life into his hands.

Of course when we do that, our lives change as we follow him. But we don't have worry about being good enough for God; we can trust that Jesus offers us new life here and forever when we trust him.



## Further Reading

- For devoted fans of the case ☺, there is a treasure trove of material on the case, including copies of the pleadings of both sides, and much else, online at <https://www.scottishlawreports.org.uk/resources/donoghue-v-stevenson/>
- Ash, D “The diamond snail” (Summer 2006/2007) *Bar News* 84-90
- Barnett, Katy “Snails in Bottles and the Law of Negligence” (July 7, 2024) <https://substack.com/home/post/p-146362332>
- Burns, PT & Lyons, SJ (eds) *Donoghue v. Stevenson and the modern law of negligence: the Paisley papers: the proceedings of the Paisley Conference on the Law of Negligence* (Vancouver: Continuing Legal Education Society of British Columbia, 1991)
- Castle, R “Lord Atkin and the Neighbour Test: Origins of the Principles of Negligence in Donoghue v Stevenson” (2003) 7 *Ecclesiastical Law Jnl* 210 (available at [https://www.academia.edu/53727211/Lord\\_Atkin\\_and\\_the\\_Neighbour\\_Test\\_Origins\\_of\\_the\\_Principles\\_of\\_Negligence\\_in\\_Donoghue\\_v\\_Stevenson](https://www.academia.edu/53727211/Lord_Atkin_and_the_Neighbour_Test_Origins_of_the_Principles_of_Negligence_in_Donoghue_v_Stevenson) ).
- Chamberlain, Erika “Lord Atkin's Opinion in *Donoghue v Stevenson*: Perspectives from Biblical Hermeneutics” (2010) 4/1 *Law and Humanities* 91-114
- Conn, J “Gingerlore: the Legends of *Donoghue v Stevenson*” [2013] *Juridical Review* 265-285
- Haber, Eldar “The Digital Samaritans”, 77 Wash. & Lee L. Rev. 1559 (2020), <https://scholarlycommons.law.wlu.edu/wlulr/vol77/iss4/5>
- Handford, P “The Snail’s Antipodean Adventures” [2013] *Juridical Review* 315-355
- Hutchinson, A “A Snail in a Bottle: Nature, Neighbours, and Negligence” in *Is Eating People Wrong? Great Legal Cases and How They Shaped the World* (Cambridge UP, 2011) ch 6
- Kleefeld, John C, “The Donoghue Diaries” (2013) 3 *Juridical Review*, 375-450; available at SSRN: <https://ssrn.com/abstract=2470647>
- Plunkett, J “Snail in a bottle leaves trail” (2012) 86 (07) *Law Institute Journal* 56
- Rodger, A “Mrs Donoghue and Alfenus Varus” (1988) 41 *Current Legal Problems* 1-22
- Tooher, J “Still silvery on its diamond jubilee? On the trail of that elusive snail” (1992) 66 *Law Inst Jnl* 379-382

**Appendix**  
**“Good Samaritans” in 2 Chronicles 28:8-15 and Luke 10:30-37**

<p>8 The men of Israel took captive 200,000 of their relatives, women, sons, and daughters. They also took much spoil from them and brought the spoil to <b>Samaria</b>. 9 But a prophet of the LORD was there, whose name was Oded, and he went out to meet the army that came to Samaria and said to them, “Behold, because the LORD, the God of your fathers, was angry with Judah, he gave them into your hand, but you have killed them in a rage that has reached up to heaven. 10 And now you intend to subjugate the people of Judah and <b>Jerusalem</b>, male and female, as your slaves. Have you not sins of your own against the LORD your God? 11 Now hear me, and send back the captives from your relatives whom you have taken, for the fierce wrath of the LORD is upon you.”</p>	<p>Jesus replied, “A man was going down from Jerusalem to <b>Jericho</b>, and he fell among robbers, who <b>stripped him</b> and beat him and departed, leaving him half dead. 31 Now by chance a priest was going down that road, and when he saw him he passed by on the other side. 32 So likewise a Levite, when he came to the place and saw him, passed by on the other side. 33 But a <b>Samaritan</b>, as he journeyed, came to where he was, and when he saw him, he had compassion.</p>
<p>12 Certain chiefs also of the men of Ephraim, Azariah the son of Johanan, Berechiah the son of Meshillemoth, Jehizkiah the son of Shallum, and Amasa the son of Hadlai, stood up against those who were coming from the war 13 and said to them, “You shall not bring the captives in here, for you propose to bring upon us guilt against the LORD in addition to our present sins and guilt. For our guilt is already great, and there is fierce wrath against Israel.” 14 So the armed men left the captives and the spoil before the princes and all the assembly. 15 And the men who have been mentioned by name rose and took the captives, and <b>with the spoil they clothed all who were naked</b> among them. They clothed them, <b>gave them sandals</b>, provided them with <b>food and drink</b>, and <b>anointed</b> them, and carrying all the feeble among them on <b>donkeys</b>, they <b>brought them to their kinsfolk at Jericho</b>, the city of palm trees. Then they returned to <b>Samaria</b>.</p>	<p>34 He went to him and bound up his wounds, <b>pouring on oil and wine</b>. Then he set him on his <b>own animal</b> and <b>brought him to an inn</b> and took care of him. 35 And the next day he <b>took out two denarii</b> and gave them to the innkeeper, saying, ‘Take care of him, and whatever more you spend, I will repay you when I come back.’ 36 Which of these three, do you think, proved to be a neighbor to the man who fell among the robbers?” 37 He said, “The one who showed him mercy.” And Jesus said to him, “You go, and do likewise.”</p>

Similarities between the two stories:

- Each involves people from Samaria showing unexpected kindness to someone from Jerusalem / Judah;

- The people who are given help are given clothing (note that the man in Jesus's parable had been "stripped" so he was naked; it seems clear that part of the Samaritan's money will be spent on clothing);
- The Samaritans "anoint" the Judahites (in Jesus's story "pouring on oil and wine");
- The injured are carried on donkeys (the Samaritan "set him on his own animal");
- The Samaritans convey the Judahites to Jericho (it seems fairly clear that the Samaritan in Jesus' story had to go into Jericho, as there were no other settlements or inns on the way);
- The Samaritans spend the "spoil" of battle to provide for the Judahites; the Samaritan leaves a large amount of money at the inn.

See G K Beale and D A Carson (eds) *Commentary on the New Testament Use of the Old Testament* (Baker, 2007), article on *Luke* (D W Pao & E J Schnabel), on Luke 10:27-37, at 321:

[T]he story of the compassionate Samaritans in 2 Chron 28:8-15 provides a conceptual parallel to Jesus' parable (Furness, J M 1969 "Fresh Light on Luke 10:25-37" *ExpTim* 80:182; Spencer, F S 1984 "2 Chronicles 28:5-15 and the Parable of the Good Samaritan" *WTJ* 46:317-49.)

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