

the verdict for the plaintiff was there sustained on the ground that lack of signs designating the various depths of the water, and failure to provide for guards, constituted sufficient basis on which to predate liability for negligence. But in this opinion it is pointed out that it was not established that the alleged negligence was the proximate cause of the death.

The rule that proprietors of a bathing resort, in discharging the duty of ordinary care for the safety of patrons, may be obliged to keep some one on duty to supervise bathers and rescue any apparently in danger and may also be held liable for negligence if, on information that a bather is missing, they are tardy in instituting search, was approved in Lyman v. Hall (1928) 117 Neb. 140, 219 N.W. 902, although the evidence was held insufficient to sustain a verdict in favor of the plaintiff against the defendant, proprietor of a public bathing pool conducted for private gain, where it appeared that there were signs indicating the depth of the water; that there were lifeboats near the bathhouse equipped with oars, rope and grappling hook, upon which there was a sign "For emergencies only; "that the defendant had two employees who were qualified to act in the capacity of guards, who were on active duty at the time of the accidental drowning, and, at the first alarm one of the guards, who had been attentively watching the pool at the proper place for rescue when the bather disappeared, ran to the life boat and rowed to the natural place to look for a missing swimmer and began to cast with grappling hooks and, upon being told the boy was farther north, moved to the center of the pool, where the second cast resulted in bringing the boy's body to the surface; and that efforts at resuscitation were immediately made and were continued without avail for an hour or more and notwithstanding the fact that the proprietor had not equipped his life-boat or bathing resort with a pulmotor, a modern instrument used in the work of resuscitation, where it appeared that the guards used standard methods of equal efficiency and that a physician arrived within a few minutes and used restoratives without success and testified that, in his opinion, the result would have been the same had a pulmotor been used. The court nevertheless approved the rule that failure to place and maintain warning signs or notices indicating the depths of water in different parts of a public bathing pool conducted for private gain may be evidence of negligence and added that not only is it the duty of owners of bathing resorts to be prepared to rescue those who may get into danger while bathing, but it is their duty to act with promptness and make every reasonable effort to search for and if possible recover those who are known to be missing.

In Nordgren v. Strong (1930) 110 Conn.593, 149 A. 201, it was held to be a question for the jury as to whether one owning and operating a public resort with bathing facilities must, in the exercise of reasonable care, have a suitable person and necessary appliances ready to effect rescues and save patrons from drowning. Those using the swimming facilities of a public resort which made no charge for such facilities, but relied for its income on the renting of bathing suits, lockers and boats and the selling of refreshments, were held to be patrons entitled to reasonable care for their safety, even tho they paid nothing to the operator of the resort.

In Adams, v. American Enka Corp. (1932) 202 NC 767,164 S.E. 367, the court quoted the rule herein above mentioned as to the duty of supervising and rescuing bathers, but held it inapplicable where the bather was a gratuitous licensee of a manufacturing company which had constructed a lake for manufacturing purposes and permitted the public to swim in it.

In Blackwell v. Omaha Athletic Club (1932) 123 Neb. 332, 242 N.W.664, where the plaintiff, who went to the assistance of another swimmer in need of help, was injured when a life guard, believing her to be in difficulty, jerked her and pulled her over the bank of the pool, the court, in holding that a finding was warranted that the life guard was guilty of negligence for which the proprietor of the pool was liable, said: "Proprietors of bathing resorts of pools, in discharging their duty toward their patrons and guests, are not only under obligation to keep an attendant or life guard on hand to supervise and