

The Rule in Rylands v Fletcher

Origins of the tort	Liability under <i>Rylands v Fletcher</i> is now regarded as a particular type of nuisance. It is a form of strict liability, in that the defendant may be liable in the absence of any negligent conduct on their part. Imposing liability without proof of negligence is controversial and therefore a restrictive approach has been taken with regards to liability under <i>Rylands v Fletcher</i> . There have been attempts to do away with liability under <i>Rylands v Fletcher</i> but the House of Lords have retained it		
Facts and judgement	<p>The defendant owned a mill and constructed a reservoir on their land. The reservoir was placed over a disused mine. Water from the reservoir filtered through to the disused mine shafts and then spread to a working mine owned by the claimant causing extensive damage.</p> <p>Held: The defendants were strictly liable for the damage caused by a non- natural use of land.</p> <p>Lord Cranworth: "If a person brings, or accumulates, on his land anything which, if it should escape, may cause damage to his neighbour, he does so at his peril. If it does escape, and cause damage, he is responsible, however careful he may have been, and whatever precautions he may have taken to prevent the damage."</p> <p>Lord Cairns LC: "The Defendants, treating them as the owners or occupiers of the close on which the reservoir was constructed, might lawfully have used that close for any purpose for which it might in the ordinary course of the enjoyment of land be used; and if, in what I may term the natural user of that land, there had been any accumulation of water, either on the surface or underground, and if, by the operation of the laws of nature, that accumulation of water had passed off into the close occupied by the Plaintiff, the Plaintiff could not have complained that that result had taken place. If he had desired to guard himself against it, it would have lain upon him to have done so, by leaving, or by interposing, some barrier between his close and the close of the Defendants in order to have prevented that operation of the laws of nature...On the other hand if the Defendants, not stopping at the natural use of their close, had desired to use it for any purpose which I may term a non-natural use, for the purpose of introducing into the close that which in its natural condition was not in or upon it, for the purpose of introducing water either above or below ground in quantities and in a manner not the result of any work or operation on or under the land, - and if in consequence of their doing so, or in consequence of any imperfection in the mode of their doing so, the water came to escape and to pass off into the close of the Plaintiff, then it appears to me that that which the Defendants were doing they were doing at their own peril; and, if in the course of their doing it, the evil arose to which I have referred, the evil, namely, of the escape of the water and its passing away to the close of the Plaintiff and injuring the Plaintiff, then for the consequence of that, in my opinion, the Defendants would be liable.</p>		
The parties to the action	Claimant	Must have an interest in the land	Read v J Lyons (1947)
	Defendant	Person who occupies land. Traditionally the tort was strict liability but Cambridge Water Co says there needs to be an element of foreseeability	Rylands v Fletcher (1968)
Essential Elements of the Tort	The bringing onto the land and an accumulation or storage	There must be a bringing onto the land of something that is not naturally present. If the thing is naturally present there is no liability. There can be no liability for something that naturally accumulates (such as rainwater)	Giles v Walker (1890) Ellison v Ministry of Defence (1997)
	Of a thing likely to cause mischief if it escapes	Have been held to include gas and electricity, poisonous fumes, a flag pole, tree branches, an occupied chair from a chair o'plane.	Hale v Jennings Bros (1938)
	Which amounts to a non-natural use of land	It must be a special use of the land which brings an increased risk. Non natural use may change over time as in Musgrove a car in a garage with petrol in the tank was a non-natural use of land but this is unlikely to be seen as non-natural today. The courts have said the following are natural use of land <ul style="list-style-type: none"> • A fire in a grate that spread to C's premises • Defective electric wiring that caused a fire which spread to C's premises • A domestic water supply 	Rickards v Lothian (1913) British Celanese v A H Hunt (1969) Musgrove v Pandelis (1919)
	Which does escape and causes reasonably foreseeable damage to adjoining property	The substance must escape from one property to another adjoining property. If there is no move there is no liability (this rule was not strictly applied in Hale v Jennings). The house of lords confirmed the need for escape in Transco plc v Stockport BC (2003) and the HL introduced a test of damage being reasonably foreseeable in Cambridge Water Co.	Read v J Lyons and CO Ltd (1947) Cambridge Water Co. v Eastern Counties Leather (1994) LMS International Ltd v Styrene Packing and Insulation Ltd (2005) Stannard (t/a Wyvern Tyres) v Gore (2012)
Defences	Volenti non fit injuria (consent)	No liability if the C consents to D accumulating the thing on his land.	
	Act of a stranger	If a stranger (over whom D has no control) caused the accumulation D may have a defence.	Perry v Kendricks Transport Ltd (1956)
	Act of God	e.g. extreme weather conditions that no human foresight can protect against.	Nichols v Marsland (1876)
	Statutory Authority	If an Act of Parliament authorises D's actions this can be a defence.	
	Contributory Negligence	Where C is partly responsible for the escape of the thing then the Law Reform (Contributory Negligence) Act 1945 applies and damages may be reduced accordingly.	
Remedies	Damages	C must show that damage or destruction to his or her property to succeed in a claim. The level of damage will be the cost of repair or replacement.	