

Rylands V Fletcher

The rule is a land-based tort. It is strict liability which means that the defendant will be liable even if he or she is not negligent or at fault.

Rylands v Fletcher (1868)

The defendant mill owner wanted to build a reservoir on his land and employed independent contractors to assess the land. The contractors discovered a disused mineshaft, but believed it was filled with earth. Unknown to the defendant or the contractors, this mineshaft connected to the claimant's coalmine on neighbouring land. When the reservoir was filled, water poured down the shaft and flooded the mine. The defendant had not been negligent, as he had trusted the independent contractors, yet he was liable for the damage to the claimant's land. This case created a new area of tort.

Definition of the rule

A person, who, for his own purposes, brings onto land and keeps there anything likely to do mischief if it escapes, must do so at his peril, and, if he does not do so, he is answerable for all damage, which is the natural consequence of its escape.

Brings onto land:

The defendant must bring something onto his or her land for his or her own purpose that does not naturally occur there.

Giles v Walker (1890)

The seeds from thistles blew from the defendant's land onto the claimant's land. As the thistles were naturally occurring on the defendant's land, he was not liable.

Non-natural use of land

Lord Cairns required that the use of land to be 'non-natural'. What the courts define as 'non-natural' has been subject to change.

British Celanese v AH Hunt (1969)

Storage of metal foil in a factory was held to be a natural use of industrial land. Therefore, even though the foil escaped and hit an overhead electric cable, causing a power cut in the claimant's factory, the claim failed.

Cambridge Water Co. v Eastern Counties Leather (1994)

The defendants were concerned with the tanning of leather. The chemical that they used for tanning was regularly spilled on the factory floor, and over the years seeped through the ground and into the water supply. The claimant water company was unable to pump water downstream from the factory, as the pollution meant that it was unfit for human consumption. The water company sued for the money that it cost it to move its water-pumping station upstream from the factory.

The Court of Appeal decided that the damage was too remote and the claim failed. However, Lord Goff did state that the storage of chemicals on industrial land was a non-natural use.

Likely to do mischief

It must be foreseeable that the thing brought onto the land is likely to do mischief if it escapes. The escape itself does not have to be foreseeable.

Escape

The thing that is brought onto the defendant's land must escape from there onto other land.

Read v Lyons (1946)

This claim under the rule in *Rylands v Fletcher* failed because the dangerous thing did not escape. The claimant was a munitions inspector during the war and was injured in a munitions factory while it was being inspected. The court pointed out that the injury was received while in the factory, so nothing had escaped.

Damage

The escape must cause damage. The normal rules of causation apply, in that the damage must be reasonably foreseeable (*Cambridge Water Co. v. Eastern Counties Leather, 1994*).

Who can sue/be sued?

The rule in *Rylands v Fletcher* is a 'principle applicable between occupiers in respect of their land'. The claimant must therefore have some interest in the land that is affected.

The defendant must be the occupier who is in control of the land.

Weller and Co. v Foot and Mouth Disease Research Institute (1966)

The foot-and-mouth virus escaped from the defendant's research institute. This led to a ban in the movement of livestock to prevent a spread of the disease. The claimants were cattle auctioneers who were unable to trade during the ban. Their claim for loss of income failed, as they did not own the land that was infected.

Smith v Scott (1973)

Council tenants of a house caused massive disruption to their neighbours, who sued the council. The council was not to blame, as it was the tenants of the house who were in control of the land at the time.

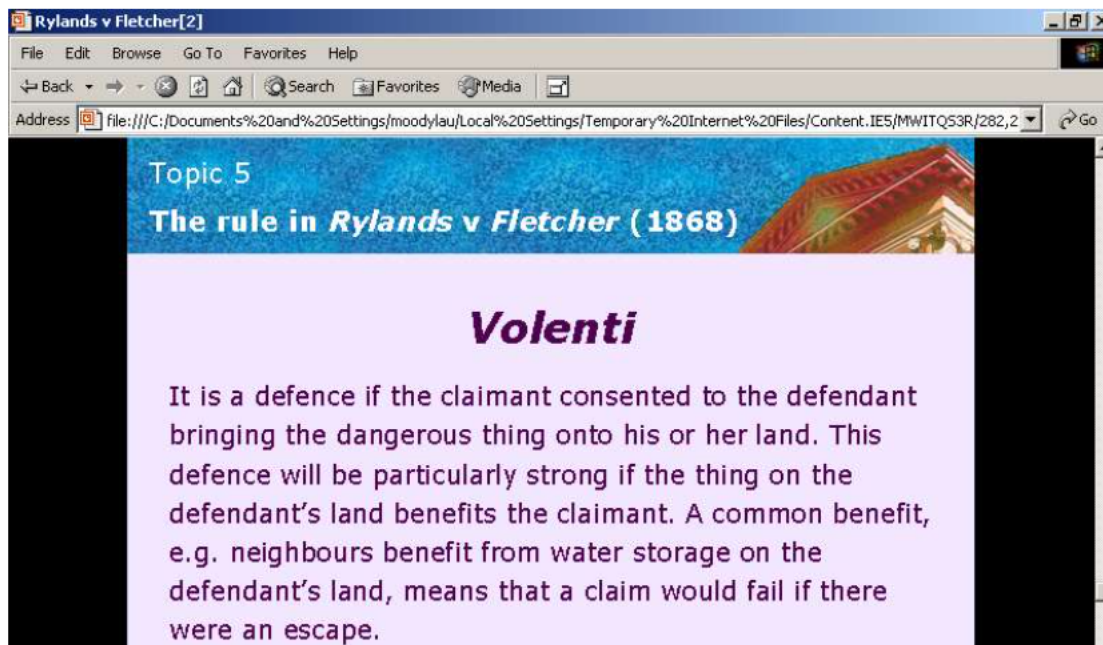
Defences

There are many defences for Rylands V Fletcher, including:

- * Act of a stranger
- * *Volenti*
- * Statutory authority
- * Default of the claimant
- Act of God

Act of a stranger

If the escape was caused by a stranger (a third party over whom the defendant has no control), this will be a defence. In *Rickards V Lothian* (1913), a stranger turned on the tap that flooded the claimant's premises, and the Privy Council decided that this was one of the reasons why the claim



The screenshot shows a web browser window titled "Rylands v Fletcher[2]". The address bar contains a file path: "file:///C:/Documents%20and%20Settings/moodylau/Local%20Settings/Temporary%20Internet%20Files/Content.IE5/MWITQ53R/282,2". The page content includes a blue header with the text "Topic 5" and "The rule in *Rylands v Fletcher* (1868)". Below this, the word "Volenti" is written in a large, bold, purple font. The main text explains that it is a defence if the claimant consented to the defendant bringing a dangerous thing onto his or her land, and that this defence is particularly strong if the thing on the defendant's land benefits the claimant. An example given is that neighbours benefit from water storage on the defendant's land, and a claim would fail if there were an escape.

failed.

Volenti

It is a defence if the claimant consented to the defendant bringing the dangerous thing onto his or her land. This defence will be particularly strong if the thing on the defendant's land benefits the claimant. A common benefit e.g. neighbours benefit from water storage on the defendant's land, means that a claim would fail if there were an escape.

Statutory authority

An Act of Parliament may authorise a dangerous activity, and therefore there can be no claim under Rylands V Fletcher. Some statutes specify if the rule applies and others do not, so it is up to the judge to decide. In *Greens V Chelsea Waterworks Co.* (1894), the waterworks company was under a duty authorised by Parliament to provide water. This meant that a claim for damage caused by a leak from the pipe failed, as it was foreseeable that bursts could occur.

Default of the claimant

If the escape and damage are caused completely by the default of the claimant, the defendant will not be liable. If the claimant's partly responsible, the normal rules of contributory negligence apply and the compensation will be reduced accordingly.

Act of God

Extreme weather conditions may afford a defence. However, the courts are reluctant to allow this defence unless the weather conditions are exceptional. In *Nichols V Marsland* (1876), there was a successful use of this defence when the claimants land was flooded after extremely heavy rainfall caused the defendants ornamental lakes to flood.