

In the House of Lords

Collins -v- Andrews

Collins and Andrews are neighbours with a wooden fence separating their gardens. In Collins' garden there are flower beds adjacent to the fence while Andrews grows vegetables adjacent to the fence in his garden. In an attempt to eradicate the weed in his flower beds, Collins purchased a powerful weedkiller called 'Slaughter'. Warnings on the canister stated that 'Slaughter' was poisonous to humans and also clearly stated "Wash hands thoroughly after use".

Collins sprayed 'Slaughter' liberally on his flower beds. However, later that day, rain washed some of the weedkiller under the fence onto Andrews' vegetable patch. A crop of lettuce growing there showed no visible signs of damage. Some of the lettuce was eaten by the Andrews family that evening. The next day Andrew's six year-old son, Michael, began to complain of stomach pains and was seriously ill and admitted into hospital. The medical evidence conclusively traced the cause of the illness to the weedkiller.

An action was brought on Michael's behalf by Andrews against Collins based on the rule in *Rylands -v- Fletcher*. A statement of claim was also issued against Slaughter plc, the manufacturers of the weedkiller. The action against Slaughter plc was, however, struck out and there has been no appeal on this point.

At first instance Smith J. held that the claim failed on the grounds that the use of the weedkiller was a natural use of the land and that the rule in *Rylands -v- Fletcher* could not be used to obtain damages. An appeal to the Court of Appeal was dismissed although Andrews was granted leave to appeal to the House of Lords on the following grounds:

1. The use of the weedkiller was a non-natural use of Collins' land.
2. The rule in *Rylands -v- Fletcher* could be used to obtain damages for personal injury.

This problem is taken from the third round of the Observer-ESU-Lovell White Durrant Mooting Competition 1998-99, and was provided courtesy of the English Speaking Union.