

he was bound to use all reasonable care, he was not responsible for damage not due to his own default, whether caused by inevitable accident, or the wrongful acts of third persons. *Fletcher v. Rylands*, L.R. 1 Ex. 265; L.R. 3 H.L. 330, was invoked by the plaintiff, but their Lordships were of the opinion that the principle of the case of *Nichols v. Marsland*, 2 Ex.D. 1, where it was held that where water escaped from the defendants' artificial lake owing to a sudden tempest, that the defendant was not liable for the consequent injury, applied to the present case, and that water escaping through the act of God, or the King's enemies, or the malicious acts of a stranger, could not render the owner of the premises from which the water came liable to third persons. Moreover, their Lordships point out that it is not every use to which land is put that brings the principle of *Rylands v. Fletcher* into operation, but that it must be some special use, bringing with it increased danger to others, and that the maintenance of an ordinary water supply for a basin could not be regarded as such a special use.

BUILDING CONTRACT—ARBITRATION CLAUSE—ARCHITECT TO ACT AS ARBITRATOR—COLLUSION—DISQUALIFICATION—PAYMENTS TO BE MADE ON CERTIFICATE OF ARCHITECT—IMPROPER DELAY IN GIVING CERTIFICATE—CONDITION PRECEDENT—ACTION BEFORE CERTIFICATE.

*Hickman v. Roberts* (1913) A.C. 229. This was an action to recover balance due under a building contract. The contract provided that disputes were to be referred to the architect employed by the owners, and that payments were to be made on his certificate. Acting under a mistaken idea of his duty, the architect allowed his judgment to be improperly influenced by the owners and improperly delayed issuing his final certificate in accordance with their instructions. The action was commenced before the issue of the certificate, and two questions arose: first, Sol. J. 589, which is also reported in a note to this case, was but the Court of Appeal (Farwell and Kennedy, L.JJ.) were of the opinion that that case did not lay down any such general rule, but rested on particular circumstances, which did not exist in the present case, and the proposed interrogatory was held to be inadmissible as being a purely fishing interrogatory unsupported by any evidence.