

and even more dogmatic judgment. It has commonly been thought that the rule in *Rylands v. Fletcher* marks the extreme limit of civil responsibility imposed by a special policy of the law without requiring any proof of negligence. But the opinion of Cozens-Hardy, M.R., and Farwell, L.J., would create a still more strict liability. For there is uncontradicted authority, though not much of it, to shew that the rule in *Rylands v. Fletcher* does not extend to make a man answer for acts of strangers not under his control: *Wilson v. Newberry*, L.R. 7 Q.B. 31; *Box v. Jubb*, 4 Ex.D. 76; *Whitmores v. Stanford*, [1909] 1 Ch. 427. There is nothing in *May v. Burdett*, or any other authority prior to *Baker v. Snell* itself, to prevent the analogy of these authorities from governing the case of a wild animal being let loose by a stranger. We decline to count a mere surmise once thrown out by Lord Bramwell that even the act of God may be no excuse. It is far from certain that the strict rule of *Rylands v. Fletcher* was a necessary or politic rule. Many persons and some courts have deemed it a crude relic of archaic legal thinking for which modern jurisprudence has no use. But certainly the very able judges who decided *Rylands v. Fletcher* considered themselves to be declaring a principle of wide generality. They did not want to make one law for a reservoir of water and another for animals. Distinctions are necessary for determining what are the things so dangerous in the eye of the law that a man keeps them at his peril. But when once the dangerous character of the thing is ascertained, there is no reason for holding the same excuse to be sufficient in one case and not in another. Otherwise we should have a number of different arbitrary rules instead of a severe but intelligible principle. We suspect Mr. Beven of not much liking *Rylands v. Fletcher*. No more do we like it, but it is there, a decision of the House of Lords, and in these kingdoms the House of Lords has declared itself infallible. One thing is sure in any case. If ever again the editor of the Harvard Law Review lets our very learned friend Mr. Beven loose on the Court of Appeal, it will not be open to him to traverse the *scienter*.—SIR FREDERICK POLLOCK, in *The Law Quarterly*.

* Not to be confounded with so-called "collateral negligence," a risky ground of defence at best.