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[By Subscription]

HOUSE OF LORDS.

Friday, October 18, 1946.

READ v. J. LYONS & CO., LTD.

Before Viscount SIMON, Lord MACMILLAN,
Lord PORTER, Lord SIMONDS and Lord
UTHWATT.

Factory — Explosion — Personal injuries sustained by plaintiff—Liability of occupier—Plaintiff employed by Ministry of Supply as inspector in defendants' factory engaged in manufacture of high explosive shells — Explosion of shell, killing one man and injuring plaintiff and others—Action brought against defendants —Negligence not averred—Obligation of occupier towards invitee — Contention by plaintiff that defendants, as manufacturers of high explosive shells, were under strict liability to prevent such shells from exploding and causing harm to persons on the premises as well as to persons outside—Consideration of Rylands v. Fletcher doctrine—Limits of doctrine—Applicability to claim for damages for personal injuries—"Non-natural" user of land.

Held, that liability under the Rylands v. Fletcher doctrine was conditioned by elements of "escape" from the premises and the "non-natural" user of land; that the doctrine did not apply where, as here, there was no such "escape"; and that although the defendants were required to take that high degree of care commensurate with the risk inherent in the manufacture of high explosives, they were nevertheless not liable without proof of negligence—Applicability of doctrine to claims for personal injuries discussed — Comments upon "non-natural" user of land—Decision of C.A., reversing CASSELS, J., affirmed.

Per Viscount SIMON (at p. 4): I think it not improper to put on record,

with all due regard to the admission and dicta in Rainham Chemical Works, Ltd. v. Belvedere Fish Guano Company, Ltd., [1921] 2 A.C. 465, that if the question had hereafter to be decided whether the making of munitions in a factory at the Government's request in time of war for the purpose of helping to defeat the enemy is a "non-natural" use of land, adopted by the occupier "for his own purposes," it would not seem to me that the House would be bound by this authority to say that it was.

Per Lord MACMILLAN (at p. 5): Whatever may have been the law of England in early times, I am of opinion that as the law now stands an allegation of negligence is in general essential to the relevancy of an action of reparation for personal injuries.

Per Lord PORTER (at p. 7): If these questions [as to "dangerous" and "non-natural" use] ever come directly before this House it may become necessary to lay down principles for their determination. For the present I need only say that each seems to be a question of fact subject to a ruling of the Judge as to whether the particular object can be dangerous or the particular use can be non-natural, and in deciding this question I think that all the circumstances of the time and place and practice of mankind must be taken into consideration, so that what might be regarded as dangerous or non-natural may vary according to those circumstances.

Per Lord SIMONDS (at p. 9): I would venture to say that the law is that, subject to certain specific exceptions which I will indicate, a man is not in the absence of negligence liable in respect of things, whether they are called dangerous or not, which he has brought or collected or manufactured upon his premises, unless such things escape from his premises and, so escaping, injure another; and, as I have already said, I would leave it open whether even in the event of such escape he is liable (still in the absence of negligence) for personal injury as distinguished from injury to some proprietary interest.