

common and include obstruction of and having dangerous premises near a highway – *lyons v Gulliver* – theatre queue blocking entrance to café. *Halsey v esso petroleum*. Note s41 highways act 1980 – the duty to maintain highways placed on various public authorities – *cross v kirkless*. DEFENCES: statutory authority, act of stranger nb prescription not available because public nuisance is a crime. Contrib neg. REMEDIES: prosecution and/or injunction, special damages are available if the c suffers a particular loss. **RYLANDS V FLETCHER** – strict liability is liability imposed without proof of fault on part of the d. There is no need to prove intention or negligence by the d. The rule of *rylands v fletcher*: 1. PARTIES: the c must have legal interest in the land – *hunter v canary wharf*. D – any person can be a d if they have control over the land on which dangerous thing is brought. ELEMENTS: the d brings on his land for his own purposes something likely to do **mischief** i.e it must have an element of danger – *Cambridge water co v eastern countries leather* (chemicals) and *hale v Jennings* (fairground ride). **Non-natural user**- the d brings on to his property something not naturally there or as lord Cairns stated a ‘non-natural use’ – *Transco v stockport mbc*. There must be an **escape** beyond the boundaries of the land the defendant either occupies or controls to another person’s land. The **damage must be foreseeable** (includes property damage but not PI) – *Cambridge water v eastern countries leather*. DEFENCES: volenti – can be expressed or implied, common benefit to both parties, act of god, default of the claimant/contrib neg, act of stranger/third party – the act must be foreseeable (*perry v Kendrick transport*), statutory authority. REMEDIES: usual remedies apply, but in particular injunctions (s50 supreme court act 1980).

DEFAMATION – “publication of a statement which reflects on a person’s reputation and tends to lower him in the estimation of right thinking members of society generally or tends to make them shun or avoid him” – Winfield. D has burden of proof. **LIBEL**: it is recorded. A statement in some permanent form eg pictures, printed words, etc – radio, tv, plays performed in public, waxworks (*monson v madame tussards*), films, internet (*godfrey v demon internet*). **SLANDER**: not permanent. A statement in a temporary form eg spoken words, gestures. Difference between 2 forms: libel is actionable per se. Slander is not, subject to certain exceptions including: imputation of an imprisonable offence, imputation of having a contagious/unsociable disease, imputation of unchastity or adultery in a woman, imputation of unfitness for trade, profession, business or any appointment they hold. S7 **defamation act** – also see *mcmanus v beckham*. NB limitation period is one year. PARTIES: natural person, corporate bodies (*steel and morris v mcdonalds*). Can not sue – local authorities (*Lebyshire county council v times newspaper*), trade unions. ELEMENTS: 1. **Statement must be defamatory** – the meaning (*lewis v daily telegraph*), innuendo (slang – *allsop v church of England newspaper*), true/legal innuendo – *Cassidy v daily telegraph*, words in context. Whether the word are defamatory as per *sim v stretch* – ‘tended to lower the plaintiff in the estimation of right thinking members of society generally by exposing him to hatred, contempt and ridicule’. The concept of ‘right thinking members’ is illustrated in *byrne v deane*. Nb vulgar abuse does not constitute defamatory statement – *parkins v scott*. The sting refers to the precise defamatory meaning the c wishes to rely on in their action. Who decides? S7 defamation act. 2. **The defamatory statement must refer to the c** eg Cassidy case. The statement need not refer to the c by name as long as reasonable people would read it as referring to the c. as a general rule, a member of a class which has been defamed cannot sue merely because of his or her membership of that class (*eastwood v holmes*). However, a member of a defamed class may sue if the class is sufficiently small or the statement worded such that it refers to each and every member of that class, including the c – *foxcroft v lacey*. 3. **The defamatory statement must be published/communicated**. This means that the defamatory material must have come to the attention of at least one other person besides the c. the c’s reputation has to be affected. – *hinderer v cole*. Following are publications: postcards, envelopes wrongly addressed, envelopes likely to be opened by a TP, conversations overheard, statements to the c’s spouse, publications on the internet. Following are not publications: letter, statements repeated by tp, d’s spouse, search engine.

DEFENCES: 1. Justification is a complete defence – *alexander v north eastern railway*. Also *irving v penguin books* – could prove majority which was enough to satisfy defence. 2. Fair comment – burden of proof goes back to c. subject matter must be one of public interest, words must be comments or opinions – *british chiropractic*, comments must be honest and relevant expression of opinion, no evidence of malice – *Thomas v bradbury* 3. absolute privilege 4. Qualified privilege – only when statement made is made with no evidence of malice – *angel case*. Generally speaking, qualified privilege can be listed where there is legal, moral or social duty to inform and receive statement – *adam v ward*. responsible journalism (the