# DOWNLOAD PDF HOLLAND V HODGSON 1872 FULL CASE

## Chapter 1 : Routledge Lawcards Series - Revision Support - About the Lawcards Series

*Holland v Hodgson () LR 7 CP The owner of a mill purchased some looms for use in his mill. They were attached to the stone floor by nails driven into wooden beams.*

A fixture is an item that has been brought onto the land but is treated as forming a part of the land. A chattel is an item that has been brought onto the land but which is not so treated. The practical effect is that a transfer or any other type of dealing with land will take fixtures with it. Title to the fixture passes automatically with title to the land. Title to a chattel, by contrast, does not pass with a transfer of title to the land; it remains in the same ownership as before. In other words, whether an item is a fixture or a chattel has proprietary consequences. Thus, if an air-conditioning unit is a fixture then ownership of it will pass with ownership of the land to which it is affixed. If not, the seller of the land is free to remove it after sale of the land for it remains the property of the seller. Similarly, if it is a fixture then ownership of it will pass with any change in ownership of the land. One would expect the law in this area to be settled and to yield simple and clear-cut answers to the question as to whether or not a particular item is part of the land or not. After all, the question has recurred hundreds or thousands of times a day for centuries and is of clear practical importance. This, however, is not the case. It is still not always possible to say with certainty whether or not an item brought onto the land is part of the land. This essay explains the relevant tests and some of the uncertainties surrounding them. There are two tests. The first of these looks at the degree of annexation of the object to the land while the second looks at the purpose of annexation. The tests emerged rather suddenly in the nineteenth century as the industrial revolution and the commercial arrangements it generated gave special Each test can play a part but the current tendency is to give greater importance to the purpose of annexation. The degree of annexation test looks at the physical connection to the land or to something else attached to the land that was undoubtedly a fixture. If the item in question is attached to the land in a particularly permanent way then it would be held to be a fixture. So, for example, if removing the item was likely to cause physical damage to the ground or the fixture to which the item in question was attached then it was likely to be found to be a fixture. It is not necessary, however, that the item should be affixed to the land before it can be considered a fixture; if the item is exceptionally heavy so that it is held very firmly in place by gravity alone then it might be a fixture. The purpose of annexation test asks a different question. It considers whether the item was brought onto the land for the better enjoyment of the land in which case it is a fixture or whether it was brought onto the land to be enjoyed in its own right in which case it is a chattel. How the two tests interact with each other The purpose of annexation test complements the degree of annexation test: The tests are used as indicators of the objective intention concerning the proprietary status of the relevant item. It is this objective intention that determines whether an item is a fixture or a chattel whether it is part of the land or not. Haley argues that the degree of annexation test is useful both because a complete lack of annexation would be decisive and because the purpose of annexation is sometimes unclear. Criticism of the tests Even in modern times, there can be uncertainty as to whether or not quite common items are chattels or part of the land. The problem lies in finding a satisfactory alternative approach. Objective intention The objective intention is an intention that a third party such as a potential purchaser can determine through a physical inspection. It does not involve any consideration of any dealings entered into by a past or present owner nor does it involve any other kind of inquiry as to subjective intentions or states of mind of the current owner or the person who brought the item onto the land. Before a right or an interest can be admitted into the category of property, or of rights affecting property, it must be definable, identifiable by third parties, capable in its nature of assumption by third parties, and have some degree of permanence or stability. Different answers were given, on their own facts, to the question as to whether or not an air-conditioning unit became part of the land. Elitestone The law in this area was surveyed and clarified in the House of Lords decision in Elitestone Ltd v Morris7. This case concerned a bungalow resting on concrete pillars which were attached to the ground. The bungalow was only attached to the pillars by gravity. The House of Lords confirmed that the search is for the objective intention concerning the item and that this intention is to be discovered in the light of the degree of and purpose of annexation tests.

This invites the approach of asking whether it is real property in its own right. Apart from the considerations which I already mentioned it seems to me that it is proper to have regard to the genus of the alleged chattel. The Recorder at first instance and the judges in the House of Lords were impressed by the fact that a visual inspection that the bungalow was not a temporary structure intended 7 [] 1 W. This impression was confirmed by the fact that you would destroy the bungalow if you tried to remove it. This was a strong indicator that it was not a chattel but that the objective intention was that it should be seen as being part of the land. These tests are applied with a view to determining the objective intention as to whether or not the item in question is part of the land. The outcome has long been expressed through a finding that the item is either a fixture or a chattel. Elitestone suggests that in some cases this terminology is apt to confuse and proposes that it sometimes makes sense to conclude that the item is part and parcel of the land. This is, however, merely a question of the terminology used to express the outcome; it does not affect the fundamental issues at stake. The law is imprecise in a number of ways. First, what is the relationship between the degree and purpose of annexation tests? Second, in practice the tests fail to answer the everyday questions of lawyers and their clients. The problem is that there is no obviously superior legal rule that could be applied. As a result, lawyers will need to be alive to the problem and ensure that it is dealt with contractually.

## Chapter 2 : Holland v Hodgson case | Holland v Hodgson case

*HomeÂ» LandÂ» Holland v Hodgson: Holland v Hodgson: It is a question which must depend on the circumstances of each case, and mainly on two.*

The judgment of the Court Kelly, C. The mortgage deed was not registered as a bill of sale, and Mason, who continued in possession, assigned all his estate and effects to the defendants as trustees for the benefit of his creditors. The defendants under this last deed took possession of everything. The plaintiffs brought trover. The defendants paid money into court, and there was a replication of damages ultra. A case was stated shewing the nature of the articles, and how and in what manner they were affixed to the mill. Since the decision of this Court in Climie v. If a tenant having only a limited interest in the land, and an absolute interest in the fixtures, were to convey not only his limited interest in the land and his right to enjoy the fixtures during the term, so long as they continued a part of the land, but also his power to sever those fixtures and dispose of them absolutely, a very different question would have to be considered. As it does not arise, we decide nothing as to this. We are not to be understood as expressing dissent from what appears to have been the opinion of Wood, V. Shorrock 30, but merely as guarding against being supposed to confirm it. Wood 31 the jury had found as a fact that the articles there in question were tenant fixtures, and that finding was not questioned. Neither the Court of Exchequer nor the Court of Exchequer Chamber had occasion there to consider what would constitute a fixture. In the present case there is no such finding. The controversy was confined to the looms, the nature of which, and the mode of their Page 15 Page 4 annexation, were described in the case. Berry 32, decided to be so annexed as to form part of the land. Judgment was accordingly given for the plaintiffs, without argument, leaving the defendants to question Longbottom v. Berry 33 in a court of error. Berry 34, and was so argued. There is no doubt that the general maxim of the law is, that what is annexed to the land becomes part of the land; but it is very difficult, if not impossible, to say with precision what constitutes an annexation sufficient for this purpose. It is a question which must depend on the circumstances of each case, and mainly on two circumstances, as indicating the intention, viz. When the article in question is no further attached to the land, then by its own weight it is generally to be considered a mere chattel; see Wiltshear v. But even in such a case, if the intention is apparent to make the articles part of the land, they do become part of the land: On the other hand, an article may be very firmly fixed to the land, and yet the circumstances may be such as to shew that it was never intended to be part of the land, and then it does not become part of the land. The anchor of a large ship must be very firmly fixed in the ground in order to bear the strain of the cable, yet no one could suppose that it became part of the land, even though it should chance that the shipowner was also the owner of the fee of the spot where the anchor was dropped. An anchor similarly fixed in the soil for the purpose of bearing the strain of the chain of a suspension bridge would be part of the land. Perhaps the true rule is, that articles not otherwise attached to the land than by their own weight are not to be considered as part of the land, unless the circumstances are such as to shew that they were intended to be part of the land, the onus of shewing that they were so intended lying on those who assert that they have ceased to be chattels, and that, on the contrary, an article which is affixed to the land even slightly is to be considered as part of the land, unless the circumstances are such as to shew that it was intended all along to continue a chattel, the onus lying on those who contend that it is a chattel. This last proposition seems to be in effect the basis of the judgment of the Court of Common Pleas delivered by Maule, J. Waters 37 This, however, only removes the difficulty one step, for it still remains a question in each case whether the circumstances are sufficient to satisfy the onus. In some cases, such as the anchor of the ship or the ordinary instance given of a carpet nailed to the floor of a room, the nature of the thing sufficiently shews it is only fastened as a chattel temporarily, and not affixed permanently as part of the land. In most, if not all, of such cases the reason why the articles are considered fixtures is probably that indicated by Wood, V. Shorrock 38, that the tenant indicates by the mode in which he puts them up that he regards them as attached to the property during his interest in the property. What we have now to decide is as to the application of these rules to looms put up by the owner of the fee in the manner described in the case. It may be inferred that the plaintiff being the tenant only had put up those mules; and

from the large sum for which the distress appears to have been levied l. It does not appear what admissions, if any, were made at the trial, nor whether the Court had or had not by the reservation power to draw inferences of fact, though it seems assumed in the judgment that they had such a power. Field that the decision in Hellawell v. Cameron 41 It is quite true that the Court in that case said that it afforded a true exposition of the law as applicable to the particular facts upon which the judgment proceeded; but the Court expressly guarded their approval by citing from the judgment delivered by Parke, B. Subject to this observation, we think that the passage in the judgment in Hellawell v. Eastwood 42 does state the true principles, though it may be questioned if they were in that case correctly applied to the facts. The Court in their judgment determine what they have just declared to be a question of fact thus: Eastwood 43 thought that articles fixed in a manner very like those in the case before us remained chattels; and this is felt by some of us at least to be a weighty argument. But that case was decided in  Cotterill 44, to consider what articles passed by the conveyance in fee of a farm. Among the articles in dispute was a threshing machine, which is described in the report thus: Eastwood 45 was cited in the argument. The Court without, however, noticing that case decided that the threshing machine, being so annexed to the land, passed by the conveyance. It seems difficult to point out how the threshing machine was more for the improvement of the inheritance of the farm than the present looms were for the improvement of the manufactory; and in Mather v. Fraser 46 Wood, V. This was decided in  And in Walmsley v. Milne 47 the Court of Common Pleas, after having their attention called to a slight misapprehension by Wood, V. Eastwood 48, came to the conclusion, as is stated by them, at p. The bankrupt was the real owner of the premises, subject only to a mortgage which vested the legal title in the mortgagee until the repayment of the money borrowed. As to the steam-engine and boiler, they were necessary for the use of the baths. The hay-cutter was fixed into a building adjoining the stable as an important adjunct to it, and to improve its usefulness as a stable. The malt-mill and grinding-stones were also permanent erections, intended by the owner to add to the value of the premises. They therefore resemble in no particular except being fixed to the building by screws the mules put up by the tenant in Hellawell v. Eastwood 49 It is stated in a note to the report of the case that, on a subsequent day, it was intimated by the Court that Mr. Justice Willes entertained serious doubts as to whether the articles in question were not chattels. The reason of his doubt is not stated, but probably it was from a doubt whether the Exchequer had not, in Hellawell v. Eastwood 50, shewn that they would have thought that the articles were not put up for the purpose of improving the inheritance, and from deference to that authority. The doubt of this learned judge in one view weakens the authority of Walmsley v. Milne 51, but in another view it strengthens it, as it shews that the opinion of the majority, that as a matter of fact the hay-cutter, which was not more firmly fixed than the mules in Hellawell v. Milne 53 was decided in  This case and that of Wiltshear v. Cotterill 54 seem authorities for this principle, that where an article is affixed by the owner of the fee, though only affixed by bolts and screws, it is to be considered as part of the land, at all events where the object of setting up the articles is to enhance the value of the premises to which it is annexed for the purposes to which those premises are applied. The threshing machine in Wiltshear v. Cotterill 55 was affixed by the owner of the fee to the barn as an adjunct to the barn, and to improve its usefulness as a barn, in much the same sense as the hay-cutter in Walmsley v. And it seems difficult to say that the machinery in Mather v. Fraser 57 was not as much affixed to the mill as an adjunct to it and to improve the usefulness of the mill as such, as either the threshing machine or the hay-cutter. If, therefore, the matter were to be decided on principle, without reference to what has since been done on the faith of the decisions, we should be much inclined, notwithstanding the profound respect we feel for everything that was decided by Parke, B. But there is another view of the matter which weighs strongly with us. Eastwood 58 was a decision between landlord and tenant, not so likely to influence those who advance money on mortgage as Mather v. Fraser 59, which was a decision directly between mortgagor and mortgagee. We find that Mather v. Fraser 60, which was decided in , has been acted upon in Boyd v. Berry 62, and in Ireland in Re Dawson 63 These cases are too recent to have been themselves much acted upon, but they shew that Mather v. Fraser 64 has been generally adopted as the ruling case. We cannot, therefore, doubt that much money has, during the last sixteen years, been advanced on the faith of the decision in Mather v. Fraser 65 It is of great importance that the law as to what is the security of a mortgagee should be settled; and without going

so far as to say that a decision only sixteen years old should be upheld, right or wrong, on the principle that communis error facit jus, we feel that it should not be reversed unless we clearly see that it is wrong. As already said, we are rather inclined to think that, if it were res integra we should find the same way. We think, therefore, that the judgment below should be affirmed.

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## Chapter 3 : Fixtures and chattels

*Holland v Hodgson () LR 7CP This case considered the issue of fixtures and chattels and whether or not machinery installed into a property and affixed with nails and bolts to the floor constituted fixtures or chattels.*

A no case submission is made by way of motion on notice brought pursuant to the applicable law and prays the honourable court for leave to enter a no case submission. The leave is granted via a brief ruling and thereafter, the defence says "My Lord, the defence is hereby entering a no case submission, having been granted leave by this honourable court to do same". Under section 1 of the Administration of Criminal Justice Act , it is stated that where the defendant or his legal practitioner makes a no case submission in accordance with the provisions of the Administration of Criminal Justice Act, the court shall call on the prosecutor to reply. The defendant or his legal practitioner has the right to any new point of law raised by the prosecutor, after which the court shall give its ruling: After the last prosecution witness is excused by the court, the prosecution will close its case. Thereafter, the court will consider whether a prima facie case has been made by the prosecution to necessitate the accused person to open his case. If it appears to the court that the prima facie case has not been made out sufficiently, then the defendant cannot be asked to prove his innocence. This results in a discharge: In this regard, section of the Administration of Criminal Justice Act provides that the court may, on its own motion or on application by the defendant after hearing of the evidence for the prosecution, record a finding of not guilty in respect of the defendant without calling on him to enter his defence and the defendant shall accordingly be discharged, where it considers that the evidence against the defendant is not sufficient to justify the continuation of the trial. The discharge will be made, whether the accused is represented by counsel or not. Under section 1 of the Administration of Criminal Justice Act , where the defendant or his legal practitioner makes a no case submission in accordance with the provisions of the Administration of Criminal Justice Act , the court shall call on the prosecutor to reply. Please note that in making a no case submission, there is no requirement that it must be in writing or filed before it can be made. When it is made by the court, it is called a No Case Ruling. It may be made in respect of one count of offence or the entire charge sheet. This is because the court must make a ruling on each count of offence separately: Here, the accused challenges the veracity of the evidence of the prosecution. Upholding a no case submission means that the prosecution has failed to prove or establish a prima facie case against the accused. On the other hand, overruling a no case submission means that the prosecution has successfully established a prima facie case against the accused person. The conditions are as follows: When the prosecution has failed to prove an essential element of the each alleged offence: When the evidence adduced by the Prosecution has been badly discredited during cross-examination refer to the specific portions of the evidence that are unreliable; example, evidence of PW1, etc. When the evidence is so manifestly unreliable that no reasonable Tribunal or Court can safely convict upon it: Please note that the above conditions are not cumulative. Thus, the existence of any or all of the conditions is sufficient. Again, the Administration of Criminal Justice Act , section 3 thereof, provides that in considering the application of the defendant under section for no case submission , the court shall in the exercise of its discretion, have regard to whether: The court must rule separately on each of the count: If upheld, it is for the court to uphold the no case submission. The judgment of the court upholding the no case submission must be detailed like any other court judgment. However, if the court is overruling it, the ruling should be brief; and the court should refrain from expressing an opinion on evidence adduced: The Law is that the court must not fetter its discretion: However, inordinate length of the judgment overruling a no case submission cannot fetter discretion: Indeed, length alone is insufficient to nullify a trial: Lastly, the proof here is not beyond reasonable doubt. In states where the Criminal Procedure Law is applicable- it is a discharge on the merits and the accused will be acquitted. In states where the Criminal Procedure Code Law is applicable - the effect will depend on the court: In other words, a plea of autre fois acquit based on it will necessarily fail. Nature of a Ruling on a No Case Submission When it is Rightly Upheld Where the court upholds the submission of no case to answer, its ruling is a decision on the matter. Therefore, the ruling must be detailed and contain the reason for the decision, just like any other judgment of a court. Nature of a Ruling on a No

Case Submission When it is Rightly Overruled The ruling of a court when it rightly overrules a no case submission is not a decision on the substantive case. The court can give a lengthy ruling if it intends to acquit the accused. However, it is not the length of a ruling per se that determines that a judge has fettered his discretion; rather, it is the contents of the ruling that shows whether the judge has fettered his discretion: Attorney General of Bendel State In this case we had a 15 page ruling. Moreover, the ruling must be confined to the issues raised by the Defence in the submission such as veracity or insufficiency of evidence: The court should refrain from expressing any opinion on the evidence already before it: Excepts and links may be used, provided that full and clear credit is given to Onyekachi Duru Esq and www.

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## Chapter 4 : A Brief Explanation and Evaluation of the Law on Fixtures | Michael Lower - theinnatdunvilla.co

*Hodgson () LR 7 CP The case of Holland v. Hodgson is the locus classicus case on what is a "fixture", which has become part of the land, for the purpose of the applicability of the maxim quic quid plantatur solo solo cedit.*

In Holland v Hodgson , Blackburn J said that whether an object is a fixture or a chattel depends on: Whether the fixture increases the value of the land. The degree and purpose of annexation c. Whether the object can be severed from the realty without causing damage. Whether or not the land has been sold. If the sale has taken place and the object has not been removed, it will automatically become a fixture. In the well known case of Berkley v Poulett , the Court of Appeal had to consider whether a heavy marble statute resting on a plinth in the garden, a sundial resting on its own weight, and pictures fitted into panelling on a wall formed part of land. The decision of the court was: The articles were part of the architectural design and were all fixtures. All of the articles except for the statue were fixtures. All of the articles except for the plinth were chattels. The pictures were fixtures as their removal would cause damage to the realty, but the statute and sundial were fixtures due to their heavy weight. Two recent cases in the higher courts have both regarded as important the test of whether removal of the item would cause substantial damage to the realty. In land law, the concept of "estate" as in S. The length of time for which an individual person actually owns the land b. The length of time for which a right of ownership can possibly last c. The extent of physical ownership of land d. Which of the following statements are accurate? Since there have been only two legal estates, the fee simple absolute in possession and the term of years absolute b. Since there have been only four legal estates, easements; rent charges; mortgages; and rights of entry c. Since legal estates can be recognised in equity only d. Since there have been only two legal interests in land, the rent charge and rights of entry.

## Chapter 5 : Land Law: Definition of Land - Revision Notes in University Law

*Status: Positive or Neutral Judicial Treatment * Holland and Another v Hodgson and Another In the Exchequer Chamber 23 May () L.R. 7 C.P. Kelly, C.B., Blackburn, Mellor and Hannen, JJ., Channell and Cleasby, BB. May 23 Fixturesâ€"Mortgagor and Mortgagee.*

## Chapter 6 : Fixture (property law) - Wikipedia

*View Cases for discussion week 6(1).doc from EF at RMIT Vietnam. Holland v Hodgson () Facts: The owner of a mill purchased some looms (making fabric by weaving yarn or thread) for use in his.*

## Chapter 7 : Legal Implications of the Principle of â€˜No Case Submissionâ€™ under Nigerian Law

*In Holland v Hodgson the object (or purpose) of annexation test, as central to determining whether goods became affixed to land, was crystallised Luther correctly argues this test was actually a novel combination of different tests,48 but its effect was to distinguish between the.*

## Chapter 8 : Holland v Hodgson

*Berkley v Poulett "if an object cannot be removed without serious damage to, or destruction of, some part of the realty the case for it being fixture is a strong one" Lyon and Co v London City and Midland Bank*

## Chapter 9 : Fixtures and the "Purpose of Annexation" Test - ResearchOnline@JCU

*a less irreversible and a more permanently object affixed to land, is more likely to be defined as a fixture and become a part of land, the was clearly outline in Holland v Hodgson (), Held: Blackburn J "Walmsley v Milne was was decided in*