

Taylor v Caldwell [1863] EWHC QB J1

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Facts

- Taylor & Lewis intended to rent out the Surrey Music Hall, which was owned by Caldwell, for a cost of 100 pounds per day.
- They planned to host four extravagant concerts with all kinds of entertainment, such as the most famous opera singer of the time and gun shooting.
- Unfortunately, the Music Hall burned down before the concerts could happen.
- There was nothing in the contract which said what should happen in such an event.
- Taylor & Lewis sued Caldwell for failing to provide the concert hall as promised.

Issue

- Was any defence available to Caldwell in the circumstances?

Held

- In this case, Blackburn J laid the earliest foundations for what would come to be known as the doctrine of impossibility.
- He held that there must be some implied term in the contract that a "*particular specified thing*" (in this case, the Music Hall) would continue to exist for the contract to be carried out.
- Blackburn J stated that the parties must have contracted on this basis, and therefore - in the absence of any express term to the contrary - performance of the contract must be excused.
- This approach was consistent with the civil codes which Blackburn J considered to be influential.
- It was also consistent with the English approach to bailments - for example, where a horse that was loaned to another person died, the parties would be released from the contract (unless the contract specified otherwise).
- Therefore, neither party was expected to carry out their obligations under the contract.

Quote

- "*The principle seems to us to be that, in contracts in which the performance depends on the continued existence of a given person or thing, a condition is implied that the impossibility of performance arising from the perishing of the person or thing shall excuse the performance.*" (Blackburn J)

Full text

- The full text is available here: <https://www.bailii.org/ew/cases/EWHC/QB/1863/J1.html>

Law case summary from www.lawcasesummaries.com