This chapter considers three defences. It begins with a discussion of the principle of contributory negligence. It presents cases showing that the rules for establishing contributory negligence on the part of the claimant are not the same as the rules for establishing liability for negligence on the part of the defendant. It then turns to voluntary assumption of the risk or consent (sometimes referred to as volenti non fit injuria) which provides a complete defence to an action. The defence is based on the view that a person cannot sue if he consents to the risk of damage. Finally, the chapter considers the defence of illegality, which arises when the tortious action is in the context of the claimant’s and/or defendant’s participation in an unlawful act.
9. Defences to negligence

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