Other cases of a similar kind may be found in the books. Thus, in *Turbevil* v. *Stamp*, 1 Salk. 13, it was held that an action lay by one whose corn was burnt by the negligent management of a fire upon his neighbor's ground, although one of the judges did not agree in the decision, upon the ground that it was usual for farmers to burn stubble. In *Lambert* v. *Bessy*, Sir T. Raym. 421, the action was in trespass *quare clausum fregit*. The defendant pleaded that he had land adjoining the plaintiff's close, and upon it a hedge of thorns; that he cut the thorns, and that they *ipso invito* fell upon the plaintiff's land, and the defendant took them off as soon as he could. On demurrer, judgment was given for the plaintiff, on the ground that, though a man do a lawful thing, yet, if any damage thereby befalls another, he shall be answerable if he could have avoided it.

This case was alluded to and approved of by Lord Cranworth in his judgment in the case of *Rylands* v. *Fletcher*, in the House of Lords, L.R., 3 H. L. 330, 17 W. R. H. L. Dig. 17, where he says: "The doctrine is founded on good sense. For when one person, in managing his own affairs, causes, however innocently, damage to another, it is obviously only just that he should be the party to suffer."

It does not appear from the case what evidence was given in the county court to prove either that the defendants knew that yew trees were poisonous to cattle, or that the fact was common knowledge amongst persons who have to do with cattle. As to the defendants' knowledge it would be immaterial, as whether they knew it or not, they must be held responsible for the natural consequences of their own act. It is, however, distinctly found by the judge: "The fact that cattle frequently browse on the leaves and branches of yew trees when within reach, and not unfrequently are poisoned thereby, is generally known," and by this finding, which certainly is in accordance with experience, we are bound.

Several cases were cited during the argument. In two of them, *Lawrence* v. *Jenkins*, 21 W. R. 577, L. R. 8 Q. B. 274, and *Firth* v. *Bowling Iron Company*, 26 W. R. 558, L. R., 3 C. P. D. 254, the liability of the defendant was based upon his duty to fence. These, therefore, as I have already said, throw no light upon the present question. In *Wilson* v. *Newbury*, 20 W. R. 111, L. R., 7 Q. B. 31, which arose upon demurrer to declaration, the court merely decided that an averment that clippings from the defendants' yew tree got upon the plaintiff's land, was insufficient, without showing that they were placed there by or with the knowledge of the defendant. Mr. Justice Mellor, however, in giving judgment, says, after alluding to *Fletcher* v. *Rylands*: "If a person brings on to his land things which have a tendency to escape, and to do mischief, he must take care that they do not get on his neighbor's land."

Another case which was cited during the argument was that of *Erskine* v. *Adeane*, 21 W. R. 802, L. R., 8 Ch. 756, in which the Court of Appeal held that a warranty could not be applied by the lessor of land let for agricultural purposes, that there were no plants likely to be injurious to cattle, such as yew trees growing on the premises demised. This decision obviously rests upon grounds foreign to those by which the present case should be determined. I notice it therefore, only that I may not appear to have overlooked it.

In the result I think that the judgment of the county court was correct, and that it should be affirmed with costs.

Appeal dismissed.

CURRENT EVENTS.

CANADA.

A QUESTION OF PRECEDENCE.—The following letter is published:

DOWNING STREET, 31st Oct., 1878.

SIR,—I have the honor to acknowledge the receipt of the Earl of Dufferin's despatch, No. 193 of the 19th July, on the subject of precedence of the judges of the Supreme Court and of the retired judges of Provincial Courts. I approve of the arrangement made by Lord Dufferin, by which the judges of the Supreme Court take precedence after the Speaker of the Senate, and I am of opinion that as lately decided in the case of New Zealand, and some of the Australian colonies, retired judges of whatever courts should take precedence next after the present judges of their respective courts.

I have the honor, &c.,

(Signed), M. E. HICKS-BEACH.