plaintiff has property." Judgment was given for the defendant. This case then decided, in the language of the headnote, that it was not sufficient to plead that the dog was a "mongrel mastiff, *valde ferox* and not muzzled, and that he *furiose et violenter impetivit et graviter momordit et vulneravit* the plaintiff."

Another old case is *Jenkins* v. *Turner* (1 Ld. Ray. 109). There it was held that if a man keeps an animal after it has within his knowledge done any mischief, if it afterwards does any other mischief, though of a different kind, an action will lie against him. In this case it was argued that if a man keeps a dog which bites a mare, and notwithstanding notice thereof he still keeps the dog, and the dog afterwards bites a man, the owner would not be liable. But the Court held that if the owner of a dog knows that it is mischievous he ought to destroy it, or prevent it doing any more hurt. So that it does not seem necessary to prove that the owner of a dog, which has bitten the plaintiff, knew that the dog had bitten other human beings before. It is sufficient if the owner knew it had a propensity to bite *animalia*, such *animalia* at least as are not *feræ naturæ*, or not such as it is the very nature even of the most well-behaved dogs to bite, *e.g.*, rats, cats, rabbits, etc.

A question arises, must there be proved, in addition to *scienter* of the defendant, negligence on his part in allowing the animal to escape and do damage? This seems to be settled in the negative by *May* v. *Burdett* (9 Q. B. 301). Lord Denman there said: "A person keeping a mischievous animal, with knowledge of its propensities, is bound to keep it secure at his peril, and if it does mischief, *negligence* is *presumed* without express averment. The negligence is in keeping such an animal after notice. As was said by counsel for the plaintiff, 'The *scienter*, not negligence in keeping, constitutes the tort.' And Comyns observes, 'It is sufficient to plead, *Canem ad mordendum consuetum scienter retinuit.*'"

As to what amounts to proof of the knowledge by the owner of the mischievous propensities of the animal he keeps, there have been several cases. Thus a report that a dog had been before bitten by a mad dog is evidence that the owner knew the dog to be mischievous. (*Jones* v. *Perry*, 2 Esp. 482.) It is sufficient to prove that the owner had warned people to beware of the dog, lest they should be bitten. (*Judge* v. *Cox*, 1 Stark 285.) And where a bull gored a man who was wearing a red neckerchief, it was held sufficient evidence of the bull-owner's *scienter* of the bull's disposition that he had stated that he knew the bull would run at anything red. (*Hudson* v. *Roberts*, 6 Ex. 679.) But it is not sufficient merely to show that the dog was of a bad disposition and was usually kept chained up (*Beck* v. *Dyson*), nor that the dog had once bitten cattle. (*Thomas* v. *Morgan*, 2 C. M. & R. 496). And the fact that the defendant had offered to compensate a man bitten by his dog, is only very slight evidence that he has a guilty conscience, and knew the dog was savage. (*Thomas* v. *Morgan*, and see *Beck* v. *Dyson*.) The dog may be brought into Court so that the jury may judge for themselves of its temper and disposition. (*Line* v. *Taylor*, 3 F. & F. 731.)

As a general rule the knowledge of a servant of the owner of the dog that it is savage is knowledge on the part of the owner himself, if the servant were appointed to keep the dog. (*Baldwin* v. *Castle*, L. R. 7 Ex. 325.) But in other cases it must