

*See Portland v. M. O. Mills (1894) 29 W. 281*

animal may be liable in *trespass* for any injury which it may cause to animals on the adjoining lands, as in the case of an injury inflicted by a horse through a wire fence"—but this (citing *Lee v. Riley*, 18 C.B.N.S. 722; *Ellis v. Loftus Iron Co.*, L.R. 10 C.P. 10) relates not to injuries inflicted by a wire fence, but by a horse kicking through it, and injuring animals on the adjoining land. Neither have the cases about man-traps, spring-guns, and similar dangerous instrumentalities used for the protection of property (fully discussed in 17 Ir.L.T. 379, 393, 407), any very influential bearing on this particular branch of the subject; and though *Crouchurst v. Amersham Burial Board* (4 Ex. D. 5) is often cited with reference to barbed-wire fences, it will be found on examination to turn upon grounds inapplicable to the question as to the right to maintain such fences. Nor yet was *Firth's case* (*ubi supra*) a case affecting the peculiar position occupied by such a dangerous instrumentality; but it goes some way, holding, so far as it is not determined by its special facts—the death of an animal caused by swallowing fragments of rusted iron dropping from a fence which the defendants were bound to maintain—that, where an obligation exists to fence, the fencing must be done in such a way as not to cause injury, not only while the fence is efficient, but from the natural effects of decay (and see *Hawken v. Shearer*, 56 L.J.Q.B. 284, treated of in 21 Ir.L.T. 319).

It must be taken, therefore, that for anything like direct authority on the subject of liability for injuries caused by barbed-wire fences, recourse must be had solely to County Court cases so far as regards England and Ireland. It is an instrumentality becoming extensively used of late, frequently in a most indiscriminate and dangerous way, and the daily press in this city has recently teemed with angry protests against its employment. One writer has collected some of those County Court cases (see *ante*, p. 126), which, by the way, were not mentioned in *M'Quillan's case*, which case he himself omits to cite; but, as regards the Cardiff case mentioned by him, it does not appear that there is any proper report of it extant—it came after *Bennett v. Blackmore* (*ubi supra*), and seems to have been on all fours with *Bird v. Frost*. Now, *Bird v. Frost* was the first of the series, and the *Justice of the Peace*, of the 12th inst., says it was a case tried by the Manchester County Court in December, 1889, by Deputy-judge Goldsthorpe, "in which it was decided that the defendant, who was the occupier of land adjoining a public footpath fenced from off his land by barbed wire, was liable for damage done to the plaintiff's clothes by coming into contact with the barbs whilst he was making way for other passengers coming along the path. The only point distinguishing this case from the Scotch case"—*Elgin Road Trustees v. Innes*, where the fence was only three feet distant—"was that the barbed wire was set back nine feet from the path on the defendant's land. If, however, the learned judge found that even so the wire constituted a danger to persons lawfully using the path, it would be indistinguishable in point of principle. No proper report, however, of this case is to be found." The next case was *Bennett v. Blackmore* (*ubi supra*), after which came *Wilcox v. Cardiff Corporation*, already alluded to. And after stating the effect of the decision in the subsequent Irish case of *M'Quillan v. Crommellin Iron Ore Co.* (26 Ir.L.T. Rep. 15)—which has