

purpose of a fence is to prevent animals from straying on to the neighbour's land. *Sic utere tuo ut alienum non leadas* is the governing maxim. Lord Blackburn, when a judge of first instance, in the well-known case of *Fletcher v. Rylands* (1866, L. Rep. 1 Ex. 265, at p. 279), laid down the general proposition with great lucidity. "The person who for his own purposes," said his Lordship, "brings on his lands and collects and keeps there anything likely to do mischief if it escapes, must keep it in at his own peril, and, if he does not do so, is *primâ facie* answerable for all the damage which is the natural consequence of its escape. The person whose grass or corn is eaten down by the escaping cattle of his neighbour is damnified without any fault of his own; and it seems but reasonable and just that his neighbour, who has brought something on his own property which was not naturally there, harmless to others so long as it is confined to his own property, but which he knows to be mischievous if it gets on his neighbour's, should be obliged to make good the damage which ensues if he does not succeed in confining it to his own property."

In the last-mentioned case it was a question of confining water and not cattle, but the point is precisely the same. If a man has cattle on his land, and, of course, the rule applies to all kind of animals, he must keep them from wandering on to his neighbour's land, and, if he fails in this duty, he is liable for the consequences. To prevent this straying, he sees to it that his fences are in proper condition. This, indeed, is what is usually meant by the expression of "fencing obligations." But, as we have pointed out, there is ordinarily one fence between the adjoining lands. This brings us to the question of the ownership of fences.

The reader is, no doubt, familiar with what is said to be a presumption as to the ownership of a fence. It is often laid down that, where the ownership of a fence is in doubt, it is to be presumed that the fence is owned by the neighbour on the opposite side of the ditch. Needless to say, this rule only can apply where there is both a fence and ditch. In the country it is rare to come across a fence without a ditch at its side. But as often as not there is a ditch on both sides. However, let us take the simple case of a bank and hedge on the top of it between