

bear and seriously injured. The bear was proved to be always tame and docile in its habits. But judgment was given for the plaintiff on the ground that he who keeps an animal of a fierce nature is bound so to keep it that it shall not commit an injury, and when such an animal does damage, the owner is liable, though it be shown it never had evinced any fierceness. Crowder, J., said, "Everybody must know that such animals as lions and bears are of a savage nature. For though such nature may sleep for a time, this case shows that it may wake up at any time." It was held, however, that evidence of the bear's gentle disposition was admissible in reduction of damages.

As to monkeys: One of the earliest cases on the subject is, perhaps, *Andrew Baker's case*, alluded to by Hale, where the owner of a monkey, which got loose, was held liable for injuries inflicted by it on a child. Hale himself says (1 P.C. 430): "If the beast which does the damage is *feræ naturæ*, as a lion, a bear, a wolf—yea, an ape or a monkey—if he get loose and do harm to any person, the owner is liable, though he have no particular notice that he did any such thing before; and in case of such a wild beast, or in case of a bull or cow, that doth damage where the owner knows of it, he must at his peril keep him up safe from doing hurt; for though he use diligence to keep him up, if he escape and do harm the owner is liable to answer in damages." And in the leading case of *May v. Burdett*, another monkey case, the owner was held liable, for Denman, C.J., said, "Whoever keeps an animal accustomed to attack and bite mankind, with knowledge that it is so accustomed, is *prima facie* liable to any person attacked and injured by the animal, without any averment of negligence or default in securing or taking care of it." "The gist of the action is the keeping of the animal after knowledge of its mischievous propensities."

Elephants formed the subject of the case previously mentioned, *Filburn v. People's Palace Co.* There, an elephant which was being exhibited, got loose, and attacked the plaintiff. The Court of Appeal held that an elephant came under the first class, and was kept at the owner's risk. Lord Esher said: "It is clear elephants cannot come under the division of animals not dangerous anywhere. Nor can it be said that elephants have through a long series of years been born and tamed in this country, that their progeny has been recognized in England as not dangerous. Therefore the race is not brought within the second class above mentioned. Accordingly elephants fall within the first class, and whoever keeps an elephant must do so at his peril, and must prevent it from doing any injury; and his knowledge of the dangerous or mischievous character of the particular elephant that he keeps is immaterial. The cases of animals falling within the second class have mostly to do with dogs; but we have one or two other cases in which the injuries were effected by other animals. With reference to this second class, the owner is not liable unless he can be fixed with knowledge that the particular animal which did the injury was of a savage disposition."

*Jackson v. Smithson* (15 M. & W. 563), was a case heard in 1846. There a ram ran at and butted the plaintiff, and it was held he could recover without showing that the defendant negligently kept the ram so long as *scienter* was averred. Platt, B., said, "No doubt a man has a right to keep an animal which is *feræ naturæ*,