Gardiner v Miller

Case Report: 1967 SLT 29

The facts: This case concerns liability for the escape of animals onto the public highway. The claimant was a motorist who was injured when his car collided with a horse that had escaped from an adjoining field. The horse had escaped through a gate that had not been properly secured with a rope.

Decision: The court held that although there was no absolute duty on the field occupier to keep the gate shut, the issue to be decided at a full hearing of the evidence was whether reasonable care had been taken in securing the gate so as to prevent animals straying onto the public road, with a foreseeable risk of causing damage to people using the road.

Comment: Whether an occupier is liable depends on the particular facts of the case. For example, he might not be liable if a horse escaped because an unauthorised person opened a gate. For a similar case, see Wormold v H J Walker & Co, a decision in the Outer House dated 30 December 2003