

the expense he had been put to in consequence, and was held entitled to recover, but there was privity of contract between the plaintiff and defendant, and the only question was whether there was an implied warranty of fitness; but according to *George v. Skivington* the wife herself would also have had a cause of action. The cases of *Heaven v. Pender*, *Langridge v. Levy* and *George v. Skivington* have been relied on as establishing the principal enunciated by Brett, M.R., but without success, and the Courts have shewn an intention of restricting rather than extending the principle of those cases. Thus in *Caledonia Railway Company v. Mulholland* (1898) A.C. 216, the plaintiff's husband was a servant of the Glasgow Railway, and was killed owing to a defective brake on a waggon belonging to the Caledonian Railway, which had been lent by that company to the Glasgow Railway. The plaintiff sued the Caledonian Railway, and *Heaven v. Pender* was relied on, but the House of Lords held that the plaintiff was not entitled to succeed because the Caledonian Railway owed her husband no duty: and so far as regards misrepresentation, acted on by third parties they have definitely held that unless such misrepresentation can be shewn to have been made fraudulently and with an evil mind the third party has no right of action: *Peek v. Derry*, 14 App.Cas. 337; *Le Liever v. Gould* (1893) 1 Q.B. 491; *Low v. Bouverie* (1891) 3 Ch. 82. The cases on this subject up to the year 1900 have already been very fully discussed in this journal by Mr. Labatt (see vol. 36, p. 178), and it would be useless to reiterate what was there said. The matter is one, however, of perennial interest, and is again brought to our attention by the very recent case of *Earl v. Lubbock*, 91 L.T. 73. In that case the defendant was under contract with Beaufoy & Co. to keep in good and substantial repair certain vans. One of the vans was repaired by defendant, but owing to the negligence of one of his workmen, it was not efficiently repaired, and one of the wheels came off and the plaintiff, a servant of Beaufoy & Co., who was driving the van at the time, was injured. If negligence constituted a good ground of action, as was held in *George v. Skivington*, supra, then one would think the plaintiff had a good case, but the very point in question had in fact been determined adversely to the plaintiff in *Winterbottom v. Wright*, 10 M. & W. 109; there the Postmaster-General had made a contract with the defendant to repair certain mail coaches; in making repairs to one of the coaches he was guilty of