otherwise than safe and fit for the purposes for which it was used. The furthest that the plaintiff or any of his witnesses would go was to say that they had not seen any inspection of the chain.

At the close of the plaintiff's case, the defendants moved for a nonsuit, and I reserved judgment thereon and directed the case to proceed so as to obtain the jury's findings. The defendants called no evidence, and questions were then submitted to the jury. They assessed the plaintiff's damages at $300, "clear Court expenses," but failed to agree upon an answer to the main question, whether the occurrence happened as the result of negligence or through accident.

In answer to the motion for a nonsuit, it was contended for the plaintiff that the breaking of the chain was of itself sufficient primâ facie evidence of negligence to call upon the defendants for an explanation—relying on Corner v. Byrd (1886), M.L.R. 2 Q.B. 262. A perusal of the reasons for the judgment of the Justices who in that case sustained the judgment of the trial Judge in favour of the plaintiff, shews that their findings did not rest solely on the mere breaking of the hawser; the Chief Justice saying that the defendant was liable because the accident could have been prevented by care on his part; and another Justice holding that the defendant was liable because he had not made use of another means (the employment of a tug) to avoid the happening.

A decision more in line with the present case is that of Hanson v. Lancashire and Yorkshire R.W. Co. (1872), 20 W.R. 297, where, on appeal, the opinion was expressed that the mere fact of a chain breaking was not even primâ facie evidence of negligence.

In the 8th edition of his work on the Employers' Liability Act and the Workmen's Compensation Act, Mr. Ruegg, at p. 223, expresses the view, which seems reasonable, that the mere breaking of chains, ropes, planks, ladders, or other things meant to support or carry weight, is not primâ facie evidence of negligence.

Here, where there is no evidence whatever, apart from the mere breaking, that the chain was or appeared to be or was known to be weak or otherwise defective or insufficient or unfit for the purpose for which it was used, there is not that additional evidence of defect in condition or of any negligence by the defendants which would so far support the plaintiff's contention as to justify the case being submitted to the jury.

In that view, the action should be dismissed with costs.