

from the defendant's ship, the defendant agreeing to supply the necessary tackle reasonably fit for the purpose. In breach of his agreement the defendant supplied a defective chain, which broke and caused an injury to the plaintiffs' servant. This servant sued the plaintiffs under the Employers' Liability Act (see 55 Vict., c. 30, O.), basing his claim on the ground that the defect in the chain might, with reasonable care, have been discovered by the plaintiffs; and the plaintiffs settled the claim by paying £125. This sum the plaintiffs now sought to recover from the defendant. It was not pretended that the settlement with the plaintiffs' servant was not a proper one, but it was contended by the defendant that the damages claimed were too remote, as the damage to the workman was not the necessary consequence of the defendant's breach of warranty, but for the intervening negligence of the plaintiffs; but the Court of Appeal (Lord Esher, M.R., and Kay and Rigby, L.JJ.) declare that although as between the plaintiffs and their servant, they were bound to examine the chain and see that it was fit for the purpose, yet as between the plaintiffs and defendant, there was no such obligation; and inasmuch as under *Heaven v. Pender*, 11 Q.B.D. 503, the servant might have sued and recovered the amount direct from the defendant, so where, as here, it had been paid him by the plaintiffs, it constituted the proper measure of damages as between the plaintiffs and defendant, and such damages were not too remote, but were the natural result of the defendant's breach of warranty.

SHERIFF—EXECUTION—FI. FA.—BREAKING OUTER DOOR—BUILDING NOT A DWELLING HOUSE.

In *Hodder v. Williams* (1895) 2 Q.B. 663, 14 R., Dec. 133, a somewhat bold attempt was made to induce the Court of Appeal (Lord Esher, M.R., Lopes and Kay, L.JJ.) to overrule the case of *Penton v. Browne*, 1 Sid. 186; 1 Keb. 698. In that case it had been laid down about 200 years ago that in the execution of a *fi. fa.* it was lawful for a sheriff to break open the outer door of any building not a dwelling house. This had been repeatedly recognized as law by several Judges and text-writers, and the Court of Appeal refused to depart from it.