

[POLLOCK, C. B.—The bailiff and the landlord are but one person; the sheriff and the creditor are two.] The sheriff can only levy his expenses by statute; and the right is given for the benefit of the creditor, not the sheriff, so that the cases are not analogous.

POOLLOCK, C. B.—We are all of opinion that there ought to be no rule in this case. The question arises thus; The landlord gave his bailiff an authority to distrain. The bailiff does so, and takes the horses and waggons. Before more is done he receives notice from the landlord that the rent is paid. After that it is clear that he had no authority to sell, and therefore the defendant has no title.

MARTIN, B.—I am of the same opinion.

BRAMWELL, B.—I am of the same opinion. The bailiff had no right to sell, for his authority was withdrawn. As to the case of *Alechin v. Wells*, Mr. Matthew's argument is, first, that the sheriff has a right to sell under these circumstances; and secondly, that the case of a bailiff is analogous. But *Alechin v. Wells* fails to establish the first of these positions. It only decides that the Court would not actively interfere against the sheriff by ruling him to return the writ: not that he was not a trespasser, or had any right to sell. And I think it clear that he had none. But, at any rate, a bailiff is a mere agent for a principal, and must look to his principal for his remuneration. It would be absurd, when the landlord may distrain in person, if his employing a bailiff should make any difference. The defendant therefore, has no title.

PIGOTT, B.—I was clearly of opinion at the trial that the bailiff had no right to sell; and I think so still.

Rule refused.

#### CHAPMAN V. GWYTHEE.

*Warranty—Sale of a horse.*

A horse was sold on a warranty in the following terms:—  
"C. bought of G. a brown horse, six years old, warranted sound, for the sum of £180, also a bay horse five years old for the sum of £90, warranted sound,  
"Warranted sound for one month. "Signed, G."  
The bay horse showed no signs of disease during the month after the date of the warranty, but subsequently a latent disease developed itself.

*Held*, that the warranty was only to continue in force for one month, and that no complaint having been made within the month there was no breach of the warranty.

The vendor paid vendor for the horse in question by a cheque to order endorsed as follows:—"This cheque is received by me for a brown gelding, price £180, also a bay gelding price £90, both of which animals I warrant sound for one month from date of delivery."

The vendor endorsed the cheque, but his signature was not under the warranty.

*Held*, that the endorsement on the cheque by the vendor was not a signature of the warranty endorsed thereon.

[Q. B., May 5.]

This case was tried before Blackburn, J., at Swansea Spring Assizes—verdict for plaintiff.

This was a rule to show cause why the verdict should not be set aside, and a *non-suit* entered on the ground that on the true construction of the contract of the warranty there was no evidence to show any breach of contract.

*Hawkins, Q. C., H. Matthews and J. Macrae Moir* now showed cause. They cited *Bywater v. Richardson*, 1 A. & E 508; *Mesnard v. Aldridge*, 3 Esp. 271; *Buchanan v. Parnshaw*, 2 T. R. 745.

*Giffard, Q. C., and B. T. Williams*, in support of rule.

BLACKBURN, J.—This rule must be made absolute. We are all agreed which of the two writings was the contract. The indorsement of the cheque is only evidence of the original bargain, but the original contract of June 5 being produced we go by that. The real question raised is as to the meaning of the words "warranted sound for one month." Is the meaning that the horse was warranted sound and warranted to continue so for one month, which would be a very unlikely contract to make; or that "one month" is a qualification of the warranty. We are of opinion that the meaning is that the warranty was only to continue\* for one month, and that if no complaint was made in the one month there was no breach of the warranty. Warranted for one month means one month is the time during which complaints can be made.

MELLOR, J.—I am of the same opinion. At first I thought that the warranty was not sufficiently limited, but we must not take the words in the abstract, but as they are used in those transactions. The true interpretation of them is, that you shall have a month's time—I do not intend unlimited time for you to make complaint.

LUSH, J.—I am of the same opinion. The intention of the defendant was not to extend, but to limit, the time. If he had written merely "warranted sound," then damages might have been claimed at any time. This warranty means, if there is any dispute about this horse, it must be determined in a short time. It is a compendious way of putting it, but a class expression. That being the intention, are the words sufficient to express it? To the words "warranted sound for one month," we must supply other words—viz., "The warranty shall only continue in force for one month." The endorsement on the cheque has no effect.

Rule absolute.

#### 'CORRESPONDENCE.

*Assessment—Appeal—Costs of serving notices—Bailiff of Division Court—Mileage—Several warrants of attachment—Bailiffs' duties.*

TO THE EDITORS OF THE LOCAL COURTS GAZETTE.

GENTLEMEN,—In case a municipal elector feels himself aggrieved on account of some errors or omissions in the assessment roll, when returned by the assessors, and gives notice to the township clerk of his intention to appeal to the Court of Revision from such assessment, in order that he may have it corrected; and the clerk causes a notice (in the usual form) of such appeal to be served upon the parties appealed against, by hiring some person to serve such notices. Who is liable for the payment for serving such notices, is it the appellant, the municipal corporation, or is it the duty of the clerk to do it himself or to pay the person he may engage to make the