

An appeal by the plaintiffs from a judgment of the Court of Appeal for Ontario, reported 20 O. W. R. 13.

The appeal to the Judicial Committee of the Privy Council was heard by the EARL OF HALSBURY, LORD MACNAGHTEN, LORD ATKINSON, LORD SHAW, of Dumfermline, and SIR CHARLES FITZPATRICK.

Wm. Laidlaw, K.C., and Hon. Wallace Nesbitt, K.C., for the appellants.

Sir Robt. Finlay and Lawrence, K.C., for the respondent.

Their Lordships' judgment was delivered by

LORD SHAW:—This appeal arises out of interpleader issues. As put in the question for trial, the issue was whether certain goods and chattels consisting of saw-logs seized in execution by the sheriff of the district of Nipissing in the province of Ontario, under the writs of *fiery facias* after mentioned, "for the having in execution of the judgments" upon which the writs were issued, "were at the time of the seizure by the said sheriff exigible under the said execution of the said execution creditors as against the said claimants The Temiskaming Lumber Company Limited."

The execution creditors were the appellants, Allan McPherson and William Booth. Executions had been issued upon judgments recovered by these appellants respectively, the judgments being for the amounts of debts due by A. McGuire and Company, who were or had been lessees or licensees of certain timber lands in the district of Nipissing, in the province of Ontario. The writs dealt with by the trial Judge were three in number and were duly received by the sheriff as follows, namely: (1) at the instance of McPherson, received on the 2nd December, 1909, this being for the sum of \$3,961; (2) and (3), at the instance of Booth, received on the 26th February, 1910, for \$729 and \$317, respectively. These two latter appear to have been repetitions of previous executions for the same amounts received by the sheriff on the 16th June, 1909.

The material circumstances of the case so far as the McGuires are concerned, are as follows: Annie McGuire, wife of Cornelius McGuire, obtained a timber license in ordinary form from the Government of Ontario of certain parcels of land in the townships of Bryce and Beauchamp, on the 11th January, 1907. The license was subsequently renewed until