INFRINGEMENT OF PATENTS.

An important case on this point was recently decided by the Court of Queen's Bench in *Bonathan* v. *The Bowmanville Furniture Manufacturing Company.*

The plaintiff obtained a patent for a new and useful improvement on machines for bending wood for making chairs, and other purposes, and sued the defendants for infringement of it.

By the old process the wood to be bent for the back of a chair was placed on an iron strap, one end resting against a fixed shoulder upon the strap, the other confined by a movable shoulder which was tightened against the end of the wood by a wedge, in order to give the end pressure required to prevent the wood from breaking or splintering in bending. In the plaintiff's machine a screw was used in place of the wedge, and by it, but not by the wedge, the pressure could conveniently be regulated and adjusted during the bending. With the wedge, too, only a single curve or semi-circle for the back of the chair could be accomplished, while by the plaintiff's machine the two ends of the back piece could be bent down, so as to connect with the seat or body of the chair as side pieces. This also was effected by end pressure with the screw; and the side piece and back were thus formed out of one piece by continuous pressure, instead of from separate pieces.

It appeared that a machine had been used for many years in the United States which performed the same work as the plaintiff's, but it was too expensive. The plaintiff had been employed in defendants' factory in bending for about three months, and was asked by the foreman "to study up an invention or apparatus for bending chair stuff." He discovered the invention that same night, about the first of May, and next morning explained it at the factory. The machine was constructed there, defendants supplying the materials and the blacksmith's and carpenter's work, and was used there for chairs until about the 14th of July, when the plaintiff applied for a patent, many persons in defendants' employment being aware of its construction and operation. It appeared, also, that other persons in the factory as well as the plaintiff had been employed in trying to devise such an apparatus, and that when this was found successful the manager said he would patent it for the factory, to which the plaintiff did not then object. The plaintiff never informed defendants of his application for the patent, which issued in October following.

The Court held that there had been a public user of the invention with the plaintiff's consent and allowance before he applied for the patent, so as to destroy his claim to it.

They also decided that the plaintiff having been employed by the defendants expressly to make or improve the machine, could not claim to be the inventor as against them.

It would seem also that the use of the screw to produce the end pressure could not be the subject of a patent, though the construction of the side and back in one piece might be.

SELECTIONS.

THE JUDGMENTS OF VICE-CHANCELLOR MALINS.

If a Judge is disposed to take eccentric views of law and fact, and to decide in a way which courts of appeal find it impossible to approve, it is hard to conceive any remedy for the evil. In this respect experience does not always teach, and we believe there are not many Judges who take reversals of their decrees by our courts of appeal much to heart.

We are certain that no court of common law would regard as a matter of the least importance the fact that the Exchequer Chamber failed to take the same view as itself, and we quite understand that Vice-Chancellor Malins does not feel himself in any way prejudiced by the circumstance that Lord Hatherley comes to diametrically opposite conclusions on similar statements of fact, and in the construction of the same Act of Parliament.

It is somewhat an invidious task to discuss who is right in this conflict, and we shall perhaps be excused if we simply place the divergence of judicial opinion on record. The most recent instance in which it occurs, is in the case of *Turner* v. *Collins*, decided by Lord Hatherley on the 22nd instant. A voluntary settlement had been made by a son in favour of his father, which the son sought to set aside on the following grounds:—That the plaintiff was a young man, and was ignorant of the nature of the instruments he was induced to execute; that no proper explanation of the effect of what he was doing was given to him; that his interest throughout the transaction was not regarded, and that there had been an entire absence of that independent legal advice and protection which would justify the court in sustaining this voluntary settlement by which plaintiff had given up a large portion of his fortune. In an elaborate judgment, delivered on the 8th July last, Vice-Chancellor Malins came to the conclusion that the litigation was altogether unjustifiable, inasmuch as the deeds in question dated in 1855 simply