under the execution; but the mere notice by the collector is not to have this effect.

In the case of landlords, under the 8 Anne, cap. 14, the provision is very different: it is, that "no goods on any land leased for life, &c., shall be liable to be taken by virtue of an execution on any pretence whatsoever, unless the party at whose suit the execution is sued out shall, before the removal of the goods from the premises by virtue of the execution, pay to the landlord all such sums as are due for rent for the premises at the time of taking such goods by virtue of the execution, provided the arrears do not exceed one year's rent, &c."

In the absence of a *distress* by the collector, I must, even if the return were sufficient in other respects, direct the sheriff to return and account to the execution creditor for the $50 produced by the sale of the goods.

Rule absolute.

CHANCERY REPORTS.

(*Reported by* ALEX. GRANT, Esq., *Reporter to the Court.*)

POWELL v. BEGLEY.

Injunction—Patent right—Chair back pump.

The simplicity of an invention is no reason why a patent in respect thereof should not be protected; where, therefore, by a simple contrivance of cutting away a portion of the log out of which a pump was to be manufactured, thus giving it the form of a chair; and by the introduction into the tube of a conical tube through which the piston worked, the plaintiff had been enabled to construct a force-pump made of wood, for which he had procured a patent of invention, the court restrained the infringement of the patent.

[13 U. C. Chan. Rep. 38.]

This cause came on for the examination of witnesses and hearing before the Chancellor at the sittings of the Court at Toronto, in the spring of 1867.

Bell, Q C., and *Tilt*, for the plaintiff.

C. S. Patterson and *J. C. Hamilton*, for the defendant.

Miller v. *Scott*, 6 U. C. Q. B. 205; *Smith* v. *Ball*, 21 U. C. Q. B. 122; *Tetley* v. *Easton*, 2 E. & B. 956; *Emery* v. *Iredale*, 11 U. C. C. P. at page 117; *Newton* v. *Grand Junction Railway Co.*, 5 Exch. 331: *Harwood* v. *The Great Northern Railway Co.*, 12 L. T. N. S. 771; *Thompson* v. *James*, 32 Beav. 570; *Lister* v. *Leather*, 8 Ellis & B. 1004, 1023, 1033; *Merrill* v. *Cousins*, 26 U. C. Q. B. 49; *McCormack* v. *Gray*, 7 H. & N. 25; *Ormson* v. *Clarke*, 14 C. B. N. S. 475; *Horton* v. *McMahon*, 16 C. B. N. S. 141; *The Patent Bottle Envelope Co.* v. *Seymer*, 5 C. B. N. S. 164; *Booth* v. *Kennard*, 3 Jur. N. S. 21, were referred to.

VANKOUGHNET, C.—I think the novelty introduced by the plaintiff into the use of, and construction for that use, of wood as a force pump, is entitled to the protection of a patent. It is established that the old wooden log lift-pump has been in use for upwards of thirty years; and though force-pumps are as old, probably, as hills and valleys, it appears never to have occurred to any one to adapt a wooden pump to such a purpose until some three years ago, when the plaintiff so applied it by a contrivance simple enough in itself, but not, on that account, the less ingenious or the less worthy of merit. The frame of the ordinary lift-pump in use previously and since was formed by excavating and boring through a log of pine wood. Through this hollow the piston was inserted, and it was worked by a handle on the outside of the frame. In this way the purposes of a lift-pump were accomplished. But in a frame so constituted the means for providing a force-pump were wanting, and impossible, as it proved. To obviate this difficulty, instead of permitting the frame to retain its square or circular form, the plaintiff's ingenuity suggested the cutting away about two-thirds of the face of the solid log of wood for about two-thirds of its length, leaving the bottom or lower extremity of the log, say its one-third part, solid. The log thus presented the shape of a rude chair, in itself no novelty, for such forms of chairs were not uncommon in olden times and may be seen now. This shape, however, has given to the pump which the plaintiff has continued to use through the medium of this frame, the name of "Chair-backed Pump." Now, on the chair-back the piston, worked on the side by a handle, is fastened, and about mid-way down it is divided by a hinge and the lower length passes through an iron belt or groove, so that it descends perpendicularly on to the box or solid part of the log below, or what may be called the seat of the chair, and into an orifice in this seat passing down it through a conical packing box of iron inserted in the seat. This packing-box is of an unusual shape, being conical and inserted in the log seat from below and forced up through the tube cut therein till it reaches nearly the top; being of larger circumference at the bottom than at the top, which gives it its conical shape. By this shape, as well as by an iron band inserted in the top of the upper part of this log-seat at a distance of about half an inch from the outer edge of the ring through which the piston passes, whereby the wood forming the ring is held firm and tight in its place, the position of the pack-box is secured, and there is no chance of its becoming loose or being forced upwards, unless the chair or log which holds it gives way. Well, by this contrivance of sending the piston down into the tube of this otherwise solid portion of the pump frame or body, through the packing-box so tightly closed as to exclude all air, the power of forcing up water is obtained. It is clear, and is admitted that this could not be effected in the old enclosed pump or chamber, because it would be necessary to remove the facing of it to secure a perpendicular descent of the piston and to prepare the lower part of it for the reception of the piston, and for the packing-box. Now, to whom did this notion, this new idea of so preparing the pump-body or frame as to serve the purposes of or furnish the means for employing a force-pump occur, but to the plaintiff? It is clear that he, by this alteration, converted the old wooden lift-pump into a shape which enables the forcing power to be used in and by it. During the many long years the wooden-pump has been used, this idea does not suggest itself to any one, but to the plaintiff; and it seems to me that it has that merit of invention which falls within the language of the Lord Chancellor in *Penn* v. *Bibby*, Law Rep. 2 Ch. App. 127. His lordship there after speaking of the difficulty of laying down any rule in such matters, says: In every case of this description one main consideration seems to be, whether the new application lies so much out