compulsion of legal process," and that when a protest is relied upon, nothing very formal is requisite: Page 548. He also quotes approvingly the rule laid down by the Supreme Court of the United States in *Erskine* v. *Van Arsdale, supra.*

Such is the rule in an action against the officer or agent to whom the money was paid in the first instance. Certainly no stronger rule prevails in favor of the principal after the money has been paid over by such officer or agent. Indeed, there are authorities to the effect that the rule is more favorable to the plaintiff in the latter case, than when the action is against the officer or agent. This distinction is mentioned in *Atwell* v. *Zeluff*, 26 Mich. 118. We need not discuss this distinction. We prefer to consider this case on the theory that to entitle the plaintiff to recover against the county he must make as strong a case as he would be required to make were his action against the sheriff. *Atwell* v. *Zeluff*, is an instructive case on the general question of what are and what are not voluntary payments. The rule is there stated as follows: "Where an officer demands a sum of money under a warrant directing him to enforce it, the party of whom he demands it may fairly assume that if he seeks to act under the process at all he will make it effectual. The demand itself is equivalent to a service of the writ on the person. Any payment is to be regarded as involuntary which is made under a claim involving the use of force, as an alternative, as the party of whom it is demanded cannot be compelled or expected to await actual force, and cannot be held to expect that an officer will desist after once making demand. The exhibition of a warrant directing forcible proceedings,, and the receipt of money thereon, will be in such case equivalent to actual compulsion." We do not say that we would assent to that rule as broadly as there stated. Perhaps a protest, at least, should be required, especially if the action be brought against the officer or agent after he has paid over to his principal the money illegally collected. The opinion in the Michigan case recognizes the hardship of the rule, and suggests a modification of it by the Legislature.

But whether the rule of the Michigan case is or is not correct, we think it must be held, on principle and authority, that the payment of a demand, under compulsion of legal process, such payment being accompanied by a protest that the demand is illegal, and that the payer intends to take measures to recover back the money paid, is not a voluntary payment. And, further, to constitute compulsion of legal process it is not essential that the officer has seized, or is immediately about to seize, the property of the payer by virtue of his process. It is sufficient if the officer demands payment by virtue thereof, and manifests an intention to enforce collection by seizure and sale of the payer's property at any time. On the general question we are considering, numerous authorities are cited in Cooley on Taxation, in the notes on pages 568-571. The case of *Powell* v. *Sup'rs of St. Croix Co.* 46 Wis. 210, is an illustration of what constitutes a voluntary payment. It follows from the views above expressed, that when the learned circuit judge instructed the jury that unless when the tax was paid the sheriff had the present intention and purpose to seize the plaintiffs' goods then and there, the plaintiffs could not recover, and that an intention to seize at a future day was not sufficient, he laid down a limitation of the liability of the defendant which the law does not sanction.

For this error the judgment must be reversed, and the cause remanded for a new trial.—*Chicago Legal News.*

RESTRICTIVE COVENANTS—CONSTRUCTIVE NOTICE.

Cases on the question of constructive notice have now become very common, since it has become well established law that many restrictive covenants which would not at common law be binding on the purchasers of landed property, under the rules in Spencer's case, do bind the purchasers, according to the rules of equity, if they have had notice, actual or constructive, of the existence of such covenants. We have lately reported two cases bearing on the subject, the one, *Williams* v. *Williams*, 44 L. T. Rep. N. S. 573, having been heard by Mr. Justice Kay, and the other, *Patman* v. *Harland*, 44 L. T. Rep. N. S. 728, by the Master of the Rolls. The relief sought in the two actions was very different, but in both of them the case of *Jones* v. *Smith*, 1 Hare, 43; 1 Ph. 244,