

MINTER v. WELLS AND ANOTHER. Exch. of Pleas. 1834.—Where, in summing up his invention, a patentee stated it thus :—"My invention is the application of a self-adjusting leverage to the back and seat of a chair, whereby the weight on the seat acts as a counterbalance to the pressure against the back of such chair as above described :"—Held, that this was not a claim to the principle of the lever, but to an application of that principle to a certain purpose by certain means, and that the patent was good.

[S. C. 5 Tyr. 163 ; 4 L. J. Ex. 2.]

This was an action on the case for an infringement of a patent obtained by the plaintiff. The trial took place at the Sittings after last Trinity Term, before Alderson, B., when a verdict was found for the plaintiff, with liberty to the defendant to move to enter a nonsuit, on an objection taken to the specification. The patent had been obtained for an invention called "Minter's Patent Reclining Chair," which was thus described in the specification :—"My invention of an improvement in the construction, making, or manufacturing of chairs, consists in the application of a self-adjusting leverage to the back and seat of a chair, whereby the weight on the seat acts as a counterbalance to the pressure against the back of such chair, and whereby a person, sitting or reclining on such chair, may, by pressing against the back, cause it to take any inclination, and yet at the same time the back of such chair shall, in whatever situation it is placed, offer sufficient resistance and give proper support to the person so sitting or reclining in such chair." The specification then set forth the mode of making and using the chair, and concluded thus :—"Having now described the various parts represented [506] in the drawing, and the manner of their action, I would have it understood that I lay no claim to the separate parts of a chair which are already known and in use, neither do I confine myself to making them in the precise shapes or forms represented. But what I claim as my invention is the application of a self-adjusting leverage to the back and seat of a chair, whereby the weight on the seat acts as a counterbalance to the pressure against the back of such chair, as above described."

Godson now moved to enter a nonsuit. The claim of the plaintiff is either to the principle itself, in which case his patent is bad ; or to the mode of applying that principle, which has not been infringed by the defendant, who has not made his chair in the manner described by the specification. What the plaintiff claims is the application of a self-adjusting leverage, that is to say, he claims the principle of the common lever ; he therefore claims a mere principle of mechanics, which cannot be appropriated, and the patent is invalid. Where a patentee sums up his claim as for a mere principle, the case of *The King v. Cutler* (1 Stark. 355) is an authority to shew that the patent cannot be supported. There Lord Ellenborough says—"The defendant has confined himself, by thus summing up the extent of his invention, to the benefit of the principle ;" and there was a verdict for the Crown. Two patents founded upon the same principle may be good, if neither claim the principle, as in *Hullett v. Hague* (2 B. & Ad. 370), where the principle of evaporating sugar at low temperatures was applied in two distinct patents, by distinct methods and apparatus, and both patents were sustained.

LORD LYNDHURST, C. B. Every invention of this kind must include the application of some principle ; and here the application of the principle of the lever to the construction of a reclining chair constitutes the machine, the [507] invention of which the plaintiff claims. He does not, as it is asserted, claim the principle in the summing up of his specification ; but he claims the invention of applying that principle in a certain manner and by certain machinery. He says, what I claim is the application of a self-adjusting leverage to the back and seat of a chair, whereby the weight on the seat acts as a counterbalance to the pressure against the back of such chair, as above described. The claim is not for the lever only, but for a self-adjusting lever ; he does not confine it to any particular form, but claims the chair constructed on this principle in whatever shape or form it may be.

the clauses only applied to what was done by virtue of the act, and not to penalties for acting in direct contravention of it. See the cases referred to in this case, post, Hilary Term, 1835.

PARKE, B. It was proved by all the witnesses at the trial that a self-adjusting lever was never before applied to the construction of chairs. The claim of the plaintiff is not to the principle, but to the combination of the principle and the machine—the application of the self-adjusting lever to the construction of a chair. His summing up shews this—"I claim as my invention the application of a self-adjusting leverage to the back and seat of a chair." This is not claiming a principle.

The rest of the Court concurring—

Rule refused.

DANIEL GUILFORD WAITE, Clerk v. WILLIAM BISHOP, JOSEPH LAWRENCE, CHARLES BROOKE, AND JOHN NOKES. Exch. of Pleas. 1834.—A sequestration obtained by the assignees of an insolvent incumbent operates only from the time of publication, and does not entitle the assignees to the arrears of composition for tithes due before publication.—Lodging a writ of *levari facias* with the registrar of the bishop of the diocese, does not bind the property of the incumbent from the time of such lodging.

[S. C. 5 Tyr. 90 ; 3 Dowl. P. C. 234 ; 4 L. J. Ex. 50.]

This was an application under the Interpleader Act, when the Court directed that the facts should be stated in the following case :—

[508] The plaintiff in this case is rector of Blagdon, in the county of Somerset. In the year 1825, the plaintiff granted an annuity to one John Britten, of Clapham Common, in the county of Surrey, and secured the payment thereof by a demise of his rectory of Blagdon aforesaid, and by warrant of attorney intitled in a cause *Britten v. Waite*. In the year 1828, the annuity being in arrear, the said John Britten applied for and obtained sequestration against the rectory aforesaid, and continued in receipt of the tithes and profits thereof until the month of March, 1832. On the 8th day of May, 1832, the plaintiff Waite applied in the Court of King's Bench, through Mr. John Nokes, an attorney, for and obtained a rule nisi for setting aside and delivering up the annuity deeds, warrants of attorney, and judgments.

In Trinity Term, 1832, the said rule nisi was made absolute ; and it was ordered that no further proceedings should be taken on the writ of sequestration ; and there was a reference to the Master respecting the monies received by Britten, with liberty thereafter to issue a fresh writ of sequestration for any future arrears of the said annuity.

The said John Britten refused to withdraw his writ of sequestration from the living of the plaintiff, alleging that the said rule absolute did not order him to do so. In the month of April, 1832, before the application to the Court of King's Bench for the rule nisi above mentioned, the plaintiff executed a warrant of attorney to the said John Nokes, in the penal sum of 100*l.*, for certain costs due from the plaintiff to the said John Nokes, upon which warrant of attorney the said John Nokes signed judgment, and issued a writ of *levari facias*, according to the forms prescribed by law, and caused the same to be filed in the office of the Lord Bishop of Bath and Wells, on or about the 26th day of April, 1832, for the purpose of procuring sequestration against the living of Blagdon [509] aforesaid, the sequestration of the said John Britten being still upon the said living.

In the month of June, 1832, after the above rule was made absolute, the plaintiff executed a second warrant of attorney to the said John Nokes, in the penal sum of 200*l.*, for other costs due from the plaintiff to the said John Nokes, upon which second warrant of attorney the said John Nokes likewise signed judgment, and issued a writ of *levari facias* according to the forms prescribed by law ; and caused the same to be filed in the office of the said Lord Bishop of Bath and Wells, on or about the 18th day of June, 1832, for the purpose of procuring sequestration against the said living of Blagdon aforesaid, the sequestration of the said John Britten being still upon the said living.

The said John Nokes caused an office copy of the said rule absolute, of Trinity Term, 1832, to be served upon Mr. Purfitt, the registrar of the Bishop of Bath and Wells, by Messrs. Melliar, Lovell & Co., solicitors, of Wells ; when the said Mr. Purfitt informed them that sequestration could not be granted to the said John Nokes, in