that the opinion of the Judicial Committee of the Privy Council will probably be obtained on the case, this statement of the points involved may suffice for the present.

The other case, in which *Hearle* was appellant and *Rhind* respondent, as the facts were found by the Court, presented less difficulty. The action was brought by Hearle on warehouse receipts purporting to be granted by the Moisic Iron Company. These receipts were signed in part by the president of the company, and in part by the secretary. The company had become insolvent, and Mr. Rhind, the assignee, pleaded that the Moisic Company were not by trade warehousemen, and that the president and secretary had no authority to grant such receipts. There was no evidence to establish such power on the part of the company's officers, or to show that the company was a warehousing company. The Court held unanimously that such receipts so signed did not bind the company, more particularly where there was no evidence of any connection between the pretended indebtedness (certain notes produced) and the warehouse receipts. The judgment of the Court below was therefore confirmed. The Court, taking this view, declined to express any opinion as to the effect of the limitation of the right to hold the pledge beyond six months, mentioned in Consol. Stat. Canada, chap. 54.

CONFLICTING DECISIONS.

Considerable embarrassment is often felt by members of the profession in determining the proper course to be followed in matters of procedure. That embarrassment is not lessened when, as sometimes happens, they find decisions by judges of the same Court, of equal authority, which are precisely opposite one to the other. An example of this appeared in our notes of cases last week, and as the point is presumably of some interest to those who are engaged in practice, it may be worth while to draw attention to it. In the case of *The Niagara District Mutual Fire Insurance Co.* v. *Macfarlane* (21 L. C. J. 224), it was held by Torrance, J., in September last, that the plaintiffs, an insurance company having their head office in St. Catharines, in the Province of Ontario, but having an office and doing business in Montreal, could be compelled to give security for costs. In January following, Dorion, J., having to decide the same point in *The Globe Mutual Insurance Co. of New York* v. *Sun Mutual Insurance Co.* (*ante*, p. 53), held that the company plaintiff could *not* be compelled to give security.

REPORTS.

SUPERIOR COURT.

Montreal, December 28, 1877.

DORION, J.

HOMIER v. BROSSEAU et al.

Sale of Debt—Guarantee.

Held, that the vendor of a *créance* with promise to *garantir, fournir et faire valoir* is surety for the solvency of his debtor only, and is not *obligé direct* for the payment of the debt transferred. And therefore the *cessionnaire* can exercise his recourse *en garantie* only after discussion of the property of the debtor and establishing his insolvency.

Archambault & Cie. for plaintiff.

Jetté & Cie., and *Lacoste & Cie.* for defendants.

SEMPLE v. MCAULEY.

Tender—Composition.

To an action on a note the defendant pleaded an agreement by plaintiff to accept a composition of twenty-five cents in the dollar, upon the amount of his claim, and alleged that he had tendered the amount; but he did not renew the tender by his plea, nor deposit the money in Court. *Held*, that the tender could not avail in defendant's favor as a payment, and the agreement to accept the composition rate being conditional on actual payment, the plaintiff was entitled to recover the full amount of the debt in consequence of defendant's default to pay the composition.

Macmaster & Co. for plaintiff.

A. & W. Robertson for defendant.

MACKAY, J.

BAYLIS v. CITY OF MONTREAL.

Assessment Roll.

The plaintiff had paid to the city certain sums of assessment exacted from him for the widening and opening of streets, the payment being made in accordance with an assessment roll prepared in the usual way, based on a reso-