ent's undertaking, it was not only an indication of payment, but an absolute obligation in favor of appellant, which did not require acceptance. I am not aware that there is any substantial distinction between the delegation, as used in the Code (art. 1173), of a new debtor, and the *indication de paiement*, as used in the Code (art. 1174). Neither creates novation. Both are within art. 1029, that is, both require acceptance. This seems always to have been held. Directly in the case of *Patenaude & L'Erigé dit Laplante*, indirectly in the case of *Mallette* v. *Hudon*. It is the common law rule of all donations that they must be accepted, and what is the giving of a debtor, without consideration, else than a donation? It is the donation of extra security. It is no answer to say that the action may be brought without previous acceptance. That is clear, although there are contrary decisions. The action is sufficient acceptance, if in time. I, therefore, think appellant's first proposition is untenable. His second proposition appears to me to be correct; but when he comes to the third proposition, that the registration is evidence of acceptance, I must again dissent from appellant's view. It is evident that the registration by another, being no act of the creditor, cannot be a declaration of his will, and consequently would only be a fictitious acceptance, which is not what is contemplated by law. But the 7 Vic., cap. 22, really amounts to this, that the right of the creditor shall be maintained, no matter who carries the Deed to the Registrar. This would probably have been the decision of the Courts, if there had been no such clause. Publicity was the object of the Registration law, and that was acquired by the transcription in the public register. The reasoning on the Edict of 1711 does not appear to me to be conclusive. The question of the necessity of opposition introduces new elements which it is not necessary now to discuss. It seems to have been the opinion of the Court in *Patenaude & L'Eriger* that the registration was an acceptance. In *Hudon & Mallette* a doctrine incompatible with that was held. It was there held that the direct action on the debt could be maintained by the creditor on a registered deed if there was no acceptance.

At the argument some stress was laid on the fact that Robinson had made payments to appellant. It is clear Robinson's act would not tell more against him than his deed with Leonard. It is the act of the appellant in receiving this money that is important, and that must be drawn from the receipts. The doctrine on that point seems to have been properly laid down in *Poirier & Lacroix* (6 L. C. J.) The receipts in this case do not imply an acceptance of the new debtor, but only of the money he brought on account of the debt of the original debtor. No acceptance, therefore, can be gathered from the simple fact of the payment. It is almost too elementary to require special remark, that no act of the person indicated as the person to pay can amount to an acceptance, else the rule that acceptance is necessary would disappear.

The letters certainly do not of themselves form an acceptance. But we are asked to draw from the respondent's letters that the letters from the appellant were an acceptance. If the answer contained clearly the proposition accepted, we might not require the production of the letters themselves. But the letters are not conclusive.

Judgment confirmed.

Loranger, Loranger, Pelletier & Beaudin for Appellant.

Robertson & Co. for respondent.

SUPERIOR COURT.

MONTREAL, June 30, 1880.

Before PAPINEAU, J.

DESJARDINS et vir v. GRAVEL et ux., & LANGEVIN dit LACROIX, opposant.

Sheriff's Sale—Rights of Lessee.

The lessee of an immoveable property about to be sold by sheriff's sale, has no right to make an opposition afin de charge to the sale, based on a notarial lease of the property to himself, prior to the seizure.

The plaintiff, a hypothecary creditor, having obtained judgment against the defendant, caused an execution to issue against the immoveables hypothecated in his favor.

The opposant, lessee of the premises under a notarial lease for a year, duly registered, filed an opposition *a fin de charge*, based on his lease prior to the seizure.

The plaintiff contested the opposition by a *défense en droit*.