seizure, and not subsequently. The Master of the Rolls proceeds to show that in this case the possession at the time of the seizure was in the execution debtor, and that the onus lay on the claimant to show that this possession was, in fact, his. He could not do so by reason of the bankruptcy, and the question then arose whether the execution creditor was not estopped from making use of the bankruptcy. On this point the Master of the Rolls assumes that as between the claimant and the execution debtor there was an estoppel, but points out that the estoppel created no interest in the goods, but simply prevented the execution debtor from saying the goods did not belong to the claimant and did not bind the judgment creditor. The reason given for this rule is that the execution creditor does not claim through or under the execution debtor, but claims through or under the law.

The correctness of this decision may be tested by supposing how the case would stand if no interpleader had been ordered. The claimant would then be plaintiff and the sheriff defendant in an action for trespass to goods. The sheriff would justify the seizure by showing that the goods were in the possession of the judgment debtor. Upon that the plaintiff would have to show that the possession of the execution debtor was his possession, and he would have to show it by evidence good against the sheriff. The Court of Appeal decide that the law of estoppel is strictly a law of evidence, and can only be set up against the person estopped and those claiming under him in the strict sense of the word, and that the sheriff is not one of these. The decision is important, as it gives the execution creditor goods under an execution which his debtor could not have given to him in payment of his debt by agreement; but in applying the law of estoppel the conflicts of justice must be considered, and at least the execution creditor is no worse off than if an action had been brought against the sheriff.—*The Law Journal.*

GUARDIANSHIP OF INFANTS.

One of the first cases, if not the first case demonstrating the utility of the Guardianship of infants Act, 1886 (49 & 50 Vict. c. 27),* recently came before Mr. Justice Kay. The Act has effected considerable alteration in the law, and has given to the court increased powers to deprive a father of the custody of an infant child, and to deliver the child to its mother. Under the previous law there was a limit of age up to which the mother could obtain the custody of her child. This age was at one time seven and afterwards sixteen years, but under the recent Act there is no such limit of age. Moreover, the consideration upon which the court is to act have been altered by the new statute, which provides (sect. 5) that three things are to be regarded, viz., the welfare of the infant, the conduct of the parents, and the wishes of the mother as well as of the father. In *Re S. Witten* (an infant) the application was mainly grounded on the alleged misconduct of the father. A man of 53 years of age, he was accused of having formed an improper connection with a young girl of six-and-twenty, who was under his tuition in medicine. The father wholly denied impropriety, said that he had adopted the lady in question, and that he never acted towards her in any other way than a father ought to act towards his daughter. It appeared, however, that the father had lost a position of trust in charge of a mission in consequence of being unable satisfactorily to meet this same charge of impropriety; that the wife had for the same reason commenced proceedings for a judicial separation, but had allowed them to be withdrawn on terms proposed by her husband in writing, which, however, he ultimately refused to carry out; and finally, that the young lady in question was still living with the father, having changed her surname to "Witten." Mrs. Witten, the mother of the infant, had heard that her husband intended in about two months to go to Morocco with their child and the young lady whose conduct was impunged, and to live there permanently. This being so, Mr. Justice Kay had no hesitation at all in acceding to the mother's application for the custody of the child, who is ten

* See 50 Vict. c. 21 (O.).