that he might examine that, and, if he liked it, have his own finished off precisely similarly. Defendant went down to see this carriage, and in fact rode in it twice, and was quite satisfied with it. Now it is proved that, if anything, the carriage delivered to defendant was in painting and varnishing superior to that sold to St. John, with which defendant was satisfied. What is the objection now made? It is that it was not such a carriage as should be delivered to a person in the position of the defendant. Now if the defendant had made his bargain without seeing the carriage, he might have some grounds for making this objection. But having seen the carriage, and having thought proper to take it at a price (£80) which the witnesses said was a price less than that charged St. John, the defendant with *pleine connaissance* made the purchase. It appeared to have been first suggested to him by Mr. Aumond of Ottawa, who after examining the carriage said that it would never do for a Judge. It may be that the defendant should have purchased a superior one, but that is entirely a matter of taste. The judgment of Mr. Justice Monk in the Superior Court, maintaining the plaintiff's action, must be confirmed.

DRUMMOND, J., concurring, said: I have much respect for the opinion of Mr. Aumond, and cannot but allow it much weight. But the evidence on the other side is too strong. Besides the defendant should have sent back the carriage at once, instead of allowing it to remain in a place where it received great injury. £80 was a low price for which to expect to get a first class carriage, though it does seem rather singular that an £80 carriage should be stuffed with hay.

Judgment confirmed unanimously.

R. & G. Laflamme, for Appellant; Leblanc & Cassidy, for Respondent.

MAHONEY, (Defendant in Court below,) Appellant, and HOWLEY *et al.*, (Plaintiffs below) Respondents.—DUVAL, Ch. J.—This was an hypothecary action upon an obligation for £150 brought by Bridget Howley, widow of Michael Howley, and tutrix to her minor children. Want of consideration had been set up. The widow was the only witness examined in the case. Her admissions or statements, it was contended by the defendant, proved that the original consideration money was only £40, instead of £150 as alleged in the deed. It was evident that the widow could not by parol testimony destroy the obligation to the prejudice of the interests of the minors. The evidence of the widow, moreover, was not conclusive. She spoke only of what took place subsequent to, and not of what occurred at the time of the obligation. It was a question how far the widow, tutrix, could bind her minors. Her deposition was no more than the deposition of an ordinary witness. If not conclusive it would not bind the minors. The tutrix binds her minors for the affairs of her administration, but the widow, plaintiff in this case, by no means spoke in that conclusive manner which would justify the Court in reversing the judgment of the Court below, which held that the admissions of the widow (as to the original consideration being only £40), could not avail in law against the children. — Judgment confirmed unanimously.

R. & G. Laflamme for appellant; B. Devlin for respondents.

FLECK (Plaintiff in the Court below) Appellant; and BROWN (intervening party below) Respondent.—DUVAL, CH. J.—This was an appeal from a judgment of the Superior Court quashing a seizure, corporeally made by the Sheriff, of a quantity of railroad iron, *in the hands of a third party*, under an ordinary writ of *saisie-arrêt* after judgment. Respondent, who claimed to be the owner of the iron, intervened, and moved, inasmuch as a corporeal seizure of the iron in the hands of the third party was illegal, (the exigency of the writ being fulfilled by the service of the writ on such third party), that the seizure be quashed. Appellant answered that according to the Sheriff's return, the iron was seized in the *possession of the Defendants*, and until that return was got rid of, the Court was without evidence that the iron was seized in the hands of a third party. His honor said the Sheriff's proceedings were extraordinary, but the intervening party had been premature. At the time he made his motion, there was no issue joined. The Court had no evidence to show that the property really belonged to Mr. Brown. The judgment must therefore be reversed.—Judgment reversed unanimously.

Cross & Lunn, for Appellant; S. Bethune Q.C., for Respondent.

BARRE (one of the Defendants in the Court below), Appellant; and DUNNING (Plaintiff in the Court below), Respondent.—The appellant in this case was the endorser of a note, and the appeal was from a judgment of the Circuit Court condemning him, jointly and severally with the maker of the note, to pay respondent $142, amount of the note. The plea of the endorser was that part had been paid, and the balance was tendered with the plea.

DUVAL, C. J., dissenting, thought the judgment should be reversed. It was purely a question of evidence, and he thought the weight of evidence was in favor of the appellant.

DRUMMOND, J., also dissenting, said the question of imputation of payments also came up. The money paid by the defendant should have been imputed on the most onerous debt, viz, the note in question, instead of on certain other notes held by the payee. The judgment should be reversed on this ground apart from the evidence.

MEREDITH, J.—Held the law to be this:—Where the debtor does not indicate how the payments are to be applied, the creditor may impute them on whichever debt he prefers. Besides defendant had failed to produce certain evidence which he had an opportunity of doing. He thought the preponderance of evidence in favor of the judgment. Moreover, upon doubtful questions of fact, when according to his view, the evidence was evenly, or very nearly