

“ The Court having heard the parties by their respective
 “ counsel, it is considered and adjudged that the judgment
 “ of the Court of King’s Bench for the district of *Montreal*,
 “ in this cause rendered on the 18th day of *October* 1834, be,
 “ and the same is, hereby reversed. And this Court, pro-
 “ ceeding to give that judgment which the Court below
 “ ought to have given, it is considered and adjudged, that
 “ out of the proceeds arising from the sale of the real pro-
 “ perty of the late *John Brown*, sold under the writ of *Ven-*
 “ *ditioni exponas* issued in this cause, the said *David Brown*
 “ be collocated for the sum of £2,000 currency, by privi-
 “ lege of *hypothèque*, from the date of the marriage-contract
 “ between the said late *John Brown* and *Margaret Smith*
 “ his wife, passed before *Chaboillez* and his colleague, no-
 “ taries public at the City of *Montreal* to wit, on the 17th
 “ day of *April* 1812, with interest on the said sum from the
 “ day of filing of the opposition by *Archibald Ferguson*, in
 “ the quality of tutor to the said *David Brown*, to wit, on
 “ the 14th day of *February* 1833, with costs to the said
 “ Appellant, as well in this Court as in the Court below.”

From this decision the Appellant appealed to his late Majesty in Council. The Respondent not having appeared, the Appeal came on for hearing *ex parte*.

Sir *W. Follett*, Q. C., for the Appellant:

The claim of the Respondent, which has been admitted by the Provincial Court of Appeals, is by privilege of *hypothèque*. The Respondent is not here to support the judgment, nor do the grounds of the decision appear from the papers in the cause. The constitution of the Court is under the 14th Geo. III, c. 83, and 41 Geo. III, c. 4, and is composed of the Governor or Lieutenant-Governor, with any two or more members of the Executive Council; of these it is not necessary that any should be lawyers, though in practice I believe it is usual to have one of the