promise. The decision is in effect disregarded, but its authority is saved by recourse being had to some shadowy and fictitious distinction. This practice was recently satirized by a living Judge, who, on a case which we will call "Brown v. Robinson being cited in argument, informed the bar that he should not feel himself bound by that case unless a suit were before him in which the facts were precisely similar; 'indeed,' added his lordship, 'unless the plaintiff's name were Brown, and the defendant's Robinson!'

The suppression of dissentient opinions would greatly aggravate the mischievous consequences of an erroneous precedent. However unsound a decision might be shown to be, it would be hard to get over it unless legislative action was invoked; and the growth of the science of jurisprudence would be stunted correspondingly.

If Judges are to be present at the rendering of the judgment, and to refrain from indicating their dissent from the views which may be expressed, the decisions of the highest tribunal will tend to resolve themselves into a mere vote of yea or nay upon the judgments submitted to them. As soon as the fact has become known during the deliberation that a majority of the Court are inclined one way or the other in any particular case, the other members of the Court will have small encouragement to undertake an arduous examination of the questions involved, knowing, as they do, that it is labor in vain, as they will be debarred from stating the conclusions at which they may arrive.

To conclude: instead of adopting a cast-iron rule, is it not preferable to leave it to the discretion and wisdom of the Judges themselves to decide when they shall yield their individual opinion and refrain from entering a dissent? Who so well qualified as they to appreciate the importance of certainty in the law, and the advantage, where it can be done without the sacrifice of strong convictions, of presenting a harmonious judgment? For our part, with a vivid realization of the mischief caused by crude or hasty dissents, we are still disposed to favor a straightforward policy, be the consequences what they may.

REPORTS AND NOTES OF CASES.

COURT OF QUEEN'S BENCH.

Quebec, December 7, 1877.

Present: DORION, C. J., MONK, RAMSAY, TESSIER and CROSS, JJ.

SHORTIS et al., Appellants, and NORMAND, Respondent.

Collocation—Preference—Appeal.

On the 28th of August, 1875, the Sheriff of Three Rivers returned before the Court the monies he had levied by the sale of real estate belonging to one Coté, an insolvent. The respondent, who was assignee to the estate of Coté, filed a claim on the 20th of January, 1876, for $171.57, due Claire, who had been interim assignee, and $211.35 due to himself for fees, commission and disbursements in relation to the estate. On this claim the respondent was collocated for $308.80 by report of 23rd of February, 1876. The appellants, who are hypothecary creditors, appealed from the judgment homologating the report of collocation which they had not contested in the Court below.

Held, 1. As in *Eastern Townships Bank* v. *Pacaud*, that appellants, whose mortgages were mentioned in the Registrar's certificate, were entitled to appeal from the judgment homologating the report of collocation, although they had not contested the report in the Court below.—(Art. 761 and 1118 C. C. P.)

2. That respondent's claim, having been filed after the expiration of the delay for filing opposition without leave of the Court, was improperly filed, and the respondent should not have been collocated.

3. That as no vouchers were produced by the respondent to show that he was the assignee to the estate of Coté, or that Claire had acted as interim assignee and transferred his claim to the respondent, or been paid by him, there was no *prima facie* case made out to entitle the respondent to be collocated.

4. That the motion to reject the appeal on the ground of acquiescence, was not supported by the affidavits; and the motion to reject part of the factum and exhibits filed being unnecessary, both motions were rejected without costs.