

say's digest, p. 598, as follows: "Hodges sold land to defendant Constant, 30th May, 1871. The vendor failed to enregister till the 30th June. On the 28th June, Constant gave a hypothec over the land to Pacaud who registered the same day. Pacaud claimed to be entitled to rank on the proceeds of the land prior to the representatives of Hodges, but the court held, confirming the judgment of the Superior Court, that Constant could not give any hypothec over the land till his own title was registered." A reference to the factums in appeal shows that this was the sole question submitted to the appellate court, and Chief Justice Meredith's opinion (4 Q. L. R. 94) is printed *in extenso* in the respondent's factum. We have referred to the collection of factums of the late Mr. Justice Ramsay, to see whether they contained a written opinion, and we find the following note of the case:—

"On the 30th May, 1871, James Hodges sold to the defendant a piece of real estate. He did not register till the 30th June, one day more than the thirty days allowed by law to preserve his hypothec. On the 28th June, Constant's title not being registered, Constant granted an hypothec in favor of opposant over the land in question, which was registered the same day. The question which arises in this case is whether the prior registration of appellant's hypothec can prevail, Constant's title not being registered, in face of the last clause of Art. 2098, C. C. It would have been sufficient to have registered it by memorial. See case at Quebec of security on land, title not registered. See also the case of *Banque du Peuple & La-porte*. (Confirmed, 4 Sept. 1878, Dorion, C.J., Monk, Ramsay, Tessier, Cross, JJ.)"

This is quite conclusive that the Court of Appeal did unanimously decide in the same sense as the Court of Review, yet there have been several contrary decisions since by judges sitting alone. On a point like this, on which so much may be urged in favor of either conclusion, and which so deeply concerns civil rights, is it not better to