

“ susdite somme soit allouée aux créanciers subséquents, à la
“ condition de donner même cautionnement, et qu'à défaut de
“ cautionnement par ces derniers les deniers demeurent entre
“ les mains de l'adjudicataire jusqu'à l'ouverture de la dite
“ substitution, en, par elle, payant l'intérêt annuellement à la
“ demanderesse jusqu'à l'extinction de sa créance: le dit inté-
“ rêt ainsi payable à compter de ce jour, le tout avec dépens
“ contre le dit intervenant, etc.”

RAMSAY, J. (*dissentiens*): The principal point to be decided is as to whether it was necessary to renew the registration of the substitution. Article 2172 C. C. says that the registration of any REAL RIGHT must be made within a certain period after the proclamation. Then is this substitution a real right within the meaning of the Code? It is said that the clause of the Statute of which this article purports to be a reproduction uses the word “HYPOTHEC” instead of “REAL RIGHT,” and that a real right UPON is only an hypothec. It is also said that “IN and UPON” are elsewhere used in connection with “real right” when it is intended to express more than hypothec?

Notwithstanding the force of this argument, I consider the words “real rights” cannot be limited so as to express only an hypothec, and although the codification commissioners have not indicated as new law the substitution of the term “real rights” for “hypothec,” I think a change has been operated. It will be observed that the object of obliging the commission to indicate the difference of the old law from the new, was not to furnish a controlling authority for the interpretation of the Code after it had received the sanction of Parliament, but to make the suggested inroad on the old law apparent. It was evidently more a practical than a scientific object the Legislature had in view in directing the commissioners in their reports to set forth the law as it stood along side the suggested amendment, and the text of the Code stands out as the positive law, whether the commissioners followed the direction to the letter or not. Being of opinion that the registration of the substitution should have been renewed to preserve the rights of the *appelés*, I would grant the full conclusions of appellant's contes-