

McMartin claims to be entitled to plot No. 62, as the daughter and one of the heirs and next of kin of one Archibald McCallum, deceased, who is said to have acquired it in the year 1873. Mrs. McMartin has been for 11 years a resident of the city of Ottawa, and has ceased to be a member of the congregation. Her only brother has been absent from the country for over 23 years, and apparently there is very little communication between them. She testified that 6 interments filled the plot, and that 6 members of her father's family were already buried there. So far, therefore, as her claim is concerned, a way of 15 feet width is not requisite for the only purposes for which it would be required, viz., for access to and fro for visiting the plot and doing what was necessary to maintain and keep it and the monuments on it in repair. And any title that she shews does not appear to extend beyond that, even if it goes so far. See *Moreland v. Richardson*, 22 Beav. 596, 24 Beav. 33; *May v. Belson*, 10 O. L. R. 686, 6 O. W. R. 462. It is quite apparent on the evidence that if she had been left to herself, she would not have considered it necessary to take proceedings to restrain the building operations.

The plaintiff Graham claims to be the owner of plot 63, in which 4 interments have been made. He is apparently still a member of the congregation, but one of a number who are dissatisfied with the action of the congregation in forming a union with another body known as Burns Church congregation, involving amongst other things the proposed enlargement of the church building.

His rights, and whatever rights his co-plaintiff may have, are derived under documents which are not produced. They have been lost or destroyed, it is said, but a copy of the form in which they issued was proved. The documents purport to be signed by the chairman and secretary of the trustees of the church. They are not under seal, and contain no words of grant of the soil, or of inheritance, or any language that goes beyond a license or privilege of interment in the plot named. They are in form certificates of the purchase of numbered plots in the graveyard surrounding the church, according to a map of the same belonging to the trustees, and state that the purchaser is entitled to the plot, subject to the rules and regulations which have been or may thereafter be passed by the trustees.