

conseil à remplacer un réviseur, mais le cas de *mort ou d'absence*. La preuve constate que l'échevin Brown n'a pas été du tout absent.

La raison qui a fait émaner l'ordre provisoire subsiste encore, puisque le défendeur continue d'exercer des fonctions qu'il n'a aucun pouvoir d'exercer.

La demande de révocation est renvoyée avec dépens.

F. L. Beique, for plaintiff.

Lacoste, Q. C., and *Geoffrion*, counsel.

S. P. Lett, for defendant.

Maclaren, counsel.

SUPERIOR COURT.

MONTREAL, February 28, 1882.

Before JOHNSON, J.

PARHAM V. MARÉCHAL, and Dame A. PAILLEUR, collocated, and PLAINTIFF contesting.

Hypothec—Registration.

The defendant by marriage contract undertook to hypothecate the first land he might acquire, to secure to his wife the amount of dower stipulated in the marriage contract. He acquired land, and a creditor registered a judgment against the property. Subsequently notice was given to the Registrar by the defendant, that he had bought this land with a view to subject it to a hypothec for the amount of the wife's dower. Held, that the notice created no hypothec whatever, and the wife's claim to priority over the judgment creditor's registered claim was rejected.

JOHNSON, J. The plaintiff in the present case contests the report of distribution. He had judgment against the defendant, and executed it; and, upon the proceeds, the defendant's wife, Dame A. Pailleur, was collocated, by the 14th item of the Prothonotary's report, for \$361.15 on account of \$4,000,—amount of a conventional or prefixed dower stipulated by her contract of marriage of the 23rd December, 1866. The plaintiff contends that the party collocated had no hypothec on the land sold. By the contract of marriage there was no property hypothecated—but mention was made merely of an intention to hypothecate the first land the husband might acquire. On the 27th Nov. 1875, the defendant gave a notice to the Registrar that he had acquired the land of which the proceeds are now being distributed, with a view of having it subjected to the hypothec supposed to have been

created by the marriage contract. The prothonotary adopted the pretension thus made, and the question now appears simply this: Has the wife a prior hypothec to the plaintiff—he having registered his judgment long before the 'notice'? In my view she has no hypothec at all. If she has, it must exist either under the marriage contract, or under the notice. The marriage contract mentions no property expressly, and the notice is not in authentic form; therefore, under articles 2040, and 2042 C. C., neither the one nor the other can constitute a hypothec. Contestation maintained with costs.

Tuillon & Nantel for Dame A. Pailleur, collocated.

Macmaster & Co. for plaintiff contesting.

COURT OF REVIEW.

MONTREAL, February 28, 1882

TORRANCE, RAINVILLE, PAPINEAU, JJ.

THE CITIZENS INSURANCE CO. V. WARNER, and STEPHENS, opposant, and PLAINTIFF contestant.

License Act—Bar-keeper holding license—Proof of ownership.

Where a license to retail spirituous liquors was granted to a person who merely sold liquors as bar-keeper for another, held, that this was not a violation of the License Act, and that the owner might oppose the seizure of his goods when taken in execution under a judgment against the licensee.

The inscription was by the contestant on a judgment of the Superior Court, Montreal, Mathieu, J.

TORRANCE, J. Opposant claimed as proprietor the goods which had been taken in execution under a judgment against defendant. The latter was bar-keeper at the Ottawa Hotel which was the property of Stephens.

The license to retail spirituous liquors had been granted to Warner, and he sold them for Stephens.

The contestant contended that there was here a violation of the license law, A. D., 1878, and that Stephens could not make proof of his ownership because of this violation. The court below overruled the pretensions of the plaintiff.

We have carefully gone through the clauses relied upon by the plaintiff, S.S. 2, 3, 71, 78, 79