

to do things ; art. 17. Code de Proc. is violated by this.

The Plaintiff did not ask for the Curé to be condemned. The Judgment in this respect is *ultra petita*, and for this, the Curé, had he seen fit, might have proceeded independently by *tierce opposition* against it (art. 16 and 510. Code de Proc.)

Our Judgment ought to reverse the one appealed from and to hold that sufficient cause has been shown by defendants against peremptory *mandamus* whatever, and that the original *mandamus* ought to be superseded and the *Requête libellée* dismissed.

JUDGMENT OF THE COURT OF REVIEW.

The Court here, sitting as Court of Review, having heard the parties by their respective counsel, upon the judgment rendered in the Superior Court in and for the District of Montréal on the second day of may, one thousand eight hundred and seventy having examined the Record and proceedings had in this cause, and maturely deliberated.

Considering that the writ issued in this cause, and called writ of *mandamus*, contains no command to perform anything and was and is not in the form required by law, *nonnément by article 1022 C. Procédure* :

Considering that of the two demands involved in the *Requête libellée* of said Henriette Brown, the latter one, to wit ; that the Defendants should be ordered to "*insérer sur les registres de l'état civil par eux tenus, le certificat de telle inhumation du dit Joseph Guibord, aussi, conformément aux usages et à la loi*" cannot be maintained, the said Defendants not being the keepers of the Registers of *Etat civil*, nor bound to make any Registration in them ;

Considering that the other or first demand to wit : That the Defendants should be ordered to "*inhumer ou faire inhumer dans le cimetière catholique Romain de la Côte des Neiges, sous le contrôle et administration des dits Defendeurs, le corps du dit feu*

" *Joseph Guibord, conformément aux usages et à la loi,* " is vague ;—particularly considering the proof made that the said cemetery is divided (as Roman Catholic cemeteries in Lower Canada usually have been and are) into two parts : the one for ecclesiastical burial the fact of which division was known to Plaintiff before she presented her *Requête* in this matter :

Considering that whether by the burial demanded the said Henrietta Brown meant to ask for Ecclesiastical burial for the remains of the said late Joseph Guibord or for mere burial of them, without Ecclesiastical ceremony, she is unable to maintain the Judgment that she has obtained, to wit ; the said Judgment of the second of may against the Defendants because Ecclesiastical burial was and is not in the power of defendants to perform, and as to mere burial, it has been offered by the Defendants for the purpose of the burial of the said late Joseph Guibord, before the Plaintiff presented her *Requête* in this cause ;

Considering that the said Judgment under Review, is erroneous in not particularizing the *sépulture* and kind of *sépulture* meant by it,—also in maintaining as it has done, the answer in law of Plaintiff to Defendants' third Exception ;

Considering also that the said Judgment has adjudged *ultra petita* in commanding the *curé* of the parish of Notre-Dame to give and perform the burial mentioned in the said Judgment ;

Considering that by reason of the insufficiency of the Original writ in this cause, and of the vagueness of the said conclusions of *Requête*, the said writ might be superseded, and that by reason of all the said several premises, together, the said writ ought to be superseded, and the said *Requête libellée* dismissed ; Considering further that Defendants have shown sufficient cause against Peremptory *mandamus* in this cause or matter ;

Considering therefore that there is error in the said Judgment of the second day of may, one thousand eight hundred and seventy, complained of, doth revising, *reverse the same* ; and

proceed that ou the said quash th doth di said Her quérante Superior Revision against t

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