

his right of retention under Art. 1679, C. C., until he is paid for the carriage, still exists, and may be enforced by conservatory seizure against parties claiming title by purchase, the thing being still in the place where it was deposited by the carrier.

EXCHEQUER COURT OF CANADA.

OTTAWA, September 1, 1892.

Coram BURBIDGE, J.

ARTHUR H. MURPHY, Suppliant; and THE QUEEN, Respondent.

*Sale of Ordnance Lands in Quebec—Cancellation—23 Vic. (P.C.)
c. 2, s. 20.*

In the year 1876 the suppliant purchased a number of lots at an auction sale of Ordnance lands in the City of Quebec. He paid certain instalments and interest thereon, amounting in all to a sum of \$2,447.92. Being unable to complete the payments for which he was liable, he applied to the Crown in 1885 to appropriate the money paid by him to the purchase of three particular lots,—Nos. 19, 38 and 39. This the Crown consented to do, and upon an adjustment of the account there was found to be a sum of \$73.92 due to the suppliant, which, by mutual arrangement, was appropriated to the purchase of another lot (No. 100), leaving a balance then due to the Crown of \$126.08. When however the suppliant came to pay this balance and get his patents for the four lots, he was informed that lot 19 would probably be required for certain military purposes. He then tendered the balance due to the proper officer of the Crown in that behalf, but it was declined. Patents for lots 38, 39, and 100 were subsequently issued to suppliant, and nothing further was done until 1886, when the Crown resumed possession of lot 19 which was followed up by an attempted cancellation of the sale of the lot under 23 Vic. (P.C.), c. 2, on the ground that as the balance due on the purchase had not been paid the terms and conditions of sale had not been complied with.

Held.—That the sale was not duly cancelled, that the suppliant had forfeited none of his rights under the sale, and was entitled to damages equal to the value of the lot at the time the Crown resumed possession thereof.