

buried for centuries, seems in excess of his power. The proper course is to apply to the Home Secretary, under section 25 of the Burials Act, 1857, for a license to remove the remains. That section provides that it shall not be lawful to remove any body or the remains of any body which may have been interred in any place of burial, without license from the Secretary of State, and a disregard of the section subjects the offender to a penalty, summarily recoverable, not exceeding £10. The words 'place of burial' have no technical meaning, and apply to the present grave, especially if it turn out, as supposed, to be a cemetery."

SUPERIOR COURT.

QUEBEC, June 4, 1884.

Before CASALTY, J.

COURTEAU V. GAUTHIER et al.

*Immovable—Description—Tutorship of widow—
Second marriage.*

HELD:—1. *In a hypothecary action against the "tiers-détenteur" of an immovable, situate within the limits of a registration-division, wherein art. 2168 of the C. C. is in force, that immovable must be described by its cadastral number and by the description of it given in the cadastral book of reference; (1)*

2. *The tutorship of a widow to her minor children ceases, on her second marriage. (2)*

The judgment is as follows:—

"Considérant que l'action est hypothécaire et que la description de l'immeuble n'est pas celle voulue par la loi;

"Considérant que le convol en secondes noces et même en troisièmes noces de la défenderesse, Julie Bertrand, a mis fin à sa tutelle à ses enfants;

"L'exception à la forme est maintenue et l'action est renvoyée avec dépens, sauf à se pourvoir."

Belleau & Stafford, for plaintiff.

Morrisset & de St. George, for defendants.

(J. O'F.)

(1) Art. 2168 C. C.

(2) Art. 282 C. C., par. 3.

COURT OF REVIEW.

QUEBEC, Nov. 30, 1886.

Coram CARON, ANDREWS, LARUE, JJ.

DUFOUR V. DUFOUR, & ANGERS, oppt.

Petitory action—Improvements—Rights of hypothecary creditor.

HELD (confirming the judgment of the Court below):—1. *That neither the law nor the judgment itself extended the right of retention for re-payment of any sum of money, paid to the experts, as the plaintiff's share of their costs;*

2. *That the prosecuting creditor, under the peculiar circumstances of the case, should, within 15 days, put in good and sufficient security for securing the amount of the opposant's claim; but that, on failure to give such security, the sale should take place free from any such reserve or charge.*

In this suit, a petitory one, for the recovery of an immovable occupied by a *bond fide* possessor, the Court awarded the immovable to the plaintiff, but reserved to the defendant the right of retention, until payment to him of whatever sum might thereafter be awarded to him for his improvements, under an *expertise* ordered by the judgment.

The experts' award was \$400; and the judgment, homologating their report, ordered that each party should pay his own witnesses, that the costs of the *expertise* should be borne equally between them, and that the plaintiff should pay the other costs of the defendant, awarded by way of distraction, to Mr. J. S. Perrault.

For those costs, Mr. Perrault caused the immovable to be seized and advertised for sale, "subject to the right of the defendant to retain the immovable until payment to him of whatever sum he might have paid, as the plaintiff's share of the costs of the experts."

Charles Angers, having a hypothecary claim on the immovable, opposed the sale being made subject to that condition, which specified no particular sum, but consented to the sale taking place, subject to said condition, if Mr. Perrault would give security that the price of sale should be sufficient to cover the opposant's claim.

The judgment of the Superior Court (Dis-