proceeds to define the structure he proposes to demolish.

The least danger that seems to menace the world is the want of contemporary interpreters of the law. A more striking one is the deluge of words which envelope and obscure the simplest propositions. I trust we have not to make a profession of faith in the French revolution before we arrive at a conclusion as to the meaning of a text of Canadian law. The object of our investigation is to determine whether our Code by its terms altered the old law of France, and not whether Mr. Troplong and the writers who have followed him, have given a particular significance to similar terms in the French Code under the influence of revolutionary excitement.

The first part of his argument to which I must take exception is his assumed account of Pothier's doctrine. He says: "Une des premières règles que je trouve exposées dans le *Contrat de Vente* de Pothier, c'est que le vendeur n'est pas obligé de rendre l'acheteur propriétaire." This is a totally disingenuous mode of stating Pothier's doctrine, which happens to be precisely that of the Roman law. What he explains in the amplest manner is, that this failure to make the purchaser proprietor is not that the vendor is to reserve the property of the thing sold, but that in case of attack he is only to defend the purchaser's title—in fact, to make it good. This principle is so manifestly reasonable that it has been impossible to eradicate it from the code, and where the most radical change is made, as in Art. 1487, it is immediately followed by an article declaring that the sale by the non-proprietor becomes valid by his becoming proprietor.

Mr. Troplong next finds the root of the change in the terms of Art. 1583 C. N. (See 1472 C. C.) It is not easy to find the cogency of this argument. Art. 1583 abolishes the necessity of tradition as between the parties. Our article, copied from it to some extent, goes a little further seemingly, but it evidently has the same meaning. He then goes on to say that Art. 1604 C. N., has changed the law, because it declares that, "La délivrance est le transport de la chose vendue en la puissance et possession de l'acheteur." (1 Vente, p. 358.) Now, this, he says, is "*faux*." It is certainly not a new mode of expressing what the law is, for Troplong admits that the article is borrowed textually from Domat. We therefore come down to this, what is meant by having the thing in your *puissance et possession?* It is quite evident that the *Cour de Cassation n'en déplaise* à M. Troplong, to adopt his own sarcastic form, was quite justified in saying that the legislature having used the words of the old law, it was for the Court to attach to them the meaning the old law attached. This becomes more evident by referring to Art. 1603, C. N. "Il (le vendeur) a deux obligations principales, celle de délivrer et celle de garantir la chose qu'il vend."

So far, then, there is no text of new law in France, but it is contended that Article 1653, C. N., shows that Troplong's mode of dealing with the other articles adverted to is alone admissible. It is said the law specially allows the purchaser to refuse payment of the price if there is *juste sujet de craindre d'être troublé, &c.* therefore there is the right to sue to set aside the sale, because the vendor has failed to perform an essential part of his bargain. Troplong does not go so far. (No. 614). Bolleux does (5, p. 728), and if Troplong's argument is to be adopted as to the change of law, it seems hardly possible to stop where he does. But the general rule of interpretation is to restrict the exception to the case provided, so that if the argument of Troplong is bad without Article 1653, it is bad with it.

Whatever may be the view prevailing in France, here the jurisprudence is pretty fairly established by the case of *Talbot* v. *Beliveau* decided at Quebec in Review in 1876: of *Hogan* v. *Bernier*, in May, 1877; and of *Parker* v. *Felton*, in June of the same year.

The enormity of the amount of the hypothecs affecting this property is insisted on in the judgment. It is evident that if the principle relied on be true, the right to have the deed set aside must exist the instant the hypothecs exceed the unpaid price.

I am to reverse.

The judgment in appeal is as follows:—

"Considérant que par l'acte de vente du 20 décembre 1872, consenti par la compagnie appelante à l'intimé, devant maître Théodore Doucet, notaire, l'appelante a vendu à l'intimé les lots de terre désignés au dit acte et en la déclaration en cette cause, avec promesse de le