

Other cases from this point of view have had almost equally unsatisfactory endings. In *Dupuy v. Ducondu*, the judgment of the Superior Court, unanimously confirmed in the Court of Queen's Bench (Tessier, J., not sitting), was reversed in the Supreme Court (Henry & Gwynne, J. J. diss., Taschereau, J., not sitting); so that the opinion of five judges from our Province, supported by two afterwards, was overthrown by three of whom only one belonged to this Province. In *Darling & Barsalou* (4 L.N. 37) the unanimous judgment of the Court of Queen's Bench of this province has been reversed by the Supreme Court, Henry, J., dissenting. Upon a mere appreciation of evidence a divided Court reverses an unanimous Court.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, December 29, 1881.

LEFAIVRE V. BELLE, & E. CONTRA.

Adultery—Evidence.

The fact of adultery may be inferred from circumstances that lead to it, by fair inference, as a necessary conclusion. So, where it was proved that the wife (defendant) under an assumed name, had occupied the same stateroom with one B. during a voyage to Europe, and had subsequently lived with B. as his housekeeper or guest, together with other facts not rebutted in any way, pointing to a criminal relation, adultery was inferred, without direct evidence of the fact.

This was an action for separation from bed and board, on the ground of adultery of the wife, alleged to have been committed subsequent to January, 1879. There was a cross demand by the wife against the husband for a similar separation, based on the charge of drunkenness and abandonment by him of his wife. The demands were consolidated by order of court.

PER CURIAM. This trial has occupied upwards of a week of the public time, fifty-one witnesses have been examined, and the facts relied upon by the parties have been amply discussed by the able and experienced counsel retained in the case.

A short review of the facts in chronological order will serve to explain the conclusions at

which the court arrives, and the court may here say that it has had no difficulty in reaching these conclusions.

Mme. Lefaivre appears to have been a woman of some attractions, to judge by the number of gentlemen who have thought it worth their while to pay her attention. How far these attentions had a criminal intent and result will shortly appear.

The parties were married in July, 1869, and have three living children, who were away from their parents at a boarding school at the dates in question. One of the friends of Mme. Lefaivre was Louis Alphonse Lesage, who was a single man, had met her at parties, was a visitor at the house, and on the 3rd April, 1879, sent her a bouquet, accompanying it by a visiting card, with these words and figures:—"Louis & Helmina, 3 Avril, '79." Asked in the witness box to explain this little act of attention, he associated it with her birthday, her birthday being May 5th, 1851.

We have next in the order of events the voyage of Mr. Lefaivre to Barbadoes for the purpose of bettering his fortunes, if an opening offered. He kept his wife in their joint domicile, and arranged with the landlord that he should not trouble Mme. Lefaivre about the rent in his absence. Mme. Lefaivre continued to occupy the house during three or four weeks after the departure of her husband. Two doors from her lived a Mr. Edmond McMahon, who was requested by Lefaivre to do any service he could to his wife in his absence. Mr. McMahon says that as he went out in the morning to his duties, he observed frequently the arrival or departure from Mr. Lefaivre's house, about 9 a.m., of Mr. W. A. Charlebois or Mr. G. W. Parent. It struck him as singular—"un peu drôle." He also mentions the receipt by his wife of a large envelope, containing another envelope for Mme. Lefaivre with a number of envelopes inside addressed to Alma Macpherson. He complained to Mme. Lefaivre of this incident, and requested that his wife should not be asked to act as an intermediary in this matter. About the same date, namely, on the 9th July, 1879, John Lewis deposes that he was in the train bound to Toronto, and, passing through the Pullman car, noticed Mme. Lefaivre in a seat by herself. He also noticed on the train, but not with Mme. Lefaivre, James