

the difficulty which the Government felt, and this together with other circumstances of a temporary nature, with which I need not trouble the Committee, prevented the Government coming down with any measure during the present Session. They must carefully consider not only the position of the Bench in Ontario and the district of Montreal, but the position of the Bench in all the Provinces, and reasonable requirements, and this forces the Government, whenever it deals with this question, to consider the whole question as affecting the Bench of the various Provinces. With reference to the Province of Ontario, a similar demand is made for the increase of the salaries of the County Judges, who are very numerous. That also will be taken into consideration. In answer to the suggestions of my hon. friend from North Simcoe (Mr. McCarthy) I will say that the Government intend to address themselves during Recess with the view of studying the pressure and the reasons of the pressure that exists in the Province of Ontario and Montreal, and is brought to bear on the Government in this relation, and will come down with some general scheme at the next Session."

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, April 30, 1883.

Before TORRANCE, DOHERTY, RAINVILLE, JJ.

LIZOTTE *es qual.* v. DESCHENEAU.

Action en déclaration de paternité—Proof of paternity.

An action en déclaration de paternité may be maintained, where it is proved that the defendant had connection with the mother at the time, though it also appear that others were guilty with him.

TORRANCE, J. This is an action *en déclaration de paternité*. The plaintiff is representing his minor daughter, a girl of 15 or 16, who gave birth to an illegitimate son on the 17th January, 1882. An enormous mass of evidence has been taken, some 900 pages, which the Court was obliged carefully to examine. The defendant, Henri Descheneau, was charged with being the father of the child. The Court at Sorel held that though there were certain circumstances against the defendant, yet the material fact, namely, the paternity, had not been proved. The evidence is entirely circumstantial against

the defendant. Mme. Descoteau, *née* Delphinée Bibeau, lived close to the minor, Arpine Lizotte, and deposed that defendant came to the house in April, 1881, and asked if Bernier, the master, was in. She told him that Bernier and his wife were away, but that Arpine was in. He said he had tried the door and found it barred. She said, nevertheless, Arpine was there. He then got in. On another occasion he came during mass. All were out but Arpine. Seeing them together, Mme. Descoteau thought they had "*des discours amoureux.*" Another witness Mme. Lauzière, testified to the defendant going to the house where Arpine was, in the absence of her guardian and everybody else. Joseph Lauzière, the servant of Bernier, says he found Arpine and the defendant in the doorway of Arpine's room. They had an air of confusion—"*L'air tout bouleversé.*" They shut the door and drew the curtain. The defendant, joking about her, said: "*Qu'il allait la mettre couvrir.*" It is true that this witness bears an unenviable reputation, but his evidence is not without corroboration. Israel Lauzière says that Henri Descoteau went to see Arpine *en cachette* of her guardians—namely, Bernier and his wife. Then we have the declaration of Arpine when in the pains of labor and apprehensive that she might die. She said that Heuri was the father, meaning the defendant. The story told by Mr. Blondin, the County Registrar, has some weight in it. When the birth took place they wished for evidence of the paternity. The Descheneau family were interrogated, and half a dozen persons were named who could give information. Blondin saw these different persons, and concluded that the defendant was the father. The father of defendant offered \$50 to stop the suit, and his lawyer, or the lawyer of the defendant, offered \$100 in settlement. Blondin further said that the child was *un témoignage terrible vivant contre le défendeur*.

It was said that the girl was *légère*. But this question was not the important one. She may have been intimate with others. The important question here was this: Was the defendant guilty, &c.? If he were guilty and others were guilty with him it did not exonerate him. All were jointly and severally liable. Anselme Dechesneau, the brother of Henri, swears that he had connection with the girl again and again. Another brother, a lad of seventeen,