SUPERIOR COURT.

MONTREAL, June 27, 1881.

Before MACKAY, J.

LEROUX et al. v. DESLAURIERS, NORMAN, opposant, and DUMOUCHEL, *mis en cause*, petitioner.

Alimentary allowance—Contempt.

A person committed for contempt is not entitled to an alimentary allowance, under C.C.P. 790.

The petitioner was a bailiff of the Superior Court who was in gaol for contempt in selling seized goods, in spite of oppositions filed to the seizure and an order from the prothonotary to suspend proceedings. (See *ante*, pp. 173-175, where the case is reported at length). He now asked for an alimentary allowance, under C.C.P. 790, supporting the application by an affidavit that he is not worth $50.

MACKAY, J. The opposant, Norman, has answered in law, that this is not a case in which an alimentary allowance can be asked for. I find that Judges Torrance and Jetté have so ruled here, and also Judge Stuart at Quebec. The application is, therefore, rejected.*

The following order was added to the judgment dismissing the petition:—

"And seeing the affidavit of Dumouchel at the end of his petition, from which affidavit it appears that he is unfit to be continued a bailiff of the Superior Court, he is dismissed."

A. Mathieu, for petitioner.

Desjardins & Lanctot, for Norman.

*See *Cramp* v. *Cocquereau*, 2 Legal News, p. 332; *Vermette* v. *Fontaine*, 6 Q.L.R., 159.

GENERAL NOTES.

The Assize Court at Heibron, in Wurtemburg, had lately before it a case which is probably unique in criminal annals. A laborer who was laid up with a broken leg was charged with embezzlement, and was summoned to appear before the *juge d'instruction*. Overwhelmed with the disgrace, perhaps unable to exculpate himself, he ordered his son to hang him. The son, who also was a laborer, obeyed his father's wish, and carried him to the house loft, where he hanged him effectively from one of the beams. The court sentenced the prisoner to imprisonment for three years and nine months.

Vacation is at hand, and the lawyers "should not make things unnecessarily long," as the English judge told the lawyer who talked about *nolle prosequi*, with the accent on the second syllable. In *Gaines* v. *Lizardi*, 3 Woods, 77, counsel "argued seventeen days." Judges also need a word of caution on this point. The *Southern Law Review* for June-July, in a notice of 102 U. S. Reports, says:—"After perusing twenty-six solid pages of a concurring opinion by Justice Clifford, in *Railroad Company* v. *National Bank* (Justice Harlan, at the close of eleven pages of the opinion of the court, had added, 'Further elaboration would seem unnecessary'), and the ten pages of opinion by him in *Parks* v. *Booth*, which constitute his contribution to this volume, a half-guilty sense of satisfaction steals over the reader as he appreciates that these are the last of those famously elaborate disquisitions by which that learned judge has so often, during more than twenty-two years, exhausted at once the law of the case and the strength and patience of the readers."

CIRCUMSTANTIAL EVIDENCE.—A lawyer in Central New York gives the following account of one of his first cases: "My client sued a neighbor for the alleged killing of a favorite dog. The proof consisted in the mysterious disappearance of the animal, and the possession of a dog's skin by the defendant, which, after considerable argument, was brought into court in evidence. It was marked in a singular manner, and was positively identified, with many tears, by the plaintiff's wife and daughter as the undoubted integument of the deceased Bose. In summing up to the jury, I was in the midst of a highly colored picture of the virtues of the deceased, and the love of the children for their four-footed friend, when I was interrupted by a slight disturbance in the crowd near the door of the little school-house which served as court-house. Looking around, I saw my client's youngest son, a tow-headed urchin of twelve, coming forward with a dog whose skin was the exact counterpart of the one put in evidence. The dog wagged his tail with good-natured composure, and the boy cried in his childish treble, 'Paw, Bose has come home.' I gathered up my law-books and retreated, and I have never had perfect confidence in circumstantial evidence since."

A singular case on the "measure of prudence," is *Bloomington* v. *Perdue*, Illinois Supreme Court, 1st June, 1881, 13 Cent. L. J. 39. It was there held in an action by a young lady against a city, to recover damages for an injury to the uterus, caused by a fall on a defective sidewalk, that on the question of the plaintiff's freedom from negligence, instructions which do not refer as a standard of caution to "what ordinary young ladies would do," but to the conduct of "an ordinarily prudent person," and of "a woman of common or ordinary prudence," are not faulty in respect to the standard referred to. The defendant proved that the plaintiff did not take proper care of herself after the injury, by remaining quiet, as showing negligence on her part, increasing the injury. On cross-examination of the physicians called by the defence, the plaintiff proved, over defendant's objection, that an unmarried woman, not informed of the anatomy of the womb, could not be expected to act as promptly and intelligently as one understanding it, or as a medical man would; and that it was a common thing for women to suffer from a displacement or injury of the organ spoken of, without themselves knowing the trouble. *Held*, that there was no error in allowing the evidence.—*Albany L. J.*