

tice; these analogies, however, are not very close, and the safer rule is to consider the particular authority which the respective positions of the parties require. A master may order a delinquent mariner to be confined, or inflict corporal punishment upon him, and this authority exists not only whilst the ship is at sea, but also whilst she is in a foreign port or river. But it is only in extreme cases and where it is absolutely necessary to preserve discipline that corporal punishment should be inflicted, and it must in all cases be awarded with due moderation." Now, was this an extreme case, and was the punishment inflicted with due moderation? I believe not. Instead of having recourse to irons and tricing up his men, the captain ought to have directed his ship into some port and ought to have procured the necessary provisions to feed them properly.

Now, under all these circumstances, has there been such ill usage to the complainant on the part of the defendant as to warrant on the part of the defendant a reasonable apprehension of danger to his life if he were to remain on board said vessel? I believe I am bound to answer in the affirmative. It is not necessary to bring the case under the statute that there should be immediate danger. The complainant has withstood this first experience well enough, but might fail in a second or third repetition of the same proceedings.

Judgment must go in favor of complainant. But inasmuch as the complainant could not state positively the balance due him, if the defendant can show by his books that the amount claimed is not all due, I am ready to hear him now, so as to adjust the amount of his indebtedness.

Curran & Grenier, for the prosecutor.

C. L. Gethings, for the defendants.

(J. J. B.)

POLICE COURT.

MONTREAL, NOV. 11, 1884.

Before DESNOYERS, P.M.

THE QUEEN V. JUDAH.

False Pretences—Suspension of examination.

Mr. Desnoyers, Police Magistrate, gave the following interlocutory decision in the case

of Mr. T. S. Judah, charged with obtaining the sum of \$25,000 from Mr. G. B. Burland by false pretences:—

The defendant is charged with having at Montreal, on or about the 11th day of April, 1882, by false pretences and with intent to defraud, obtained from Geo. B. Burland, in money and in valuable securities, the sum of \$25,000, the false pretences consisting in the verbal assertion made to complainant through Mr. Withers, defendant's attorney, that he (defendant) had a good title to certain real property then offered as security for the advance of the said sum, and that such real property was clear of encumbrance, and also consisting in the written assertion made by the defendant himself in the deed of obligation to complainant that the property mortgaged well and truly belonged to him, and moreover in the verbal reiteration made at the time of the passing of the deed, that he (defendant) was the sole owner of said real property; whereas in truth and in fact a portion of that real property (namely, three-eighths of the same) did not then belong to him, but belonged to his daughter, Madame Kilby. I do not intend to go over the whole case at present, but will dispose of it temporarily on the following grounds:—

It is contended by defendant that whilst the complainant presses this case against him, charging him with having represented himself as the owner of the property now under seizure, he (the complainant) at the same time contests in the civil court the right claimed by Mrs. Kilby to said property.

The complainant pretends that he does not contest Mrs. Kilby's title to the property, but simply her right to withdraw the property from seizure, she having neglected to register her title according to law for upwards of twenty years. This, I believe, is a distinction without a difference. In order to avoid all appearance of contradiction in his course, the complainant, through his counsel in the civil case, has served a notice of motion to withdraw from his contestation of Mrs. Kilby's opposition, all portion of his plea which may read as contesting Mrs. Kilby's title, resting his defence simply on Mrs. Kilby's neglect to register her title according