

The Legal News.

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The list of judgments delivered by the Court of Appeal at Montreal, on Thursday last, is a peculiar one,—ten appeals were dismissed—not one allowed. The only dissent was a silent one, the dissentient judge not being present when the judgment was pronounced. Such harmony *inter se*, and with the Courts below, is very remarkable; and considering that the cases carried to appeal are selected by the bar from a very much greater number of judgments of first instance, it would seem to indicate that the work of the Courts below is carefully performed.

One of the most important cases disposed of by the Court was *C. P. R. Co. & Robinson*, in which the judgment of the Court of Review, reported in M. L. R., 5 S. C. 225-249, was unanimously affirmed. The action was by a widow, under Art. 1056 of the Civil Code, to recover damages occasioned to her by the death of her husband, who was fatally injured through the negligence of the company's employees. The only question of importance was one which was first raised at the argument before the Court of Review, namely, the husband's action having been extinguished by prescription before his death, had the widow the remedy indicated by Art. 1056? The Court of Appeal unanimously decided, assuming that the husband's action had been prescribed before he died, that this did not deprive the widow of the right to sue under Art. 1056. That right does not pertain to her as heir of her husband, but is a distinct right, which is extinguished only where the husband has obtained "indemnity or satisfaction" before his death. An *obiter dictum* of the Chief Justice is of interest. His Honour considered it very doubtful whether prescription runs against an injured person from the date of the accident. Should it not rather be from the date of his recovery? In these cases

damages must be proved. How can the bills for surgical and medical attendance be proved while the doctors are still in daily attendance? How can the cost of an artificial leg be claimed before the crippled plaintiff has sufficiently recovered to make it clear that he will ever be in a condition to use it? It does seem a monstrous injustice to suppose that prescription is running while an unfortunate man is lying mangled and exhausted, in pain and want and misery, growing daily more helpless until the end comes. It was not necessary to decide this question in the *Robinson* case, because the Court held that the prescription of the husband's claim before death could not affect the right of the widow under Art. 1056, but the point will probably be heard of again in some other case.

A question of interest to the bar and to the officers of the Court was decided this week by Mr. Justice Würtele in *Bossière v. Bickerdike*, 6 S. C. The question was whether the prothonotary could be punished for contempt for failing to produce a record, where no wilful neglect was charged against him. The Court decided in the negative, and held that the remedy was by civil action of damages. If it were not so, the prothonotary would be liable to imprisonment for an indefinite period in consequence of the disappearance of a record through the carelessness of an employee not appointed by himself.

COUR SUPÉRIEURE (CHICOUTIMI.)

Coram ROUTHIER, J.

DONAIS V. BOSSÉ.

Responsabilité du Shérif.

JUGÉ:—*Qu'un shérif qui n'a pas légalement assigné les jurés, est responsable en loi, vis-à-vis d'un accusé qui n'aurait pu pour cette raison subir son procès au jour fixé, et doit lui rembourser les frais qu'il a encourus à cette occasion.*

PER CURIAM:—Demande de \$540.40 dommages, étant le montant d'argents déboursés par le demandeur dans les circonstances suivantes:

Au terme dernier de la Cour Criminelle à