

## The Legal News.

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### JUDICIAL CHANGES.

An Act to amend the Act relative to the constitution of the Superior Court, 46 Vic., Cap. 13 (Quebec), came into force on the 1st May, by proclamation of the Lieutenant-Governor of Quebec, dated 11th April, 1883, published in the Quebec *Official Gazette*, of 17th April, 1883. By this Act the number of judges resident in Montreal was fixed at eight.

By an Order-in-Council passed at Ottawa by the Dominion Government, of date 23rd June, 1883, Mr. Justice Mathieu, previously resident in the District of Joliette, was removed to Montreal as the eighth judge.

### HUSBAND AND WIFE.

A recent decision of the Court of Session in a case of *Thompson v. Thompson*, affords in rather a new direction, an illustration of the change which is coming over the relation of husband and wife in the eye of the law. We have not the full facts of the case before us, but so far as we understand it was an application by the wife for the allotment of a sum of money in the name of alimony for her child and expenses of her own case. The application was refused, Lord Fraser, in giving judgment resting his decision on the ground that the principles established in the last Married Women's Property Act involved a modification of the practice of the courts in respect to alimony. "I have come to the conclusion," his Lordship is reported to have said, "that in consequence of the recent Married Women's Property Act a wife in an action of divorce must in future litigate at her own charges like any other litigant. A woman can now carry on business like her husband, and earn her own livelihood like him, and there is therefore no ground for insistence on the rule which formerly prevailed, and which has worked practical injustice in a great many cases." Without knowing precisely the circumstances before the court, it is impossible to estimate the full effect of the above language. It is clear, however, that his Lordship regards himself as enunciating to some extent a

new principle, and the point is one which is likely sooner or later to occupy the attention of the English courts. So far as we are aware, it has been the practice in Scotland, as well as in England, to take into consideration any existing income of the wife, whether arising from her own exertions or from other sources, in allotting alimony *pendente lite*. But to make allowance for the mere capacity of the woman to earn her own living, if that was the point decided by Lord Fraser, is, we believe an innovation on the existing practice in Scotland, and, except in very exceptional cases, in England also. At any rate, Lord Fraser's language shows the very unexpected ways in which the Married Women's Property Act from time to time operates. The Act is indeed a double-edged tool, and the above is only one of the many cases which have recently proved its capacity for cutting in either direction.—*Law Times* (London.)

### NOTES OF CASES.

#### SUPERIOR COURT.

MONTREAL, June 16, 1883.

Before RAINVILLE, J.

ROSS et al. v. O'LEARY and O'LEARY, petitioner.

*Contempt—Imprisonment.*

*Held, that a person over 70 years of age is not exempt from imprisonment for contempt of Court.*

The judgment is as follows:—

"La Cour après avoir entendu les parties par leurs avocats contradictoirement sur la requête produite le 4 juin courant par le défendeur pour le faire mettre en liberté, examinée la procédure et les pièces produites, et la preuve, et délibéré ;

"Attendu que par sa requête le dit requérant allègue que le 20 août 1882, il aurait été arrêté en vertu d'un bref de *capias* émis en cette cause, lequel *capias* a été contesté par le dit défendeur requérant, et maintenu par jugement de cette Cour rendu le 30 novembre dernier ; que quelques jours après un bref de *saisie-arrest* après jugement aurait été émis contre le dit défendeur à la poursuite du demandeur ; que sur une règle émise en cette même cause et déclarée absolue, le dit requérant a été condamné à être emprisonné dans la prison commune de ce district