

which it relates.—*Dun & Cossette*, Dorion, Ch. J., Tessier, Cross, Church, Bossé, J.J. (Cross, J., diss.), March 26, 1889.

*Prohibition, Writ of—When it may issue—Seizure of goods of Indian—Jurisdiction—Indian Act, R. S. ch. 43, s. 78.*

*Held*:—1. A writ of prohibition can be issued from the Superior Court to an inferior tribunal, only when the inferior tribunal is exceeding its jurisdiction, or is acting without jurisdiction.

2. A Commissioner's Court has jurisdiction to hear and determine a cause against an Indian, and to issue a writ of execution upon the judgment rendered in such cause; and the fact that goods have been seized which are by law declared to be exempt from seizure does not justify the issue of a writ of prohibition to the Court from which execution issued.

3. The proper proceeding in such circumstances is an opposition *afin d'annuler*.—*Cherrier & Terihonkou*, Dorion, Ch. J., Tessier, Cross, Church and Bossé, J.J., Feb. 26, 1889.

*Aliment—Obligation to furnish—Right of defendant to call in others responsible with him—Costs—Contestation between husband and wife.*

*Held*:—1. That although the obligation to furnish aliment is not indivisible or joint and several, in the ordinary meaning of the terms, yet the person from whom aliment is sought has a right to call into the cause all who may be in law responsible with him for the providing of such aliment.

2. Where the defendant called his wife into the cause, and after the dismissal of the principal action the suit was continued between the husband and wife, and carried to the Court of Appeal notwithstanding that the pecuniary interest was extremely small, and the litigation appeared to be prolonged for the gratification of mutual ill-feeling, the Court has a discretion, under Art. 478, C. C. P., to compensate the costs, and put the parties *hors de cour*, each paying his own costs.—*Mainville & Corbeil*, Cross, Church, Bossé, Doherty, J.J., May 23, 1889.

*Responsibility—Art. 1055 C.C.—Fall of wall—Caused by defect of construction—Damages.*

*Held*:—1. Where one of the walls of a burned building falls, not solely as a consequence of the fire, but because of an original defect in its construction, the owner is responsible for the damage caused by its ruin.

2. The loss caused by the interruption of the business of a person whose premises have been destroyed by the fall of his neighbour's wall, may be considered in the estimate of damages.—*Evans & Lemieux*, Tessier, Cross, Church, Bossé, Doherty, J.J., Feb. 26, 1889.

*Interdiction of party for prodigality during pendency of suit—Continuation of proceedings—Costs.*

*Held*:—1. Where a party to a suit is interdicted for prodigality *pendente lite*, he ceases to be capable of any further proceeding in the cause, and the *instance* must be taken up in his behalf by the curator appointed to him.

2. An intervention in the suit, by the curator, for the purpose of assisting the interdict, is of no effect; and an appeal by the interdict, so assisted by the curator, will be rejected.

3. Where the opposite party has only raised the objection to the irregularity of the proceedings by his factum and argument on the appeal, no costs will be allowed to him on the dismissal of the appeal.—*Greene & Mappin*, Dorion, Ch. J., Cross, Bossé, Doherty, J.J., May 20, 1889.

*Malicious proceedings—Damages—Injunction allowed after notice and subsequently dissolved—Prête-nom—Malice—Reasonable and probable cause—Injunction Act, Q., 41 V. c. 14.*

*Held* (Cross, J., diss.):—1o. That no action lies for damages resulting from the issue of an injunction, unless such proceeding has been taken maliciously and without probable cause.

2o. That the terms of the Statute, Q., 41 Vict., cap. 14, sec. 4, providing that the writ of injunction shall not issue unless the person