The Legal News.

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WHERE ONE PLAINTIFF IS ABSENT.

It has been held, *Beaudry* v. *Fleck*, 20 Jurist, p. 304, that when one of two plaintiffs is resident within the jurisdiction, security for costs cannot be demanded from the absent plaintiff. An exception to that rule has been established in the case of *Henderson* v. *Henderson*, of which a note appears this week. The Court (composed, it may be remarked, of the same Judge as in *Beaudry* v. *Fleck*), holds that where *solidarité* does not exist between the plaintiffs, as in an action by coheirs demanding an account, one of two plaintiffs who resides out of the Province may be called upon to give security. Reference was made to the case of *Humbert et al.* v. *Mignot*, 18 Jurist 217, in which the Court of Appeal, sitting at Quebec, in 1874, apparently approved the judgment appealed from, which held, that where, of two plaintiffs, not copartners, and between whom no *solidarité* exists, one leaves the country after suit brought, he may be compelled to give security for costs. The judgment of the lower Court had gone further, and condemned both plaintiffs to give security, but the defendant desisted from the part of the judgment which concerned the plaintiff who remained in the country. The absent plaintiff had not complained, so that his liability to give security was not directly before the Court of Appeal, but no doubt seems to have been entertained of the correctness of the judgment as far as the absentee was concerned.

INTEREST ON ASSESSMENTS.

The decision in *Ross* v. *Torrance*, and *The City of Montreal*, claimant, noted in the present issue, takes away from the city the right to impose the ten per cent. interest on overdue assessments which has been enforced for a number of years past. The local legislature has no right to legislate on the subject of interest, that being one of the matters within the exclusive legislative authority of the Parliament of Canada, B. N. A. Act., Sec. 91. But, prior to Confederation, power to impose this ten per cent. interest rate on overdue taxes had been conferred by the Legislature of Canada, and the present decision is therefore chiefly noticeable in finding that the power formerly possessed to impose the ten per cent. rate has been lost by the unintentional repeal of the law which conferred it, and the substitution of an enactment of the Local Legislature which, being unconstitutional, cannot be enforced.

MORTGAGES ON VESSELS.

The case of *Kempt* v. *Smith*, and *Cantin* opposant, concedes to the registered mortgagee the right to prevent the seizure or sale of the vessel at the suit of a judgment creditor. The decision of the Court of Appeal in *Kelly & Hamilton*, 16 Jurist, 320, is followed by Mr. Justice Sicotte in preference to that rendered by the Court of Review in *D'Aoust* v. *McDonald*, 1 Legal News, 218, and 22 Jurist, 84. The composition of the Court of Appeal, it may be remarked, is almost entirely changed since *Kelly & Hamilton* was decided, and the only Judge remaining who sat in that case, dissented from the judgment. But the present Chief Justice was counsel for the respondent, whose pretensions were sustained by the majority of the Court.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, May 31, 1879.

JOHNSON, J.

SCANLAN v. HOLMES.

Landlord's Liability—Damages occasioned by absence of grosses réparations.

JOHNSON, J. The plaintiff, a grocer, sues his landlord for damages done to his stock of groceries by rain that penetrated through the walls during a storm. There is no difficulty about the proof: it is all one way. The defendant's plea was that the inundation was caused by defective drains, and not by his fault. The evidence is quite to the contrary. The water came in through crevices in the walls of the cellar. The only doubt I had at the hearing was whether the landlord was liable for damage