

## The Legal News.

VOL. VI. DECEMBER 8, 1883. No. 49.

### INTEREST ON COUPONS.

A question of some importance was decided in *Desrosiers v. Montreal, Portland & Boston Ry. Co.*, by the Court of Review at Montreal on the 30th ultimo. The Court unanimously overruled that part of the decision of the Court below which disallowed interest on railway coupons from the date of maturity. The coupons themselves represent interest on railway bonds, and the question was whether, in the absence of any formal demand, the holder was entitled to interest on the amount of each coupon from the date of maturity. The Judge of first instance ruled that he was not, but this decision has been unanimously reversed by the three judges sitting in Review, (Johnson, Torrance and Rainville, J.J.) It appears that the Judge of first instance was misled in part by a citation from *Abbott's Digest*, the text of which was not supported by the decisions on which it purported to be based. The Supreme Court of the United States, in a series of decisions, has laid down the doctrine that interest runs from the date of maturity of each coupon. The latest case is *Walnut v. Wade*, 103 U. S. Supreme Court Rep., p. 683. In that case reference was made to the previous decision by the same Court in *Aurora City v. West*, 7 Wallace, p. 82, as well as several other judgments of later date, all of which treated coupons as negotiable instruments, bearing interest from date of maturity.

This question was decided incidentally in the same sense by Mr. Justice Torrance in the case of *Hatton v. Senecal*, 6 Legal News, p. 220. Although the point does not appear to have been specially discussed in that case, the text of the judgment (p. 222) shows that the learned Judge granted the prayer of the plaintiff asking for interest on each coupon from the date when the same became due. It is to be remarked, however, that the action was not against the company, but against a person who unlawfully retained the debentures and coupons, and thereby prevented the plaintiff from making a formal demand for payment of the coupons as they fell due. This case is now in appeal.

We remember that the same question was

raised some years ago in the Superior Court in a case of *Macdougall v. Montreal Warehousing Co.*, of which a short note will be found in 3 Legal News, p. 64. Mr. Justice Mackay in that case did not think that our law sustains the demand for interest where the debtor is not put in mora.

### THE MONTREAL COURT HOUSE.

We are glad that Mr. Justice Johnson, in some pointed remarks, on the 30th ult., has drawn attention to the disgraceful condition of the Court House in Montreal. The bulk of the judicial business of the Province is transacted in this building, and a golden rain of fees extracted from the pockets of suitors falls upon the thirsty provincial exchequer, yet the accommodation afforded to the judges and to the bar is as remote from what health and convenience require as can possibly be conceived. The atmosphere within the building during the month of November was loathsome and oppressive to a degree which we have never known paralleled during an experience of nearly a quarter of a century. This is due partly to the holding of the Criminal Court, the Circuit Court, and the Election Courts under the same roof. Chief Justice Dorion drew attention to this grave inconvenience some months ago (see p. 193 of this volume). The Criminal Court, with the Police and Session Courts, and probably the Circuit Court, should be transferred to a detached building, and this would leave space enough for the Superior Courts for twenty years to come. Apart from this overcrowding, we suffer from the ignorance or stupidity of those in charge of the building. A little more attention to ventilation would do much to diminish the evil effects of the poisonous atmosphere. We have a strong impression that the exhaustion of Court House work is due as much or more to the foul air breathed there as to the intellectual fatigue actually undergone. It is to be hoped that the Council of the Bar will follow up the suggestion of the Judges, but it will take a great many knocks from the judicial and legal hammers to drive the nail home.

### MALICIOUS PROSECUTION OF SUIT.

The *Albany Law Journal* (Vol. 28, p. 304) has collated some authorities on this question, (*ante*, p. 378) which may be interesting. It refers to *Closson v. Staples*, 42 Vt. 209; S. C., 1