The Legal News.

Vol. VII. DECEMBER 27, 1884. No. 52.

SENECAL & HATTON.

The decision of the Court of Appeal upon one part of this case is of considerable importance. The defendant, Senecal, retained in his possession, without any legal right to do so, certain railway bonds. Apart from the questions of fact (as to which the Court of Appeal confirmed the decision of Mr. Justice Torrance, 6 L.N. 220), a question of law arose as to the alternative to which the defendant should be condemned in default of his giving up the bonds. The plaintiff by his action asked for the bonds, or their value *at par.* The Court below adopted this view (more especially as it was difficult on the evidence to fix the precise value), but the Court of Appeal has varied the judgment in this respect, and held that the defendant should be condemned in the alternative merely to pay the actual or market value of the bonds as established in evidence. By the formal judgment in appeal the value assigned to the bonds (25 per cent.) is said to be the value at the time the defendant got them.

Another question involved in the case is of some interest, but no reference was made to it in the judgment. Coupons were attached to the bonds, falling due every six months, and representing six per cent. interest on the par value of the bonds, the capital of which is only payable at the expiration of twenty years. Mr. Justice Torrance allowed interest on each coupon as it became due, without requiring proof of demand of payment. This ruling was supported by decisions of the Supreme Court of the United States (see 6 L.N. 385, where the cases are cited). It is also in accordance with the unanimous judgment of the Court of Review in *Desrosiers* v. *The Montreal, Portland & Boston Railway Co.* (6 L.N. 388). The form given to the judgment in appeal made it unnecessary to pass upon this question, because, instead of valuing the coupons separately, the judgment allows interest upon the valuation of the bonds from the date of their issue. It might be inferred, perhaps, that the claim for interest on the coupons had been rejected, or at least overlooked, but we are inclined to think, seeing the form of the judgment, that this decision could hardly be cited as overruling the formal decision of the Court of Review in *Desrosiers* v. *The Montreal, Portland & Boston Railway Co.*

EX PARTE PERRY.

A few words may suffice for the present by way of appendix to the report in *Ex parte Perry,* 7 L. N. 330. Dr. Vallée, who was named *expert,* reported that the patient, Rose Lynam, might safely be liberated if placed in the care of some one other than her husband. Mr. Justice Jetté thereupon ordered the assembly of a family council to advise as to the appointment of a guardian. The majority of the council recommended that she be placed in the charge of the Lady Superior superintending Longue Pointe Asylum. As this would be leaving matters precisely as they were before, the learned judge overruled the advice of the majority and adopted that given by two of the friends, viz, that she be placed in the care of Mr. Alfred Perry.

THE SALVATION ARMY IN MONTREAL.

The religious enthusiasts known by this title have at length put in an appearance in Montreal, but upon their attempting to walk through the street playing tambourines, they were promptly arrested by the police and taken before the Recorder. The case was argued at great length, and with much ability, and the Recorder, in an elaborate judgment, ruled that the prisoners must be discharged, as the evidence did not support the complaint, which was to the effect that the accused were employing a device, noise and performance tending to the collection of persons in a public place, to the obstruction of the same. The Recorder ruled that on the evidence it appeared the intention of the defendants was to bring people to church, and not to gather them in the street and obstruct the same.