

The Legal News.

VOL. II. MAY 24, 1879. No. 21.

JUDICIAL CHANGES.

The resignation of Mr. Justice Loranger, Judge of the Superior Court for the District of Richelieu, is announced. This able Judge has occupied a seat on the bench since 1863. Previous to his appointment to judicial office he was a Commissioner for consolidating the Statutes of Lower Canada and Canada respectively, and was a distinguished counsel in both civil and criminal business. In 1855 he took part in the celebrated Seignorial cause before the Seignorial Court. He has also been, since 1877, one of the Law Professors in the Montreal branch of Laval University, and is known as the author of the *Commentaire sur le Code Civil du Bas Canada*, (Montreal, 1873).

Judge Loranger's successor is Mr. Charles I. Gill, of Sorel, M.P. for Yamaska. Mr. Gill was admitted to the Bar in 1867.

DEMAND BEFORE SUIT.

The case of *Dorion & Benoit* deserves notice, though it can hardly be said to present anything novel in the principles involved, and the judgment was affirmed without the slightest difficulty by the unanimous bench. The action was brought on a note *en brevet*, payable at St. Bruno, the place of the maker's residence, in the course of September, 1877, without interest. The maker was sued, however, at Montreal, without previous demand at his place of residence. He confessed judgment and deposited the amount in the Court, but without interest or costs, claiming that the absence of demand before suit freed him from liability for interest or costs. The case seemed a very clear one, but there were two or three points raised by the plaintiff in appealing from the judgment, which had condemned him to pay the costs of the suit. First, it appeared that the defendant, before being sued, had written to the plaintiff asking for some delay. The letter was not answered, and it was held not to be a waiver of the defendant's right to be asked for payment at the place stipulated in the note. It was

further said that the defendant should have offered interest on the amount of the note from the day of service up to the date of his depositing the money in Court. But the Court held that interest did not run until a demand had been made which put the defendant *en demeure*, and the service of a writ was not such a demand. There was another objection raised by the plaintiff, that the defendant had not notified him under Article 1164 of the Civil Code, that the money was ready for him. This article was held not to apply to a case like the present. The defendant's obligation was to pay at his house, when requested to do so. He had not failed in this obligation, and besides, according to the judgment of first instance, it was held proved that the defendant had the money ready at his domicile when the note became due.

CITY ASSESSMENTS.

The decision in *Greene v. The City of Montreal* interprets against the city a very stringent enactment of the Charter, intended to demolish all obstacles in the way of the prompt collection of assessments. The possession of the married woman *séparée de biens* of effects belonging to her in the conjugal domicile is held to exclude such effects from sale for assessments due by her husband, under the provision authorizing the city to sell for assessments all moveables found in the possession of the debtor. The object of the law, it may be remarked, has apparently been defeated by the loose terms in which it is expressed; for the counsel of the city remarks in his factum: "La Cité avait d'excellents motifs de demander une loi à ce sujet. Plusieurs courtiers occupant de magnifiques résidences et menant grand train de vie, éludaient le paiement de leurs taxes d'affaires, et lorsqu'après de nombreuses démarches l'huissier se présentait pour saisir à l'opulent domicile, la femme séparée de biens lui annonçait que tout lui appartenait, et la Cité se trouvait frustrée de ses droits; cet exemple était imité par ceux qui occupaient une position plus modeste, en sorte qu'il s'ensuivait des pertes considérables pour la municipalité; aujourd'hui, grâce à cette loi, l'abus a cessé d'exister, et la taxe personnelle se prélève facilement." It will be necessary, if the city