

The Legal News.

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RAILWAY IN STREET.

In the present issue we report the case of *The Montreal City Passenger Railway Co. and Parker*, in which it was held, that where a railway in a street of a city is properly constructed and operated, the company are not liable for damages caused by the wheel of a vehicle coming into collision with the rail. A similar principle was laid down by the Supreme Court of Illinois in a recent case—*Chicago & Eastern Illinois Railroad Co. v. Loeb* (March 26, 1884), noted in the *Chicago Legal News*. The ruling of the Court was that a railroad track laid upon a street of a city by authority of law, properly constructed, and operated in a skillful and careful manner, is not in law a nuisance, which is abatable. A railroad, or the operation of it, is not to be and should not be abated. It is built for the accommodation of the public: this is the object which justifies the exercise of the power of eminent domain; and the public welfare demands that there should not be a discontinuance of the operation of a railroad.

EXECUTION OF CRIMINALS.

We think, says the *London Spectator*, it to be demonstrable that so long as the sentence of death is retained—that is, so long as the nation retains its present creed, and feels for society more than for the individual—three conditions as to the method of inflicting it should be resolutely maintained. The mode of execution adopted should be sudden, it should visibly shatter the corpse as little as possible, and it should be held by opinion to be itself disgraceful, and no method except hanging fulfils all those conditions. Sudden death, could, of course, be inflicted in a hundred ways, many of them more rapid than the noose. Shooting, if the heart is pierced, or the brain, is probably as rapid as any. The guillotine is swifter than the hangman, despite some doubts as to the instantaneous loss of the victim's consciousness, and it

would be easily possible to employ agencies more rapid than either. There are poisons too rapid in their action for pain, and one of them could be administered, we believe, during sleep. Electricians can prove, we are told, that the electric fluid moves more rapidly than sensation does, and hold it therefore probable that an electric shock sufficient to kill instantly would never be felt by the criminal at all, death preceding sensation, a view borne out, so far as such views can be, by the usual testimony of those who have received and survived a stroke of lightning. Any one of these methods, therefore, would be as satisfactory, so far as the suddenness and the absence of any approach to torture is concerned, as hanging; but the first two diminish that respect for the body which the whole history of brutal assaults shows it so necessary to maintain, and which is, we think, the true objection to that ghastly but painless mode of execution, blowing from a cannon; and the third is liable to make an objection of its own, that it is not wise to make death for crime much more painless than natural death usually is. We should not make it painful, but we should not artificially reduce its terrors. The awe with which the punishment is regarded would be gravely diminished by the use of painless poison, such as Athenians used, while a new doubt would be begotten among the ignorant as to the reality of its infliction. They would begin talking of strong sleeping draughts, and of the drugs which could produce apparent death—that is, catalepsy—without actually killing. It is most important that no colour should be given to such stories, and important, too, not to degrade science by making it an accomplice in the executioner's task, as it would be if the electric battery were employed. Men ought not to lose the sense that there is something rough and brutal about capital punishment, that it is essentially a last appeal to force in its most direct and savage form, when every other means appear from experience to have failed. We greatly doubt, moreover, whether the multitude would believe in the painlessness of death by electricity, and whether the lightning stroke would not evoke that shudder of sympathy with the condemned which so utterly "demoralizes the guillotine," and which the idea of torture, in