

The Legal News.

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THE APPEAL TERM.

During the December Term of the Court of Queen's Bench at Montreal, twenty-eight cases argued during the previous term were decided, and about the same number of new cases were heard. Two reserved cases with some other criminal business were also disposed of. The twenty-eight cases determined involved an unusual number of questions of importance. We begin to give notes of some of them in this issue, and in the opening numbers of our third volume we hope to complete our notes of the points decided.

On the twenty-eight appeals, the judgment of the Court below was affirmed in 16 cases, and reversed in 12 cases. Of the confirmations 12 were unanimous, and of the reversals 8 were also unanimous—an unusual proportion,—but it must be added that in several of these cases "considerable difficulty" was felt by one or more Judges in concurring in the judgment of the Court. From two of the confirmations one Judge dissented, and from two others, two Judges dissented. From two of the reversals, also, one Judge dissented, and from two others, two Judges dissented. In both reserved cases the conviction was set aside—unanimously in one case, and with one dissent in the other.

SEIZURE OF RAILWAYS.

The judgment of Mr. Justice Dunkin in the case of *The Corporation of County of Drummond v. South Eastern Railway Co.*, noted at p. 137 of the 1st volume of the *Legal News*, and to be found at length in 22 L. C. J., p. 25, has been set aside by the Court of Appeal, Mr. Justice Tessier dissenting. The case has been kept some time *en délibéré* at the request of the parties, who were negotiating for a settlement, and during the interval the question involved has been thoroughly examined. The majority of the Court have arrived at the conclusion that a railway, whether belonging to individuals or to an incorporated company, may be seized and

sold, in whole, or in part, at the suit of bond holders to whom a hypothec on the property is, by statute, expressly given. This decision is of immense importance, and the attention thus directed to the state of the law will no doubt lead to legislation with a view to making better provision for the protection of the various interests concerned.

REGISTRATION.

An important question under the law of registration was submitted to the Court of Appeal in *Adam & Flanders*, decided on the 22nd instant. The principle is laid down that a judgment may be registered against an immoveable, and a hypothec thereby acquired, after the immoveable has been sold by the debtor and has passed into the possession of a third party who has not registered his deed of purchase until after the registration of the judgment. In other words, the unregistered title of the purchaser—even if he be in open possession—may be defeated by the registration of a judicial hypothec subsequent to the sale; and apparently the result would be the same if an ordinary hypothec were given by the vendor, and registered before the deed of sale. Precisely the same question appears to have been submitted to the Court of Review at Montreal, in April last, in the case of *Tellier v. Pagé* (No. 19 of this volume), and the unanimous conclusion of the Court (Johnson, Mackay, Papi-neau, J.J.) was the same as that of the Court of Appeal. The rule is one which may give rise to cases of extreme hardship; but the policy of the law seems to be that there shall be no title as regards third parties without registration, and though the penalty for default is a heavy one, the Courts have no option.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, Dec. 17, 1879.

MONK, RAMSAY, TESSIER and CROSS, JJ.

McCord et al. (defts. below), Appellants, and
LES RELIGIEUSES SŒURS DE L'HOTEL DIEU DE
MONTREAL (plffs. below), Respondents.

Fief Nazareth—Registration of Seigniorial rights.

The judgment appealed from was rendered