

DIARY FOR DECEMBER.

1. Sun....1st Sunday in Advent.
2. Tues....General Sessions and County Court Sittings for Trial in York.
3. Thu....Chancery Division High Court of Justice sits.
7. Sat....Michaelmas Term and High Court of Justice Sittings end. Last day for call notices for Hilary Term. Sir W. P. Campbell, 8th C.J. of Q.B., 1893.
8. Sun....2nd Sunday in Advent.
10. Tues....General Sessions and County Court Sittings for Trial, except in York.
14. Sat....Prince Albert died, 1891.
15. Sun....3rd Sunday in Advent.
17. Tues....First Lower Canadian Parliament met, 1792.
18. Wed....Slavery abolished in the United States, 1862.
21. Sat....Shortest day.
22. Sun....4th Sunday in Advent.
24. Tues....Christmas Vacation begins.
25. Wed....Christmas day. Sir M. Hale died, 1676, at 67.
27. Fri....J. G. Spragge, 1st Chan., 1890.
29. Sun....1st Sunday after Christmas.
30. Mon....Holt, C.J., born 1642.

Early Notes of Canadian Cases.

HIGH COURT OF JUSTICE FOR
ONTARIO.

Queen's Bench Division.

STREET, J.] [Nov. 12.
THATCHER v. BOWMAN.

Landlord and Tenant—Ten years' lease by owner of life estate to reversioner in fee—Action by executrix for rent—Covenant in lease—"Heirs and assigns"—Estoppel—Shewing title of landlord at an end—Reformation of lease—Evidence—Acquiescence.

N. B., who had a life estate in certain lands, in 1882 made a lease of them for ten years to E. B., who was entitled to the reversion in fee. The reservation of rent in the lease was to the lessor simply, and the covenant for payment of rent was "with the said lessor, her heirs and assigns" for payment to "the said lessor, her heirs and assigns."

N. B. died in 1887, before the expiry of the ten years, and this action was brought by the executrix of her will to recover (*inter alia*) the instalments of rent which became payable, as it was alleged, upon the lease after her death.

Held, that, as the interest of N. B. was a freehold interest, the plaintiff could not recover either as being entitled to the reversion of a chattel interest or as being the person designated by the covenant.

Held, also, that there was no estoppel to prevent E. B. from shewing that the title of

N. B. had come to an end, and that he himself became the owner upon her death.

E. B. set up an agreement between himself and N. B. that the lease should expire at her death in case she should not live for the full term of ten years, and asked that the lease should be reformed accordingly. The only evidence in support of this was that of E. B. and his wife, and of a relative of theirs, whose memory was shewn to be untrustworthy.

Held, that this evidence was not sufficient, after so many years of acquiescence and after the death of the lessor, to justify the reformation of the lease.

Boyd for plaintiff.

Hardy, Q.C., and H. J. Wilkes for defendant.

STREET, J.] [Nov. 25.
IN RE MCCORMICK AND TOWNSHIP OF
HOWARD.

Municipal Corporations—Drainage by-law—R.S.O., c. 184, ss. 571, 572—Motion to quash—Notice of intention to move must be given by actual applicant.

Held, that a municipal drainage by-law, whether for the construction of an original work or the improvement of an old one, and whether the proceedings are taken under s. 583, 585, or 586 of the Municipal Act, R.S.O., c. 184, is subject to the provisions of ss. 571 and 572 requiring notice in writing to be given within ten days by anyone intending to apply to have the by-law quashed of his intention to so apply.

And where such notice was given by a solicitor and signed by him as solicitor for C. J. and D. McC., stating that the application would be made on behalf of J. C., D. McC., and others, and an application to quash was afterwards made to the Court by persons other than C. J. and D. McC.

Held, that the application was not made to the Court by any person who had given the notice required by ss. 571 and 572; that another ratepayer could not take advantage of the notice by adopting it as his own; and the application of which notice had been given not having been made, the by-law became a valid one at the expiration of six weeks from its final passing; and the motion to quash it was dismissed with costs.

W. R. Meredith, Q.C., and Charles McDonald for the motion.

M. Wilson contra.