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DIARY FOR NOVEMBER.

1. Mon...All Saints' Day. Sir Matthew Hale born 1609.
2. Tues...First Intermediate Examination.
4. Thur...Second Intermediate Examination.
7. Sun...20th Sunday after Trinity.
9. Tues...Sittings of Ct. of Appeal, and sittings C. C. York for trials, begin. Solicitors' Examination.
10. Wed...Barristers' Examination.
12. Fri...G. T. R. opened from Quebec to Toronto, 1856. W. B. Richards, 10th C. J. of Q. B. 1868.
13. Sat....Last day for filing papers with S. L. S. before call or admission. J. H. Hagarty 12th C. J. of Q. B. 1878.
14. Sun....21st Sunday after Trinity.
15. Mon...Michaelmas sittings of Q. B. & C. P. Div. H. C. J. begin. J. B. Macaulay, 1st C. J. of C. P. 1849.

TORONTO. NOVEMBER 1, 1886.

MECHANICS' LIENS AND THE REGISTRY ACT.

[COMMUNICATED.]

ONE of the provisions of the Mechanics' Lien Act (R. S. O. c. 120), which has a very important bearing on the proper construction of the Act in its relation to the registry laws, has for some reason or other failed to receive either from the bench or the bar that attention which it deserves. On the contrary, its existence seems to have been generally ignored, if we may properly use so contemptuous a word. At any rate, so far as the reports show, with but one exception, no reference is made to it in any of the cases in which it appears to have had a vital bearing on the question before the Court.

This clause is the last in the Act, and possibly its position may account for its having so generally escaped the attention it deserves. It reads as follows:—"26. Except so far as herein otherwise provided, the provisions of the Registry Act shall not apply to any lien arising under

the provisions of this Act." From the earliest to the latest case which has come before the courts, in which there has been a contest between a lienholder and a registered incumbrancer, with but one solitary exception, it will be found that this important provision is not even mentioned either in the reported arguments of counsel, or the opinions pronounced by the bench; and, for aught that appears to the contrary, these cases were argued and disposed of as if no such provision existed.

The scheme of the Mechanics' Lien Act in its relation to the registry laws we take to be this: The lienholder, by virtue of being employed, is to have a lien binding on the owner and all persons claiming under him, whose rights accrue after the commencement of the work for a certain period without registering his lien, and he is not to be prejudiced on account of the non-registration of his lien during this period by anything contained in the Registry Act. After this period, in order to preserve his lien, he must register it; if he does not, then the provisions of the Registry Act take effect as against his lien. If, on the other hand, he does register his lien within the limited time, then he is entitled to stand in the position of a purchaser, within the provisions of the Registry Act, not only from the date of registration, but from the date the lien first accrued.

We think this position is clear from a perusal of the 2nd, 4th, 6th, 20th, 21st and 26th sections of the Mechanics' Lien Act. By registering his lien within the prescribed time it can never have been intended that the lienholder is to lose a priority he had previously acquired, but