

## DIARY FOR OCTOBER.

2. SUN. 16th Sunday after Trinity.  
 9. SUN. 17th Sunday after Trinity.  
 15. Sat... Law of England introduced into Upper Canada, 1792.  
 16. SUN. 18th Sunday after Trinity.  
 18. Tues. St. Luke Evangelist.  
 23. SUN. 19th Sunday after Trinity.  
 28. Frid. St. Simon and St. Jude.  
 30. SUN. 20th Sunday after Trinity.  
 31. Mon. All Hallow Eve.

## The Local Courts'

AND

## MUNICIPAL GAZETTE.

OCTOBER, 1870.

## PROCEEDINGS AT MUNICIPAL COUNCIL MEETINGS.

The routine of proceedings at meetings of Municipal Councils is in general so well known to and followed by members, that it is somewhat unusual to hear of an exception to the general rule.

Such a case however came before the Court of Chancery lately, on a motion to test the validity of a by-law of the Municipality of the Township of Brock, authorizing the granting a bonus to the Toronto and Nipissing Railway Company.

One of the questions before the court was, whether the by-law was duly passed by the Council. Upon the subject coming up for discussion before a full Council of five members, including the Reeve, it was moved by one member and seconded by another, "that the by-law be now read a third time and passed, and that the Reeve sign the same, and cause the seal of the Corporation to be attached thereto, and that it become a by-law for the purposes therein mentioned." It then appeared, as stated in the minutes of the Council, that—

The above motion was read from the chair by the Reeve.

Mr. Amey, a member of the Council, here requested the Reeve to put the motion.

The Reeve stated that before he put the motion it required careful consideration. It was a matter of great importance to the people of Brock, and as such there was no hurry. If necessary, he would sit there for a week, before putting said motion.

Mr. Amey then demanded the yeas and nays, and insisted on the Clerk taking the same.

The Reeve here demurred, and would not permit it. Nevertheless, Messrs. Amey, Carmichael and Brethour voted yeas.

The Council then adjourned to the 18th December, 1870.

All of which amounted to this: a motion was in the hands of the Reeve for the passing of the by-law; he remonstrated against precipitancy, which, as the learned Chancellor remarked in his judgment, he had a right to do, and refused to put the motion, which he had no right to do; and thereupon a majority of the Council gave their votes in favor of passing the by-law. In fact the only thing wanting, to make all the proceedings regular, was, that the motion should have been put to the Council through the Reeve. But this he did not do, either from ignorance of his duty or a perverse disregard of it.

The Municipal Act provides for the case of the death or absence of the head of the Council, but says nothing of the case of his refusing to perform his duties,—perhaps not choosing to contemplate the possibility of such a case occurring. But the essential requirement of the statute is, that the will of the majority shall govern; and where that is clearly expressed, though not in the most formal manner, the intention of the majority will be carried out in all proper cases.

As to the course taken by the majority of the Council on this occasion, though they might have acted differently, and possibly with more apparent attention to form (as was taken in another case somewhat similar), the learned Chancellor remarked:

"I cannot say that they misapprehended their position; they had to choose between taking the course they did take, and allowing their functions as a deliberative and legislative body to be virtually paralysed at the will of one of their own body. What they did was *ex necessitate rei*. In my judgment, they rightly decided not to abdicate their functions because their presiding officer had most improperly abdicated his."

In the case we have spoken of as somewhat similar to this (*Preston v. Township of Manvers*, 21 U. C. Q. B. 626), the by-law appeared to have been already passed, and the refusal of the Reeve was to sign it, and to put the corporate seal to it. It was then moved that he should leave the chair, which he did, either without objecting, or protesting, the affidavits differing upon that point; and thereupon the Deputy Reeve was placed in the chair; and he, as stated in the judgment, by the direction of the Council, signed the by-law and put the township seal to it. The by-law was held to