

DIARY FOR MAY.

1. Tues. . . *St. Philip and St. James.*
6. SUN... *Rogation.*
10. Thurs. *Ascension.*
13. SUN... *6th Sunday after Easter.*
16. Wed... Last day for service for County Court.
20. SUN... *Whit Sunday.*
21. Mon... Easter Term begins.
24. Thurs. Queen's Birthday.
25. Friday Paper Day Q.B. New Trial Day C.P.
26. Satur. Paper Day C.P. New Trial Day Q.B. Declare for County Court.
27. SUN... *Trinity Sunday.*
28. Mon... Paper Day Q.B. New Trial Day C.P.
29. Tues... Paper Day C.P. New Trial Day Q.B.
30. Wed... Paper Day Q.B. New Trial Day C.P.
31. Thurs. Paper Day C.P. Last day for Ct. of Revis. fin. to revise A. R. & for Co. Coun to rev. Tp. Roll.

The Local Courts'

AND

MUNICIPAL GAZETTE.

MAY, 1866.

COURTS OF REVISION.

A case has lately been decided, which has an important bearing on the duties of members of these Courts, and as to what is to be considered as a final passing of assessment rolls by Courts of Revision, when appeals have been made, and it may be useful to refer to it now when these Courts are about to sit. The case we allude to is *The Law Society of Upper Canada v. The Corporation of Toronto*, which is reported in 25 U. C. Q. B. 199, and the report of which we shall give in *extenso* in our next issue.

The plaintiffs had for several years appealed from the assessment of their property to the Court of Revision, who had decided against them, and from thence to the County Court judges, who had reduced it about one-third, on the ground that a large portion of their building was occupied by the three Superior Courts of Law and Equity for the administration of justice. In 1864, the same assessment being repeated, the Society again appealed to the Court of Revision, who said they would consult the City Solicitor, and that the plaintiffs need not appear again. The plaintiffs' solicitor was told by the clerk of the Court of Revision that no judgment had been given, and found none in the book where their decisions were entered. The collector, in October of that year, called upon the plaintiffs' secretary, who, supposing all was right, paid the sum assessed. The mistake was not discovered until the following year, when the Society cal-

led the attention of the Corporation to the matter; but being unable to obtain any answer, the Society brought the present action to recover the money back, as having been paid under a mistake of fact.

The question which the court was called upon to decide was, whether by the Assessment Act the plaintiffs were concluded from denying the finality of the assessment roll as to their liability to the amount and value of their property liable to taxation for the year 1864; and the difficulty arose as to whether the roll could be considered as "finally passed,"—it being contended on the one hand that the Court of Revision had virtually confirmed the assessment by returning the roll, so far as this assessment was concerned, unaltered; and on the other hand that this appeal was never in fact adjudicated upon at all, and that it is impossible to say in effect that abstaining from determining a matter referred to them by an appellant is a determination of the matter. The judges were divided on the point, but the majority coincided in the latter view, and held that the money paid for taxes might be recovered back.

We have heard a good many complaints as to the manner in which these Courts occasionally manage the matters presented for their adjudication, and the one before us does not show a very business-like or even equitable mode of proceeding; which remarks apply as well to the members of the Corporation in general, as to the Court of Revision, which in this instance entirely neglected—and apparently wilfully, as was thought by one of the judges of the Queen's Bench—to determine an appeal brought before them.

The Court of Revision must decide upon the appeal before it can be referred to the county judge. The appeal to the latter is from the Court of Revision, not from the assessment as first made; and the performance of the duty of the former must necessarily precede any confirming or altering of the roll. The facts of this case went to show that the want of determination had not been overlooked, and no explanation of any kind was suggested; but the Chief Justice thought that even if it had arisen from accident or oversight, no ratepayer could be thus deprived of his appeal, and at the same time be bound by the assessment complained against. It might happen, as was pointed out on the argument, that a ratepayer, under such circumstances, would escape paying anything for that year; but