

## DIARY FOR MAY.

1. Wed... *St. Philip & St. James.* Grammar and Common School Funds apportioned. Co. Treasurer to make up books and enter arrears.
4. Sat... Articles, &c., to be left with Secretary of L. S.
5. SUN... *2nd Sunday after Easter.*
12. SUN... *3rd Sunday after Easter.*
15. Wed... Last day for service for County Court.
19. SUN... *4th Sunday after Easter.*
20. Mon... Easter Term commences.
24. Friday Queen's Birth-day.
25. Sat... Declare for County Court.
26. SUN... *Rogation.*
29. Wed... Appeals from Chancery Chambers. Notices for Chancery re-hearing Term to be served.
30. Thurs. *Ascension.*
31. Friday Last day for Court of Revision finally to revise Assessment Roll.

## The Local Courts'

AND

## MUNICIPAL GAZETTE.

MAY, 1867.

### LIABILITY OF MUNICIPAL PROPERTY TO TAXATION.

A decision has lately been given by the Court of Queen's Bench as to whether property owned by a municipality, but leased by them to an occupant for his own use, unconnected with corporation purposes, is liable to taxation. The point is one of great importance, and, in the case we refer to (*Scrugg v. The City of London*, 26 U. C. Q. B. 263), came up under section 9, sub-section 7, of the Con. Stat. U. C. ch. 55.

The wording of the late Act of 1866 it will be seen is the same, section 9 declaring that—

"All lands and personal property in Upper Canada shall be liable to taxation, subject to the following exemptions, that is to say :—

Sub-sec. 7, "The property belonging to any county, city, town, township or village, *whether occupied for the purposes thereof, or unoccupied.*"

On behalf of the plaintiff it was contended that the exemption in fact applied to all corporation property and that it would be absurd for a municipality to tax itself, and that the word "whether" in sub-sec. 7 should be read "although" or "notwithstanding," and that in the case of corporation property the ultimate remedy by sale for unpaid taxes could hardly be applicable, and that *prima facie* it could not have been intended that a municipal body, having to raise a certain sum for its statutable requirements, should go through the form of taxing its own property.

To this it was answered that the words which follow the word "village," must be held to have some meaning, otherwise they would not have been used, and that the interpretation put upon them by the plaintiff would render them inoperative.

That the subject was one of considerable difficulty is evident from the fact that one of the learned judges dissented from the judgment of the majority of the court, which was in favor of the contention of the defendants, to the effect that property owned by a city (in this case), but leased by them to an occupant for his own private purposes, is liable to taxation.

In the judgment of the majority of the court, it is said—

"We are bound to give effect if possible to all the words used. The sentence is very inexactly worded. It leaves the general exemption stated in the beginning of the sentence limited to property answering the description of "occupied for city purposes or unoccupied." It is not easy to see any other way of reading it, so as to give full effect to all the words than thus, "The property belonging to any county, city, &c. occupied for the purposes thereof or unoccupied." We cannot hold that the insertion of the word "whether" widens the exemption. The definition of this word is generally given "*which of two, or several.*"—(Richardson's Dictionary, Imperial Dictionary.) Adopting such a definition of the word "whether," the sentence might be read, "The property belonging to any county, city, &c., in either of these positions viz, occupied for the purposes thereof or unoccupied."

As to the suggested difficulty with reference to the taxation of municipal property by the municipality it was remarked that—

"Corporations generally possess some landed property, obtained by grant from the Crown or by purchase, &c. A building used for corporate purposes may be destroyed or pulled down, and the ground be no longer required; in such case the natural course would be either to sell or lease it. While unoccupied it would be clearly exempt. When leased and improved by a tenant the taxes could be generally collected from the occupant. We may assume that the Legislature knew that corporations often possessed land not actually required for their immediate purposes, and framed these exemption clauses accordingly.

By granting leases to tenants for building purposes the area of assessable property would be widened, and the municipal revenue increased, first, by the rent, secondly, by the assessment. It may be said that the same end could be obtained