

## DIARY FOR AUGUST.

1. Mon. *Lammas.*
7. SUN. *8th Sunday after Trinity.*
13. Sat.. Last day for County Clerks to certify County rates to Municipalities and Counties.
14. SUN. *9th Sunday after Trinity.*
18. Thur. Last day for setting down and giving notice for re-hearing.
21. SUN. *10th Sunday after Trinity.* Long Vacation ends.
24. Wed. *St. Bartholomew.*
25. Thur. Re-hearing Term in Chancery commences.
28. SUN. *11th Sunday after Trinity.*
29. Mon. County Court (York) Term begins.

## The Local Courts'

AND

## MUNICIPAL GAZETTE

AUGUST, 1870.

### THE DOMINION ARBITRATION.

The report of the proceedings on this important matter, which we publish in other columns, will be read with interest, not altogether for its intrinsic value as a decision upon a point which is new in this country, but more as a history of the case in its legal aspect.

As to the merits of the case, we have nothing to do, but as to the main legal point, whether the arbitration could proceed without all the arbitrators being unanimous, it is conceded that if it were merely a private arbitration there would be no room for doubt, but, as it is unquestionably of a public nature, it is contended that that fact makes all the difference and obviates the necessity of unanimity amongst the arbitrators. The majority of the authorities and those most in point are American, though there are English cases which seem to admit the principle contended for, bear out the contention.

It seems reasonable to look upon the arbitrators appointed under the provisions of the British North America Act, 1867, in the nature of a court ordained for a special purpose, and if a court, then clearly the majority rule.

It is true that the statute speaks of the "arbitrators;" but the mere use of that word does not necessarily prevent their being in reality something more than mere private arbitrators, and subject to the rule of law applicable to such; and the whole scope and tenor of the British North America Act, 1867, shews that something more was intended—and it may be remarked that even Judge Day does not appear to have expressed an opinion adverse to his co-arbitrators on this point.

We can scarcely imagine what the government of Quebec expected to take by the writ of prohibition which was issued from one of the courts of that Province, returnable next month, except it is desired to force the case to England for a final decision, and this would seem to be the object aimed at, though we doubt if that object will be attained, or if attained, that the result will be satisfactory to the promoters of the writ.

The objection that Col. Gray is a resident of Ontario, and therefore ineligible (when in fact he was a resident of New Brunswick when appointed, and moved to Ottawa to attend to his public duties), seems so feeble, not to say childish, as to betoken a weakness which cannot but damage the case of the Quebec government, both in a political and legal point of view.

The result of these proceedings will be looked for with much interest, whether viewed as a mere question of law on the point of unanimity, or on account of the large amounts at stake, the political bearing of the case, or the important constitutional questions involved.

### LIQUOR LICENSES.

Two cases were recently decided by the Court of Common Pleas, arising out of convictions for selling liquor without a license.

In one of these cases (*Reg. v. Strachan*.) it was decided that a license to sell spirituous liquors, whether by wholesale or retail, is now necessary either in the case of a tavern or a shop, and in the case of a shop it must not be consumed on the premises or sold in quantities less than a quart. Therefore, the sale of a bottle of gin without a license is contrary to law; and that even if a license be necessary only on a sale by retail, the sale of a bottle of the value of sixty cents would be a sale by retail.

With reference to the form of the conviction it was held that it was not necessary to mention in the conviction the statute under which the conviction took place, nor that it should appear on the face of the conviction that the prosecution commenced within twenty days of the commission of the offence, nor to specify that it was a first or second offence, nor to state to whom the liquor was sold. The court also considered that it is not illegal to award imprisonment in default of distress, &c.