

DIARY FOR NOVEMBER.

1. Fri.....All Saints' Day. Sir Matthew Hale born 1609.
2. Sat.....Last day for filing papers and fees for Final Exam.
3. Sun.....*Twentieth Sunday after Trinity.* O'Connor, J.Q.B.D., died 1887.
5. Tues....1st Intermediate Examination.
7. Thu....2nd Intermediate Examination.
9. Sat.....Prince of Wales born, 1841.
10. Sun.....*21st Sunday after Trinity.* J.H. Hagarty, 12th C.J. of Q.B., 1878. Richards, 10th C.J. of Q.B., 1868. J.
12. Tues....Court of Appeals sits. Solicitors' Exam.
13. Wed....Barristers' Examination.
14. Thu....Falconbridge, J., Q.B.D., appointed 1887.
15. Fri.....Sir M. C. Cameron, J., Q.B., 1878. Macaulay, 1st C.J. of C.P., 1849.
17. Sun.....*22nd Sunday after Trinity.* Lord Erskine died 1823, æt 73.
18. Mon....Mich. Term commences. High Court Justice Sittings begin.
19. Tues....Armour, J., gaz. C.J., Q.B.D., 1887. Galt, J., gaz. C.J., C.P.D., 1887.
21. Tues....J. Eimsley, 2nd C.J. of Q.B., 1796. Princess Royal born, 1840.
24. Sun.....*23rd Sunday after Trinity.*
25. Mon....Marquis of Lorne, Governor-General, 1878.
30. Sat.....Moss, J.A., appointed C.J. of Appeal, 1887. Street, J., Q.B.D., and McMahon, J., C.P.D., appointed, 1887.

Early Notes of Canadian Cases.

HIGH COURT OF JUSTICE FOR ONTARIO.

Queen's Bench Division.

Div'l Ct.] [June 22.]

LOUIS ROUTHIER v. McLaurin.

Malicious prosecution—Reasonable and probable cause—Information for assault—Justification for assault—Misdirection—New trial

The defendant laid an information against the plaintiff for assault, which the magistrate dismissed on the ground that the title to land came in question. It appeared that the defendant had come upon land of which the plaintiff's father was in actual possession, for the purpose of removing some wood, so as to give possession to one to whom he had assumed to sell the land. There was a scuffle, and the defendant was put off the premises.

At the trial of this action, brought for malicious prosecution, there was contradictory evidence as to what part the plaintiff took in the scuffle, and whether he laid hands on the defendant.

The trial judge asked the jury to say whether the plaintiff made an assault on the defendant on the occasion, and told them that if they

answered "yes," they need not go any further for that would end the case. They answered "yes," and judgment was entered for the defendant.

Held, that there was misdirection; the answer was not decisive of the question whether there was reasonable and probable cause for laying the information; and the plaintiff was entitled to have the circumstances relied on as justification for the assault submitted to the jury, and to have their finding as to whether the defendant was conscious when he laid the information that he had been in the wrong. A new trial was ordered.

Hinton v. Heather, 14 M. & W., 131, followed.

Fulton v. Johnstone, 1 T. R., 493, distinguished.

Watson for the plaintiff.

Shepley for the defendant.

Common Pleas Division.

Div'l Ct.] [June 29.]

DABY v. GEHL.

Division Court judgment—Transcript to District Court—Issuing fi. fa. lands without fi. fa. goods—Sale under expired writ—Sale after return of fi. fa. lands under ordinary fi. fa. instead of alias fi. fa.—Estoppel—Payment.

A transcript of a Division Court judgment was obtained to the District Court of the Thunder Bay District.

Held, that it was not necessary to issue a *fi. fa. goods* from such District Court before a valid sale could take place under a *fi. fa. lands* issued therefrom.

Lands were sold under a *fi. fa. lands* after the expiry of a year, and a deed executed by the sheriff. The deed recited that the writ had been duly renewed, but neither the sheriff's nor the district clerk's books showed any such renewal.

Held, that no renewal was proved, and the sale was invalid.

Subsequently writs of *fi. fa. goods* and lands were issued on the judgment, the former being returned *nulla bona*, and a sale was made under an ordinary writ of *fi. fa. lands* and a deed executed by the sheriff.

Held, that the fact of an ordinary *fi. fa. lands* being issued instead of an *alias fi. fa.*, and the