

Canada Law Journal.

VOL. XXI.

JULY 1, 1885.

No. 13.

DIARY FOR JULY.

1. Wed.....Dom. Day, 1867. Long Vac., H. C. J., commences.
3. Sun.....5th Sunday after Trinity.
6. Mon.....[Court and Surrogate Terms (ex York).
7. Tues.....Col. Simcoe, first Lieut.-Gov. U. C. 1792. County
8. Wed.....Cyprus ceded to England, 1878.
11. Sun.....County Court and Surrogate Term (ex York) end.
12. Sun.....6th Sunday after Trinity.
14. Tues.....W. P. Howland, first Lieut.-Gov. of Ont., 1868.
15. Wed.....Manitoba entered Confederation, 1870.
17. Fri.....Law Society incorporated, 1797.
19. Sun.....7th Sunday after Trinity.
20. Mon.....British Columbia entered Confederation, 1871.
23. Thur.....Union of Upper and Lower Canada, 1840.
24. Fri.....Canada discovered by Cartier, 1534.
25. Sat.....Battle of Lundy's Lane, 1813.
26. Sun.....8th Sunday after Trinity. Jews first admitted to House of Commons, 1858. Dr. Robitaille, Lieut.-Gov. of Quebec, 1879.
29. Wed.....First Atlantic telegraph laid, 1866.
30. Thur.....Gov't of U. C. removed from Niagara to York, 1793.

TORONTO, JULY 1, 1885.

THE decision of the Court of Appeal in the cases of *West v. Parkdale* and *Carroll v. Parkdale* can hardly be said to be satisfactory. The actions were brought to recover compensation for the injury sustained by the plaintiffs as property owners, whose properties were injuriously affected by the construction of the Parkdale subway and were originally tried before Wilson, C. J. The learned Chief-Justice gave judgment (7 Ont. R. 270) in favour of the plaintiffs. This judgment was sustained by Boyd, C., and Proudfoot, J., on appeal to the Divisional Court of the Chancery Division (8 Ont. R. 59). But the Court of Appeal have reversed the judgment, Hagarty, C. J., dissenting. There are thus four judges, including three chiefs, in favour of the plaintiff, and three of the puisne judges in Appeal, Burton, Patterson, and Osler, J.J.A., in favour of the defendants and yet the plaintiff fails. It is not surprising to learn that the cases are to be carried higher.

A VALUED contributor undertakes in another place in this journal to prove that the Ontario Courts have jurisdiction in Manitoba and the North-West. He has set himself what most of us would think rather a hard task, but it must be confessed he has gone about it with great ingenuity and industry. The writer may be correct, but we venture, however, to suggest some of the difficulties which occur to us.

For present purposes we take it for granted that the facts are as he has stated them, and that the Imperial Acts he mentions as still in force have not been expressly repealed. In the first place, however, it must be remembered that as these provisions were made to meet a state of things which has long passed away, and when there were no courts in Manitoba and the N. W. T., the *raison d'être* of the provisions is gone: *Cessante razione legis cessat et ipsa lex*. The passing of the Imperial B. N. A. Act; the constitution of the Dominion, and the incorporation of the N. W. T. with it; the passing of the Imperial Act, 34, 35 Vict. c. 28 (authorizing the Parliament of Canada from time to time to establish new provinces in any territories forming part of the Dominion, and to make provision for the administration, peace, order and good government of any territory not included in any province, and confirming the Dominion Acts 32, 33 Vict. c. 3, "for the temporary government of Rupert's Land and the N. W. T. when united with Canada"), and 33 Vict. c. 3, "to establish and provide for the government of the Province of Manitoba;" and the exercise by the Parliament of the Dominion of the powers so vested in it, by passing the Acts respecting the N. W. T., which make provision for the matters