

DIARY FOR AUGUST.

1. Thu.....Slavery abolished in British West India Islands, 1838.
3. Sat.....Last day for notices for Primary Exam.
4. Sun.....Seventh Sunday after Trinity.
6. Tue.....Thomas Scott, 4th C.J. of Q.B., 1830.
11. Sun.....Eighth Sunday after Trinity. Battle of Lake Champlain, 1814.
13. Tue.....Primary Exam. Sir Peregrin Maitland, Lieut.-Governor, 1799.
14. Wed.....Battle of Port Erie, 1814.
15. Thu.....Admission of graduates and matriculants.
17. Sat.....Last day for filing papers and fees for Final Examination.
18. Sun.....Ninth Sunday after Trinity.
20. Tue.....First Intermediate Examination.
22. Thu.....Second Intermediate Examination.
24. Sat.....St. Bartholomew.
25. Sun.....Tenth Sunday after Trinity.
26. Mon.....Trinity Term begins.
27. Tue.....Solicitors' Examination.
28. Wed.....Barristers' Examination.

Reports.

ONTARIO.

MUNICIPAL LAW.

(Reported for the CANADA LAW JOURNAL.)

Re KINGSTON, SMITH'S FALLS AND OTTAWA RAILWAY AND THE TOWNSHIP OF BASTARD AND BURGESS SOUTH.

Scrutiny of votes—Powers of County Court judge—Municipal Act, secs. 320, 323, 326—Decision as to specific ballots.

On an application under secs. 320 and 323 and following sections of the Municipal Act, in respect of the by-law for granting aid by way of bonus to the Kingston, Smith's Falls and Ottawa Railway Company from the Township of Bastard and Burgess South, it was

Held, that the powers of a County Court Judge under the provisions of section 320, sub-section 2, and sections 323, 324, 325, and 326 of the Municipal Act are limited to an inspection of the ballot papers, and to ascertaining who are and who are not entitled to vote, and, as a result of such inspection and ascertainment, to determining whether the by-law has or has not been carried. For decision as to specific ballots see judgment.

(MACDONALD, Co. J., BROCKVILLE.)

On the 15th April, 1889, Mr. E. J. Reynolds of counsel for Thomas H. Percival, a duly qualified voter, filed with the judge of the County Court of the united counties of Leeds and Grenville the petitions and affidavits, and the said Percival entered into the recognizance required by section 323 of the Municipal Act, and application was thereupon made to the said judge for a scrutiny of the ballot papers and a determination of the questions in connection with a vote of the electors of the township of Bastard and Burgess

South in the County of Leeds upon a by-law for granting aid by way of bonus to the Kingston, Smith's Falls, and Ottawa Railway Company.

On the 29th April, 1889, at Delta, in the said township, the said judge entered into the scrutiny and determining the dispute under sections 320 and 323 and following sections of the Municipal Act.

Owing to an error made by the deputy returning officer for polling sub-division No. 5, there were 88 votes counted for the by-law and 8 against. The numbers should have been reversed. Certain ballots were objected to upon both sides, and it appeared that in one polling sub-division the deputy returning officer, instead of putting his initials on the back of the ballots, merely put the initial of his surname. Allowing these in the meantime the vote was ascertained to have been 250 for the by-law and 235 against it.

An inspection or scrutiny of the voters' list was then entered upon to ascertain how many persons were qualified to vote. It was conceded on both sides that 589 persons were so qualified, and the petitioner claimed there were 30 more. The right of these 30 was questioned by the Railway Company.

The proceedings were adjourned, and on 10th May, 1889, argument was had at Brockville.

E. J. Reynolds for the petitioner.—Some of the ballots objected to may be valid; but those upon which the deputy returning officer merely put the initial of his surname cannot be counted, see sec. 143, sub-sec. 6, secs. 144, 146, 152, and 163, sub-sec. 8 (d) and sub-sec. 4. Also *Jenkins v. Breckin*, 7 Sup. Court 258; *Mills v. Hawkins*, 8 Sup. Court 696, and *East Hastings Case, Hodgins's Election Cases*, 764. As to the powers of the judge upon the scrutiny see *Re Canada Temperance Act*, *G. Ontario Reports* 161, 12 Appeal 677, and *Chapman v. Rand*, 11 Sup. Court 312.

A person may be compelled to say how he voted, or at any rate a person who voted, and who, upon enquiry, is found not to have been entitled. Sec. 171 of the Municipal Act provides that a voter cannot be compelled to state for what *person* or *individual* he voted, and does not apply to a vote given on a by-law; at any rate it only applies to a lawful voter and not to an intruder who votes without right. Even if it