

DIARY FOR FEBRUARY.

1. Friday Clergymen to make yearly return of marriages to County Registrar.
2. Satur. Purification of B. V. M.
3. SUN... 4th Sunday after Epiphany.
4. Mon. ... Hilary Term commences.
6. Wed. ... Meeting of Grammar School Boards.
8. Friday Paper Day Q. B. New Trial Day C. P.
9. Satur. Paper Day Q. B. New Trial Day Q. B.
10. SUN... 5th Sunday after Epiphany.
11. Mon. ... Paper Day Q. B. New Trial Day C. P.
12. Tues... Paper Day C. P. New Term Day Q. B.
13. Wed. ... Paper Day Q. B. New Term Day C. P. Last day for service for County Court.
14. Thur... St. Valentine's Day. Paper Day Common Pleas.
15. Friday New Term Day Queen's Bench. Last day for County Treasurers to furnish to Clerks of Municipalities in Counties list of lands liable to be sold for taxes.
16. Satur. Hilary Term ends.
17. SUN... Septuagesima.
23. Satur. Declare for County Court.
24. SUN... Sexagesima.
27. Wed. ... Appeals from Chancery Chambers.
28. Thura. S. b. Treasurer of School Moneys to report to County Auditors.

NOTICE.

Subscribers in arrears are requested to make immediate payment of the sums due by them. The time for payment on us to secure the advantages of the lower rates is extended to the 1st April next, up to which time all payments for the current year will be received as cash payments.

The Local Courts'

AND

MUNICIPAL GAZETTE.

FEBRUARY, 1867.

REMOVAL OF PROPERTY SEIZED UNDER EXECUTION FROM DIVISION COURTS.

A very important case upon the removal of goods (seized on an execution from a Division Court out of the division in which the seizure was made, has lately been decided before the Court of Queen's Bench.

The 155 section of the Division Courts' Act provides that a bailiff, after seizing goods under execution, shall put up notices of sale "at three of the most public places in the division where such goods and chattels have been taken, of the time and place within the division when and where they will be exposed to sale." In the case referred to (*Campbell v. Coulthard*, 25 U. C. Q. B. 621), executions had been issued against Campbell's goods for about \$200. A large quantity of lumber was seized thereunder at Campbell's mill, and a sale was attempted there without success. Under direction from one of the execution creditors, the bailiff removed some \$288 worth of lumber

out of the division in which it was seized to the County Town, some thirty miles off, at a cost of \$160. And eventually it was sold at the County Town for an amount barely sufficient to pay the costs of removal. Campbell brought an action of trover against the purchaser, and although it was held that the sale in another division to a *bona fide* purchaser would pass the property, and Campbell in consequence failed, yet the case as respects the liability of bailiffs is very important.

The learned Chief Justice of Upper Canada, after commenting in severe terms on the case as one of cruel hardship on Campbells, speaks thus of the 155 section: "As we read the section, it makes no provision for selling goods taken in execution in any division but that in which they were taken, &c.," but he remarks, "we are not however, as at present advised, prepared to hold a sale made in another division to a *bona fide* purchaser void. We incline to think it might be upheld; and that either the plaintiff or defendant in the Division Court execution who sustained loss or damage by such removal and sale, might recover compensation from the bailiff, assuming of course that they neither directed or assented to the removal."

In view of this case and the liability bailiffs incur by a removal of goods, they should be particularly cautious in following out the directions in the statute. And yet there are cases in which both execution plaintiff and defendant would be benefited by taking property seized into another division for sale. Such stuff as was seized in *Campbell v. Coulthard* does not bear the expense of removal, and to transport lumber a distance of thirty miles with the professed object of faithfully executing the writ was a grossly stupid, if not a wantonly wicked act. But grain, horses, sheep, cattle, and the like, may be conveyed to a reasonable distance and at a trifling cost.

The difficulty in effecting a sale in the division in which property is seized especially if the division is a partially or newly settled country, arises in some cases from the inability of people to pay in cash, or their not requiring the property put up for sale; in other cases, it arises from an unwillingness "to buy a neighbor's goods at a bailiff's sale;" and from these and other like causes a bailiff has either to sell at a nominal price, probably to some one who buys in for the execution debtor to protect the goods for him, or to abandon a