Canada Law Journal.

VOL. XXI. OCTOBER 15, 1885. No. 18.

DIARY FOR OCTOBER.

17. Sat.....County Court and Surrogate Term (York) end.
18. *Sun*.....*20th Sunday after Trinity.*
21. Wed.....Battle of Trafalgar, 1805.
23. Fri.....Lord Monck, Gov.-General, 1861. Lord Lansdowne, Gov.-General, 1883.
24. Sat.....Sir J. H. Craig, Governor-General, 1807.
25. *Sun*.....*21st Sunday after Trinity.* Battle of Balaclava, 1854.
27. Tues.....Sittings of Sup. Court. Primary Examinations.
28. Thur.....Graduates seeking admission to Law Society to present papers.
31. Sat .....Hallow E'en.

TORONTO, OCTOBER 15, 1885.

A CORRESPONDENT calls attention in language apparently none too strong to an act of the Ontario Legislature passed last session in the interests of the lumbermen on the Ottawa. If there is any explanation to be given for such exceptional legislation it would be well that it should be given. At present it has a very fishy appearance.

RECENT ENGLISH DECISIONS.

The *Law Reports* for September comprise 15 Q. B. D. pp. 313-402, and 29 Chy. D. pp. 749-892.

NEGLIGENCE—VENDOR CONSIGNING GOODS IN DEFECTIVE TRUCK—LIABILITY OF VENDOR TO SERVANT OF VENDEE.

Taking up first the cases in the Queen's Bench Division, we have the decision of a Divisional Court composed of Grove and Smith, JJ., in *Elliott* v. *Hall*, 15 Q. B. D. 315, which was an action brought to recover damages for injuries sustained by the plaintiff through the negligence of the defendant. The circumstances of the case were these: the defendant was a colliery owner, and consigned coals to the plaintiff's master in a truck rented by the defendant from a waggon company. Through the negligence of the defendant's servants, the truck was allowed to leave the colliery in a defective state. In consequence of the defect in the truck, injury was occasioned to the plaintiff who was employed by the consignee in unloading the coals and had got into the truck for that purpose. The Court held that the defendant was liable. The principal point in the case is thus stated by Grove, J.:

"It is contended that there is no duty because there was no contract with the plaintiff; but the plaintiff was acting as the servant of the company with whom the contract was made, and the defendant must have known that the buyers would not unload the coal themselves, and that their servants would do so. Under these circumstances it seems to me clear that there was a duty not to be guilty of negligence with regard to the state and condition of the truck."

LARCENY BY INFANT BAILEE.

A very full Court, composed of Coleridge, C.J., and Cave, Day, Smith and Wills, JJ., were called upon to determine in the *Queen* v. *McDonald*, 15 Q. B. D. 323, whether an infant over fourteen years, who had fraudulently converted to his own use goods which had been delivered to him by the owner under an agreement for the hire of the same, could be guilty of larceny. The contention for the prisoner was that the offence depended on the existence of a contract of bailment; that being an infant he could not make such a contract, and could not therefore be guilty as a bailee under the Imp. Stat. 24 & 25 Vict. c. 96, s. 3 (see 32 & 33 Vict. c. 21, s. 3, D.), and he could not be guilty at common law, because the owner had given him legal possession of the goods. But the Court were unanimously of opinion that to constitute him a bailee within the meaning of the statute it was unnecessary that he should be able to bind himself by a contract of bailment. The fact that there is usually a contract, express or implied, to restore the goods bailed, they held, was not of the essence of bailment, which simply consists in the delivery of an article upon a trust or condition; but rather a contract that arises out of the bailment, and that an infant might be a bailee, though not bound by any contract, express or