DIARY FOR FEBRUARY.

2. Friday Purification B. V. M.
4. SUN... *Sexagesima.*
5. Mon... Hilary Term commences.
9. Friday Paper Day Q.B. New Trial Day C.P.
10. Satur. Paper Day C.P. New Trial Day Q.B.
11. SUN... *Quinquagesima.*
12. Mon... Paper Day Q.B. New Trial Day C.P.
13. Tues... *Shrove Tuesday.* Paper Day C.P. N.T. Day Q.B.
14. Wed... *Ash Wednesday.* Paper Day Q.B. N.T. Day C.P.
15. Thurs. Paper Day C.P. [Last day for service for County
16. Friday New Trial Day Q. B. [Court.
17. Satur. Hilary Term ends.
18. SUN... *1st Sunday in Lent.*
24. Satur. *St. Matthias.* Declare for County Court.
25. SUN... *2nd Sunday in Lent.*

NOTICE.

Subscribers in arrear are requested to make immediate payment of the sums due by them. All payments for the current year made before the 1st March next will be received as cash payments, and will secure the advantages of the lower rates.

THE

Upper Canada Law Journal.

FEBRUARY, 1866.

THE REGISTRY ACT.

Every new statute has been from time immemorial a more or less fruitful subject of discussion and litigation. The one we now refer to is no exception to the rule, at all events so far as discussion is concerned. The time has not yet arrived for litigation as to any of its provisions—that time may come and probably will, unless amateur conveyancers and even some of those who ought to be "learned in the law" are a little more careful than are some we know of.

One of the points in dispute is, are two witnesses necessary for the proper registration of a deed? One used to be sufficient for a deed, two were necessary for a memorial; but memorials are done away with and in their place is put a duplicate original, or if no duplicate, then *the* instrument must be left in the Registry office. The affidavit now required may be and probably will be an additional protection against fraud, but then it is not absolutely necessary so far as we see that the witness should state that he knows the parties or any one of the parties. Could the Registrar refuse to register the deed without such a statement of knowledge, we imagine not. It is also argued that the first part of section 39 uses the words "one of the witnesses to such instrument," and section 46 speaks of "the witnesses to any instrument." It is impossible to say with certainty what the Legislature intended—there is nothing express upon the point, and we are left to our own individual judgment on the point. The cautious ones take the not very troublesome precaution of having two witnesses, others confident in their opinion only require one.

Some again say that there should be duplicate affidavits, one on each instrument (when executed in duplicate). We can scarcely think that this is necessary, but it is very commonly done. It is, say the careful ones "better to be sure than sorry." But whilst speaking on the subject of affidavits, we must warn such of our readers as need the caution not to trust implicitly to all the forms of affidavits that are to be found on the backs of printed deeds and mortgages, supposed by the vendors thereof to be in accordance with the statute. In some of these there is no such statement of the name, place of residence and calling of the witness, as some assert the act requires. It appears to be necessary, say they, an eminent equity counsel to the contrary notwithstanding, that this statement should be a substantive part of the affidavit.

It has been suggested, and the suggestion is a good one, that instruments executed in duplicate should shew the fact by a short declaration at the commencement after the words "This Indenture," or in some other convenient place.

No certificate of identification such as was formerly required in the case of instruments executed out of Upper Canada appears to be necessary under the new act. It is also to be noticed that the affidavit of execution must be made *on* the instrument (sec. 40) and it will not be sufficient as it formerly was *to annex it.*

Some persons have suggested difficulties in the reading of section 36, though we do not at present see the force of the objections raised. There are also some unimportant mistakes in some of the forms.

Sect. 40 of the act as amended in committee of the session previous to the one in which it was ultimately passed contained certain clauses which are not now to be found under the corresponding section (sec. 39) in the present act. They were these:

"6. But if he do not know them or do