

DIARY FOR MAY.

1. Mon. *St. Philip and St. James.* Last day for County Treasurer to make up books and enter arrears, and to make yearly settlement. Last day for appointment of Gram. and Com. Sch. fund.
6. Sat. *St. John.*
7. SUN. *4th Sunday after Easter.*
11. Thur. Examination of Law Students for call to the Bar with Hours.
12. Frid. Examination of Law Students for call to the Bar.
13. Sat. Examination of Articled Clerks for certificates of fitness.
14. SUN. *Rogation Sunday.*
15. Mon. Easter Term begins. Articled Clerks going up for interim-examination to file certificates.
17. Wed. Interim-examination of Law Students and Articled Clerks.
18. Thur. *Ascension Day.* Last day for service for County Courts except York.
19. Frid. Paper Day, Q. B. New Trial Day, C. P.
20. Sat. Paper Day, C. P. New Trial Day, Q. B.
21. SUN. *Sunday after Ascension.*
22. Mon. Paper Day, Q. B. New Trial Day, C. P.
23. Tues. Paper Day, C. P. New Trial Day, Q. B.
24. Wed. Paper Day, Q. B. New Trial Day, C. P.
25. Thur. Paper Day, C. P. Open Day, Q. B.
26. Frid. New Trial Day, Q. B. Open Day, C. P.
27. Sat. Open Day.
28. SUN. *Whit Sunday.*
29. Mon. Paper Day, Q. B. New Trial Day, C. P. Declare for County Courts except York.
30. Tues. New Trial Day, Q. B. Paper Day, C. P.
31. Wed. Open Day, Q. B. New Trial Day, C. P.

The Local Courts'

AND

MUNICIPAL GAZETTE.

MAY, 1871.

GARNISHEE PROCEEDINGS IN THE DIVISION COURTS.

A correspondent calls our attention to this subject in connection with some remarks in Mr. O'Brien's annotation of the Division Courts Act of 1869, where it is said under section 9, "the residence of the garnishee would appear to decide not only the court where the claim against the garnishee is to be adjudicated upon, but draws to the same jurisdiction the judicial settlement of the account or dispute between the primary debtor and creditor."

The following case is then suggested:

A primary creditor obtains a judgment in court within the jurisdiction of which the garnishee resides against the primary debtor, residing within the jurisdiction of another court, for a cause of action which also arose in another division, but fails to obtain judgment against the garnishee. Both matters come on for trial at the same time—the claim against the primary debtor being fully determined before that against the garnishee.

There is nothing peculiar in this case, but it is suggested that by making use of this

process and introducing a fictitious garnishee, (a very absurd suggestion, and which, if ever pursued, must result in a nonsuit and payment of all parties for their trouble, besides costs, under sec. 114 of Division Courts Act,) jurisdiction may be given to any court that the creditor may choose, and not that where the case would in ordinary course be tried. Possibly this might be done, but it is not likely to be a matter of common occurrence, and where it is done with the improper intent alluded to, it would result, in case the matter were properly brought before the judge, in the discomfiture of the creditor, in the shape of costs and delay in his suit.

The statute provides for two classes of cases, (1) "Where the primary creditor's claim is a judgment," and (2) "When judgment has not been recovered for the claim of the primary creditor;" but the latter class may be subdivided into cases where no action has been commenced, and where, though commenced, the suit has not gone to judgment. In the former case, the two clauses must, according to a strict interpretation of the Act, come on at the same court; but in the latter there is a difficulty in applying the Act in its strictest sense, for the original suit is already commenced in one court, and the Act, according to one construction, would necessitate the removal of this suit from that court to the court where the garnishee resides; but we hardly think that was the intention, whilst at the same time it certainly was the intention that all parties should be represented, if possible, at the court where the claim against the garnishee is to be adjudicated.

The heading of this article suggests to us to make some observations as to the general working of these garnishee clauses. Before doing so, we should like to hear what has been the experience of the clerks in some of the outer counties. We shall be glad to hear from some of our old friends on the subject, with a full expression of their views. It is those who have the daily practical working of such enactments as this who can throw most light on the subject. These remarks are also *apropos* of the recent attempt by some of those learned in the *higher* branches of the law to fritter away, for merely sentimental reasons, one of the most valuable parts of the Division Court system, the judgment summons process.

The Board of County Judges will probably meet so soon as the Chairman, who is now in