

DIARY FOR FEBRUARY.

1. Fri.....County Court Non-Jury Sittings in York.
Sir Edw. Coke born 1552.
4. Mon....Hilary Term commences. High Court of
Justice Sittings begin.
5. Tue....Maritime Court sits. W. H. Draper, and C. J.
of C. P., 1856.
10. Sun....Fifth Sunday after Epiphany. Canada ceded
to G. B. 1763. Union of U. and L. C. 1841.
11. Mon....T. Robertson appointed to Chy Div, 1889.
16. Sat....Hilary Term and High Court Justice Sittings
end. Last day for notices for call for Easter
Term.
17. Sun....Septuagesima Sunday.
19. Tue....Supreme Court of Canada sits.
21. Thur....Chancery Division High Court of Justice sits.
24. Sun....Sexagesima Sunday. St. Matthias.

Early Notes of Canadian Cases.

SUPREME COURT OF CANADA.

[Dec. 15th, 1888]

LONGUEUIL NAVIGATION CO. v. THE CORPORATION OF THE CITY OF MONTREAL.

39 Vic. 52 (P.Q.)—*Constitutionality of By-law—Ultra vires—Taxation of ferry boats—Jurisdiction of harbor commissioners—Injunction.*

By 39 Vic. ch. 52, sec. the city of Montreal is authorized to impose an annual tax on "ferry-men or steamboat ferries." Under the authority of the said statute the corporation of the city of Montreal passed a by-law imposing an annual tax of \$200 on the proprietor or proprietors of each and every steamboat ferry conveying to Montreal for hire travellers from any place not more than nine miles distant from the same, and obtained from the Recorder's Court for the city of Montreal a warrant of distress to levy upon the appellant company the said tax of \$200 for each steamboat employed by them during the year as ferry boats between Longueuil and Montreal. In an action brought by the appellant company, claiming that the Provincial statute was *ultra vires* of the Provincial legislature, and that the by-law was *ultra vires* of the corporation, and asking for an injunction, it was:

Held, (1), affirming the judgment of the court below, that the Provincial legislature was *intra vires*.

(2) Reversing the judgment of the court below, that the by-law was *ultra vires*, as the words used in the statute only authorize a single tax on the owner of each ferry, irrespec-

tive of the number of boats or vessels by means of which the ferry should be worked.

(3) Affirming the judgment of the court below, that the jurisdiction of the harbor commissioners of Montreal within certain limits does not exclude the right of the city to tax and control ferries within such limits.

JOILETTE ELECTION CASE—ELECTION PETITION.

Commencement of trial—Order of judge staying proceedings during session of Parliament—Power to adjourn recriminatory charges—Sections 32, 31, ss. 4, 33, ss. 2, 35, Ch. 9, 49 Vic.—Bribery by agent.

Where the proceedings for the commencement of the trial of an election petition have been stayed during a session of Parliament by an order of a judge, such trial, if commenced within six months from the date of the presentation of the petition (the session of Parliament being excluded in the computation of time), is a valid trial and within section 33, ch. 9, 49 Vic.

After the trial has been commenced, the trial judge may adjourn the case from time to time, as to him seems convenient.

The judge at the trial of the election petition against the return of the sitting member, cannot proceed to adjudicate upon recriminatory charges against the defeated candidate when the claim to the seat for such candidate has been abandoned by the petitioners.

An act of bribery committed by an agent of the sitting member, who has been cautioned by him to comply strictly with the law, will avoid the election.

Appeal dismissed with costs.

Cornellier, Q.C., and *Ferguson* for appellants.
Choquette, for respondent.

[Dec. 15, 1888.]

FOOT v. FOOT.

Will—Absolute bequest—Subsequent restrictions—Effect of repugnancy.

A will contained the following clause:—"I order and direct that the whole balance of proceeds of the estate be divided into twelve equal parts, five of which I give and devise to (C.M.), four of which I give and devise to (A.E.F.) But in no case shall any creditor of either of my