

DIARY FOR JANUARY.

1. Sat. ... Circumcision. Taxes to be computed from this date.

2. SUN. 2nd Sunday after Christmas.

3. Mon. Municipal Elections. Heir and Devisee Court begins. County Court Term begins.

5. Wed. Epiphany.

8. Sat. ... County Court Term ends. Last day for Township, Village and Town Clerk to make return to County Clerk.

9. SUN. 1st Sunday after Epiphany.

10. Mon. Election of Police Trustees in Police Villages.

12. Wed. Election of School Trustees.

15. Sat. ... Treasurer and Cham. of Municipalities to make returns to Board of Auditors of School Rep. to be made to Local Superintendent.

16. SUN. 2nd Sunday after Epiphany.

17. Mon. Members of Municipal Councils (except Counties) and Trustees of Police Villages to hold 1st meeting.

22. Sat. ... Articles, &c., to be left with Sec. Law Society.

23. SUN. 3rd Sunday after Epiphany.

25. Tues. Conversion of St. Paul. 1st Meeting of County Councils.

28. Sat. ... School Finance Report to Board of Auditors. Last day for Non-Residents to give list of their lands.

30. SUN. 4th Sunday after Epiphany.

The Local Courts'

AND

MUNICIPAL GAZETTE.

JANUARY, 1870.

DUTY OF CLERKS IN "SPECIAL SUMMONS" CASES.

We understand that there is some difference of opinion respecting the duty of clerks, as to entry of judgment in undefended cases commenced by "Special Summons," and we have received communications soliciting our views on the subject.

The question shapes itself thus: Is a Division Court clerk *obliged, without previous notice* from plaintiff to do so, to enter judgment against defendant on a "Special Summons" immediately after the twelfth, seventeenth or twenty-first days, respectively, after service of the summons, defendant not giving any notice of disputing claim, notice of set off, or other defence? We might briefly reply, by an answer in the negative, but this would be scarcely satisfactory. Mr. O'Brien, in his notes on the late Division Court Act, thus refers to the point:—

"This judgment may be signed by the Clerk at the instance and request, it is to be supposed, of the plaintiff, when the proper time arrives, and not by the Clerk, as a matter of course. It might be that a request might be made on the entry of

the claim that the clerk should sign judgment if defendant should fail to give notice of disputed claim, but the Clerk, if he consents to act on a request thus made in advance, should protect himself by having it in writing."

We would add that, though the clerk cannot upon his own mere motion enter judgment, the circumstances under which he receives a claim must always be taken into consideration in determining whether he has or has not had directions, or been required by the plaintiff to enter judgment. The operative part of the Division Court system is mainly worked out by officers who in some respects occupy a position, as respects plaintiff, similar to that of an attorney to his client. If, therefore, a clerk was directed by plaintiff to sue and get judgment for him as soon as possible; or even if he received a deposit sufficient to cover the charges for entering judgment, the not unnatural inference would be that there was in effect an authority and direction given to enter judgment; or if direction was given to proceed against the defendant under the second section of the late act, or the like, a direction to enter judgment might be inferred. We would advise parties and officers to act on the hint thrown out in Mr. O'Brien's note, already referred to—the plaintiff giving express direction to proceed by Special Summons *to judgment and execution without delay*; the officers, *when possible*, taking this direction in writing from the plaintiff or his agent.

THE NEW CHANCERY JUDGES.

The recent appointment of Mr. Spragge to the Chancellorship, and Mr. Strong to the seat vacated by Mr. Spragge's promotion, will give great satisfaction. The present Chancellor has risen step by step to his present high position, and none will grudge him his well-earned honors. The hopes of his many friends that his services would not be overlooked on the first available occasion have not been disappointed, and amongst the profession the elevation of this able, conscientious and most pains-taking judge—a man who has deservedly won the respect and regard of all—meets with general and hearty approval.

The new Vice-Chancellor has established a reputation second to none as an equity counsel; and the Equity Bench, as well as the Court of Appeal, will be greatly strengthened by the learning and talent that he will add to them.