

DIARY FOR FEBRUARY.

2. Friday Purification B. V. M.
4. SUN... *Sezagesima*.
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 Court.]
16. Friday New Trial Day Q. B.
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 Local Courts'

AND

MUNICIPAL GAZETTE.

FEBRUARY, 1866.

JURISDICTION OF COUNTY COUNCILS OVER ROADS AND BRIDGES.

There appears to have been some doubt as to the meaning, or rather extent of section 339 of the Municipal Institutions Act, which enacts that the County Council shall have *exclusive jurisdiction* over all roads and bridges within any township of the county, which the Council by by-law assumes as county roads or bridges, and over all bridges across streams separating townships, &c.; the difficulty principally arising from section 336, which, whilst it vests every public road in a city, township, town or village in the municipality, does not mention counties.

An action was lately brought by the County of Wellington against one Wilson and others for destroying and removing a bridge which separated two townships in a county. The evidence was that the defendants were taking timber down the stream when a jam occurred at this bridge, which was thereupon partly removed for the purpose of letting the timber pass. It was intimated by the court, though not expressly decided, when the case was before it on demurrer to some of the pleadings (14 U. C. C. P. 300) that this exclusive jurisdiction conferred upon the county

some interest beyond a mere naked power, and that it could maintain an action for damage done to such a work.

When the case came on for trial a verdict was, under the direction of the judge, entered for the plaintiffs, which was however moved against by the defendants, on the ground that the plaintiffs did not shew themselves to have been possessed of the road or bridge in question, and entitled to maintain the action; and that the remedy for the injury complained of was by indictment and not by action; and on the ground that the defendants' pleas of justification were proved.

For the defendants it was contended that the bridge was a county bridge, because it was between townships, and the late case of *Harrold v. The Corporations of the Counties of Simcoe and Ontario*, shews, that as counties are liable civilly for injuries sustained by a person by reason of the insufficiency of such a bridge, they must have such a power, ownership or jurisdiction over the bridge, as to entitle them to maintain an action against a wrong-doer for any damages which he may do to it.

There is no doubt a township could maintain the action, but it was disputed whether a county could also do so, the bridge being in fact the property of the township. The difficulty lay in the words "exclusive jurisdiction" which is given to counties, and in interpreting them so as not to conflict with the previous section vesting the bridge in the township. On speaking on this subject the language of the court was as follows:—"The reason which probably led the legislature to confer the *exclusive jurisdiction* upon counties over county roads and bridges, and not to vest the soil or absolute property of them in the counties, was that the county has no peculiar or exclusive locality constituting the county apart from the separate municipalities which compose it; and it might seem inconsistent, after vesting every public road, street, bridge, or other highway, in a city, township, town or incorporated village in the municipality, to vest any of the same highways or properties afterwards in the county; and therefore the 'exclusive jurisdiction' was conferred upon the county, as the grant of a power sufficiently large for all practical purposes, and indicating that the local municipality or municipalities were to be excluded from all interference in the exercise of that power."