

DIARY FOR OCTOBER.

1. Sat. Wm. D. Powell, 5th C.J. of Q.B., 1816. Meredith, Judge Chancery Division, 1890.
2. Sun. 16th Sunday after Trinity.
3. Mon. London Assizes, Rose, J. County Court sittings for motions, except in York. Surrogate Court sittings.
4. Tues. Criminal Assizes at Toronto, MacMahon, J. County Court non-jury sittings, except in York.
7. Fri. Henry Alcock, 3rd C.J. of Q.B., 1802.
8. Sat. Sir W. B. Richards, C.J., Supreme Court, 1875. R. A. Harrison, 11th C.J. of Q.B., 1875.
9. Sun. 17th Sunday after Trinity. De la Barre, Governor, 1682.
10. Mon. County Court sittings for motions in York. Surrogate Court sittings.
11. Tues. Guy Carleton, Governor, 1774.
12. Wed. America discovered, 1492. Battle of Queenston Heights, 1812.
15. Sat. English law introduced into Upper Canada, 1791.
16. Sun. 18th Sunday after Trinity.
17. Mon. County Court non-jury sittings in York. Burgoyne's surrender, 1777.
18. Tues. Civil Assizes at Toronto, MacMahon, J.
23. Sun. 19th Sunday after Trinity. Lord Lansdowne, Governor-General, 1883.
24. Mon. Kingston Assizes, Arnour, C.J. Last day for filing notices for call. Sir J. H. Craig, Governor-General, 1807.
25. Tues. Supreme Court of Canada sits. Battle of Balaklava, 1854.
27. Thur. C. S. Patterson, Judge of Supreme Court, 1888. Jas. Maclellan, Judge Court of Appeal, 1888.
29. Sat. Battle of Fort Erie.
30. Sun. 20th Sunday after Trinity.
31. Mon. All Hallow's Eve

Reports.

ONTARIO.

(Reported for THE CANADA LAW JOURNAL.)

MORSE v. LAMB.

Mortgage action—Foreclosure—Several defendants—Default of appearance—Noting pleadings closed—Rule 393.

In a foreclosure action where there are several defendants, and the writ of summons is indorsed as provided by Form 9, and some defendants make default in entering appearance, the plaintiff may, without serving such defendants with a statement of claim, by analogy to the practice laid down in Rule 393, obtain an order in Chambers to enter a note closing the pleadings as against the defendants so in default, and giving him leave to apply for judgment as against such defendants when the action is ripe for adjudication against the other parties.

[TORONTO, Sept 27, 1892.]

This was an action of foreclosure. There were 271 defendants, some of whom had been served and had made default in appearance. The plaintiff's solicitor applied to the registrar of the Chancery Division to sign judgment against the non-appearing defendants. The writ of sum-

mons was indorsed as provided by Form 9. That officer ruled that judgment could not be signed without first discontinuing the action as against the defendants who had not been served, or as against whom the plaintiffs were not in a position to take judgment.

C. W. Kerr, for the plaintiffs: We should not be put to the expense of serving defendants who have not appeared with a statement of claim in order to be enabled to note the pleadings closed as to them under Rule 393. If the plaintiffs cannot get judgment now, they ought at least in some way to be able to prevent the defendants now in default from hereafter appearing, or putting in any defence. There are 271 defendants, and it will take a long time to get them all served. He referred to *Peel v. White*, 11 P.R. 177, and Rules 718, 704-6 and 3.

THE CHANCELLOR, after taking time to consider by analogy to the practice laid down by Rule 393, made an order directing the proper officer to note the pleadings closed as to the defendants who had not appeared, and directing that the action might be brought on for judgment as against such defendants without further notice when judgment should be sought in the action.

GENERAL SESSIONS, COUNTY OF SIMCOE.

(Reported for THE CANADA LAW JOURNAL.)

KING v. WEYMOUTH.

Summary conviction under by-law—Costs of certified copies of by-law—Power of municipality to restrict livery stables.

Where the costs awarded for breach of a town by-law included \$1.50 for copies of by-laws,

Held, that this is not warranted by R.S.O., c. 78.

Held, also, that where a municipal corporation has received increased powers from the Legislature, a by-law cannot be properly amended unless the original by-law is re-enacted.

[BARRIE, July 23, 1892.]

This is an appeal from the conviction of two magistrates sitting for the police magistrate of the town of Barrie for breach of a by-law regarding livery stables.

H. H. Strathy, Q.C., for the appellant.
Wallace Nesbitt for the respondent.

BOYS, J.J.: One objection to this conviction is that part of the costs awarded being the item