

DIARY FOR MAY.

1. Fri.....St. Philip and St. James.
2. Sat.....J. A. Boyd 4th Chancellor, 1881.
3. Sun.....Rogation Sunday. Mr. Justice Henry died, '88.
5. Tues.....Supreme Court of Canada sits. First Intermediate Examination.
7. Thur.....Ascension Day. Second Intermediate Exam.
8. Fri.....York evacuated by U. S. troops, 1813.
10. Sun.....Sunday after Ascension. Indian Mutiny, 1857.
12. Tues.....Court of Appeal sits. Gen. Sess. and County Ct. Sits. for trial in York. Solicitors' Ex.
13. Wed.....Barristers' Examination.
17. Sun.....Whitsunday.
18. Mon.....Easter Term commences. H.C.J., Q.B.D., and C. P. D. Sittings begin. Law School Examination, 3rd year (Honors), begins.
21. Thur.....Confederation proclaimed, 1867.
22. Fri.....Earl Dufferin, Governor-General, 1872.
24. Sun.....Trinity Sunday. Queen Victoria born, 1819.
25. Mon.....Princess Helena born, 1846.
27. Wed.....Habeas Corpus Act passed, 1679. Battle of Fort George, 1813.
28. Thur.....Law School Exam., 3rd year (Pass), begins.
29. Fri.....Battle of Sackett's Harbor, 1813.
31. Sun.....1st Sunday after Trinity.

Early Notes of Canadian Cases.

SUPREME COURT OF JUDICATURE
FOR ONTARIO.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

Div'l Court.]

[March 6.

PRATT v. BUNNELL.

Husband and wife—Dower—Bar of, in mortgage—Conveyance of equity of redemption by husband alone—Rights of wife—R.S.O., c. 133, ss. 5, 6.

Held, that under ss. 5 and 6 of the Dower Act, R.S.O., c. 133, a wife who joins to bar dower in a mortgage of land made by her husband to secure part of the purchase money is entitled to dower notwithstanding a conveyance by him of the equity of redemption without her concurrence; that the wife so joining in the mortgage is not merely a surety for her husband, and that she is entitled to dower out of the surplus only of the land or money left after satisfying the mortgage debt.

Re Hague, 14 O.R. 660; *Re Croskery*, 16 O.R. 207; and opinion of PATTERSON, J.A., in *Martindale v. Clarkson*, 6 A.R. 1, dissented from.

Judgment of ARMOUR, C.J., reversed.

Middleton for the plaintiff.

Langton, Q.C., for the defendant Bunnell.

Snow for the defendant Gordon.

Div'l Court.]

[March 6.

COFFIN v. NORTH AMERICAN LAND CO.

Statute of Limitations—Possession of land—Tenancy—Payment of taxes—Owners putting up new fence—Entry—Resumption of possession—Acts of possession—Sufficiency of summer crops—Drawing manure in winter—Vacant possession in winter.

In 1857 or 1858 J. entered upon the land in question in this action as tenant to the true owners, upon the terms that he should pay the taxes, and he cultivated the land during his occupation. In the autumn of 1864 he gave up the place to the plaintiff, who paid him something for improvements, and in the spring of 1865 began to work upon it, living upon and occupying an adjoining lot of land, separated by a fence. The plaintiff disclaimed any knowledge of J.'s tenancy, and said that he entered as a purchaser of J.'s rights as a squatter, with the intention of acquiring a title by possession. In 1868 the true owners pulled down an old fence and put up a new one upon part of the land in question. In 1877 the plaintiff executed a writing under seal whereby he agreed to lease the land from the true owners and to pay as rent the taxes thereon, and to give up possession when requested. From the time the plaintiff bought out J. till 1884, when he ceased to use or occupy the land, he grew crops and vegetables upon it in the summer, and did nothing at all in the winter except draw manure upon it, which he spread in the spring.

Held, following *Finch v. Gilray*, 16 A.R., that the mere fact that the plaintiff paid the taxes was not sufficient to keep the right of the owners alive against him; but what was done by the owners in 1868 was an entry upon the land in the capacity of owners, an assertion of their rights as such, and a resumption of possession for the time being, before the statute then in force had given a title to the plaintiff, and it furnished a new starting point; and, further, that what the plaintiff did upon the land did not show such a possession as entitled him to assert that he had acquired a title as against the true owners; the acts done in the winter did not constitute an occupation of the property to the exclusion of the rights of the true owners, but were mere acts of trespass covering necessarily but a very short portion of the winter, and the possession must be taken to have been vacant