

DIARY FOR DECEMBER.

1. Thur....Chancery Division, H.C.J., sits. Prince of Wales born, 1841.
4. Sun.....2nd Sunday in Advent.
6. Tues.....General Sessions and County Court sittings for trial in York. Rebellion broke out, 1837.
7. Wed.....Rebels defeated at Toronto, 1837.
8. Thur.....Sir W. Campbell, 6th C.J. of Q.B., 1825.
10. Sat.....Michaelmas Term ends. Annual fees to Law Society due—last day. Niagara destroyed by U.S. troops, 1813.
11. Sun.....3rd Sunday in Advent.
13. Tues.....County Ct. sittings for trial except in York.
15. Thur.....J. B. Macaulay, 1st C.J. of C.P., 1849. Prince Albert died, 1861.
17. Sat.....First Lower Canada Parliament met, 1792.
18. Sun.....4th Sunday in Advent. Slavery abolished in the United States, 1862.
19. Mon.....Fort Niagara captured, 1813.
21. Wed.....St. Thomas. Shortest day.
24. Sat.....Christmas vacation begins.
25. Sun.....Christmas Day.
26. Mon.....St. Stephen. Upper Canada made a province, 1791.
27. Tues.....St. John. J. G. Spragge, 3rd Chancellor, 1869.
28. Wed.....Innocents' Day.
31. Sat.....Montgomery repulsed at Quebec, 1775.

Early Notes of Canadian Cases.

EXCHEQUER COURT OF CANADA

BURBIDGE, J.] [Sept. 1.

DE KUYPER ET AL. v. VAN DULKEN ET AL.

Trade mark—Rectification of register—Jurisdiction of Exchequer Court—54 & 55 Vict., c. 26—54 & 55 Vict., c. 35.

The court has jurisdiction to rectify the register of trade marks in respect of entries made therein without sufficient cause either before or subsequent to the 10th day of July, 1891, the date on which the Act 54 & 55 Vict., c. 35, came into force.

Quere: Has the court jurisdiction to give relief for the infringement of a trade mark where the cause of action arose out of acts done prior to the passage of the Act 54 & 55 Vict., c. 26?

Ferguson, Q.C., and Duhamel for demurrer.

Christie, Q.C., contra.

COUETTE ET AL. v. THE QUEEN.

Maritime law—Salvage—Government vessel—Special contract.

A steamship belonging to the Dominion Government went ashore on the island of Anticosti, and suppliants rendered assistance with their wrecking steamer in getting her afloat. The service rendered consisted in carrying out

one of the stranded steamship's anchors and in taking a hawser and pulling on it until she came off. For carrying out the anchor it was admitted that the suppliants had bargained for compensation at the rate of fifty dollars an hour, but whether the bargain included the other part of the service rendered or not was in dispute. The service was continuous, no circumstances of sudden risk or danger having arisen to render one part of the work more difficult or dangerous than the other.

Held, (1) that the rate of compensation admittedly agreed upon in respect of carrying out the anchor must, under the circumstances, be taken as affording a fair measure of compensation for the entire service.

(2) A petition of right will not lie for salvage services rendered to a steamship belonging to the Dominion Government.

Pentland, Q.C., and Stuart, Q.C., for suppliants.

Cook, Q.C., and Angers, Q.C., for Crown.

MARTIAL v. THE QUEEN.

Tort—Injury to the person on a public work—Remedy—Prescription, interruption of—C.C.L.C., Art. 2227—50 & 51 Vict., c. 16.

The suppliant, who was employed as a mason upon the Chambly Canal, a public work, was injured through the negligence of a fellow-servant. Subsequent to the accident the Crown retained the suppliant in its employ as a watchman on the canal, and indemnified him for expenses incurred for medical attendance.

Held, that what was done was referable to the grace and bounty of the Crown, and did not constitute such an acknowledgment of a right of action as would, under Art. 2227, C.C.L.C., interrupt prescription.

Quere: Does Art. 2227, C.C.L.C., apply to claims for wrongs as well as to actions for debt?

Semble, that the Crown's liability for the negligence of its servants rests upon statutes passed prior to the Exchequer Court Act (50 & 51 Vict., c. 16), and that the latter substituted a remedy by petition of right or by a reference to the court for one formerly existing by a submission of the claim to the official arbitrators, with an appeal to the Exchequer Court, and thence to the Supreme Court.

David and Sharp for suppliant.

Hogg, Q.C., for Crown.