

DIARY FOR DECEMBER.

1. Thur. Paper Day, C. P. Clerk of every Municipality except Counties to return number of resident rate-payers to Registrar General. Re-hearing Term in Chancery commences.
2. Frid. New Trial Day, Q.B.
4. SUN. *2nd Sunday in Advent.*
5. Mon. Last day for notice of trial for County Court. Paper Day, Q.B. New Trial Day, C.P.
6. Tues. Paper Day, C.P. New Trial Day, Q.B.
7. Wed. New Trial Day, C.P.
9. Frid. New Trial Day, Q.B.
10. Sat. Michaelmas Term ends.
11. SUN. *3rd Sunday in Advent.*
12. Tues. General Sessions and County Court Sittings in each County.
14. Wed. Grammar and Common School assessment payable. Collector's roll to be returned unless time extended.
18. SUN. *4th Sunday in Advent.*
19. Mon. Nomination of Mayors in towns, Aldermen, Reeves, Councilmen, and Police Trustees.
24. Sat. Christmas Vacation in Chancery commences.
25. SUN. *Christmas Day.*
26. Mon. *St. Stephen.*
27. Tues. *St. John Evangelist.*
28. Wed. *Innocents Day.*
31. Sat. Last day on which remaining half General Sinking fund payable. School returns to be made. Deputy Registrar in Chancery to make return and pay over fees.

The Local Courts'

AND

MUNICIPAL GAZETTE.

DECEMBER, 1870.

CAUSE OF ACTION.

It has been held in several cases that the words "cause of action," as used in the Division Court Act, mean the *whole cause of action*, the contract and the breach; see O'Brien's Division Court Act, p. 35: but the recent case of *Jackson v. Spittal*, decided in the Court of Common Pleas in England, and which will be found reported in full in the current number of the *Law Journal*, and a note of it on p. 185 of this volume is not altogether in harmony with that view. The section of the English Act which was under consideration read thus:

And it shall be lawful for the Court or judge, upon being satisfied by affidavit that there is a cause of action which arose within the jurisdiction, or in respect of a breach of contract made within the jurisdiction, and that the writ was personally served upon the defendant, or that reasonable efforts were made, &c., to direct from time to time that the plaintiff shall be at liberty to proceed in the action, &c.

The words of the Division Court are "any suit may be entered and tried in the court holden for the division in which the cause of action arose, &c."

There is, certainly, a difference in the interpretation of a statute, where jurisdiction is concerned, between a superior or inferior court, but admitting that this difference is in favor of the jurisdiction of the former, the words of the judgment in this case are very important to be considered. After referring to the statutes and previous decisions, Brett, J., who delivered the judgment of the court said:—

"Then arises the question in dispute, which is, —What is the meaning of the phrase "a cause of the action?" Now, in the drawing of the Act, that phrase is made applicable to two subsidiary phrases. If the section were expanded, it would read thus: "That there is a cause of action which arose within the jurisdiction, or a cause of action in respect of the breach of a contract made within the jurisdiction." In the second collocation the phrase "cause of action" clearly does not mean the whole cause of action as contended for on behalf of the defendant. It means the breach of contract, which breach occurs out of the jurisdiction. But if the phrase "a cause of action," when applied to the second subsidiary phrase, does not mean the whole cause of action in the sense contended for, can it be properly said to have that sense when applied to the first subsidiary phrase? Can the same phrase have two different meanings? Is not the natural reading rather this, that it means the same thing when applied to both? It is that which in popular meaning, and for many purposes in legal meaning, is, "the cause of action," viz., the act on the part of the defendant which gives the plaintiff his cause of complaint. In the first collocation, that is supposed to occur within the jurisdiction, in the second without the jurisdiction."

OBSTRUCTIONS.

We feel sure many readers of the *Local Courts' Gazette* will share the gratification we experience in noticing a recent decision of the Court of Queen's Bench in the case of *The Queen v. Plummer*, argued during last Michaelmas Term.

It was an application to quash a conviction made by the Police Magistrate of London, Ontario, in the case of one Plummer, who was held to have contravened a city by-law in riding a velocipede along the sidewalk. The by-law in question provided—

"That no person shall, by any animal, vehicle, lumber, building, fence, or other material, goods, wares, merchandize, or chattels, in any way encumber, obstruct, injure, or foul any street, square, lane, walk, sidewalk, road, bridge, or sewer now