DIARY FOR AUGUST.

1. Sat. ..*Lammas.*
2. SUN..*8th Sunday after Trinity.*
9. SUN..*9th Sunday after Trinity.*
12. Wed..Last day for service for County Court.
14. Frid..Last day for Co. Clerks to certify County Rates to Municipalities in Counties.
16. SUN..*10th Sunday after Trinity.*
21. Frid..Long Vacation ends.
22. Sat. ..Declare for County Court.
23. SUN..*11th Sunday after Trinity.*
24. Mon..*St. Bartholomew.*
26. Wed..Appeals from Chancery Chambers.
30. SUN..*12th Sunday after Trinity.*
31. Mon..Last day for Notice of Trial for Co. Court. Last day for setting down for rehearing.

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CHANGE OF VENUE.

The venue is an entry in the margin of the declaration, of the county wherein the action is to be tried, and from which the jurors are to be summoned to try it.

It is of two kinds, transitory and local: transitory, where the cause of action might be supposed to have happened anywhere, such as debt, detinue, slander, assault, and generally all matters relating to the person or personal property; local, where the cause of action could have happened in one county only, or is so made by statute, thus, trespass, *qare clausam fregit*, actions against magistrates, &c.

We propose to make some remarks as to change of venue in transitory actions.

The rule at common law was, that in a transitory action the plaintiff, being *dominus litis*, might lay the venue in whatever county he pleased; but this was found to create so much vexation, in consequence of plaintiffs laying venues at a great distance from the defendant's residence, that it was enacted by 2 Ric. 2, cap. 2, that the venue should be laid in the county where the cause of action arose.

The practice which sprung up after this statute was, to change the venue in a transitory action, on an *ex parte* application, before issue joined, upon a common affidavit that the cause of action, if any, arose in another county, and not in the county in which the venue was laid. Plaintiff's only course then was to bring back the venue to the county in which it was originally laid, upon an undertaking to give material evidence in that county. Defendant could, on special grounds, make an application, after issue joined, to change the venue.

Then came our Rule No. 19 (Har. C. L. P. A. 599), which provides that no venue shall, unless upon consent of parties, be changed without an order of the court or a judge, made after a rule to show cause, or judge's summons; but such order may nevertheless be made before issue joined, in those cases in which it could have been so made before this rule; and in all cases the venue may or may not be changed, according as it shall appear to the court or judge that the cause may be more conveniently and fitly tried in the county in which the cause of action arose, or that in which the venue has been laid.

This rule in no way takes away the right of a defendant to make the application on the common affidavit, but says that there must be a rule or a summons. The rule is simply prohibitory. It means that the order to change the venue shall not be a matter of course, but after a rule or summons to show cause. However simple and common the affidavit may be, if an order be made in pursuance of a rule or summons upon which the opposite party may be or has been heard, it is a special order within the meaning of the rule (per Maule, J., in *Begg* v. *Forbes et al*, 13 C.B. 614); the object being to obviate the necessity of resorting to the clumsy expedient of bringing back the venue upon an undertaking to give material evidence in the county where it was originally laid (per Maule, J., in *Clulee* v. *Bradley*, 17 C. B. 608). The application may be made, as formerly, either before or after issue joined. But whether made before or after issue joined, it would be well for the party applying to state in his affidavit all the circumstances on which he means to rely. He will not be allowed to add to or amend his case when cause is shown If he rely on the fact that the cause of action arose in the county to which he desires to change the venue, he may be answered not merely by affidavits denying this fact, but showing that the cause may be more conveniently tried in the county where the venue is laid. (See *Smith* v. *O'Brien*, 26 L. J. Ex. 30; *Carruthers* v. *Dickey*, 2 U. C. L. J. 185; *Vance* v. *Wray*, 3 U. C. L. J. 69.) If the application be after issue joined, it must show that the issues joined may be more conveniently tried in the