

DIARY FOR MARCH.

1. Thursday	{ Sittings of Error and Appeal begin. Last day for return of Collector's Rolls where time extended by Municipal Council
4. SUNDAY	2nd Sunday in Lent. [day for not. of Trial Co. Ct.]
5. Monday	Last day for notice of Ex. Ch. Brantford and Kingston. Last
6. Tuesday	Chan. Ex. Term. London and Belleville, commences.
11. SUNDAY	3rd Sunday in Lent.
12. Monday	Last day for notice Ch. Ex. Term. Hamilton and Brockville.
13. Tuesday	Last day for serv. of writ for Toronto Spring Assizes. Quarter
18. SUNDAY	4th "unday in Lent. {Ses. and Co. Court Sittings in each Co.
19. Monday	Last day for not. of Ex. Ch. for Barrie and Ottawa.
20. Tuesday	Chan. Ex. Term. Brantford and Kingston, commences.
23. Friday	Last day for declar. for Toronto Spring Assizes.
25. SUNDAY	5th Sunday in Lent.
26. Monday	Last day for not. of Ex. Chan. Goderich and Cornwall.
27. Tuesday	Chan. Ex. Term. Hamilton and Brockville, commences.
31. Saturday	Last day for notice of Trial for Toronto Spring Assizes.

IMPORTANT BUSINESS NOTICE.

Persons indebted to the Proprietors of this Journal are requested to remember that all our past due accounts have been placed in the hands of Messrs. Fathom & Arleigh, Attorneys, Barrie, for collection; and that only a prompt remittance to them will save costs.

It is with great reluctance that the Proprietors have adopted this course; but they have been compelled to do so in order to enable them to meet their current expenses, which are very heavy.

Now that the usefulness of the Journal is so generally admitted, it would not be unreasonable to expect that the Profession and Officers of the Courts would accord it a liberal support, instead of allowing themselves to be sued for their subscriptions.

TO CORRESPONDENTS—See last page.

The Upper Canada Law Journal.

MARCH, 1860.

ERRATUM.

In our report of *Potter v. Carroll*, in the last number of the *Law Journal*, it is stated that Richards, J., dissented from the judgment of the Court. We are informed that this is an error, as the judgment pronounced was unanimous. Our readers therefore will please make the necessary correction.

RETURNS OF CONVICTIONS TO QUARTER SESSIONS.

The office of Justice of the Peace is not free from responsibility, and yet there is one duty which, of all others, appears to be very generally neglected. It is the duty which the law imposes upon every Justice of the Peace to make returns of convictions had before him, in the manner prescribed by statute.

To the nature of this duty and the penalty for neglect of it we propose in this number to direct attention.

Extensive powers are entrusted to Justices of the Peace, including the power in given cases to fine and imprison. This power is one which, if not placed under check, may be abused in many ways. If abused to the detriment of the liberty of the subject, the subject has his remedy for damages. But as the fines to be imposed do not belong to

the convicting justice, if not called upon to give an account of them there may be an abuse of much magnitude, though no particular individual suffer wrong thereby. The sufferer would be the Crown—the guardian of the public—which would be defrauded if fines were improperly withheld.

The office of Justice of the Peace is not to be deemed one of profit. Nothing would be more revolting to every principle of British justice than that magistrates should make a livelihood out of fines imposed in the discharge of official duty. Were this allowed, the frailty of human nature might lead the justice to impose a fine not so much in proportion to the wrong committed as in proportion to his own actual wants or sordid craving for gain. Thus the liberty of the subject would be at the mercy of avarice, and the administration of justice would become a subject of scorn.

The Legislature has deemed it prudent to provide certain checks as preventives of these abuses.

On 27th August, 1841, an act was passed, reciting that for the more effectual recovery and application of penalties, fines and damages, imposed by Justices of the Peace according to law, it is necessary and expedient that such justices shall, together with the convictions, make a due return thereof to the General Quarter Sessions of the Peace of the district in which such penalties, fines and damages, have accrued. (4 & 5 Vic. cap. 12.)

In the case of a conviction, it is very doubtful whether a return of the conviction itself, without the formal return of the particulars rendered necessary by the statute, is sufficient. In *Kelly q. t. v. Cowan*, 18 U. C. Q. B. 104, hereafter noticed, which was the case of a conviction by a single justice, the Chief Justice of Upper Canada made some observations that appear to favor the affirmative of this proposition; while in *Murphy q. t. v. Harvey*, decided during last term in the Court of Common Pleas, but not yet reported, the Chief Justice of the Common Pleas expressed an adverse opinion—at all events as regards the case of a conviction by two or more justices, which was the case then before the court.

The only safe course for a justice to adopt is in the words of the preamble of 4 & 5 Vic. cap. 12, "together with the conviction, to make a due return thereof, &c."

The act now regulating the returns is chapter 124 of the Consolidated Statutes of Upper Canada.

By section 1, it is provided "That every Justice of the Peace, before whom any trial or hearing is had under any law giving jurisdiction in the premises, and who convicts or imposes any fine, forfeiture, penalty, or damages, upon the defendant, shall make a return thereof in writing under his hand to the next ensuing General Quarter Sessions of