

## DIARY FOR JUNE.

25. Monday..... Recorder's Court sits. Last day for notice of Trial for Co. Ct.  
 26. Tuesday..... Chancery Sitting Corwall.  
 2. SUNDAY..... 1st Sunday after Trinity.  
 6. Tuesday..... Quarter Sessions and County Court Sittings in each County.  
 21. SUNDAY..... 2nd Sunday after Trinity.  
 10. SUNDAY..... 3rd Sunday after Trinity.  
 23. Thursday..... Sittings of Court of Error and Appeal.  
 17. SUNDAY..... 4th Sunday after Trinity.  
 19. Tuesday..... Last day for Co. Coun. finally to revise Asses. Rolls, and for ap-  
 sch. moneys by C.S.S. Chief Sup. to report state of Gram. Sc.

## 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. Ardagh & Ardagh, 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.*

## The Upper Canada Law Journal.

JUNE, 1868.

## A BANKRUPTCY LAW REQUIRED.

If all men were able to pay their debts, and honestly disposed to do so, there would be no need of a bankruptcy law. But when, in a community, many persons are found unable, from some cause or other, to pay their debts in full, it becomes necessary that there should be such a distribution of a debtor's effects among his creditors, that there shall be no preference or priority—that all shall share alike—that after a lawful and equitable distribution, the debtor shall be protected in the enjoyment of future acquired property.

The property of the debtor is the fund to which the creditor looks for payment. So long as that fund is sufficient to pay all demands upon it, the ordinary remedy by action is all that is required; but when ascertained that the creditor's fund is insufficient for the payment of his debts, so that some creditors are likely to be paid in full at the expense of others less fortunate, and that the debtor himself, for all time to come, is likely to have the millstone of debt about his neck, something more than the ordinary remedy by action is needed.

The creditors have their rights. The debtor has his rights. It is an object of solicitude so to dispose of the debtor's effects, and of the debtor himself, as not to trench upon the rights of either. For that purpose our present law of insolvency is, and for a long time past has been, utterly insufficient.

That which should be managed under the well regulated provisions of an act of Parliament, applicable alike to all persons and all cases, is left to the caprice of debtors or the

caprice of creditors, to the certain injury and loss of the one party or the other. As the law stands, an insolvent debtor either honestly gives up all that he has for the benefit of his creditors, or, under pretence of an assignment for the benefit of his creditors, makes a dishonest assignment for the benefit of himself, and protection of his effects as against the demands of his creditors; but the latter, we are sorry to say, is too often the case.

It is a mistake to allow the debtor to dictate on what terms his creditors shall have his effects. It is a mistake to allow these effects to be assigned, as is often the case, to the son, the brother, or brother-in-law of the debtor, whose interest is not that of the general body of the creditors, but rather that of the debtor, his relative. It is a mistake to allow the effects from year to year to be tied up under the assignment, so that none but the debtor himself and his chosen assignee shall derive any benefit from the assignment. It is a mistake to allow the debtor himself to decide upon his own insolvency, and perhaps, under plea of insolvency, so make away with his property as to place it beyond the reach of his creditors, and yet have the full enjoyment of it, as if no assignment were made.

These are all dishonest but too common practices; and the law (to our shame be it said) rather encourages than discourages them. If a debtor, disposed to be honest, really strips himself of all that he has, he is left without support and without protection. Through misfortune, he finds himself so embarrassed that it is necessary to compound. Some creditors, whose demands are small, but whose expectations are large, will not release without payment in full. Payment in full is impossible. The consequence is, that the future earnings of the debtor are subject to be pounced upon to satiate the demands of a few hard-hearted creditors. He sees before him men prepared to dispute the very bread that enters his mouth for his daily sustenance and support. He sees before him, as the reward of honesty, a life of penury; and not merely so, but a life of turmoil with greedy creditors. He sees around him debtors, once insolvent like himself, who, notwithstanding assignments for the benefit of creditors, live in affluence, and who appear to grow richer and richer after each assignment. He has a family to support. The choice is between honesty and penury, or dishonesty and plenty. The law favors the latter, and the latter is his choice.

Now, this should not be. The law which tolerates it is defective. The law which encourages it is disgraceful. But such has been the state of our law for many years. No one has been found able or willing to make the necessary amendments. All admit the necessity of them, but none has the courage to make them. The country suffers for the want of a legislative doctor, possessed of sufficient