

DIARY FOR APRIL.

1 Monday	Easter Monday	County Court and Surrogate Court Terms begin. Recorder's Court sits.
2 Tuesday		Chancery Examination Term. Harris and Ottawa commences.
3 Saturday		County Court and Surrogate Court Terms end.
4 SUNDAY	1st Sunday after Easter	
5 Monday		Toronto Spring Amizes.
6 Tuesday		Chancery Examination Term. Goderich and Cornwall com
7 Friday		Last day for setting down for hearing Chancery.
8 SUNDAY	2nd Sunday after Easter	
9 Monday		Last day for notice of hearing Chancery.
10 TUESDAY	3rd Sunday after Easter	
11 Monday		Chancery Hearing; Term commences.
12 SUNDAY	4th Sunday after Easter	
13 Tuesday		Last day for completing Assessment Rolls. Last day for Non-residents to give lists of their lands.

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. Patten & Airdagh, Attorneys Barrer, 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.

APRIL, 1861.

COURTS OF APPEAL.

Human law is ranked among the sciences, but is not by any means a perfect science, or at all events is not perfectly understood as a science. Although it contains some well understood principles much difficulty arises in their application to the various and ever changing circumstances of man.

We know that winter follows summer, that night succeeds day,—that the sun gives light by day, and the moon by night,—because these are fixed by the immutable law of nature; but widely different are the laws which regulate, or are supposed to regulate human conduct, even in the most civilized community.

Though human law is a rule for human conduct, yet, as it is impossible for man to foresee all the contingencies that may arise in the application of a given law, the law, or at least its application, must of necessity be imperfect.

Law is not enacted to meet a single state of circumstances past and known, but as far as possible is general, and designed as a rule for all cases likely to arise; but when future cases do arise, men, owing to various causes, will be found to differ as to the application of the law to the new state of facts. For this reason there must be in every civilized state some authority empowered to interpret laws, and whose judgment will be binding on parties concerned.

No two men can be found exactly to correspond in physical appearance. So it is with the mind. No two men

can be found to be precisely equal in point of intellectual ability. Different men have different minds, and such will be human experience till the end of time.

One man has clearer perceptive faculties than another; one is better educated than another; one more logical than another; one more industrious than another, and so we might enumerate many other points of difference. But no matter what the cause the fact cannot be disputed, men differ in their minds and at the same time are prone to take different views of the same subject matter.

Judges are no more than men. To err is human. So it may be said, to differ is human. Then when Judges differ as to the law what is to be done? There must be some plan adopted by which the decision of the majority is to govern.

In modern times the affairs of men in a civilized community are not only numberless but of different degrees of importance, and, as a consequence, a division of judicial labor is necessary. There must be one set of judges for cases of considerable importance, and another set of judges for cases of lesser importance, the latter being by far the more numerous, and therefore requiring the greatest number of judges. This is in truth the cause of the institution of Superior and County Judges in the mother country and here.

In Upper Canada there is a very accurate division of judicial labor in matters of civil right. There are the County Judges, thirty-one in number, corresponding with the different divisions of the Province,—each judge supreme in his own county. Next there are two Superior Courts of Common Law exercising an original jurisdiction as to claims of a certain amount, and at the same time exercising an appellate jurisdiction from decisions of county judges, by means whereof to secure as far as possible uniformity in the decisions of the later. Then there is the Court of Chancery, in matters of equity exercising an original jurisdiction, and at the same time an appellate jurisdiction from the equity side of County Courts. Lastly there is the Court of Error and Appeal, consisting of the judges of the two Superior Courts of Common Law and the judges of the Court of Chancery,—in all nine judges, having simply an appellate jurisdiction over the courts to which the judges respectively belong.

Accurate as this division of labor undoubtedly is it needs improvement. The two superior courts of common law are of co-ordinate jurisdiction. If each decides without reference to the other there is a danger of conflict of decisions. A conflict of decisions is not seemly and ought to be avoided; besides it is a positive evil, as having a tendency to accumulate law costs to the loss of suitors. So far as the original jurisdiction of the Courts is concerned,