

## DIARY FOR JUNE.

5. SUNDAY ..... 2nd Sunday after Trinity.  
 6. Monday ..... Recorder's Court sits. Last day for notice of trial for County Court.  
 11. Saturday ..... St. Barnabas.  
 12. SUNDAY ..... 3rd Sunday after Trinity.  
 14. Tuesday ..... Quarter Sessions and County Court Sittings in each County.  
 19. SUNDAY ..... 4th Sunday after Trinity  
 20. Monday ..... Accession Queen Victoria, 1857.  
 21. Tuesday ..... Longest Day.  
 23. Thursday ..... Sittings Court of Error and Appeal.  
 24. Friday ..... St. John Baptist. Midsummer Day.  
 26. SUNDAY ..... 6th Sunday after Trinity.  
 29. Wednesday ..... St. Peter.  
 30. Thursday ..... Last Day for County Councils finally to revise Assessment Rolls.

## BUSINESS NOTICE.

*Persons indebted to the Proprietors of this Journal are requested to remember that 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, 1864.

## OUR BANKS AND OUR USURY LAWS.

Usury, in the common acceptance of the term, may be defined to be the contracting for and taking a rate of interest for the loan and forbearance of money, which is higher than that allowed by law.

In olden times, the taking of any money for the use of money was accounted usury, and considered disreputable. Now, the recovery of interest, under certain restrictions, is protected by the Legislature. Whether any restrictions are wholesome, and do or do not tend to cramp trade and actually produce a high rate of interest, it is not our intention to discuss.

It was provided by the statute 12 Anne, st. 2, cap. 16, which embodied enactments made originally as far back as the reign of Henry VIII., that no person, upon any contract, should take, accept or receive, for the loan of money or other commodities, above the rate of five per cent. per annum, under penalty of forfeiture of treble the money lent; one half to the Crown, and the other moiety to him that would sue for the same. The same statute further enacted, that all bonds, contracts or assurances, whereby there should be reserved or taken above the rate of five per cent. per annum, should be utterly void.

The statutes which have from time to time been passed in this Province on the subject of interest and usury are,

51 Geo. III. cap. 9; 7 Wm. IV. cap. 5; 12 Vic. cap. 22, sec. 23; 16 Vic. cap. 80; 19 Vic. cap. 48; and 22 Vic. cap. 85. These have been consolidated and arranged, and may now be found in Con. Stat. C. cap. 58, and Con. Stat. U. C. cap. 42, sec. 8, and cap. 43.

The general Act respecting Banks incorporated before the Union of the Provinces and any Bank incorporated by the Legislature since that period, granting to such Banks certain privileges, and defining them, is chapter 54 of the Consolidated Statutes of Canada. The general Act "respecting Banks and freedom of banking," under the provisions of which individuals or joint-stock companies are authorised to carry on business as legally authorised "bankers," is Con. Stat. C. cap. 55.

The legal rate of interest fixed by law in this country was formerly, as well for Banks as for others, six per cent. per annum. The late statute of 22 Vic. cap. 85, sec. 3 (Con. Stat. C. cap. 58, sec. 4), provides, however, that no Bank incorporated by act of Parliament, or by Royal charter, or established under the Free Banking Act of 13 & 14 Vic. cap. 21 (Con. Stat. C. cap. 55), "may stipulate for, take, reserve or exact a higher rate of discount or interest than seven per centum per annum; and any rate of interest not exceeding seven per centum per annum may be received and taken in advance by any such bank." But although the Legislature has thought fit to add one per cent. per annum (and in fact a fraction more, as will hereafter be seen, owing to the discount being retained out of the amount loaned) to the legitimate profits of the banks, it has not in the slightest degree relieved them from the consequences of usurious transactions. The provisions of 51 Geo. III. cap. 9, sec. 6, are still in force as regards banks, and are now to be found in the Consolidated Statutes of Canada, cap. 58, sec. 9. The section reads as follows:—"And except as aforesaid, all bonds, bills, promissory notes, contracts and assurances whatsoever, made or executed in contravention of this act, whereupon or whereby a greater interest is reserved and taken than authorised by this act or by some other act or law, shall be utterly void, and every bank or banking institution, and every corporation, and company, and association of persons not being a bank, authorised to lend or borrow money as aforesaid, which directly or indirectly takes, accepts and receives a higher rate of interest, shall forfeit and lose for every such offence treble the value of the moneys, wares, merchandize or other commodities lent or bargained for, to be recovered by action of debt in any court of competent jurisdiction in this Province; one moiety of which penalty shall be paid to the Receiver-General for the uses of Her Majesty towards the support of the Civil Government of the Province, and the other