

## DIARY FOR AUGUST.

1. Monday.....Paper Day, Q. B. Last day for notice of Trial County Court.
2. Tuesday.....Paper Day, C. P. Chancery Ex. Term Toronto sittings.
3. Wednesday...Paper Day, Q. B. Last day for notice for Sandwich & Whitby.
4. Thursday.....Paper Day, C. P.
5. Saturday.....TRINITY TERM ends.
7. SUNDAY.....12th Sunday after Trinity.
9. Tuesday.....Quar. Sess. & Co. Ct. Sitt. in each Co. Last day for notice Ch. (Ex. Chanc. and Cobourg.
14. SUNDAY.....13th Sunday after Trinity.
16. Tuesday.....Chan. Ex. Term Sandwich & Whitby commences Last day for
21. SUNDAY.....14th Sunday after Trinity (Ser. of Writ for York & Peel As.
23. Tuesday.....Chan. Ex. Term Chatham and Cobourg com. Last day for notice
26. Friday.....Declaro for York and Peel Assizes. [London and Belleville.
28. SUNDAY.....15th Sunday after Trinity.
33. Tuesday.....Last day for notice for Chan. Ex. Brantford and Kingston.

## 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. Pulton & Arlragh, 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.

SEPTEMBER, 1862.

## FEES TO PUBLIC OFFICERS CONCERNED IN THE ADMINISTRATION OF JUSTICE.

It is a general principle that every fee to a public officer must have a legal origin.

It is an express provision of the Statute of Westminster (3 Ed. I. cap. 26), that no sheriff or other the king's officer shall take any reward to do his office, but shall be paid of that which they take of the king; and he that so doth shall yield twice as much, and shall be punished at the king's pleasure.

Lord Coke, in his commentary on this statute, says that under the words "other king's officer" are classed escheaters, coroners, bailiffs, gaolers, and other inferior ministers and officers of the king, whose offices in any way concern the administration or execution of justice, or the common good of the subject, and that they can none of them take any reward for any matter touching their offices, but of the king.

The meaning of this commentary is that, unless when an Act of Parliament gives to the public officers indicated a right to look for a recompense in any other quarter, they can take nothing for any service rendered by them in their office, except of the king.

It is a general rule, when a duty is cast upon any one by Act of Parliament, and no remuneration is provided for the doing of it, that the party is to perform the duty without remuneration. (*Askin v. The London District Council*, 1 U. C. Q. B. 292.)

On 29th March, 1845, an act was passed by the Legislature of Canada, entitled "An Act to regulate the fees of certain district officers in that part of this Province called Upper Canada." (8 Vic. cap. 38.) It recited that certain officers connected with the administration of justice in the several districts of Upper Canada were required to perform many services for which no fees were fixed by law, and that it was only necessary and proper to establish reasonable fees and allowances for the same, and to provide for the payment thereof.

It thereupon enacted that it should be the duty of the several justices of the peace of the several districts of Upper Canada, in the General Quarter Sessions of the Peace to be holden in July, 1845, to frame a table of fees for all services then rendered in the administration of justice, and for other district purposes, by any sheriff, coroner, clerk of the peace, constable and crier, which services were not remunerated by any law then in force, and that the several clerks of the peace should forthwith transmit such table to the Clerk of the Crown in Toronto, to be by him laid before the Judges of the Court of Queen's Bench at Toronto; and that it should be lawful for the judges, in term time, by any rule or rules to be by them made from time to time, as occasion might require, to appoint the fee which should be taken by and received by such sheriff, coroner, clerk of the peace, constable or crier, for such services. (s. 1.)

It also enacted, that if at any time any such officer should wilfully and knowingly demand or receive any other or greater fee or allowance than the fee and allowance established by that act, for any or all the services performed by them respectively, the offender should for every such offence forfeit and pay the sum of ten pounds to any person who should sue for the same by action of debt, bill, plaint or information, in any court having competent jurisdiction to hear and determine the same. (s. 4, Con. Stat. U. C. cap. 119, s. 8.)

It made it the duty of the treasurer of every district to pay the amount of such fees, which are payable out of district funds, when duly allowed by the Magistrates in Quarter Sessions assembled. (s. 5, Con. Stat. U. C., cap. 119, s. 7.)

On 15th November, 1845, the Judges of the Queen's Bench, under the powers conferred by the statute, made and promulgated a tariff of fees to be taken and received by sheriffs, coroners, clerks of the peace, constables and criers.

Up to this time most of the fees payable to sheriffs and other subordinate officers connected with the administration or execution of justice were paid by the local district municipalities, through local taxation.