DIARY FOR JULY.

1. Sat .... Long Vacation com. Last day for Co. C. to equal-
2. SUN ... *3rd Sunday after Trinity.* [Roll of Loc Mun.
3. Mon ... County Ct. and Surrog. Ct. Term beg. Heir and [Devisee Sittings commence.
8. Sat .... County Court and Surrog. Ct Term ends.
9. SUN ... *4th Sunday after Trinity*
11. Frid.... Last day for Judges of Co. Cts. to make return of
16. SUN ... *5th Sunday after Trinity.* [Appeals from Ass't.
18. Tues... Heir and Devisee sittings end.
23. SUN ... *6th Sunday after Trinity.*
25. Tues... *St. James.*
30. SUN... *7th Sunday after Trinity.*
31. Mon ... Last day for Co. Clk. to certify County Rate to [Municipalities in County

NOTICE.

Owing to the very large demand for the Law Journal *and* Local Courts' Gazette, *subscribers not desiring to take both publications are particularly requested at once to return the back numbers of that one for which they do not wish to subscribe.*

THE

Upper Canada Law Journal.

JULY, 1865.

HORSE RACING.

In these days of horse-racing extraordinary, when a French horse has had the unparalleled audacity to walk into England and quietly win the Derby, and so "achieve a victory later than Waterloo," it may not be amiss to give a brief sketch of the laws affecting horse racing, as they at present exist.

Under the Common Law wagers are said to be valid, but they are illegal if contrary to public policy or public morality, and so many kinds of games and wagers are illegal at the Common Law: (*Wood* v. *Elliott*, 3 T. R. 693; *Cousins* v. *Nantes*, 3 Taunt. 522; *Hussey* v. *Cuckett*, 3 Camp. 168; *Dalby* v. *Indian Moses*, 15 C. B. 365.) Several old statutes were passed in England for the purpose of preventing excessive and deceitful gaming, the principal of which are 16 Car. 2, cap. 7, and 9 Anne, cap. 14. The latter of these (sec. 2) makes illegal any bet on any game, including horse racing, amounting in the whole at any one time or sitting, to the sum or value of ten pounds, and the loser of such a bet, if he has paid over money under it, may recover the same back by action.

The preamble to 13 Geo. II., cap. 19, is worthy of notice; it recites that "Whereas the great number of horse races for small plates, prizes, or sums of money, have contributed very much to the encouragement of idleness, to the impoverishment of many of the meaner sorts of the subjects of this kingdom, and the breed of strong and useful horses hath been much prejudiced thereby," and "for remedy thereof" it enacts that no person shall enter, start or run any horse, &c., unless it be the *bonâ fide* property of the person so entering it, and that no person shall enter, &c., more than one horse, &c., for the same plate or prize. Section 2 of the same statute provides that no plate or sum of money shall be run for which is under the value of fifty pounds. And by section 5 horse races within the protection of the statute were limited to races taking place on Newmarket Heath and Black Hambleton.

The remedy supplied by this statute appears to have been effectual, and that more speedily than could have been anticipated, for we find section 11 of 18 Geo. II., cap. 34, reciting that "the thirteen royal plates of one hundred guineas each, annually run for, and the high prices given for horses of strength and size, are sufficient to encourage breeders to raise their cattle to the utmost size and strength possible," it therefore takes away entirely the restriction as to locality of the race—permitting it to be run in "any place," which words have been interpreted not to refer exclusively to regular courses or established places for racing: (*Evans* v. *Pratt*, 3 M. & G. 759.)

It will therefore be seen from these statutes, as explained by various decisions, that where the wager or bet exceeds ten pounds it is immaterial to consider whether the race is legal or not, for such excess renders the bet illegal; and so, if the race be for fifty pounds or upwards, but the bet exceeds ten pounds, it is illegal.

There are several cases in our own courts in which races were declared to be illegal, and where the money deposited with stakeholders was recovered back.

Sheldon v. *Law*, 3 O. S. 85, is the leading case, and is thus summed up by *Macaulay, J.*:

"1. If it was a wager on a horse race, and not a match, it was void, because there was no match for £50, and the race being consequently illegal, all bets thereon were void.

"2. If the bet in question constituted the match, then it was void, because the parties