

## DIARY FOR NOVEMBER.

1. Saturday ... Artic'ls, &c., to be left with Secretary of Law Society.
2. SUNDAY ... 20th Sunday after Trinity.
4. Tuesday ... Chancery Exam Term, Godrich and Cornwall, commissos.
7. Friday ... Last day for setting down for hearing, Chancery.
9. SUNDAY ... 2d Sunday after Trinity.
10. Monday ... Last day for notices of hearing, Chancery.
12. Wednesday ... Last day for service of writ County Court.
16. SUNDAY ... 22nd Sunday after Trinity.
17. Monday ... Mich. TERM beg. Chan. Hear. T. com. Recorder's Court sits.
21. Friday ... Paper Day, Q. B.
22. Saturday ... Paper Day, C. P. Declare for County Court.
23. SUNDAY ... 23rd Sunday after Trinity.
24. Monday ... Paper Day, Q. B.
25. Tuesday ... Paper Day, C. P.
26. Wednesday ... Paper Day, Q. B.
27. Thursday ... Paper Day, C. P.
28. Friday ... Mich. TERM ends. Clerks of Municipal Councils to return No. [of res. ratepayers to Rec' Genl. Chan. Hearing Term ends.
30. SUNDAY ... 1st Sunday in Advent. St. Andrew.

## 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. Patton & Arlidge, Attorneys, Barrre, 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 Others of the Courts would accord it a liberal support, instead of allowing themselves to be sued for their subscriptions.

## The Upper Canada Law Journal.

NOVEMBER, 1862.

## SLANDER OF FEMALES.

The law of England is said to be the perfection of reason. In some respects, however, it is defective. In one respect, to which we at present intend to advert, it is barbarous.

It is now held that an imputation, however gross, on an occasion however public, upon the chastity of a modest matron or pure virgin, is not actionable without proof that it has actually produced special temporal damage to her of a material nature.

The law is unmindful of the mental suffering which the foul slander may cause. It is deaf to any appeal on the ground of loss of society or friends. But the moment it is shown that place or power has been lost by reason of the slander, the law is alive to the injury, and ready to award compensation. Nay, if it be shown that the value of a halfpenny is lost in consequence of the slander, the law is on the alert, but dead to everything in the shape of suffering that cannot be weighed in a tradesman's scales, or computed by a clerk in a counting-house.

The law in this respect is behind the age; it has failed to expand with the growth of intelligence.

Words which import a crime known to the laws are actionable *per se*—that is, without evidence of special damage resulting from them; but, no matter how great the turpitude imputed, no matter how aggravating the circumstances, no matter how venomous the motive, if the

words spoken fall short of a known crime, the law is powerless unless substantial special damage be alleged and proved.

To say of a woman, no matter how low her moral character, that she is a thief, is the subject of an action; but to say of a woman, no matter how high her position in society, that she is a prostitute, is not actionable, unless it be shown that in consequence of the words so spoken, she lost some pecuniary advantage.

The law does not appear to look upon the wrong done to the woman, except so far as it affects her pocket, or, if married, that of her husband. Even discord between husband and wife, as a consequence of the words spoken, would not seem to be of itself sufficient.

Let us examine some of the decisions which on this subject are to be found in our reports of decided cases.

If the declaration merely allege that the plaintiff was virtuous, modest and chaste, and before and at the time of the slander enjoyed the society of friends, living with them on terms of mutual respect, confidence and intimacy, all of which she lost by reason of a slander on her character, it would not be sufficient; but if, in addition, it allege that her friends, before the speaking of the slander, gratuitously provided her with meat and drink, and after the speaking of the slander refused to do so, it would be sufficient. The law looks only to the substantial. Loss of society of friends, loss of respect of friends, becoming an outcast of society, pointed at with the finger of scorn at every corner—all is nothing, in the eye of the law, compared with the serious loss of a cup of tea, or a piece of bread, which one has been accustomed gratuitously to receive. (See *Moore v. Meagher*, 1 Taunt, 39.)

Indeed the rights of the woman are wholly disregarded. In one case, though she was the real sufferer, and suffered substantial injury, her very existence was ignored. The wife lived apart from her husband. She kept a boarding-house. She had many boarders, and had good credit among tradesmen. The slanderer appeared. He charged her with adultery and prostitution. Her credit forsook her; her boarders left her. She, in consequence, with her husband (who joined for the sake of conformity) brought an action against the slanderer. The action was held not to be maintainable. (*Saville et al v. Sweeney*, 4 B. & Ad. 514.)

It would seem that the great effort of the law is to defeat such actions, and allow the wrong-doer to go unwhipt of justice. In a case where the slanderer alleged that he had had connection with the wife of plaintiff, a virtuous woman, in consequence of which she lost the society of her friends, was brought into public scandal, was nearly crazed, became very unwell, was long under medical treatment, to the disgrace and impoverishment of her husband, the action was