

## DIARY FOR MAY.

1. Tuesday..... Last d. for not to Counties of apport of Gram School moneys.  
 5. Saturday..... Articles, &c., to be left with Sec. Law Soc. Chancery Hearing  
 6. SUNDAY..... 4th Sunday after Easter. [Term ends.  
 13. SUNDAY..... 5th Sunday after Easter. Rogation Sunday.  
 14. Wednesday... Last day for service of Writ in County Court.  
 17. Thursday... Ascension Day.  
 20. SUNDAY..... Sunday after Ascension Day.  
 21. Monday..... EASTER TERM begins.  
 25. Friday..... Paper Day, Q. B.  
 26. Saturday..... Paper Day, C. P. Last day for declar. County Court.  
 27. SUNDAY..... Whit-Sunday.  
 28. Monday..... Paper Day, Q. B.  
 29. Tuesday..... Paper Day, C. P.  
 30. Wednesday... Paper Day, Q. B.  
 31. Thursday..... { Paper Day, C. P. Last day for Court of Revision finally to  
 revise Ass't Rolles, and for Co. Councils to revise T<sup>p</sup> Rolles.

## 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 & Ardigh, Attorneys, Barrre, for collection; and that only a prompt remittance to them will save out.

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.

MAY, 1860.

## NOTICE TO SUBSCRIBERS.

As some Subscribers do not yet understand our new method of addressing the "Law Journal," we take this opportunity of giving an explanation.

The object of the system is to inform each individual Subscriber of the amount due by him to us to the end of the CURRENT year of publication.

This object is effected by printing on the wrapper of each number—

1. The name of the Subscriber. 2. The amount in arrear. 3. The current year to the end of which the computation is made.

Thus "John Smith \$5 '60." This signifies that, at the end of the year 1860, John Smith will be indebted to us in the sum of \$5, for the current volume.

So "Henry Tompkins \$25 '60" By this is signified that, at the end of the year 1860, Henry Tompkins will be indebted to us in the sum of \$25, for 5 volumes of the "Law Journal."

Many persons take \$5 '60 to mean 5 dollars and 60 cents. This is a mistake. The "'60" has reference to the year, and not to the amount represented as due.

## TAXATION OF ATTORNEYS BILLS.

It is at present the policy of the law to regulate as far as possible the remuneration to be allowed Attorneys and Solicitors for work done by them as such.

This policy, though having many advocates, is not without some opponents. Many there are who contend that neither the Court nor any other power should dictate to an Attorney what he is to charge for his services more than to the tradesman what he is to charge for his wares, or to the laborer for his labor.

Without discussing the wisdom of the existing policy, we propose to examine in what manner and to what extent it is carried into practice.

An Attorney or Solicitor is an officer of the Court, and as such amenable to the Court for everything which he does in the practice of his profession, whether it be the receipt of money or the issue of a writ, a charge made or a suit conducted.

From this it is argued that the Courts have independently of any statute power to refer an Attorney's bill for taxation (*Sayers v. Walond*, 1 Sim. & St. 97; *Williams v. Odell*, 4 Price 279, *Wilson v. Gutteridge*, 4 D. & R., 736.

This position is sustained to some extent, though not conclusively, by the case of *Watson v. Poston*, 1 Dowl. P. C. 556, but in the case of *Dagley v. Kentish*, 2 B. & Ad. 411, Lord Tenterden doubted its correctness. And in *Weymouth v. Knight*, 3 Scott, 764, Chief Justice Tindal referring to *Dagley v. Kentish*, said, "The result of the conference of the Judges on that case was that they almost unanimously concluded that the Courts had no authority independently of the Statute to direct the taxation of Attorneys bills unless under special circumstances, as when an Attorney has been guilty of fraud."

The authority of more recent cases, and the practice of the Courts is certainly in favor of the doctrine advanced by Chief Justice Tindal (*Slater v. Brookes*, 9 Dowl. P. C. 349. See *ex parte Cardross*, 5 M. & W. 545).

It is not now usual for the Courts to refer a bill to taxation, otherwise than under some one or other of the Statutory provisions giving express authority so to do. In each case where the right is disputed the contest is whether the services charged for are such as can be referred under the Statute, not whether the Court has power independently of the Statute to make the particular reference.

Until recently the Statute under which references were made was 2 Geo. II. cap. 23, s. 23, passed in 1729, which provided as follows:—

"1. That no Attorney or Solicitor should commence or maintain any action or suit for the recovery of any fees, charges, or disbursements at Law or in Equity until the expiration of one month or more after such Attorney or Solicitor should have delivered unto the party or parties to be charged therewith, or left for him, her or them at his, her or their dwelling-house or last place of abode, a bill of such fees, charges and disbursements, written in a common legible hand and in the English tongue, (except law terms and names of writs,) and in words at length (except times and sums), which should be subscribed with the proper hand-writing of such Attorney and Solicitor.

"2. That upon the application of the party or parties chargeable by such bill, or of any other person in that