

DIARY FOR JULY.

1. Wed.. DOMINION DAY. Long Vacation begins. Last day for Co. Clerks finally to examine Asst. Rolls, and equalize Rolls Local Municip.
2. Thurs. Error and Appeal Sittings.
5. SUN. 4th Sunday after Trinity.
6. Mon.. County Court and Surrogate Court Term begins. Heir and Devisee sittings commence.
11. Sat. ... County Court and Surrogate Court Term ends. 6th Sunday after Trinity.
12. SUN. ... County Court and Surrogate Court Term ends. 6th Sunday after Trinity.
14. Tues. Last day for County Judges to make return of appeals from assessments.
19. SUN. 6th Sunday after Trinity.
21. Tues. Heir and Devisee Sittings end.
22. Wed. St. Mary Magdalene.
26. SUN. 7th Sunday after Trinity.

The Local Courts'

AND

MUNICIPAL GAZETTE.

JULY, 1868.

EVIDENCE OF PARTIES TO SUIT.

A correspondent asks a question as to how far a judge of a Division Court can go in calling the parties to a suit as witnesses in their own behalf, and whether suitors can claim any right to give evidence on their own behalf. As the subject is of general interest, and there seems to be some misapprehension about it, it will be as well shortly to discuss it.

The general rule as to the examination of parties to a suit is laid down by the 101st section, which provides that: "No party to the suit shall be summoned or examined, except at the instance of the opposite party, or of the Judge."

The latter part of this section, it will be seen, extends the law of evidence, as applicable to the Superior Court, by giving the Judges in Division Courts a discretionary power to call parties to the suit; which power is more fully set out in the two following sections:

The first part of section 102 is very general in its terms, and gives the Judge power to require either party "in any cause or proceeding to be examined under oath or affirmation." This would seem to refer both to actions on contract or for torts; whilst the latter part of the section refers to debts or contracts when the claim is under eight dollars, and section 103 to debts and demands not exceeding twenty dollars.

We do not see how these sections can be interpreted to give a *suitor* the right to give evi-

dence on his own behalf, at his own instance, even when he has laid the foundation for such evidence under the provisions of the latter part of section 102; for, in either case, it is discretionary with the Court to examine the plaintiff or defendant, as the case may be. The very particularity of the the latter part of the section would seem to imply that the more general provisions of the former part are to be sparingly applied.

It may, in addition to this, be remarked that the policy of the law is (in this country) to exclude the testimony of parties to a suit; and the exceptional legislation in favor of Division Courts which we find in these sections should not—so long as the law remains as at present—be too liberally taken advantage of, even by the Judges, in whom (as we have said), the sole discretion lies.

OUR LAWS AND LAWYERS.

We give below some extracts from an interesting lecture on the above subject, lately delivered by Mr. J. C. Hamilton, barrister-at-law. Though intended for the edification of a mixed audience, the essay contained many things which will, we think, be interesting to some of our readers. With this in view, we give such extracts as our space permits, thinking that anything light in the way of legal literature is in keeping with the season and the weather. The lecturer thus pleasantly sketches the Court of Chancery; and his remarks are somewhat significant that the writer practices principally in the west wing of Osgoode Hall:

"It is a heavy and encroaching court—a court to be avoided by all sinful men; a court of equity and good conscience, where natural feelings are sacrificed to justice, and 'attachments' are formed and used only as a means of torture. It is a court of numerous officers, many of whom tax costs, some of whom tax our patience. Often attacked, it has still survived, and even grown in bulk and power, and is now an 'indefeasible title' court. Its decrees are not, like judgments at law, unilateral or confined in scope and object, but may—and in practice often do—fearlessly examine all claims to the subject in dispute, and finally settle them.

It protects infants, guards the imbecile and lunatic from rapacity, comes between husband and wife, and has even tender regard to the fairer and frailer portion of the race.

Its judges are our modern knight-errants. They lay bare many a hidden fraud. Airy castles