

DIARY FOR SEPTEMBER.

1. Thursday	.....	Paper Day, Common Pleas.
3. Saturday	.....	TRINITY TERM ends.
4. SUNDAY	.....	10th Sunday after Trinity.
5. Monday	.....	Recorder's Court sits. Last day for notice of trial for Co. Ct.
11. SUNDAY	.....	16th Sunday after Trinity.
13. Tuesday	.....	Gr. Sess. and Co. Ct. Sits. in each Co. Last day for service for York and Peel.
18. SUNDAY	.....	17th Sunday after Trinity.
21. Wednesday	.....	St. Matthew.
23. Friday	.....	Declare for York and Peel.
25. SUNDAY	.....	18th Sunday after Trinity.
29. Thursday	.....	St. Michael. MICHAELMAS DAY.

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. Ardagh & Arden's, 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, 1864.

THE ACT RESPECTING INSOLVENCY.

A good system of insolvency is necessary in every mercantile community. Men there are, and always will be, who, through misfortune, fail in business, and become unable to pay their debts in full. Others there are, and always will be, who, through a pretence of insolvency or inability to pay their debts, fail, and fail, as it is said, with a full hand. The object of a good insolvency act is as much to protect the honest but unfortunate debtor, as to punish the dishonest or fraudulent debtor; and to do so as cheaply and expeditiously as is consistent with efficiency.

It is said that such is the aim of the Insolvency Act which became law during the last session of the Provincial Parliament. In some way or other an insolvency law, while much needed and really called for in Upper Canada, was either opposed or coldly supported in Lower Canada; and yet we are indebted to a Lower Canada lawyer for the measure which has now become law.

We have always maintained that it was the duty of the government, and especially of the Upper Canada section of it, to introduce and carry a cheap and efficient insolvency law. Year after year nothing was done. Men either had not the inclination or the ability to take the steps necessary for the purpose. Year after year men unfortunate in business were either compelled to drag out a life of miserable existence among us, or else migrate to places where the laws of debtor and creditor were in advance of ours.

In this state of things the framer of the bill came to the rescue, and through good repute and bad repute, persevered till the end.

As usual there are various opinions as to the wisdom and efficiency of the infant legislative creation. It is too much to expect that all men should agree in their estimate of a measure of the kind. We never expected a perfect measure. Had we waited till some man could be found competent and willing to introduce and carry a perfect insolvency act, we should have waited till the end of time. We prefer to have a measure of some kind, however crude, upon which we can improve as instructed by the dictates of experience. In this spirit we awaited the birth of the measure now before us, in this spirit we receive it, and in this spirit we shall approach an examination, necessarily brief, of its provisions.

The act very properly commences by reciting that it is expedient that provision be made for the settlement of the estates of insolvent debtors, for giving effect to arrangements between them and their creditors, and for the punishment of fraud. Such, therefore, are the necessities recognized in the framing of the act, and such the objects which the Legislature had in view when framing the act. But who are insolvent debtors? A class of persons in the community whose state it is difficult to distinguish and define. It is not every man who, on the spur of a demand, is unable to pay his debts in full, that ought to be declared insolvent. Wealth assumes in the social scale many forms. It is not always to be found in the mere possession of money. Money is the medium of exchange, and one which most men, in defiance of laws against usury, endeavor to make as productive as possible. Some men prefer to invest their money in real estate—others in personal property—others in stocks—and each to his mind. Every man in business is, to some extent, at some time or other, indebted to others. The necessities of trade have given rise to bills of exchange and promissory notes—the representatives of pecuniary obligations. It is not every kind of property in Canada which is convertible into money at a moment's notice. A man may at a given moment be unable to pay his debts in full, and yet have assets equal to forty shillings in the pound on his indebtedness. Who, therefore, is to be the judge of a man's insolvency? If left to himself he may not determine the question until his creditors become more embarrassed than himself. If left to others, without rules to guide them, their fears or their interest may drive them to the ruin of a fellow man, as well-to-do as themselves. Still it is wise to allow a man who feels himself unable to meet his engagements, and really desires in good faith to make an assignment for the benefit of his creditors to do so. It is just as wise,