

## DIARY FOR AUGUST.

3. SUNDAY ..... 7th Sunday after Trinity.  
 9. Saturday..... Articles, &c. to be left with Secretary of Law Society.  
 10. SUNDAY. ... 8th Sunday after Trinity.  
 13. Wednesday... Last day for service of Writ County Court.  
 17. SUNDAY..... 10th Sunday after Trinity.  
 19. Tuesday.... Last day for Notice of Chancery Examination Term, Toronto.  
 21. Thursday.... Long Vacation ends.  
 23. Saturday..... Doctare for County Court.  
 24. SUNDAY..... 10th Sunday after Trinity.  
 25. Monday..... TRINITY TERM begins.  
 29. Friday..... Paper Day, Q. B.  
 30. Saturday.... Paper Day, C. P.  
 31. SUNDAY..... 11th Sunday after Trinity.

## 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. Pulton & Arlough, 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.

AUGUST, 1862.

## THE COURT OF IMPEACHMENT AND THE COUNTY JUDGE OF ELGIN.

During the last month, the public and profession were startled by the strange and solemn proceedings incident to the impeachment of a Judge of one of our County Courts, before the Court of Impeachment for Upper Canada, composed of the three heads of the Supreme Courts in this Province. The novelty of the proceeding, the solemn character of the tribunal, and the reputation of the Judge who has been called upon to play so sad and so prominent a part in the impeachment, require from our hands something more than a passing comment.

By the Act 20 Vic. cap. 58 (Con. Stats. U. C. cap. 14), there was established in Upper Canada a Court of Impeachment, for the trial of charges preferred against Judges of County Courts, having all the incidents, powers and privileges of a Superior Court of Record. The Judges of this Court are, the Chief Justice of Upper Canada, the Chancellor of Upper Canada, and the Chief Justice of the Common Pleas; and in case of the illness or absence of any of said Judges, the senior Puisne Judge of the Superior Courts of Common Law may act in his place.

The jurisdiction of the Court is only to be invoked in case the Governor-General finds any complaint for inability or misbehaviour in office against any Judge of any County Court, *sufficiently sustained*, and of sufficient moment to demand judicial investigation by the Court of Impeachment; in which case he shall direct such complaint, and

all papers and documents therewith connected, to be transmitted to the Chief Justice of Upper Canada as President of the Court; and thereupon the said Court shall appoint a day for the meeting of the Court, and the trial and adjudication of the charges laid and set forth in the complaint. The judgment of the Court is to be certified to the Governor, and is to be final and conclusive to all intents and purposes whatsoever. If the complaint be for inability, the Court is to determine whether such inability has been proved; and if it has, the nature of the inability, and whether the same is, in the opinion of the Court, of such a character as to render it expedient to remove the Judge. If the complaint be for misbehaviour in office, the Court is to determine whether the Judge is guilty or not guilty; and if not guilty, whether the conduct of the Judge is censurable or unbecoming. The Court may also award reasonable costs to either party, according to the nature of the adjudication, viz.: if the complaint be adjudged false or vexatious, the judge shall be entitled to his costs of defence; if the conduct of the Judge complained against (whether he be found guilty or not guilty) be adjudged censurable and unbecoming, the complainant shall be entitled to his costs of prosecution.

The object of the measure appears to be to place the County Judges in a better position of independence than they had previously occupied, and to relieve the Crown of what is in effect a criminal trial of a branch of the judiciary, and which might in some cases be influenced by political feeling. In carrying out this object, the Legislature has established a Court of criminal jurisdiction to some extent similar in purpose and effect to the High Court of Impeachment in Parliament.

In England an impeachment is in the nature of a criminal proceeding, and is described (4 Bl. Com. 259) as a presentment by the House of Commons, the most solemn grand inquest of the whole kingdom, to the House of Lords, the most high and supreme court of criminal jurisdiction in the kingdom. The articles of impeachment are a kind of bill of indictment found by the Commons and tried by the Lords, who are in cases of misdemeanor considered not only as their own peers, but the peers of the whole nation.

The mode of proceeding, as laid down by Mr. May, in his *Parliamentary Practice*, is as follows: A member of the House of Commons, in his place, first charges the accused of high treason, or of certain high crimes and misdemeanors; and after supporting his charge with proofs, moves that he be impeached. If the House deem the grounds of accusation sufficient, and agree to the motion, the member is ordered to go to the Lords, and "at their bar, in the name of the House of Commons and of all the Com-