DIARY FOR MARCH.

2. SUNDAY..... *Quinquagesima.*
3. Monday..... Last day for notice of trial County Court.
4. Tuesday ..... *Shrove Tuesday.* Ch. Ex. Term London and Belleville com. Last day for notice Brantford and Kingston.
5. Wednesday..... *Ash Wednesday.*
9. SUNDAY..... *1st Sunday in Lent.*
11. Tuesday..... Quarter Sessions and Co. Ct. Sittings in each County. Last day for Notice of Chancery Examinations, Hamilton and Brockville.
16. SUNDAY..... *2nd Sunday in Lent.*
18. Tuesday ..... Chancery Examination Term Brantford and Kingston commences. Last day for Notice for Barrie at Ottawa. Last day for Writ for York and Peel Assizes.
23. SUNDAY..... *3rd Sunday in Lent.*
25. Tuesday ..... Chancery Examination Term Hamilton and Brockville com. Last day for Notice for Goderich and Cornwall.
28. Friday..... Declare for York and Peel Assizes.
30. SUNDAY..... *4th Sunday in Lent.*

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 & Ardagh 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 subscription.

The Upper Canada Law Journal.

MARCH, 1862.

PATENTS FOR INVENTIONS.

Our Legislature will soon be in session. It is to be expected that we shall have some useful laws, or amendments of existing laws. In our last issue we pointed out the necessity for some amendment in the law as to payment of Crown witnesses; in this issue we propose to direct attention to the law regulating letters patent for inventions.

In Canada we have a law which authorizes the issue of letters patent for inventions to certain persons, and under certain circumstances. Some, say that no such law should exist, while the many say that it is not sufficiently comprehensive. The good of the public is the aim of each of these classes of objectors, but each seeks to attain that good by means very different from that of the other.

Why should not *every* inventor or discoverer receive a patent for his invention or discovery? This is the question which we propose briefly to consider.

The man who builds a house or makes a pin is entitled to be paid for his labour. The reason is, that the product of his labour is useful, and it would be unjust for any member of society to deprive a fellow-man of the fruits of his labour without some compensation. So the man who by study has produced something useful to society, in the shape of labour-saving machinery or other invention, should not be deprived of the fruits of his study without compensation. He is under no obligation, even if the discovery be the result of accident, to disclose it to the public.

Matter is inert, and the laws of nature are fixed and unchangeable; but by new combinations of matter, great results are often produced. The man who either discovers or invents these new combinations, and proves them to be useful, is certainly entitled to some compensation from the public, before he ought in reason or in justice to be deprived of the fruits of his invention or discovery.

This is the foundation of a patent law, when correctly understood. Such a law is in the nature of a contract between the inventor and the public. The inventor makes known his invention to the public, under the protection of a patent. The exclusive use, and right to sell to others to use, is the consideration for the bargain. The Government, representing the public, says, "Explain to us the nature of your invention; and if it be useful, we shall guarantee to you the exclusive use of it for a term of years, at the end of which time the invention shall become the property of the public, whom we represent." In this bargain there is mutuality. The public grants the exclusive right to use for a term of years, and in consideration thereof, at the end of the term, the inventor foregoes all claim in favour of the public. The right to exclusive use for the term of years is a bonus in favor of the inventor—the inducement to make known to the public that which before was known only to himself.

This is a bargain by which the public lose nothing, and in the end may gain much. It is unlike a monopoly. The right exclusively to manufacture an article formerly well known to the public, is a monopoly; but the right, for a limited time, to do that of which the public before knew nothing, is no injury to the public, and in the end a positive gain. This is the distinction between a patent right and a monopoly. No man has the right, in justice, to make use of the fruits of another man's brains, any more than the fruits of his labour—without payment. The attempt so to do is a violation of the rules of honesty.

These principles have been fully acknowledged in modern times by all civilized powers. The result is, that each power has its own patent laws, more or less comprehensive. There is no difficulty in carrying out the principles of justice as between subjects of the same power, but the difficulty is in applying them as between subjects of different powers. Each Government may command and enjoin its own subjects, but has no authority over those of another Government. The consequence is, that when a subject makes public his invention to his own Government under the protection of a patent, the subjects of other Governments, in the absence of an international law, are at liberty to steal that invention.

The discovery, it may be, is of use, not merely to the people of one power, but to all mankind. Why, therefore,