

## DIARY FOR OCTOBER.

1. Saturday... { Last day for notice of Trial for Toronto Fall Assizes.  
Chancery Examination Term, Niagara and Brockville, ends.
2. SUNDAY... 16th Sunday after Trinity.
3. Monday... County Court Term begins.
4. Tuesday... Chancery Examination Term, Hamilton and Ottawa, commences.
6. Saturday... Chancery Examination Term, Hamilton and Ottawa, ends.
9. SUNDAY... 19th Sunday after Trinity.
10. Monday... Toronto Fall Assizes.
11. Tuesday... Chancery Examination Term, Barrie and Cornwall, commences.
12. Saturday... Chancery Examination Term, Barrie and Cornwall, ends.
15. SUNDAY... 17th Sunday after Trinity.
23. SUNDAY... 18th Sunday after Trinity.
30. SUNDAY... 19th Sunday after Trinity.
31. Monday... Last day for notice of hearing, Chancery.

## 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. Fulton & Arlagh, 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.

TO CORRESPONDENTS—See last page.

## The Upper Canada Law Journal.

OCTOBER, 1859.

## LOCAL EQUITY JURISDICTION.

Subjoined we publish a paper, bearing the above title, which was read by J. Smale, Esq., Barrister-at-Law, at the annual meeting of the National Association for the Promotion of Social Science, held in Liverpool in October last.

The writer of the paper is a barrister of considerable experience in Equity practice, and well known to the profession in connexion with Mr. DeGex, as a reporter of cases decided in the High Court of Chancery by Knight Bruce, when Vice-Chancellor. The reports of DeGex & Smale are known to all at all conversant with Chancery books.

It is the aim of the writer to prove that it is in England desirable to decentralize the administration of justice in respect of equitable rights, and that the machinery for so doing is almost at hand. He refers to the successful working of the Palatine Court of Lancaster, and argues therefrom that similar local equity courts might be established in every county in England.

We quite agree with these views. There is no reason why the principles which effected a decentralization of the administration of common law by the establishment of County Courts, should not also be extended to equitable rights. In the first place, such a change is demanded in the interest of suitors; in the second place, it is demanded in the interest of existing courts. The more the administration of equity is decentralized, the less there will be to be administered at head quarters, and the less the delay of administration there.

If in modern legislation there is one feature more noticeable than another, it is that of localization in the administration of justice. Times are changed. The facilities for travelling are now very great, and it is much wiser for a judge either to reside among or to visit suitors in a particular county to determine their differences, than to drag all such to the seat of the courts, and there detain them until sickened by the neglect of their proper business, and impoverished by a residence among strangers. What would the equity judges in England think of going circuit? The proposition, probably, would only be entertained to be the subject of laughter. Yet in Upper Canada there are Chancery as well as common law circuits. Equity judges hold their sittings in the chief towns of the Province at fixed dates, for the purpose of taking evidence, and the gain to the public by this simple change is incalculable.

So with regard to the subject in hand, we are in advance of the mother country. In 1853, equity jurisdiction was conferred upon our county courts (16 Vic. cap. 119); and were the fees allowed for work done in these courts at all commensurate to the skill required, the system would be in most respects satisfactory. When 2s. 6d. only for instructions, and 6d. for an attendance are allowed to solicitors, we can well understand how solicitors refrain from availing themselves of the act. If the Legislature intend this step to be more than an empty pretence, it must make it worth the while of respectable solicitors to do work in the courts.

Still we contend that the principle is none the less good. The Legislature, no doubt, meant well, and would have done well had it been in the matter of costs a little more considerate. The act, though short, is comprehensive. In certain cases enumerated—such as partnership, accounts, legacies, administration, foreclosure of mortgages, redemption of mortgages, waste—under certain restrictions, jurisdiction is given to county courts. The judge of the county court is made the sole judge in all suits within his jurisdiction, and is to determine in a summary manner all questions of law or equity, as well as of fact, arising therein, unless he or either of the parties think proper to have the facts tried by a jury. The rules of decision are of course to be as nearly as possible the same as those which govern the Court of Chancery. Either party may, upon giving proper security, appeal to the Court of Chancery against any order or decree made by a county judge under the provisions of the act, and power is given to the Court of Chancery to make rules for the government of county courts in the premises.

We are confident that the time will come in England when some similar system will be in operation there. Public opinion is too potent to be much longer made to bow at the shrine of judicial ease. It is only a question of