

## PARLIAMENTARY ELECTIONS.

## DIARY FOR AUGUST.

1. Tues. *Lammas.*
6. SUN. *9th Sunday after Trinity.*
13. SUN. *10th Sunday after Trinity.*
14. Mon. Last day for County Clerks to certify county rates to municipalities in counties.
20. SUN. *11th Sunday after Trinity.*
21. Mon. Long Vacation ends.
23. Wed. Last day for setting down and giving notice for re-hearing in Chancery.
27. SUN. *12th Sunday after Trinity.*
28. Mon. County Court Term (York) begins.
31. Thur. Re-hearing Term in Chancery.

THE

## Canada Law Journal.

AUGUST, 1871.

## PARLIAMENTARY ELECTIONS.

Next to the excitement which more or less attends every election contest, the important question whether the successful candidate will retain his seat, is certainly, to one individual at least, a subject of very anxious consideration. The good old days, as it is the fashion to call them, in which any candidate who was successful enough to find his way into the House, no matter by what corrupt means, and who might, if he was on the proper side, retain his seat for two, if not three or four years, until a grateful ministry had rewarded his fidelity, have long since passed away. The candidate who is now successful at the polls, in the event of a petition being filed against his return, finds that the real difficulty of an election contest is not in obtaining, but in retaining his seat. It is not alone that he himself must be blameless in every particular which the Act specifies, and, so to speak, have it and its penalties constantly before his eyes, but that his agents, those terrible necessities of an election contest, whose rash and intemperate zeal, in most instances looks only to the end, indifferent to the means by which it is to be attained, should likewise have exercised a careful supervision not only over their own acts, but those whom they have employed under them. The recent trials under the Controverted Elections (Ontario) Act of 1871, have demonstrated so far, that if it is a hard task to obtain a seat in Parliament, it is also an easy matter to lose it.

Of fifteen petitions against the return of members declared elected at the recent contest for the Legislative Assembly of the Province of Ontario, three only have been disposed of. In two of these, Prescott and Carleton, the former tried before the Chief Justice of Ontario, the latter before Mr. V. C. Mowat, the election has been declared void.

In Glengarry the successful candidate has retained his seat. Stormont and Brockville have not been finally disposed of, the former being adjourned until the 12th of September next, the latter until the 9th of January.

The others come on at various times after Vacation, the latest being North Simcoe, on the 16th of October.

That branch of the law relating to the election of members of Parliament is, in a general way, very much misunderstood, not only by those who do not belong to the profession, but by the majority of the members of the profession itself; the prevailing opinion in most cases being that the Ontario Act of 1871 is a compendium of the whole law on election matters, whereas in fact it only establishes the tribunal and the procedure by which election petitions are to be tried, and imposes certain penalties for acts defined not in it alone, but in the various Acts of Parliament which precede it and on which it is based.

There seems also to be a general impression, chiefly outside the profession, that those Acts of Parliament which govern the law relating to election matters in the Province of Ontario, are so nearly identical with the laws of England in that respect, that the decisions of the English Judges should be the rule of guidance in this country. A careful comparison, however, of the Imperial and Ontario Statutes will show, that although in some instances the different sections of the separate Acts are word for word the same, yet, as will be hereafter shown, they do differ in some points so very materially, that they might be said to alter the whole scope of the Act in that respect.

Before going into the question, therefore, of the various points already decided in the late trials under our own Acts, it will be important to notice the Imperial Acts of Parliament affecting the question of Election Petitions, and point out, as briefly as possible, the distinction between the Imperial and the