

DIARY FOR JULY.

1. SUNDAY..... 4th Sunday after Trinity. Long Vacation commences.
2. Monday { County Court and Surrogate Court Terms begin. Recorder's Court begins. Hear and Devisee Sittings commence.
7. Saturday Co. Court and Surrogate Court Term ends
8. SUNDAY..... 6th Sunday after Trinity.
14. Saturday { Hear and Devisee Sittings end. Last day for Judges of Co. Courts to make ret. of appeals from Assessment.
15. SUNDAY..... 6th Sun.'y after Trinity.
22. SUNDAY 7th Sun. ay after Trinity.
23. SUNDAY 8th Sun. ay after Trinity.
31. Tuesday..... Last day for Clerks of County Courts to certify County Rate to Municipalities in County.

IMPORTANT BUSINESS NOTICE.

Persons subscribed 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, Barric, 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.

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NOTICE TO SUBSCRIBERS.

As some Subscribers do not yet understand our new method of addressing the "Law Journal," we take this opportunity of giving an explanation.

The object of the system is to inform each individual Subscriber of the amount due by him to us to the end of the CURRENT year of publication.

This object is effected by printing on the wrapper of each number—

1. The name of the Subscriber. 2. The amount in arrear. 3. The current year to the end of which the computation is made.

Thus "John Smith \$5'60." This signifies that, at the end of the year 1860, John Smith will be indebted to us in the sum of \$5, for the current volume.

So "Henry Tompkins \$25 '60." By this is signified that, at the end of the year 1860, Henry Tompkins will be indebted to us in the sum of \$25, for 5 volumes of the "Law Journal."

Many persons take \$5 '60 to mean 5 dollars and 60 cents. This is a mistake. The "60" has reference to the year, and not to the amount represented as due.

JURISDICTION OF COUNTY COURTS AS TO LANDS.

It is enacted, by the County Courts Act, that the said courts shall not have cognizance of any action "where the title to land is brought in question." (Con. Stat. U. C., cap. 15, sec. 16, sub-sec. 1, p. 78.)

This is in terms nearly similar to sec. 58 of the English County Courts Act (9 & 10 Vic. cap. 95), which provides that the English County Courts "shall not have any cognizance of any action of ejectment, or in which the title to any corporeal or incorporeal hereditaments, or to any toll, fair, market or franchise, shall be in question."

Our statute, instead of using the words "any corporeal or incorporeal hereditaments," &c., makes use simply of the word "land." This word, in law, comprehends any ground,

soil or earth whatsoever. It includes houses and buildings of all kinds; for the ownership of the land carries with it everything both above and below the surface. A pond of water is therefore described as land covered with water, and a grant of lands includes all rivers and minerals under the surface.—(Williams' Real Property, 13.)

It would seem that the word "land," as used in our statute, is of the most extensive signification. This opinion is strengthened by a reference to sec. 20 of the act (Con. Stat. U. C. p. 79), which enacts that "No plea, replication or other pleading, whereby the title to any land, or to any annual or other rent, duty or other custom or thing, relating to or issuing out of lands or tenements, is brought in question, shall be received by any County Court, without an affidavit thereto annexed, that the same is not pleaded vexatiously, nor for the mere purpose of excluding the Court from jurisdiction, but that the same does contain matters which the deponent believes to be necessary for the party pleading, to enable him to go into the merits of the case."

The object of the act is to exclude County Courts from having jurisdiction in any action where the title to land is bona fide brought in question, but not to enable a defendant vexatiously to set up that defence in order to oust the Court of jurisdiction.

One marked difference between our County Courts and the Courts of the same name in England, is, that while here actions brought in a County Court are conducted by written pleadings, as in the Superior Courts, there the actions are conducted *viva voce*. This distinction must be borne in mind, when reading English decisions as applicable to the provisions of our act.

In Upper Canada the title to land may be brought in question either on the face of the pleadings, or in some cases be suggested in evidence. Where the title is raised upon the pleadings, the judge can go no further. Thus, where defendant in replevin made cognizance, as bailiff, of A., alleging that the *locus in quo* was the freehold of A., and that he as bailiff took the cattle, &c., damage feasant, although plaintiff did not take issue on the plea of *liberum tenementum*, but on the allegation that defendant did, as bailiff of A., take the cattle, &c., it was held that the County Court was ousted of jurisdiction. (*Tenniswood v. Pattison*, 3 C. B. 243; see also *Powley v. Whitehead*, 16 U. C. Q. B. 589, 5 U. C. L. J. 15) So a plea of not possessed in an action of trespass in a County Court. (*Timothy v. Farmer*, 7 C. B. 814; but see *Latham v. Spedding*, 15 Jur. 576; 20 L. J. Q. B. 302.) So where plaintiff declared against defendant, his lessee, for removing a tenement, &c., and for converting the materials thereof to his own use, and defendant pleaded, first, that before removal