DIARY FOR JULY.

1. Monday .... Long Vacation commences. Co. Court and Surrogate Court Terms begin. Recorder's Court sits. Heir and Devisee sittings commence. Last day for County Council to equalize Rolls of local Municipalities.
6. Saturday..... County Court and Surrogate Court Terms end.
7. SUNDAY....... *6th Sunday after Trinity.*
13. Saturday ...... Last day for Judges of Co. Courts to make returns of Appeals from Assessments.
14. SUNDAY....... *7th Sunday after Trinity.*
16. Tuesday.. ...... Heir and Devisee Sittings end.
21. SUNDAY ...... *8th Sunday after Trinity.*
28. SUNDAY ...... *9th Sunday after Trinity.*
31. Wednesday.... Last day for County Clerk to certify County Rate to Municipalities in County.

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 subscriptions.

TO CORRESPONDENTS—*See last page.*

The Upper Canada Law Journal.

JULY, 1861.

COLONIAL BANKRUPTCY LAW.

It is not often that we find decisions of English Courts of Justice of especial interest to the Colonies. When any such present themselves, we endeavour to make them known through the pages of the *Upper Canada Law Journal.*

The decision of the English Court of Queen's Bench, in the case of Anderson, is the latest case of the kind to which we have hitherto found it necessary to refer.

One of less exciting interest, but not of less direct effect upon colonial interests, is *Bartley* v. *Hodges*, reported in other columns. In it the Court held that a discharge to an insolvent or bankrupt, under a Colonial Statute, is not binding upon his English creditors not resident or domiciled in the colony.

The proposition, though startling, is not without some show of reason to support it. It is not however for us at present to argue the reasonableness or unreasonableness of the decision, but to announce the fact of the decision.

When we consider that colonial merchants are in general more or less indebted to English houses, the importance of the decision cannot be over-rated. The effect of it may be to render necessary an imperial bankruptcy or insolvency law.

The aim of every good system of bankruptcy or insolvency is to relieve the honest debtor from *all* his past liabilities. No colonial act can, according to the decision mentioned, have that effect as against English creditors resident and domiciled out of Canada.

It is well that this point of law has been at the present time determined. There is among us a strong desire for some effective system of bankruptcy and insolvency law; and the question at once arises, whether under existing circumstances we should be content with one enacted by our own Legislature merely.

In connexion with the case reported, we may mention that it has we believe been held in our Court of Chancery that a bankruptcy vesting order, granted by a subordinate judicial officer in Scotland, under an imperial statute, is effectual in Canada, so as to pass real estate, &c., situate in Canada, to an assignee appointed by such officer.

This state of the law is really vexatious. It is unjust that a sheriff or sheriff's deputy in Scotland, or any foreign dominion, should have power materially to effect the inte, rests of a great body of creditors in this colony in a matter where they are not consulted, and where it would be next to impossible to tender advice or offer opposition if deemed necessary, upon notice of the intended proceedings.

Legislation is much needed on bankruptcy and insolvency. The subject, though surrounded with difficulties might be satisfactorily handled by a person of competent skill and knowledge. Who shall be the person? He will earn a better and more lasting reputation than any advocate of mere theories, however attractive to the popular palate.

What we want is practical legislation, and this is the thing of all others that we have the most difficulty in obtaining.

NOTES ON THE PRACTICE OF BAILING IN CRIMINAL CASES UPON APPLICATION TO THE COUNTY JUDGE.

The preliminary investigation of nearly every indictable crime known to the law, takes place before Justices of the Peace. They either commit the alleged offender for trial before a jury, or they admit him to bail to answer to the charge preferred against him. Their power of bailing is restricted, and should in all cases be exercised with caution, —a Magistrate admitting a prisoner to bail in violation of law, would be liable to a prosecution.

The general duty as to bailing is laid down in the Consolidated Act of Canada, cap. 102, secs. 52 & 53. In cases of *misdemeanor* the party charged may be admitted to bail by one Justice, in cases of felony the order to bail must be made by *two* Justices at least.* The power of bailing may, in either case, be exercised if the Justices are of opinion

* By section 61, a Police or Stipendiary Magistrate may do alone what is authorised to be done by two Justices.