

COMMON LAW CHAMBERS ACT.

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At last something has been done to facilitate business in Chambers, and to remedy to a certain extent that inconvenience to the profession and loss to the public, which we have referred to as often occurring. It is proper to be thankful for small mercies, but the expedient that has been adopted cannot be looked upon otherwise than in the light of a temporary relief, unless it be intended hereafter to make the appointment of Clerks of the Crown of the Queen's Bench with reference to the duties that will devolve upon them under this act.

The thought of using the material now available in Osgoode Hall would, in all probability, never have occurred, but from the fact that the present Clerk of the Queen's Bench is in many respects admirably qualified for the position he must now occasionally occupy. Mr. Dalton is of long and good standing at the Bar; a Queen's Counsel (in matters of arbitration probably he knows more than any other man in the Province), and though at present not as familiar with the details of practice, as he soon will be, he is well up in pleading; a sound lawyer; a gentleman of courteous manners, with a judicial mind, proved by his success as an arbitrator, and commands the respect of those who are brought in contact with him. It is fortunate we can truly say all this, but, at the same time, the true remedy was the appointment of another judge, either simply to hold Practice Court and Chambers, or else to sit with the other judges as occasion might require, or as might be arranged—in fact, becoming one of them, and all taking Chambers in rotation, as has been the practice hitherto, but of course, so arranging the business that one judge should always be free to attend to the work in Chambers.

The first plan is objected to, as it is thought by many, including some of the judges, that it is advisable for the judges occasionally to sit in Chambers so as to keep themselves up in practice; while others think it a waste of the judges time, and that there would be more uniformity in decisions, and that the practice would be more settled by adopting the former suggestion. We incline to think that it would be of doubtful expedience to take the latter course, and for other reasons besides that above mentioned; for example, by the present system we, in effect,

get the benefit of the views and arguments of many judges, in place of one, on the same or similar points, and we must confess to a theory, not very clearly defined, certainly, that a more extended sphere than the routine of Chambers practice is required to enable a person to adjudicate satisfactorily upon the multitudinous variety of cases that go there for decision, many of them of great importance and difficulty.

We do not know to what extent the judges intend to avail themselves of Mr. Dalton's services under this act. Of course they will do so during the sittings of the York Assizes, and when the judges are unavoidably absent, &c.; if, also, in Term time, some assistance would probably be necessary in the Queen's Bench office. We have no doubt we shall soon learn from the authoritative source all about it.

The judges have, under this Act, power to regulate the scale of costs to be adopted in Chambers practice. We trust they will act liberally in this respect and allow fees to counsel which will be worth charging, and proportioned to the labour bestowed upon the case. It is scarcely fair that a Barrister should be asked to lose half a day and argue a case for the *honorarium* of 25c., or that his country principal should have to pay the difference between this 25c. and such fee as his agent may reasonably charge out of his own pocket, for it often has to come to that in the end.

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The following is the Act already spoken of, as it stood after being amended in committee:

Whereas it is expedient to make provision for proceedings in Judges' Chambers in the Superior Courts of Common Law: Therefore, Her Majesty, etc., enacts as follows:—

1. Any person acting as judge of assize and *nisi prius*, in the city of Toronto, whether for the business of the county of York, or for the city of Toronto, shall, while so sitting or acting as such judge, or while the sittings shall last, be enabled to act as a judge in chambers in all matters, as if he were a judge of one of the superior courts of common law.

2. Any person acting as a judge of assize and *nisi prius* shall, in and for the county for which he is acting, and while the sittings of the said court shall last, be enabled to act as a judge in chambers in all matters entered for trial before him, as if he were a judge of one of the said superior courts.