

prehension or commitment of a party he should execute in the same way as a Magistrate's warrant.

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#### IV. THE CONSTABLE'S REMUNERATION.

It is a great mistake to view the office of constable as a post of profit; on the contrary, it may be looked upon as one of those burdensome offices which, in securing the objects of society, it is necessary for nearly every citizen, suited for it, to take in his turn.

There are many risks to be incurred and some things to be performed for which no compensation is allowed; but for the most part, there is a set fee payable for each particular service—in some cases payable by the parties, in others out of the County funds and Provincial Revenue. The constable's accounts are in general paid by the County Treasurer, after audit by the Magistrates in Quarter Sessions, and the County Auditors.<sup>(a)</sup>

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(a) The practice in auditing Accounts connected with the administration of Justice, &c., is not uniform in the several Counties in Upper Canada. In some Counties, we believe, Accounts are paid by the County Treasurer on the order of the Magistrates; in other Counties without any order, but merely on the audit and report of the County Board of Auditors.

A question arises under the 9th Vic., chap. 58, whether parties claiming payment for services performed, and expenses incurred in the administration of justice in criminal matters are given a claim directly against the Province, or whether the effect of that Statute is to make the Province debtor to the Counties respectively for the expenses enumerated in the Statute, on their being ascertained in the appointed manner; the latter is the correct view in our opinion, viz: that officers performing services have their claim directly upon their County; but that their accounts must be made out in such form, and accompanied with such vouchers, as may be required under the authority of the second section of the Act. And that when the several amounts for which the Province is liable, are settled according to the regulations made under the second section, the Province becomes liable to each County for the amount settled on final audit.

The County, then, debtor to the party, the 7th Vic. chap. 19 regulates the mode in which the various accounts due by a county are to be audited and paid, viz: the accounts must be delivered to the Clerk of the Peace, the first day of each Quarter Sessions to be thereafter audited in Sessions before seven Magistrates at least, and the parties to be paid by the County Treasurer on the Chairman's check. Of course the audit of accounts not connected with the administration of justice is vested, by the Municipal Council Acts, in the County Councils.

It is not easy to perceive on what ground a County Treasurer could assume to