

## ELECTION OF BENCHERS—PAYMENT OF EXECUTORS.

John Hillyard Cameron, John Sandfield Macdonald, Lewis Walbridge, James Patton, Jas. Cockburn and Albert N. Richards, but of these Mr. Cameron is the only one whose home is in Toronto; and this is important in considering where the Benchers are to come from. In distributing the thirty Elective Benchers between Toronto and the Country it would seem proper to give about one-half to Toronto; and a little reflection will shew that this number is not excessive, because, in the first place, although the Toronto Bar does not exceed one-third of the whole, yet the burden of the routine work of the Society must unavoidably fall, and always has fallen on Toronto men, and also because the preponderance of *ex-officio* Benchers from the Country will make the proportions almost equal. It must moreover be borne in mind that the Election is of Benchers to represent the Profession as a body, and not any particular town or place, and the object should therefore be, not to attempt to represent this and that locality, so much as to secure those who will be the right men in the right place.

Several prominent members of the Bar have taken the matter up in a very proper and professional spirit, and will endeavour if possible in their different localities to bring before their brethren a list of names which will be generally acceptable, and which is intended, to use the words of a circular emanating from the Hamilton Bar, "to bring before the profession generally a list which at all events shall have obtained the approval of a large number of members and yet shall leave every Barrister free to reject any name or all." It would be a great thing for the Bar to be able to say that they had elected their representatives at Convocation without any of those unseemly contests and squabbles that flow so naturally from elective institutions—a possible result which formed one of the great objections to the recent act.

The question as to whether County Judges and others, such as the Clerks of the Crown and Pleas in Toronto, the Master in Chancery and Referee in Chambers, and other Barristers who pay no bar fees, are eligible as Benchers, has been decided in the negative. The Secretary of the Law Society did not put their names on the list, thinking that as they did not pay these fees they were not eligible under section 11 of the Act. The matter was then brought before the scrutineers by one of the conductors of this Journal by way of appeal

under section 12, but the scrutineers sustained the list as made out by the Secretary. We are sorry for this, as many of the persons who are thus held ineligible would make excellent Benchers, but whilst their services are lost for the present it may result in an amendment of the law whereby some of them may be appointed *ex-officio* Benchers, and thus save the necessity of any election of those whose names, owing to the position they hold, it would not perhaps be pleasant to have on the lists as possible contestants.

The election about to take place is of vital moment to our future well-being, not only in respect of the internal management of the Society but because the election of a body of men who would not command general respect and confidence would be a dangerous weapon in the hands of those who might hereafter desire to throw open the Profession.

We have every reason to be proud of a Law Society second to none in the world. Let us heartily unite in striving if possible after a greater measure of success, for that country may well be happy that has an independent and honorable Bar, and a Bench beyond reproach.

## PAYMENT OF EXECUTORS.

## FIRST PAPER.

On the 1st September, 1858, the law came into force touching compensation to executors and others, which is now embodied in the Consolidated Statutes of Upper Canada, cap. 16, sec. 66. This section provides that the judge of any Surrogate Court may allow to the executor, or trustee, or administrator acting under will or letters of administration, a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the executorship, trusteeship, or administration of the estate and effects vested in him under any will or letters of administration, and in administering, disposing of and arranging and settling the same, and generally in arranging and settling the affairs of the estate, and therefor may make an order or orders from time to time, and the same shall be allowed to an executor, trustee or administrator in passing his accounts.

Prior to this enactment the English rule obtained in this Province, that in all matters of trust, or in the nature of a trust, whether testamentary or otherwise, the trustee was not