

LAW REFORM ACT OF 1868.

individuals, without reference of any kind to the moral obligation of the public to pay.

It is not, however, because some of the clauses in this Act are defective in detail and crude in form that we object to it. It is because we think the effect of its principal provisions will work injuriously to the Superior Court judges, to the County Court judges, to practitioners and to the public. This is a sweeping assertion, but we nevertheless think that argument certainly is in our favour, whether experience will prove us to be wrong we know not, but time will tell. If we are wrong we will be the first to note the fact, and be only too glad to do so.

It will scarcely be denied that this Act will largely increase the duties of the Superior Court judges; if they had not enough to do now there would be no harm in this, but such notoriously is not the fact, rather the contrary. Litigation may be less in quantity than formerly, but the special business will increase with the wealth and business of the country, and is increasing. There is, therefore, no reason to suppose that their work is decreasing or will decrease. This Act, we contend will both directly and indirectly increase the duties of the Superior Court Judges, and that not in simple cases only, but in special cases. *Directly*, because there will be two courts less for the trial of civil cases than formerly, and so of necessity County Court suits, where speed is of any object and can by that means be obtained, will be brought down to the assizes for trial, and perhaps for subsequent adjudication in Term, for by section 17, sub-section 5, any motion to be made in respect to any verdict in any County Court cause trial at the Assize shall be heard in one of the Superior Courts of Law in Toronto.*

Indirectly, the business of the Queen's Bench and Common Pleas will be increased, because the inclination will in all special cases be to take cases before Superior Court Judges, and for various reasons—

1. The expense is not thereby increased.
2. Parties will be saved the costs of appeals which might be necessary if the cases were tried in County Courts.

* Only County Court fees are taxable in such cases, but will Counsel consent to accept fees on that scale under the circumstances? We imagine not. If not, we presume whoever may be the successful party, though successful, will have to lose the difference.

3. There is not the same confidence, as a rule, in the County Judges as in the Superior Court Judges, and clients as well as practitioners will doubtless make their selection in favor of the latter. And this will be especially the case in certain Counties that need not now be specified.

If then the duties of these judges are increased, some part of their work must be neglected, or arrears will accumulate. In either case there will be public dissatisfaction which must eventually bring about a cure, either by a return to the system before the "Law Reform Act," at which time the County Judges will necessarily be less competent for the work than now, or by increasing the number of Superior Court Judges, which would be unobjectionable except on the score of expense, or by increasing the jurisdiction of the Division Courts, a measure which would only make bad worse, for it is absurd to imagine that cases would be *more* satisfactorily disposed of in the hurry of a Division Court, than when they have the safeguards of written pleadings, &c., and the presence of counsel to assist the Judge, combined with the more deliberate investigation in a County Court—clearly, vastly *less* so—certainly the last eventuality would be most deplored by those who are the best acquainted with these Courts, as administered in some counties. It would necessitate some mode of appeal and destroy the advantages of the present system without sufficient to compensate for what would be lost.

So much, then, for the probable effect of this Act as to the Superior Court Judges, and now as to the County Judges.

We do not pretend to say that the County Court Bench is all that could be desired. But we do assert that many of the judges are as efficient, as hardworking, and as learned as any members of the profession who would accept appointments as such. The really first class men at the Bar will not take a County Judgeship; the inducements are not sufficient, except, perhaps, in the County of York. Appointments, also, have been made which did not redound to the credit of the various Governments that made them. But in addition to all this, the very position of a County Judge is a trying one, and it is not every good lawyer that would make a good County Judge. And their tendency is, if anything,