APPLICATIONS FOR A PROBATE OF A WILL.

Let us suppose a case,—say in the County Court of Simcoe. A party dies leaving a will by which he appoints an executor of full age. This will contains no alteration or obliteration, and is duly attested by subscribing witnesses. The executor seeks the assistance of the nearest *Division* Court clerk who *may set down in the following form the necessary information, which will serve either for the* Registrar, or for a lawyer, *if the party desires* to employ one in obtaining probate:

A. Name and addition of deceased—John Doe, Carpenter.
B. Place of his death—Township of Mono.
C. Time of his death—18th October, 1858.
D. His fixed place of abode at time of his death—Township of Mono.
E. Value of personal estate and effects which deceased died possessed of or entitled to—$1,400.

1. Date of Will—17*th* October, 1858.
2. Names, residence and additions of witnesses to will—James Doe, of Mono, yeoman, Richard Roe, of Mono, school teacher.
3. Name and addition of executor—William Doe of Mono, Esquire.

The information thus obtained is forwarded to the Registrar of the Surrogate Court by letter, prepaid, and registered with a sum towards the fees. In due time the Registrar if so requested, will transmit the form of petition and affidavits to the clerk filled in according to the instructions sent. Upon these papers the Clerk's *services* again come into play. In the case put *there will be the petition* from the executor, which is to be signed by "William Doe," after the blank for date has been filled in. Then the affidavit by one of the witnesses to the will, which affidavit is to be first affixed to the will by wafer or other adhesive matter, and then sworn to by the deponent. The other affidavits will be also annexed and sworn to in the usual manner before the clerk as a commissioner, for it is only as a commissioner that he will have authority to administer the oaths.

The will should be marked as follows:—"This is the will referred to in the affixed affidavits," and be signed by the executor and by the commissioner *who swears him*. When all is thus completed, *the papers may be transmitted* by mail to the Registrar at *the County Town*. There is of course *some* risk in sending by mail, but under the present excellent postal arrangements the loss of a letter properly registered is indeed a rare occurrence. The executor ought on no account omit to *register* the letter enclosing the papers, and to take from the post-master the usual receipt. The Registrar should be instructed as to whether he is to send the probate by mail, or keep it till called for.

This course would require the co-operation of Registrars to work satisfactorily, and we doubt not they would willingly co-operate in a method that would *be so beneficial to* the public, and would entail no additional responsibility on them, whilst it would be the means of facilitating very much the discharge of their own duties. A Clerk would be entitled to charge 1s. as commissioner for each affidavit sworn, and this on an average would give 5s. in each case.

We intend to continue this subject next month by taking up administrations in ordinary cases, and then address ourselves to cases out of the ordinary course, and furnishing some general information applicable *to all cases*. In the mean time we shall be glad to hear from Clerks or Registrars on the subject.

ABUSE OF THE GRAND JURY SYSTEM.

As the law now stands, parties instead of going before a Magistrate and lodging information for an alleged crime, may go directly before a grand jury without any notice or preliminary investigation, and a presentment is made, an indictment founded, a Bench Warrant issued, and the first intimation a party has of the charge, is when he finds the constable's grasp on his shoulder.

This *mode* of proceeding affords great facilities for gratifying private malice under the form of a public prosecution—more particularly in perjury, conspiracy, and obtaining goods under false pretences.

The Recorder of Falmouth thus illustrates by an instance in the case of a charge for perjury—"You have an action in the Courts. You and your opponent are both examined upon oath. You assert something which he denies. He is defeated. Without giving you any notice whatever, in your absence without your knowledge, without an opportunity being allowed to you to be heard, on the statement of your accusers alone, a bill of indictment for perjury is preferred against you by the grand jury. It is found of course. You are subjected to the painful imputation of having an indictment for perjury against you; you are subjected to the anxiety and cost and shame of a trial; you are acquitted of course; but your adversary has had his revenge in full measure by the mental pain and expenses he has put you to."

Since the institution of the office of County Crown Attorney in Upper Canada, there are some checks on malicious proceedings of the sort at the Quarter Sessions, but there is very little protection from injury at the Assizes, and in practice as a general rule, parties - allowed as of right to go before a grand jury with their charges. We have always regarded the practice as exceedingly objectionable, and the power of the law officers of the Crown is scarcely adequate to arrest the evil.

Lord Campbell, to whom the public are already indebted for many valuable law reforms, proposes to remedy the evil by a law requiring that no bill of indictment for perjury,