

fore magistrates; to advise and instruct magistrates; and to receive from Deputy Clerks of the Crown, Clerks of County Courts and Registrars of Surrogate Courts, fees due to the Fee Fund.

The remuneration partakes of the character of a salary and of fees. There is a per centage on moneys received on account of the Fee Fund, and fees for prosecutions at Quarter Sessions, but no fees for assisting Crown Counsel, for advising magistrates, or for prosecuting cases before magistrates, or for other services which we need not notice.

While approving of the mode of compensation—that is, part salary, part fees—we cannot help thinking that a greater state of efficiency would be attained if some remuneration were provided for every duty imposed. Human nature is human nature all the world over, and a lawyer cannot be expected to work without pay more than any other specimen of humanity; besides, it is to be remembered that the time required to be given to the performance of a public duty is time taken from private practice, and ought accordingly to be paid for. The result is simply this, that work for which no compensation is allowed will be shirked, and is shirked.

The remedy is the application of compensation or a fair remuneration for services performed. The per centage on fee fund money is no more than a fair allowance for the responsibility enjoined; the fees for prosecutions at Quarter Sessions are only moderate allowances for services performed, and very moderate when it is considered that the County Crown Attorney is debarred the privilege of accepting defences against the Crown. And why should duties as important as either of the foregoing—such as that of advising magistrates, who greatly need advice; of prosecuting offences before magistrates where the attendance of trained skill may be greatly needed, and of getting up cases for Crown Counsel at the Assizes, who, not being residents, much need the assistance—be without compensation?

We think something ought to be done by the Government or by the Legislature towards remedying this defect. Until done, we feel satisfied that the organization of the County Crown Attorney system in Upper Canada will not be either as efficient or as complete as might be. Hitherto the institution has been upon its trial. It has been tried and is approved. Grand Juries have made presentments in its favor, and the common sense of the country supports it. If then good and useful, why not make it thoroughly efficient, and, as far as human wisdom can foresee, complete? We believe that to give moderate fees for all services performed by County Crown Attorneys is the only mode of obtaining that state of efficiency and completeness which we desire, and that a proposal to do so would be at present met in a spirit of moderation and candour.

## PROBATE AND ADMINISTRATION.

### DIVISION COURT CLERKS.

Our attention has been directed to a means of securing further facilities for Probate and Administration.

It is suggested that the clerks of Division Courts can act as auxiliaries in the Procedure under the Act of last session, by which the whole law in relation to probate and administration was recast, and the Surrogate Courts placed on a footing so advantageous to the public. The principle of that law—to secure administration in the several localities without compelling parties to resort in a variety of cases to Toronto—we agree may be largely extended through the agency of Division Court clerks, so that all non contentions business can be done literally at any man's door, and a considerable saving both in time and money be thus effected.

Nor will this interfere with the profession; for in ordinary cases a professional man is not employed, the business being usually done on direct application of the parties to the Registrar of the Surrogate Court.

The way in which Division Court clerks may be beneficially used is obvious enough. Each county is separated into five or more divisions for Court purposes, each division having a resident clerk. Now if parties found the Clerks of Division Courts sufficiently instructed to assist them, instead of making application personally to the Registrar of the Surrogate Court at the County town for probate or administration, the whole matter might be transacted without the loss even of a single day to executors, administrators, witnesses or bailsmen. In the majority of cases the applicants are not men of business habits, and in very many cases they are illiterate men, and we ourselves have known instances of persons travelling forty or fifty miles to the County town to obtain information of how they were to proceed to prove a will, and even after receiving full information sending back the papers in an incomplete state.

Our aim will be to lay such information before the clerks as may enable them to assist the public, and we venture to say also, save the Registrars of the Surrogate Courts much trouble in correspondence and otherwise.

Clerks are generally well educated men, and very competent for the undertaking. Most of them are commissioners for taking affidavits; those who are not would doubtless be appointed on the recommendation of the County Judge, and to secure the full benefit of what is suggested it is necessary that they should be commissioners.

The suggestions following we shall endeavour to make as plain and practical as possible, so as best to accomplish the object we have in view, to benefit the public and clerks by one and the same means.