Judge's Fees:

Order	$0 50
Attendances	1 00
Grant	2 00
	$3 50

The applicant stated the first and second items as follows: "Receiving and entering application, 50c.;" and he objected to the fourth item altogether, because he drew the papers himself, and the Registrar did not. These items made a difference of $2 in the bill as claimed, and he tendered the remainder of $3.25 to the Registrar, who refused to take it.

The affidavit filed stated that the Registrar claimed to be entitled to $1 for drawing the bond, though he did not draw it, and to 20 cents for swearing deponents to each affidavit, though he did not so swear them; but that he would waive these items in this case.

The applicant also stated to the Registrar that the eighth and ninth items of his bill, but the ninth at any rate, the Registrar was not entitled to, as his right to them would depend on whether the attendance of the Judge on granting the fiat could be considered a special attendance or not, and that he considered the attendance of the Judge was not a special attendance as charged for and paid. And he desired still to raise these objections if allowed to do so.

The Registrar appeared in person, and submitted to the decision which the Court might make.

Woods moved the rule absolute.

WILSON, J.—The Consol. Stat. U. C. ch. 16, sec. 69, gives to the Judge the fees in schedule B. of the Act.

And by sec. 70, the Registrar and officers of the Surrogate Courts, and attorneys and barristers, shall be entitled to take for the performance of their duties and services under the Act such fees as shall be fixed under the provisions of the Act; which power of fixing fees is, by the 84th and 18th and 19th sections of the Act, vested in the Judges of the Court, and in others to be appointed by the Governor.

The Judges appointed under the 14th section of the Surrogate Courts Act of 1858, had power to make general rules for the Court; and under the 18th section of the present Act, the rules which were made by these Judges are continued, and the same Judges have still power by the later Act to exercise the like power.

Under the Surrogate Courts Act of 1858, the Judges appointed under the 14th section did make rules applicable to the subject of this motion.

The statute states the general procedure to be adopted by next of kin, in getting grant of administration, to be as follows:—An application for grant to the Surrogate Court when the intestate was resident in the province at the time of his death: under sec. 32. An affidavit of the place of abode of the intestate at the time of his death: *Ibid.* An affidavit of the intestacy of deceased: *Ibid.* On such application, the Registrar shall by letter give notice to the Surrogate Clerk of the application, and all other particulars: sec. 38. Unless on special order of the Court, grant of administration is not to issue on the application till the Registrar has received a certificate from the Surrogate Clerk, that no other application appears to have been made in respect of the goods of the deceased: sec. 39. A bond is to be given by the person to whom the grant of administration is made, with a surety or sureties as the Judge may require: sec. 63. Judges, Registrars, and Commissioners for taking affidavits, have power to administer oaths in all matters and causes testamentary: sec. 15.

The table of fees settled by the Judges appointed under the 14th section of the Surrogate Courts Act of 1858, to be taken by the Registrar, begins as follows:—"Receiving and entering application for probate or administration, and transmitting notice thereof to the Surrogate Clerk (exclusive of postage) 50c."

This disposes of the first item in the bill of "Application, $1," for it is quite clear he is not to prepare it. He knows nothing about it until he receives it. The applicant for grant, or his or her attorney or solicitor, prepares it in the ordinary course of things, and is entitled to do so. The Registrar is not therefore entitled to make the charge for the first item of his bill. His duty begins on "Receiving and entering the application."

The next disputed item is No 4, "Papers, $1." I cannot very well tell what it means. I do not know what the papers were. The tariff entitles him to charge for preparing all necessary affidavits and other documents, and for these he is entitled to charge although he does not prepare them.

But I think the affidavit, under sec. 32, stating the place of abode of the intestate at the time of his death, the Registrar cannot insist on preparing, for it is an affidavit which accompanies or may accompany the application. And I incline to think that the other affidavit, of intestacy, mentioned in the same section, if there be another affidavit drawn for that purpose, he cannot insist on preparing or being paid for either, for the same reason.

All affidavits he does prepare he is entitled to swear the deponents to, and to charge for administering the oath. But although he may be entitled to charge for affidavits which should properly be made in his office, although he does not prepare them, but which are prepared by the attorney of the party, he is not entitled to charge for swearing the deponent to them unless he actually does so.

I cannot dispose of the fourth objection more precisely, for the want of more precise information respecting it.

As to the bond, I think the Registrar is entitled to charge for it, although the attorney may have prepared it.

The eighth and ninth items, it is said, depend upon the fact whether the attendance of the Judge on giving his fiat for grant, and for which the charge of $1 has been made, can be considered as a "special attendance" under schedule B. of the statute.

The Judge is entitled in this case to a fee of $2 for the grant, and to 50c. for his order for it, but I think he is not entitled to the fee of $1 for a special attendance on making it.

A special attendance may perhaps properly be charged under sec. 39, when a special order is made by the Judge for administration to be granted before the Registrar has received the certificate from the Surrogate Clerk that no other