

default or confession with some mileage, would never be less than about \$4.—As to sheriff's costs on returns of "*nulla bona*" on executions, your correspondent is again wrong. The fee for "*nulla bona*" is only 35 cts., which is increased to 85 cts., by the sheriff's charging a fee of 50 cts. for a warrant made out, as they say, to some of their bailiffs. The sum of 50 cts. is for the warrant, not for the *fi. fa.*, and is not always charged, but only when the warrant is made out.

You never find suits in County Courts cost, in costs, more than the actual amount sued for, unless it be in actions of tort, or where a large bill is added for witness fees. Then, in proportion to the amount sued for, the Division Courts are more expensive than County Courts.

Now, lastly, your correspondent thinks he caught me on the "horns of a dilemma," when he accuses me of setting up my opinion as he says against that of "*our best judges*." I will quote the words in my letter in the October number of the *Local Courts' Gazette*. We will see if they bear fairly the construction Mr. Agar puts to them, and then I have a word to say about it. Here they are:

"It is in my opinion questionable, whether there is any authority for a fee fund charge on a Division Court judge's order of this kind, though I understand that some of our best judges think that there is."

I had been alluding to the certificate endorsed by a judge upon an execution in order to do away with the effect of the Exemption Act of 1861, which does not apply to contracts made before May 1860. This certificate must be endorsed on the execution by the judge, or the exemption law applies, and such certificates are endorsed by County Court judges and Queen's Bench judges, upon executions in their Superior Courts, but no fee fund charges are ever made in those courts, nor should it be made in the Division Court. The certificate is not an order in or out of court, and I happen to know from actual practice, before perhaps, twenty County Court judges in Canada, as well as before judges of Superior Courts, that such a fee fund charge has not been insisted on in my cases.—But nevertheless, it was, as I have before stated, insisted on by one clerk and one Division Court judge.—And I had to pay by his order about \$1 in fees of this kind.

Now it will be seen that Mr. Agar in his first letter, "courteously of course," tells me he does not believe this. It is one thing to quote

fairly, and another to distort. I merely said, (or am made to say by the compositor), that the allowance of a *fee fund in such cases is questionable*, though I understand that some of our best judges think that there is authority for it. But the words as put in my letter of October, were not in the original manuscript, and as I did not correct the proof, went in without my knowledge, and are there, doubtless, by some one of the many accidents that writing going through printer's hands is liable to. I never intended to say, and I now deny, that *any of our best judges* sanction this charge. I only know of one judge that did so, and he a newly appointed one. Then again, your correspondent uses these words, which I cannot allow to pass over, because they are not only untrue, but unfair in every respect. "'Communicator' has done well to wait until our honoured friend, Judge Harrison, was gathered to his fathers *before he dared to accuse him of unfairness in his judicial capacity*." "Sir, I suspect who 'Communicator' is," he says. Now let your readers peruse my two prior letters, and see if they can find *one line, one letter*, in which I accuse Judge Harrison of *unfairness in his judicial capacity*.—I therefore pronounce this assertion not only *fabricated*, but beneath my notice. Such a thought (on my part) of making such an accusation against one of my most cherished legal friends, against one whom I always considered to be the most impartial of judges, is the last thing that could have entered my mind.

It is one thing to differ with a judge on a mere point of law, *but quite another* to accuse him of *judicial unfairness*.

If your correspondent, Mr. Agar, feels aggrieved by anything I have said in this or prior letters. he must remember that *unattacked by me, yea, unthought of*, he has thrust his head into a *written wrangle, officiously and offensively*, and like many others in like cases, must take the consequences.

"COMMUNICATOR."

Toronto, Jan. 18, 1868.

[As to the merits of this controversy, which, as "Communicator" has exercised his right of reply, must now cease, our readers can judge. We are not aware that the matter of his former letter, as printed, differed from the manuscript. But we are quite willing to believe that it may be so, for we should be very sorry to be obliged to decipher without fear of mistakes a very large proportion of the manuscript that passes through our hands.—Eds L. C. G.]