

It seems those remarks hit another case somewhat similar to the one mentioned. If he had no more right to charge his \$3 36 than the other "out County Clerk," who lives many miles west of him, his charges must be very erroneous. If I could see the particulars of the \$3 36, I could tell whether they were legal or not. He says that part of the charge was for Judge's orders, "F. F.," 30 cents. 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.

Now Mr. Agar, in his long letter, has made a great many assertions about what certain Judges do, or have done, and about the smallness of Division Court fees. It is a poor excuse for any one to travel out of the legal tariff and set up a tariff of his own by implication, because he thinks it too low. The thief argues in the same way when he steals a rich man's goods. Every embezzler of other men's goods may justify himself by a parity of reasoning, when, because *his salary is small*, he filches from his master's till. When a man's office won't pay him, he has an easy remedy—*resignation*. When a wrong law exists, there is a true way of remedying it—*get it altered*. The Division Court tariff was made when such courts as that of Brampton had some 400 suits at each sitting, and when the Toronto, London, Hamilton, and many other courts, had ten times as many suits as they now have. There has been a "good time," a past harvest for clerks, when other people suffered. Cannot some of these officers remember these things, and take, like Job of Old, the good with the bad. I know Mr. Agar, in the quiet little village of Berwick, never had any large courts, but his predecessors had.

Mr. Agar says:—"I do not believe what your correspondent says about charging for Judge's certificates on executions." This is very plain talk and not very polite, as he cannot possibly *know* anything about it. The certificate is the one the Judge has to sign to prevent the operation of the exemption laws on debts contracted prior to 1860.

Mr. Agar says "fearlessly that no body of men in Canada have been worse paid, more unjustly used, &c.," than Division Court clerks. He then alludes again, ill-naturedly, to the remarks as to what "this clerk or that

clerk" has done. Now it does not strike me that these remarks were meant to charge clerks as a body with doing what was wrong; on the contrary, I think the wrong-doers are exceptions.

Clerks on the whole are a respectable body of men; but it seems to me that if the legislature had appointed an *Inspector* of Division Court offices and bailiffs of Division Courts, instead of the useless office of *Inspector* of Registry Offices, the public would receive some real benefit.

Mr. Agar attacks the position that the charge of the bailiffs for a return "*nulla bona*" on execution in their hands, is illegal. He says the charge of a fee for the "*nulla bona*" returned is a legal and a proper one, and laughs at the idea of a bailiff being refused a fee of from 30c. to 75c., according to the amount, simply for returning an execution. Had he read the *U. C. Law Journal*, he would have seen that you had long since given the public to understand that you took the same view of such charges in the article referred to. He alludes to the practice of the late Judge Harrison, and to ruling of the learned Judge Gowan. I am perhaps as well acquainted as any person in Canada with what Judge Harrison held to be law on this subject, and know very well what the practice of Judge Gowan is in the matter. Mr. Agar knows well that the rule of his late Judge, Mr. Boyd, was not to allow his bailiffs to make such charges. Judge Gowan never allows it, and Judge Harrison has frequently told me that he only allowed it under peculiar and special circumstances, where plaintiffs had put the bailiff to *unnecessary* or *special trouble*, when upon *special application* to him by the bailiff he would allow the fee, or some fees, on executions returned "*nulla bona*."

Mr. Agar contends that the charge is a legal one under ordinary circumstances. If so, why did any bailiff apply to Judge Harrison? I do not admit that Judge Harrison's practice, under special circumstances, was right; for that excellent man was occasionally somewhat lax in administering Division Court law. I know of no Judge in Canada West who ever held such charges legal. They may be taken by bailiffs, and silently submitted to, that is all. It is another to say that there *should* be a fee. But the law must be taken as it stands, and must be submitted to until altered.