

the late Hon. S. B. Harrison, one of the five framers of the Division Court Rules, and no mean authority on matters of law and practice. He told me nearly thirteen years ago, when I asked him what authority the bailiff had for the charge, that "the item in the tariff enforcing execution" was the authority. And I looked no higher for a warrant to continue a practice that had so good a foundation in justice, and that was in force since Division Courts were established. Your correspondent thinks it simply extortion. I think it simply justice. And I conceive that I am supported in my view by the practice in the courts presided over by that most excellent judge, Mr. Gowan, of the County of Simcoe, whose practice it is to fine his bailiffs if they do not return executions within 30 days, "The law says bailiffs shall forfeit their fees." If they have no fees on *nulla bona* returns, how can they forfeit them? Clearly they cannot. Yet in Simcoe if the return is not made within the allotted time, the bailiff is fined the amount exactly of the fee that he is allowed for enforcing execution. One of two things is to me very plain, either the bailiff has a right to the fee on return of *nulla bona*, or the judge has no right to inflict a fine for non-returning of execution. Well, in my view, his honour is quite right in inflicting the fine, and all clerks are quite right in taxing the fee for the bailiff. It has been over and over again complained of, that bailiffs are liable to be sent (and are sent) scores of miles all over the county without recompense, whenever a spiteful or ill designing person who has an unsettled judgment wants to play them a trick. A paltry, 25c., 30c., 40c., will procure an execution against a defendant, said defendant being *well known not to have a cent* above what our very humane laws allow him to cheat his creditors out of. And go the bailiff must, it may be hub-deep in mud, it may be to the further end of the county, and all his remuneration for a day's time lost, tolls, feed for horse and man, wear and tear of buggy and harness, body and mind, is (your correspondent says nothing at all) from 30 to 75c. In my opinion, any plaintiff or his agent who orders an *alias* execution and will not shew goods liable to seizure, should himself be made pay the bailiff's fees, as if levy had been made and money made.

Your correspondent objects to the charge of the transmission fees on transcript of judgment

and appeals to *the letter* of the tariff. "For service," it does not say what or whose service. I appeal to the letter also of the law, and hold that the transcript is sent for the *service* of the plaintiff, in enabling him to recover his debt. Whether the charge is right in the letter of the law or not, 'tis righteous in the spirit, which is, that the clerk shall be paid for his trouble in transmitting papers. It is very easy and very wrong for your correspondent to get up a bad feeling against the officers of the courts by his insinuations. "Clerks are in the habit," and "'tis said one clerk, &c." because, both with ignorant and prejudiced persons and also often with those who are neither, "it is said one clerk" does so and so, speedily becomes the firm belief that *all clerks* really do the thing imputed.

I have heard so many false charges brought against judges, clerks, bailiffs and lawyers, that I believe none without positive proof. And I do not believe what your correspondent says about charging for judges' certificates on execution. There is no warrant for such a charge (there should be) and as Division Courts Clerks are not generally either fools or knaves, I do not think any of them would make the charge.

It is just possible that the cost of a \$20 suit may by the foolishness or knavery of the defendant, be run up to \$20. But I venture to say not one in five hundred does, and never illegally or by fault or fraud of judge, clerk or bailiff, or apart from witness fees, and your correspondent does not know much of the relation of costs of Division Court and County Court suits, or he would not venture on the assertion that Division Court costs are higher in proportion. I have no more to say now in remarks upon your communicated article in your August number; but I have a word to say to my brother clerks. To them I would say, you know that our fees were always miserably inadequate as compensation for the time, sense and care required of us in the discharge of our onerous duties. You know that when said fees ever did attain a bulk sufficient to do anything more than support our families, we had to work night and day, employ clerks, or get our wives, and sisters, sons or daughters, to help us. If we were paid even poorly for everything required of us by law to do, we might yet make a living. Therefore, I propose that the clerks of each county should meet some day soon,