

CORRESPONDENCE.

Now Mr. McKellar seeks to leave the impression that this sum of \$2.73 was charged by the Attorney for the serving of process. He says (p. 20), "Although Mr. Rye's office is within a stone's throw of the Sheriff's office, he does not give him the writ, but employs one of his own clerks, as he tells us, and collects \$2.73 for his services, while the Sheriff would have got only \$1.80." Now the gentleman Mr. McKellar refers to, *did not collect \$2.73 for his clerk's services, and no where in the bill printed is there any such charge, or any charge at all for the serving of process, and Mr. McKellar must so have been aware, and should not have put into circulation statements, hazardous to himself, and injurious to the gentleman he refers to.*

In the case of *Suter v. Servos* (p. 21), there does appear a charge for services of \$1.00; this item was taxed off, and properly so, and I am free to admit the lawyer ought not, in law, to have made this charge, notwithstanding he did the work; but, Mr. McKellar does not admit that if this service had been performed by the Sheriff, it would have cost the defendant not \$1.00, but \$1.80. Mr. McKellar pointedly draws attention to the fact that "if the summons had been served by the Sheriff, he would have been entitled to \$1.80, and no more;" but he adroitly places these words beneath the Clerk's certificate of \$5.25 as being the *total amount* taxed off (with a purpose no doubt), instead of admitting that in this case the defendant was saved 80 cents by the lawyer, instead of the Sheriff doing the work.

In the case of *Bishop v. Douglas* (at p. 23), the services of Mr. McKellar's favourite C. C. C. were again brought into requisition, and the sum of \$2.25 taxed off. Though there is no charge made here for serving process, Mr. McKellar again has the clerk's certificate appended, drawing attention to the difference between the \$2.25 taxed off, and the \$1.80 which would have been the Sheriff's fees, had he served the process. Then (at p. 24) Mr. McKellar sets out a bill of costs in *Smith v. Mercer*, in which, it appears, service of writ was charged for at 50c, by the law firm of which Mr. Hardy

is the head. Mr. McKellar neglects to say that, had the Sheriff served the writ, the client would have had to pay, in addition to the total amount taxed off, the difference between 50c and \$1.80, viz., \$1.30; but he seeks to attract attention solely to a comparison between the \$1.80, and the total amount taxed off the bill, viz., \$5.25. Instead of increasing the taxed bill by the sum which it would have cost to have the Sheriff serve the process, Mr. McKellar artfully points out what has been taxed off the bill, and says "Look! see what the lawyers would rob you of. Now were the Sheriff to do the work only \$1.80, would you have had to pay." In only one instance, does Mr. McKellar fail to adopt this plan, and that instance was in the case of *McNair v. Goering* (at p. 9). Here, he does single out what was charged for serving of papers, and explains that the sum of \$13.37 was charged for his own services as Sheriff, when, the fact was, the services were not performed by him at all. I do not defend the conduct of Mr. Cahill. If what is stated of him be true, I should not wish to be forced to write words to characterize his actions; but, even in this case, there would seem to have been some justification for Mr. Cahill's course, in an understanding about the matter between Mr. Cahill and *Mr. McKellar's own Deputy*. Yet, however that may be, Mr. Cahill will no doubt, deem it wise to "rise and explain."

Mr. McKellar's argument is that lawyers charge for the serving of papers, when by law they are not entitled to do so, and therefore the Legislature ought to positively prohibit these services being made by any one but Sheriffs. Now I will not contend that lawyers are infallible. I will admit that there are lawyers who are dishonest, who charge what they are not entitled to charge, and who take fees they ought not to take (will Mr. McKellar admit the same thing of some Sheriffs?); but I fail to see the logic by which he arrives at the conclusion that the cure for the evil is in making the Sheriff receive the fees whether he does the work or not. Mr. McKellar treats of the alleged evil, not as against the moral law but as against the public interest.