

GENERAL CORRESPONDENCE.

special covenants, amounting in length to about sixty folios, and it was objected that, in such a case, instructions, consultation fee, &c., should not be allowed; and about one-half the sum chargeable by the Hamilton tariff was only allowed by a professional man, who is a large practitioner! If, in such cases, each professional man is to charge what he pleases—is to *beat down* the prices of his fellow-practitioners—and, in other words (to use a vulgar phrase), act upon the “*dog eat dog*” system, conveyancing, which ought to be an honorable and remunerative part of a lawyer’s business, will be degraded.

I wish to see fair and remunerative prices paid for conveyancing, and a tariff of charges, such as the Hamilton tariff, complied with. This is the more needed now, since titles are becoming more intricate, property more valuable, and the “collecting” system is dwindling away.

C. M. D.

Toronto, July 17, 1868.

[We have had occasion frequently to refer to the unsatisfactory state of the law in this Province, as to conveyancing, and have expressed views in great part in unison with those of our correspondent. In the *Law Journal*, at as early a period as 1859, under the heading “Liability of persons practising as conveyancers,” we pointed out that in respect of property as well as health, the quack is often preferred to the educated practitioner, and suggested that none but licensed conveyancers should be allowed to draw deeds or instruments for fee or reward. We, in the *Law Journal* for February, 1859, under the heading “Conveyancing fees,” also argued for a uniform tariff. In the *Law Journal* for December, 1861, under the heading “*Ne sutor ultra crepidam*,” we pointed out the penny wise and pound foolish consequences of the present system, or rather want of system. In the *Journal* for October, 1864, p. 279, we demanded legislation of some kind not merely for protection of the profession, but of the public, and by reference to p. 277 of the same volume, our correspondent will also find that Judge Hughes, much to his credit, in a case before him, is reported to have said, “It is much to be regretted that no means are provided to protect the public or that the public will not protect themselves against those persons who exist in every community, invading

the rights of the legal profession, by presuming to act as legal advisers, conveyancers, &c., to and for ignorant people. Their acts and ignorance to such, lead to great losses and hardships, and very often to inextricable difficulties which are ever the fruitful sources of litigation and trouble.” Now that we have a local house for the Province of Ontario, containing several members of the profession, who are fully alive to the importance of legislation on the subject, it is hoped that another session will not be allowed to pass, without some attempt being made to provide the legislation required.—Eps. L. J.]

TO THE EDITORS OF THE LAW JOURNAL.

GENTLEMEN,—I take the liberty of writing to you for information on the following points:

The attorney for the defendant, in an action in the County Court, has the plaintiff’s declaration set aside as being irregular, by order of the judge, with costs of the application to be paid by the plaintiff.

Without service of the bill of costs, or notice of taxation, an allocatur is served upon the plaintiff’s attorney, certified by the Clerk of the County Court; *but no demand of payment is made.*

Subsequently the defendant’s attorney has the order setting aside the declaration made a “rule of court,” with further costs to be paid by the plaintiff.

The affidavits in support of the motion as filed do not state that any demand has been made for payment of the costs of setting aside the declaration, but merely that the costs have been taxed at a certain sum, and the order disobeyed, as no payment has been made.

Quære? Must not the affidavits show that a demand has been made for payment of the costs of setting aside the declaration, before further costs can be inflicted of making the order a rule of court? In *Thompson v. Belling*, 11 M. & W. 360, Parke, B., says, “The costs that were due under the judge’s order were demanded of the proper party, and not paid by him.” And in *R. v. Jamieson*, 6 M. & W. 603, “a demand was made.” In Arch. Ch. Practice, 1508, are other cases cited, which I am unable to lay my hands on at present.

Our judge, of Kent, William B. Wells, intimates that he will grant a rule to show cause why so much of the rule of court as relates to costs should not be rescinded; but he