

erring as far on the other side. Then to build up his bad argument he *understates* the Sheriff's fees 30c. and further compares the costs of County Court suits where there is *no mileage*, and where "*the debt is paid on service*," with the costs in a Division Court suit where the deposit of \$4 he so bitterly complains of is meant to cover some mileage, and the fees for carrying the case through to judgment.

Now Sirs, the costs on suits, *paid on service and no mileage* in the Division Court will compare with County Court costs in this fashion:—

Division Court costs for Judge, Clerk and Bailiff, in suits			
not exceeding.....	\$8 00	lawful amount	\$0 92c.
" " " "	20 00	" " "	95c.
" " " "	40 00	" " "	1 45c.
" " " "	60 00	" " "	1 55c.
" from \$60 00 to 100 00	"	" " "	2 05c.

County Court costs, (taking "Communicator's" fee for attorney as correct) would be \$7 92, from \$100 00 to \$400 00. The same suit taken on to judgment in Division Court would be respectively, \$1 17, \$1 40, \$2 15, \$2 65, \$3 30, and County Court costs under the same circumstances at the very least, when no defence made nor witness examined, would be *forty dollars*. "Communicator" also understates the sheriff's fees on an execution returned *nulla bona*, he says "they are 35c. or at most 60c." They are really always 85c. for any amount on a County Court execution! while a Division Court bailiff gets only 30c., 40c., 60c. and 75c., quite a sufficient distinction for the honourable office of sheriff.

To return to the question of a bailiffs right to a fee for enforcing an execution, when no goods are found on which to levy. We have been arguing the matter on wrong premises. The fee claimed is not what we have been calling it, a fee for making a return on an execution, whether *nulla bona* or anything else. There is no fee for making a return, the fee is claimed for *enforcing a warrant*; and the whole thing turns upon what is enforcing a warrant. I hold that going to the place where goods are said to be, and searching for them, is *enforcing a warrant*. It may not be a *successful enforcement* I allow; but will "Communicator" say that Lee and Jackson and other Southern heroes did not *fight* for their liberties, merely because they were beaten in the fight. Or—as he is so well up in *thiefly* reasonings and arguments,—Is the pickpocket who puts his hand into a man's pouch any the less a thief, or less deserving of his reward, because he

happens to find the pocket empty, and so *cannot levy*? "Communicator" hops about so, from one thing to another, that 'tis difficult to give a connected reply to him. His saying "that he was well acquainted with Judge Harrison's law, and is acquainted with Judge Gowan's practice" does not prove me wrong as to my assertion about the one, or my deduction from the other. I cannot see that he has lessened the force of my argument at all. And if "Communicator" will refresh his memory a little, he may remember that the words he gives as Judge Harrison's (viz, "that he only allowed it under *peculiar and special* circumstances, when plaintiffs put bailiffs to *special or unnecessary or special* trouble, when upon *special* application to him by the bailiff he would allow the fee, or *some fee on executions* returned *nulla bona*,"), were to the effect that under those *special* circumstances, he would allow (not the fee in question), but some other *special fee* for the *special and unnecessary* trouble. And in respect to his question, "if so, why did any bailiff apply to Judge Harrison?" I ask him, did he ever know a bailiff that did? I do not.

He says again "that Mr. Agar knows well that the rule of his late Judge, Mr. Boyd, was not to allow his bailiffs to make such charges." The incorrectness of this statement, is only equalled by the impertinence of it, if it were correct, as he there accuses me of continuing a practice that my judge condemned. During all the years that His Honour Judge Boyd, presided in the court of which I was clerk, I invariably allowed the fee to my bailiff, and His Honour never told me that I was wrong. Neither did I hear from any one else that he thought or said so. His Honour may not have been aware that I did it. I never asked his opinion on the subject, having already had Judge Harrison's. Sirs, we have again repeated the old story of the living *jackass* kicking the dead lion. "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, and tell him that if he wants to raise any unpleasant feeling towards himself in the breasts of the officers of Division Courts in the counties of York and Peel, let us say a disrespectful word of the late Judge Harrison is the quickest and surest way he can do so.