

GENERAL CORRESPONDENCE.

directly regulating the responsibility—the *licensing* or *fixing*—of the charges of conveyancers, as such.

The business of conveyancing is incidental to that of the practice of the law among lawyers, and is a large perquisite among the profits of a class not lawyers. It is discretionary now with lawyers to charge just what they think proper. The laity who act as conveyancers work *very cheap* generally, and are under *no responsibility, legally*, to do their work correctly. On the other hand, lawyers are legally responsible for correct searches and conveyances. Many think this state of things wrong, and I do myself; for a person taking the money of another for legal work ought to have skill and knowledge, and be responsible for palpable mistakes. I will refer to this part of the subject again. It may not be very generally known that the members of the bar of two of the leading cities of Ontario—Hamilton and Toronto—in or about 1855 established a tariff of charges relating to conveyancing and kindred subjects, for work not included in the table of fees established in the Common Law Courts. Such was the case. This tariff is followed by some (it should be by all) professional men. I think a uniformity of practice should exist in this matter, and a uniformity of responsibility among conveyancers should be maintained. The case of *Ross v. Strathy*, reported in the December number of your U. C. L. J. for 1858, page 277, shows how closely the law scans the conduct of lawyers in investigating titles. Mr. Strathy narrowly escaped a heavy verdict for not searching the treasurer's office for tax liens. I think, too, that a *purely conveyancing* bill should be liable to taxation in Canada, which, however, is not the case. In England such a bill can be referred; but in Canada it cannot, as was expressly decided by Mr. Justice Burns in the case of *Re Lemon & Peterson*, two, &c., reported in your July number of the U. C. L. J. for 1862. There had been other cases before this, in which it was decided that, where conveyancing charges are mixed in with law charges, for business done in courts, they can be taxed. See *In re Eccles*, U. C. L. J. for March, 1860; *Ex parte Glass*, U. C. L. J. for April, 1863.

But the practice seems different in England. I believe that Mr. Hemings, the Chancery taxing officer, will tax conveyancing charges according to the tariff I have alluded to.

In England (as I understand it) conveyancing is a regular branch of the legal profession, and not as in Canada, where any one may act as conveyancer and, I presume, recover reasonable compensation for his work. Schoolmasters, magistrates, clerks of Division Courts, and (until the Act of last Session) registrars, members of Parliament, township officers and some others, have monopolized the principal part of the conveyancing business in this country. In towns and cities it has not been so. Special conveyances have generally been drawn by lawyers. Efforts have been made to get a law passed by our Canadian legislature to give this business to lawyers exclusively; but the effort has failed, the legislature not being willing even to make the laity following the business of conveyancing responsible, legally, for their mistakes. But I think the time will soon come when our Ontario legislature will (as they certainly should) give the legal profession the entire business of conveyancing, and a tariff with it. At all events, conveyancers should take out a license, and be held legally responsible for errors in their work.

I have for many years, in Canada, been in the habit of noticing the style of conveyances, particularly deeds, leases, wills, partnership deeds, chattel mortgages and agreements, written by the persons above named (not lawyers), and the errors in form, want of proper covenants, erasures, interlineations and other defects observable in, perhaps, a majority of the papers, were very great, and often ludicrous in the extreme. Of course such errors and defects are sure to cause law-suits, and it is often said that it is a question whether lawyers do not make more by the mistakes than they would by the exclusion of such persons as are unlearned from drawing them. In this case, however, the public have a right to be protected, as they have to be from mere *quacks in medicine* or unskilful physicians.

In none of the American States have the Legislatures ever passed a law giving peculiar privileges to lawyers as conveyancers, and the popular prejudice is the same in Canada. Indeed, Canadians are in many things essentially a democratic people. One can see no reason, however, why even in a democracy, *pro bono publico*, the community should not be protected from *cheats*, from persons taking their money for doing work that they cannot under-