

CORRESPONDENCE.

but Mr. McKellar out-herods Herod at pp. 30, 31. He gives a list of 18 writs of execution, in each of which the Sheriff is commanded to levy for the issue of the writ much more than the law allows. The total amount he says was \$153, which the taxing officer reduced to \$56.33. Mr. McKellar, for what reason I don't know, except it be to mislead by an unfair comparison, shews that had the summonses, in each of these cases, been served by Sheriffs, the Sheriff's fees would have been \$37.80, to which he adds the above \$56.33, making a total of \$94.33, and then says by the collection of the \$153 the attorneys were collecting "their own fees, the Sheriff's fees, and a further sum of \$58.57." What could be more absurd! why not one cent of the \$153 is made up by a Sheriff's fee. The absurdity appears the greater when it is noticed, as the fact is, that had the Sheriffs served the summonses and earned their fees therefor, the charges on the writs of execution would have been none the less, for the two things are wholly disconnected. He might as well argue that if a merchant, who serves his own process, and finally issues execution for a debt, only half of which is due him and collects it, this merchant, forsooth, by so doing is collecting fees to which the Sheriffs are entitled. The cases are analogous. Because a lawyer charges improperly, is the law to be made more expensive to the suitor, and still more remunerative to the Sheriff, in order to prevent the lawyer from wrong-doing. In each of the above cases, the defendant could have declined to pay the improper charge, and neither the attorney nor the Sheriff could have compelled him to do so; but because the defendants refused (if they did so refuse) to exercise their rights in so declining, Mr. McKellar argues that the Legislature should step in and increase his fees, by compelling everybody to employ Sheriffs to serve papers.

From Mr. McKellar's pamphlet throughout but one conclusion can be come to, viz.: that he desires to attain his ends at any cost. The ends are sordid, and the cost deliberate misrepresentation. He seeks to gain advantage of the unhappy

prejudice against the profession, and would increase that prejudice that he might gain. His text, Mr. McKellar trusts, the non-professional members of the house will not see through; but the figures, he hopes, will catch their eye. His comparisons he hopes will go unexplained; but his misstatements he wishes to be received as true. He writes unfairly, unjustly, dishonestly of the legal profession, that he may gratify the feelings of those already biased against the profession. He strives to lower the legal fraternity, and all from an insatiable love of gain, that he may increase the emoluments of his office, already the best and most remunerative office in the gift of the Province. I myself am opposed to the profession serving process, and fully agree with Mr. McKellar that doing so is "beneath the dignity which should characterize members of the legal profession;" but there are instances when the profession are compelled to serve their own process. Take the ordinary case of subpœnas. Ten days' notice of trial is given. You have eight or ten witnesses. You rush off and get a subpœna, make your copies and appear at the Sheriff's office. You find there five or six lawyers ahead of you on the same errand as yourself, each of whom must have his witnesses served at once: witnesses are going away, others trying to evade service, and so on. The Sheriff gladly does what he can; but finds it impossible to travel round and summon fifty or sixty witnesses in ten days' time, and so you appear at Court with your evidence unprepared, and torment the presiding Judge with applications for delay. But Mr. McKellar provides in his Bill (sec. 2) for service by persons other than Sheriffs. Truly his proposal is a generous one! The same lawyers at a later period again appear at the Sheriff's office, each of whom presses eagerly for the prompt service of his subpœnas. "Very sorry, gentlemen," says the Sheriff, taking his pipe for a smoke, "my bailiffs are all, you know, busily occupied just now; serve the subpœnas yourselves, gentlemen, serve them yourselves; but mind you comply with the second section of McKellar's Act, and come to me within twenty-four hours.