

but in order that there may be no doubt as to the real state of the case, which the Commissioners had no means of determining, I may remark that, almost invariably, private letters are prepaid; but the few that may not have been so were charged to the Department, and the evidence given by the Post Office authorities establishes conclusively, that the accounts of the two Departments were, in that respect, on the same footing as every other in the Province.

CHAPTER VII.

Fees not Accounted for.

An accusation is attempted to be substantiated by the Commissioners, in rather a confused manner, to the effect that I had not accounted for the fees collected on recognizances, writs of *certiorari*, and of *habeas corpus*. In other words, it is an accusation of embezzlement. Now as I have already said in these remarks, by the admission of the Commissioners, there can be no ground for an accusation against me of inefficiency. Therefore, the whole complaint must break down, and the justification of the Government for my dismissal must fail, unless some criminal or quasi-criminal offence be proved against me. I have also established, what will not be denied by any one less interested or prejudiced than the Commissioners, that criminal liability cannot be substantiated against me for any act that is not my own.

Having laid down these principles, I cannot do better than repeat so much of my statement as has appeared in the *Herald*, in relation to this matter. It is as follows:—

"Considering this question of the Commissioners is predicated upon the assumption that fees were received and not accounted for to Government, and virtually embodies a charge of embezzlement, I desire to record my solemn protest against the course pursued by the Commissioners in interrogating me in relation thereto; but as I feel that my character has been most unjustly and injuriously assailed, I shall waive all formality and give the fullest information in my power—and speaking on my own behalf, I beg to say, that at the period referred to and subsequently, so long as I continued to hold the office of Clerk of the Crown, Mr. Charles E. Schiller acted as my Deputy, and in that capacity, collected all fees and moneys received in the department, and this duty he invariably performed."

This is fully admitted by Mr. Schiller, who will in his turn explain how utterly unfounded are the charges which the Commissioners brought against him.

"I paid over to the Government everything, Mr. Schiller accounted to me for, and having every confidence in his integrity and honesty, I never had any reason to doubt for one moment that his accounts were not faithful and correct."

"If in any case no fees were collected on any such proceedings, Mr. Schiller is in a position, I have no doubt, to give a satisfactory explanation of it, as for instance, that the judges had directed that the process should be issued gratuitously."

CHAPTER VIII.

Commission of Ten Per Cent.

In order that this charge and its answer may be fully understood, it is necessary for me to give the history of the legislation affecting the office of Clerk of the Crown. In 1850, the fees of the office, which were formerly my remuneration, were funded, and my salary was fixed at £250, afterwards raised to £300, a-year. In addition to this, I was entitled to take 10 per cent on the balance of fees, over and above the expenses of the office. In the dislocated version of the report, it is impossible clearly to understand what the point is the Commissioners wish to make; but it would seem that they hold that I had not collected the money, and that the sums on which I charged the commissions did not remain in my hands. The Statute cited by the Commissioners, and by which the fees were funded, 13 and 14 Vic., cap. 37, section 3, states "That . . . all salaries, fees, emoluments, and pecuniary profits, whatever, &c., shall continue to be, and shall be, demanded and collected as heretofore by the officers aforesaid respectively, &c." This is exactly what I did. I carried to the account of the fee fund, exactly the same fees which I had previously received for my own profit; and when there was a surplus over the expenses—which, during 12 years, only happened twice, I believe, and then for very small amounts,—I took the 10 per cent. off the balance, as the law allows. The Commissioners seem to think that I ought not to have charged to the fund certain fees formerly payable by the Government to me; but I had no choice, the Statute is precise—"All salaries, fees, emoluments and pecuniary profits whatsoever, which are now, or may hereafter be attached to the said offices respectively, under any authority whatsoever, shall form a special fund, &c."

I suppose if I had not charged them so, the Commissioners would have attributed some corrupt reason for my not obeying the law, or would have declared that grave irregularities had been committed by me, although an able, energetic and efficient officer.

It would be a curious circumstance if all the Receiver Generals since 1850, and the Auditor General, should have misunderstood a Statute so well known to them as the Official Salary Funding Act, and that the same interpretation of it should have been reserved for two such legal luminaries as MM. Lafrenaye and Doherty, thirteen years after it had become law.

But what renders this charge of the Commissioners sovereignly ridiculous is, that the whole profits accruing to me from this pretended fraud, were two sums, one in 1851, of £6 5s. 2d., and the other in 1854, of £2 7s. 9d.! So that if we are to believe the laboured statement of the Commissioners on