

Resolved, That by his conduct the said David Chisholme, esq., clerk of the peace for the district of Three Rivers, has, inasmuch as in him lay, brought the administration of criminal justice in the court of quarter sessions for the district of Three Rivers into dishonour and contempt; that he has been guilty of high misdemeanors, and is unworthy of the confidence of His Majesty's Government.

Resolved, That for the reasons abovementioned, it is expedient that an humble address be presented to his Excellency the Governor-in-chief, praying that it may please him to make use of the powers with which he is vested, and dismiss the said David Chisholme, esq., from the office of clerk of the peace for the district of Three Rivers, and of all other places of confidence in the province, and hereafter not appoint him to any office of trust herein.

Ordered, That Mr. Barnard, Mr. Kimber, Mr. De Tonnancour and Mr. O'Callaghan do present the said address to his Excellency the Governor-in-chief.

Attest,  
(signed) *W. B. Lindsay*, Clerk Assembly.

Correspondence  
respecting  
Mr. Chisholme.

Enclosure 2, in No. 1.

Gentlemen,

I REQUEST you will acquaint the House of Assembly, in answer to this Address, that as soon as I shall have received from Mr. Chisholme such defence as he may have to make to the grave charges preferred against him by the House, I shall without loss of time adopt such measures as the case may require.

Castle of St. Lewis, Quebec, 2 March 1836.

Enclosure 3, in No. 1.

### THIRD REPORT.

THE Special Committee appointed to inquire concerning the fees and emoluments received by the sheriffs, prothonotaries and criers of the court of Appeals, and of the courts of King's Bench, of this province, by virtue of their respective offices; with an instruction to inquire also concerning the fees and emoluments received by the attornies, clerks of the peace, and by the other officers of civil and criminal courts of judicature in this province, by virtue of tariffs made by the said courts; and, generally, concerning all fees and emoluments received by virtue of tariffs made by the said courts, either under the 17th section of the Act passed in the 41st year Geo. 3, c. 7, or otherwise; and to whom were also referred the income returns of the sheriffs, prothonotaries, and of the clerk of the court of Appeals for the years 1830, 1831, 1832, 1833 and 1834, have the honour to make the following Report concerning the clerk of the peace for the district of Three Rivers:

Your Committee having examined David Chisholme, esq., the clerk of the peace for the district of Three Rivers, deem it necessary, from the tenor of his evidence, to call the attention of your Honourable House to the system which has prevailed since the accession of Mr. Chisholme to office.

Mr. Chisholme was appointed in November 1826. It appears that since that time about one-fifth at least of the indictments laid before the grand jury of the court of quarter sessions for the district have been framed by him, on information, not under oath, and verbally given to him, principally by his clerk, the high constable and the petty constable. His clerk, whose name is John Campbell Fearon, is also interpreter of the courts at Three Rivers, and as such has, by order of the magistrates, assisted the grand jury of the quarter sessions at their private sittings. The name of the high constable is Philip Burns.

Mr. Chisholme has declared to your Committee, that he has no means of ascertaining in what cases, and by whom, such information was given to him; and that the indictments framed thereon have been followed but by few convictions.

Your Committee refer your Honourable House to the evidence of one of the clerks of the peace for the district of Quebec, establishing that the practice to frame indictments on verbal information does not exist in that district; nor does it, in the opinion of your Committee, exist in any other part of the province. Your Committee have, moreover, to express their opinion that, even on the supposition that a Crown officer acts justifiably in framing, sometimes and under peculiar circumstances, indictments on verbal information, the doing so systematically is illegal and vexatious; and that it has been rendered particularly so in the present instance, independently of the fact already stated, that convictions have seldom ensued on indictments framed on such verbal information.

Your Committee cannot do otherwise than express their surprise that a practice contrary to law, and attended with consequences manifestly injurious to the whole community, should have been followed, for a number of years, by a public officer who has thus exposed the subjects of His Majesty to the dangers, the expense and shame of a prosecution for crimes of which, in most cases, they have been declared innocent by a jury of their country, without having the means of punishing their accusers.