

the results of this "considerable labor," it is proper for me to observe, that it is purely a work of supererogation, as under their Commission, they had not even a color of authority for making any inquiry or report into the duties of my separate office of Superintendent of Crown witnesses. These gentlemen must, therefore, either have performed this work as a labor of love, or because they found it profitable; and in the latter case I trust they may have measured the value of their labors at the low rate they have appreciated my services.

The whole question of whether I had a right to charge the full mileage allowed by law, and to make such profit as I could on the transaction, is not to be examined by any abstract principle which the Commissioners or the *Herald* choose arbitrarily to adopt. My pretension is that I was justified not only by a long usage, which of itself presumes an authorisation; but also by the implied permission of the Crown, the Government having been fully informed, so far back as 1849, of the manner in which my bills were made out.

So clearly did the Commissioners see that the question of authorization or no authorization was the matter to be decided unfavorably to me, in order to justify their predetermined report against me, that they have used the whole of their ingenuity to destroy the evidence of this knowledge on the part of the Government. They say, "It cannot be said that Mr. Schiller's mode of charging mileage has been sanctioned by the Government upon such reports."

From Mr. Drummond's evidence, it appears that whilst he was Solicitor General for L. C., he was "called upon to investigate charges made against Mr. Schiller, that he paid less for the service of subpoenas than he charged the Government, and that he sometimes sent subpoenas by mail to country bailiffs, and subsequently charged the Government mileage from the city as if a constable had been sent to the country to serve such subpoenas." Mr. Drummond then refers to a letter in which he communicated the result of this investigation to the Deputy Inspector General on the 10th August, 1849. I have not a copy of that letter by me, but it is hardly possible to suppose that Mr. Drummond was not then informed precisely as to how the matter stood, for it is not denied that, on the 30th July 1849, Mr. Delisle reported to the Deputy Inspector General on the same subject, in the following words: "The representations that Mr. Schiller charges more than he gets the service performed for seems highly unjust and might with equal propriety, be made against every public officer in the Province. To those who are familiar with the nature of his duties, it will be evident, that as he must be in personal attendance upon the Court and, upon the officer prosecuting for the Crown, both before and after the Court, he can devote very little of his time to the service of subpoenas in person, and it would be hardly

"fair to expect that he would pay to Bailiffs and constables all he received and have nothing left for his responsibility and labor. He is, in that respect, very much in the situation of all other public officers whose incomes are derived from fees, and who procure the cheapest possible assistance."

Observe that the communication to which the above was an answer, was a circular letter addressed to the then Solicitor General Mr. Drummond, Mr. Driscoll and Mr. Delisle, and that Mr. Drummond's letter of the 10th of August, 1849, was his answer to it.

To this evidence I may add the testimony of Mr. Judah, Q.C. As to the practice in another district, he says, "I certified similar accounts during six years, &c."

And again, (I copy from the *Herald's* version of the report.)

Mr. Schiller having put the following question:—
Are you aware how charges are made for services of subpoenas by Constables and Bailiffs in the Criminal Courts?

Mr. Judah gave the following answer:—
The system alluded to in this question existed to my knowledge in the District of Three Rivers 30 years ago. The duties performed for which the charges alluded to were made were performed by the High Constable, who invariably obtained the subpoenas from the Crown Office and caused their service to be made by Bailiffs and Constables at a remuneration agreed upon between them, charging the Government with the full distances. In 1849 I was selected by the Attorney General, Sir Louis Hypolite LaFontaine, Baronet, Chief Justice, to conduct the criminal business of the Crown for the District of Three Rivers, and to report particularly on the charges made by the High Constable for the services of subpoenas. Accordingly at the close of the Term when called upon to give my certificate of the correctness of the charges for the service of subpoenas made by the High Constable, I ascertained from him that the services had been made by different parties, paid for in sums less than those charged. I thereupon granted the usual certificate, and on my return to Montreal reported the fact to the Government. It is to my knowledge that the system existed for many years before, and it is undoubtedly true that it is continued to the present day, however objectionable it may appear to persons not conversant with criminal matters, in the absence of any officer whose special duty it is to attend to these matters; that this is an improper mode of remunerating the officer. In fact it is only a fair way of indemnifying him for his labour, and as the fact was known to all Governments for the last 30 years, it is but fair to presume that they sanctioned it."

Mr. Eleazar Clark, High Constable of the District of St. Francis, was examined as a witness, and gave evidence of the same practice as that followed by me, being also followed in that District.

I am hardly required, for my defence, to justify the practice complained of; but as the Commissioners have sentimentally expressed an opinion as to the effect of such a practice, I will venture to place the evidence of experience against their theory. In his evidence Mr. Drummond says:—

The result of this system under Mr. Schiller's superintendence has been to diminish the cost of the administration of justice, especially at Montreal, to a very material extent.

Since it was inaugurated I remember one instance of the Criminal Court in Montreal having been compelled to adjourn before the usual hour for want of a witness. The instructions received by Mr. Schiller from me in 1849, obliged him to clear a sufficient number of benches in the court-room for the accommodation of the witnesses required, in at least three cases,