

History of the Province

1875 1874

**To the Members of the Ontario Government:**

GENTLEMEN,—Shortly after entering upon the duties of my office on the 1st day of August, 1875, I noticed that different sums were charged by Lawyers as their fee for issuing Writs of Execution out of the same Court, and nearly for the same amount; I made inquiry and found that the practice prevailed all over the Province. I inquired of one of the Taxing Masters if there was a fixed tariff of fees for issuing Writs of Execution, or was each Lawyer at liberty to charge what he pleased; I was told there was a tariff of fees for issuing Writs of Execution as for the issuing of all other papers, but that the Lawyers as a rule disregarded the legal tariff of fees and made their own tariff. I obtained a copy of the legal tariff of fees for issuing Writs of Execution in the Superior and County Court, and collected the fees under that tariff and no more. I never robbed for myself, and I failed to see why I should rob to enrich others. I found that some of the Sheriffs collected these illegal fees in ignorance, believing it to be their duty to collect the amount endorsed on the Writ. Other Sheriffs made the collection of these illegal fees knowingly, but under fear, as they said, truthfully, "If we do not collect these illegal fees the Lawyers will give us no papers to serve, and will ruin us." The truth of this was verified in my own office; I had a County Court Writ for \$200 against an honest man who was doing his best to pay it. I noticed that \$10 was charged for the Writ instead of \$3 the legal fee. I instructed my bailiff not to press the man as he was paying as fast as he could, and to collect no more than \$3 for the Writ. The money was made and a cheque, including \$3 for the Writ, was sent to the Lawyer. On the following day he came to my office and in an imperious manner demanded an explanation why the \$10 had not been collected? In other words, why had I not robbed the litigant to the extent of \$7 for his benefit. I told him I had collected the legal fees, and would do no more for him or any other. His reply was that he would give me no more papers to serve, and I must do him justice to say he kept his word.

I received returns from 18 Counties, showing that the overcharge for Writs and Renewals on 3,692 County Court Writs in the hands of 18 Sheriffs was \$20,766.02, being an average overcharge of \$5.60 on each Writ.