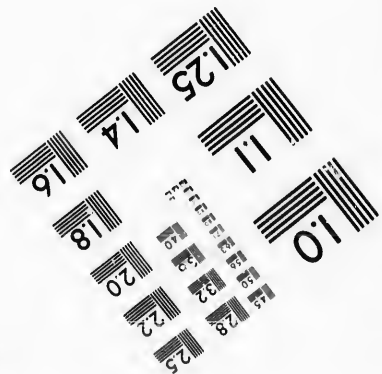
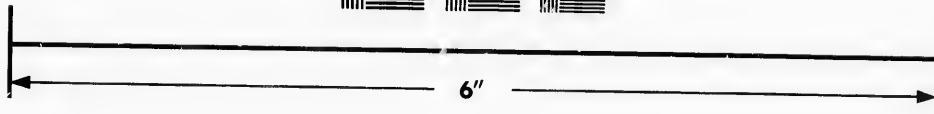
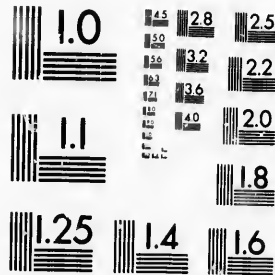


**IMAGE EVALUATION  
TEST TARGET (MT-3)**



**Photographic  
Sciences  
Corporation**

23 WEST MAIN STREET  
WEBSTER, N.Y. 14580  
(716) 872-4503

**CIHM/ICMH  
Microfiche  
Series.**

**CIHM/ICMH  
Collection de  
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

**© 1987**

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured covers/  
Couverture de couleur
- Covers damaged/  
Couverture endommagée
- Covers restored and/or laminated/  
Couverture restaurée et/ou pelliculée
- Cover title missing/  
Le titre de couverture manque
- Coloured maps/  
Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black)/  
Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations/  
Planches et/ou illustrations en couleur
- Bound with other material/  
Relié avec d'autres documents
- Tight binding may cause shadows or distortion along interior margin/  
La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure
- Blank leaves added during restoration may appear within the text. Whenever possible, these have been omitted from filming/  
Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments:  
Commentaires supplémentaires:

- Coloured pages/  
Pages de couleur
- Pages damaged/  
Pages endommagées
- Pages restored and/or laminated/  
Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed/  
Pages décolorées, tachetées ou piquées
- Pages detached/  
Pages détachées
- Showthrough/  
Transparence
- Quality of print varies/  
Qualité inégale de l'impression
- Includes supplementary material/  
Comprend du matériel supplémentaire
- Only edition available/  
Seule édition disponible
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image/  
Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below/  
Ce document est filmé au taux de réduction indiqué ci-dessous.

10X	14X	18X	22X	26X	30X
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12X	16X	20X	24X	28X	32X

The copy filmed here has been reproduced thanks to the generosity of:

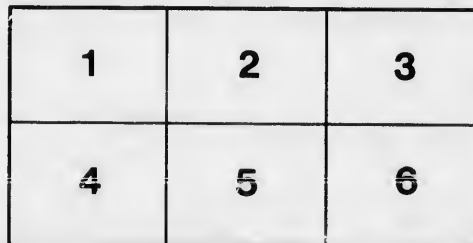
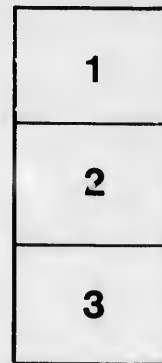
The Nova Scotia  
Legislative Library

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol  $\rightarrow$  (meaning "CONTINUED"), or the symbol  $\nabla$  (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

The Nova Scotia  
Legislative Library

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole  $\rightarrow$  signifie "A SUIVRE", le symbole  $\nabla$  signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

NOVA SCOTIA  
LEGISLATIVE LIBRARY



PROVINCE HOUSE

Annotations

ANNOTATIONS

ON THE

REPORT OF THE

ATTORNEY-GENERAL AND SOL.-GENERAL

OF THE

PROVINCE OF NOVA SCOTIA,

IN THE MATTER OF

MR. SHIELS, STIPENDIARY MAGISTRATE.

---

HALIFAX, N. S.  
PRINTED BY JAMES BOWES AND SONS.  
1863.

NS

347.96.

2

2023

IN my communication to Government of the 17th Jany. last I intimated that I did not consider it necessary to offer any observations on the report of the Officers of the Crown, as all comment thereon must needs sound feeble. Considering, however, the high official authority of that document, I am inclined to think that silence on my part might be misconstrued; and I proceed to make the following comments thereon, passage by passage, as I see occasion, putting my own observations into the form of paragraphs.

*The Report.*

IN THE MATTER OF MR. DAWSON'S  
COMPLAINT AGAINST MR. SHIELS,  
STIPENDIARY MAGISTRATE.

Having carefully perused the papers annexed, in the absence of the Atty.-Genl., I have to remark thereon as follows:

As to Charge 1, by Mr. Dawson. If Mr. Dawson had been defendant in the case, or if it had been made to appear that Mr. Dawson was acting as Mansfield's professional adviser, the matter would present itself in a totally different aspect. I can discover no evidence to satisfy me that Mr. Mansfield is dissatisfied with the decision of Mr. Shiels; and Mr. Dawson's relation to this controversy seems to be that of a volunteer.

*Answer.*

¶What may be the peculiar opprobrium attaching to the relation of "Volunteer," in the Province of Nova Scotia, I leave to the Solicitor-General of the Province of Nova Scotia to point out, as he may think proper. I think I can make out beyond all reasonable question that I come within the purview of "the totally different aspect" (whatever that may be), to which he alludes. Certainly nothing can be more totally at variance with anything like the idea of willingness on my part, at the commencement of the occurrences, at all events.

At the commencement of things. I do not think I ever had *the screw* put upon me in a small way, quite so tightly before.



*Report.*

*Answer.*

My servant goes on an errand of his own, calculated to take up no great length of time. He next appears in company of a man, a stranger to me, who represents that he is a constable, and that he holds my servant as his prisoner, under execution for debt, just issued against him.

There is the ship under weigh to which I have pressing occasion to send my servant with a letter! The constable wont let him go. There is my hay all exposed! The constable wont let him attend to it. Incendiary fires are continually raging—so rife as to have become a regular institution—to such an extent, indeed, that most Insurance Offices decline policies in the district,—and those few that will effect them only do so on the express understanding that a person is to occupy the premises at night. Mansfield was the only person I had for all this. And the constable says he must carry him off to gaol at once, unless I pay down the money for him. I did pay the money, and I should have had no choice but to have paid it, if it were three times the amount. But most conscientiously can I aver that there was mighty little of the “*volunteer*” about me at this period of the transactions, as my language at the time, by all accounts, sufficiently indicated. The Solicitor-General can, however, discover no evidence that “Mr. Mansfield is dissatisfied with the decision of Mr. Shiels.”

I should be sorry to impart anything which might sound like a tone of levity to so serious a commentary as this is intended to be,—but such puerile assertion forces me to refer to a parallel assertion that was once made to me. There was formerly a custom (now I hope, exploded) for

## Report.

## Answer.

warreners to sew up the mouths of their ferrets with needle and thread, before turning them into the rabbit holes. I remember once remonstrating on what appeared to me the cruelty of the operation, when the man gravely assured me that the ferrets "did not dislike it." Now, assuming Mansfield to be the ferret in this case, I submit that there is evidence to show that he did dislike it—that he was "dissatisfied with the decision of Mr. Shiels," for he attempted an appeal. This the Solicitor-General will probably say was all my doing.—Mansfield was acting under my advice. And this, I presume to be the *volunteering* which is to oust me of the indulgence of the "totally different aspect the matter would present itself in." I was neither "defendant in the case" nor "acting as Mansfield's professional adviser."

"Professional," or not, I was certainly his "adviser," and even if I had not been operated upon so stringently myself to begin with, I can see nothing unbecoming in giving what I considered proper advice to my servant.

If in a case of bloodshed the relation of master and servant, where one is acting in pure defence of the other, might cause what would otherwise be a verdict of manslaughter to be mitigated to justifiable homicide, surely the relation of master and servant would excuse me for assisting Mansfield with my advice in a civil proceeding, even although the lawyer's fee might be wanting.

¶ Good taste and anything like delicacy of feeling would certainly have induced Mr. Shiels to abstain from acting in his son's case. My censure of Mr. Shiels however is, not that he chose to act on that occasion, but that choosing to act, he acted with sharpness, precipitation, and vigour, when every consideration of propriety should have induced him to allow the defendant all the latitude and indulgence as regards hearing judgment and execution that the law would admit of.

I am, however, of opinion that, acting upon a sound discretion, no magistrate should issue a summons in a civil cause where his son or other near relative seeks it as plaintiff, and especially so if, as in this case, any other magistrate could have acted.

Charges 3, 4, and 5. As regards these all, it seems to me that Mansfield makes no complaint, and Mr. Dawson is no party to the suit in question, the proper course

¶ The Solicitor-General seems to forget that as regards charges 3, 4, and 5 (the heaviest and gravest of my charges), I myself am the "party to the suit"—not Mansfield. I myself am the ferret, and surely have a right to express my own feelings under Mr. Shiels' manipulation.—And as to any redress that the Courts of law could afford in such a case, I do not think that the legal acumen even of the Solicitor-

*Report.*

would be for Mr. Dawson to apply to the Courts of Law, if he has any just cause of complaint.

And the rather so as the facts respecting the issue of an execution are controverted, and the Government have no means of deciding the dispute.

*Answer.*

General of the Province of Nova Scotia, can point it out. The short coming of all possible redress in that way is, in fact, the very basis of my application to His Excellency the Lieutenant-Governor in Council.

¶The fact of execution having issued is not "controverted" by me. Mr. Shiels now positively asserts that there was issue of execution, and I am far from denying it. All I say is that Mr. Shiels' representation to me on a former occasion was, that there had been no such issue, believing which representation to be true, I acted on the belief by forthwith bringing my action against the constable, a thing that it would have been impossible for me to have thought of doing, except on the faith of that representation.

It seems to me that Mr. Shiels is on what has been termed "the horns of a dilemma." Either there was issue of execution at the time, or there was not. If there was such issue, Mr. Shiels is guilty of conduct to which I have said in another place, "it is not easy" (and certainly it is not pleasant) "to give a name." If there was not such issue then he is guilty of conduct which "bears a criminal aspect," for the document subsequently produced must have been a fabrication in the nature of forgery.

Mr. Shiels endeavours to evade either horn of this dilemma,—and how does he attempt it? I quote from his printed statement to Government:

"Then he" (meaning me) "makes me say that there had been no execution in the matter. This is a wilful and deliberate falsehood, for I never at any time said such a thing,—I did say that the man was not arrested, but never did say that there had been no execution." Now, I ask, is it within the bounds of credibility that such, and such only, was his statement? Mr. Shiels does not deny the fact of his producing the Record book of his Court, and shewing it to me. There is his own letter alluding to the production of the Record to shew what the proceedings had been entitling him to my apology which I tendered for the language which I had given utterance to, under the impression that my servant was a prisoner in execution, before my eyes. What, I ask, did he mean that record to shew? That there had been no arrest? Impossible! That could never appear on the face of the record, either one way or the other. If his own words and actions in undis-

*Report.*

In making these comments however, I am far from approving of the peculiar style of defence adopted by Mr. Shiels, a proper respect for the highly responsible and important office he fills, for the party addressed, especially for those whose perusal his reply was prepared, should in my opinion have dictated a very different document from that furnished by him.

I regret to notice the temper displayed in the papers attached, but I do not think this

*Answer.*

puted evidence are to have any meaning at all, he must have alluded to something that would in its nature shew itself upon the record, and what, I ask, can that be, looking at surrounding facts, but the absence of entry of writ, or any mention of issue of execution whatever upon the face of the record?

My own concurrent actions in undeniable evidence too, in all reason, shew what the representation to me must have been. I forthwith bring my action against the constable—for what? For having done no more than his duty, nay, as Mr. Shiels would now have us believe, not so much as his rigid duty, under the process of the Court? Such proceeding on my part would have been nothing short of madness. The form and substance of my action was to recover back money, which had been obtained from me under a false representation that my servant was in custody under the process of the Court, when no such process had ever, in fact, issued.

There is direct and positive statement against direct and positive statement, my statement against the statement of Mr. Shiels. Are collateral facts in evidence and reason to go for nothing?

In the opinion of the Crown officers of the Province of Nova Scotia, I understand it is so!

?

*Report.*

is one of the cases requiring Executive interference.

(Signed)

J. McCULLY.

October 6, 1862.

*Answer.*

¶Received by me, Jan'y. 17, 1863.

*Report.*

So much of the charges against Mr. Shiels, as regards his bringing an action in which his son was plaintiff, or on a demand which was stale, does not appear to me to be the subject of executive enquiry—he had a right to issue a summons, whoever might be plaintiff,

And his judgement on the merits can only be impeached on an appeal or other proceedings in due course of law.

The graver parts of the charge are mainly questions of controverted facts. Whether Mansfield had or had not an opportunity for a rehearing after the judgement by default;

*Answer.*

¶The opinions of the Attorney-General and the Solicitor-General, on this point, seem a little at variance. I do not see that much turns upon the question either way, so long as a judge takes care to avoid anything like the imputation of sharp, oppressive, or partial dealing.

The rule, the observance of which I think good taste would dictate, is rather, I conceive, for the protection of the Judge than of the parties to the suit.

¶The charge against Mr. Shiels is precisely because this was not the case. The evidence of the Record itself proves that it was not so. Judgment was not “on the merits” but *ex parte* on the defendant’s failing to appear at the precise moment named in the summons. And the further and graver charge is—that of subverting the grounds of an appeal when applied for, by misrepresentation, relative to the previous judicial proceedings.

¶However grave this question may be—the statement on the subject, be it what it may, constitutes no part of my charges. It is Mr. Shiels’ own statement, and I do not even join issue with him on the subject. I quote from my printed statement in reply to Mr. Shiels: “What Mansfield may have said or done when he got there” (the Court) “of course I cannot tell.” I make, it is true, some little comment on the probability of the two stories, and show that Mansfield’s is a consistent one, whilst Mr. Shiels’ is, in my opinion, a lame and improbable one.

*Report.*

whether an execution was issued at the time, and placed in the constable's hands;—  
whether or not the constable arrested the defendant;—

whether the execution was shown to and perused by Mr. Dawson;—

are all questions of fact in which the statements of the different parties are directly contradictory, and equally positive, and the Executive have no means of ascertaining which of these series of facts is correct, and which false.

On the question however of the general tone and bearing

*Answer.*

¶ I raise no controversy on this point. I am ready to take it either way (one or other it must be), as I have shown in my observations on the Report of the Solicitor-General, to which I beg leave to refer.

¶ This does not constitute one of my charges. It is a mere false and inconsequential issue.

I certainly had reason given me to think the defendant was arrested when I paid the money. But I will let the constable himself speak. I quote from Mr. Shiels' extracts from the minutes of evidence: "Witness showed the execution to Mr. Dawson and he read it;" "and Mr. Dawson handed out the two sovereigns to him, sooner than let him go to jail." After this, I think the constable's statement, "Mansfield never was arrested," may go for what it is worth, and Mr. Shiels' statement too.

¶ What does it signify, I ask, or how does it have any bearing on the points really at issue, whether the execution was shown to me or not? Shown to me or not, I did not doubt the fact, at the time, of there being such a document. It was, in fact, because I did fully believe in it, that I paid the money. But it is equally clear that I had not noticed, or did not remember the fact of seeing it, if it really was produced as the constable says, or I never could have acted as I subsequently did act, on the representation of Mr. Shiels.

¶ Are all questions of false and inconsequential issue, calculated for no other purpose than to raise a dust to obscure the real points at issue and smother the gravamen of the charge.

The true and material issue with reference to the graver of the charges which I first preferred (reserving the 5th charge contained in my reply for forthcoming comment) is—did Mr. Shiels, or did he not represent to me that there was no issue of execution? If he did so represent he either told a frightful judicial untruth, or if not, he must have perpetrated a still more atrocious action (if possible) in the nature of a judicial forgery. The question is left entirely untouched by the Attorney-General. I consider that I have sufficiently enlarged upon it in my observations on the report of the Solicitor-General so as to spare the necessity of repetition here.

¶ In all parts of the civilized world wherever the name of "gentleman" is known, or the meaning of the word at all professed to be understood, it is a

## Report.

of the justice, there is evidence which is beyond contradiction. From all that appears, Mr. Shiels must have forgotten that it was his duty, however grossly assailed, to preserve his temper, or at all events not to descend to personal re- crimination. At the same time there is much to palliate Mr. Shiels' indiscretion. Mr. Dawson confesses that before seeing him or knowing anything about the matter in controversy, except from his servant, he used language in reference to Mr. Shiels, which he knew would be immediately reported to him, of such a character that he is obliged to describe it as unqualified.

And in subsequent interviews with Mr. Shiels, and on appearing before him as a Justice, he used expressions highly improper, and which were not only calculated, but could hardly fail to create the feelings, and elicit the expressions referred to in the memorial.

## Answer.

never-varying rule, that the acceptance of an apology renders impossible any future expression of resentment for past injury on the subject for which the apology is tendered and received. The Stipendiary Magistrate of the Province of Nova Scotia does not see it; and the Attorney-General of the Province of Nova Scotia does not see it.

Mr. Shiels in his letter to me of the 31st July, writes, (I quote from the letter set forth in my printed statement,) "I accept your apology for language that would perhaps have grated harshly on other ears than mine." And in his printed statement to Government he writes as follows: "I had not forgotten the language he had indulged himself in to the constable. Courtesy indeed! after the aspersion, and insults, and detraction, heaped upon me, an utter stranger to him, and then to expect courtesy from me! Ah no—he does not know me, or else he would not look for it after such conduct." And the Attorney-General of Nova Scotia, with the passages last quoted, before him, makes the observations on the other side concerning which I need only remark upon the palpable disingenuousness of his representation, that I used the language complained of on the *unsupported* statement of my servant. He is fully alive and adverts to the fact of my servant's story being told, *in the presence and hearing of the constable*, who was privy to every thing, and corroborated every thing, when he writes, "Language which he knew would be immediately reported to him." Who was there to report, and who did report, but the constable?

¶How?

When?

Where?

I challenge the Attorney-General to the proof! Where, I ask, is there evidence of one word of ob- jurgation having fallen from my lips, with the excep- tion of what I may have said to the constable on the above occasion and on the occasion of my last in- terview with Mr. Shiels when I came to take copy of the Record?

What passed on that second occasion amounted to nothing more than fair and deliberate notification of what I then contemplated and have since done, viz: my intention to institute these charges against him before the Lieut.-Governor in Council. Is that, I

## Report.

Besides, Mr. Dawson is a stranger to the case. Whether he interferes as master, or as the Attorney of Mansfield, does not very clearly appear;— at all events Mansfield himself makes no complaint;—

he stated that Mr. Dawson owed him the money which that gentleman paid to the constable;—

and this Mr. Dawson does not deny.

The substantial injury therefore is to Mansfield, not to Mr. Dawson. If the money was due to his servant, it cannot be a matter of much consequence to Mr. Dawson, whatever it may

## Answer.

ask, to be designated, "the use of highly improper expressions"? If so, I can only infer that the approved practice of the Crown Officers of the Province of Nova Scotia is to institute prosecution against a man in silence and behind his back.

¶ This seems to be the "volunteer" objection of the Solicitor-General over again. I refer back to my observations thereon.

¶ Deprecating the imputation of levity, I must again refer to the parallel case of ferret.

¶ Mansfield denied on oath at the trial that he ever made such a statement; and I sincerely believe he never did. He asked me to lend him the money,— to "advance" it, in the presence and hearing of the constable: an expression which he would hardly have used if he had just before told the constable that I "owed him the money."

¶ Notwithstanding the general recklessness of assertion and unfounded assumption pervading this report, this is, I think, unquestionably an *oversight*; and as such, I am incapable of taking advantage of it. I beg to refer the Attorney General to my first printed statement from which I quote as follows: "I replied to this letter (meaning Mr. Shiel's letter to me of 31st July) to the effect (alluding to the only part of it that conveyed any meaning to my mind) that I had *not owed* my *servant* one farthing, (*which was fact*), and that I certainly did not impute to Mr. Shiels anything like witchcraft."

The Attorney-General is at liberty to withdraw his assertion and other passages which hinge on the same presumed oversight, if he pleases.

¶ Though I permit this passage to be withdrawn, as founded on the above oversight, yet I cannot help observing that I do not think the principle of leaving a deserving servant in the lurch to fight his own battles, a very noble one, or calculated to foster a high tone of social feeling in the Province of Nova Scotia.



*Report.*

be to Mansfield, whether the debt was or was not well founded.

If Mr. Shiels has in his manner or expressions lost sight of what is due to his position as a Justice of the Peace, Mr. Dawson's own language and demeanour does not add force to his complaint. If Mr. Shiels owed something to his official position, Mr. Dawson was not free from the obligation which his personal position, no less than his professional education, imposed on him.

In the reply addressed to your Excellency, the Justice has shown the same temper towards Mr. Dawson, which he is charged with exhibiting on previous occasions. It is impossible to justify the style of his reply, or excuse the introduction into an answer to grave charges preferred against him in a magisterial capacity.

Of the verses which form part of his reply,—the insertion of these (apart altogether from their style and sentiment) exhibit great want of knowledge of the proprieties of his position, and of the

*Answer.*

¶I refer to my former observations, and those in the ensuing paragraph next but one.

¶We all know the meaning of the expression, "to damn with faint praise." May there not be such a thing, I will venture to suggest, as "to support with faint condemnation"?

*Report.*

manner in which charges coming before your Excellency should be met. It is impossible to pass over this feature of the case without expressing a most decided opinion as to the impropriety of Mr. Shiels' conduct in this respect.

Upon the whole, making allowance for the provocation received, applied to a person of Mr. Shiels' irritable temperament, and considering him to have been under the influence of those provocations ;—

*Answer.*

¶The only provocation of any kind or description whatsoever appearing throughout the length and breadth of the case taking it even upon Mr. Shiels' own showing, that Mr. Shiels ever received from me, is that species of provocation that every delinquent is apt, more or less, to deem it, when any person indicates a determination to expose and bring him to justice. This spirit is clearly indicated by the commencing lines of the verses to which the Attorney-General in such a solemn and dignified tone of comment, has just alluded.

“ Last week another of the Vampire clan,  
(I took his measure at a single span)  
Against my Justiceship commenced a raid,  
And certainly the creature should be paid.”

All which, being interpreted, I conceive, means—that I (the creature) am “to be paid”—that is, vilified and abused, for no other reason than that I had “against his Justiceship commenced a raid ;” that is, presumed to question the propriety of his judicial conduct, and intimated an intention of lodging a complaint against him before competent and fitting authority.

“ The very head and front of my offending  
Hath this extent—no more.”

And into this it is—and no more (if evidence and evidence alone is to be regarded) that every thing imputed to me by the Attorney-General, “the highly improper expressions,” “provocation,” “demeanor,” “gross assailing,” on my part, so liberally inferred by him, must be resolved.

I will now let the Attorney-General bring his report to a conclusion, and then I have a few observations of my own to make on a point on which neither of the Crown officers of the Province of Nova Scotia have chosen to say anything.

*Report.*

And taking into account still further that Mr. Shiels, though admitted to be irascible, bears and always has borne the character of an honourable and upright and honest man, and, in his magisterial capacity has for many years discharged his duty to the satisfaction of the community, I do not conceive the circumstances of this case such as to render necessary the intervention of the Executive.

(Signed)

ADAMS G. ARCHIBALD.  
*Halifax, Nov. 20, '62.*

*Answer.*

?

¶Received by me, Jany. 17, 1863.

¶The Crown officers of the Province of Nova Scotia have now concluded their several reports, and except that they have alluded to it sufficiently to show that it has not escaped their observation, not one word does there appear relative to my 5th charge.

This charge, at all events, is not of a nature to overtask their discriminating powers under conflicting statements.

In my first printed statement it will be seen how that I profess to set forth a carefully examined and accurate copy of the Record. I beg now to refer to it as it there appears in print. It will be seen that no entry or mention of execution appears there.

Mr. Shiels, alluding to this alleged copy, says, "The eleventh paragraph is not correctly taken from the book, whether from design or mistake, I do not pretend to say—the book can prove it." Then, after a little interlude of vilification and abuse, he proceeds: "It may be true he did not see the entry, he was in such a rage at the time he was looking at it. However, I declare most solemnly that it was there then and is there now, and was written there by me on the day it was issued, viz.: the 23rd day of July, 1862."

In my reply I as solemnly demand the production

Report.

Answer.

of the book, as an easy and conclusive mode of settling the accuracy of our conflicting statements, and then conclude with this:—

5th charge—That if on the production of the Record book of the Court there does appear any entry or mention of execution whatsoever, such entry is a surreptitious and fraudulent insertion.

Now, I ask, has there been any inspection of this book up to this moment? If there has, why, I ask, further, was I not invited to the inspection, or at least informed as to the result? The entry does appear there or it does not. After Mr. Shiels' positive assertion, so easily disproved if not true, I must needs stand in a painful and equivocal position until the question is solved. If the entry does not appear, Mr. Shiels stands AT ONCE convicted of empty false assertion, and I stand exonerated from much of the vilification and abuse which has been so freely heaped upon me, I may now truly say, since I have seen the report of the Crown officers, (I was not so much aware of it when I addressed my letter of appeal to His Grace the Colonial Secretary of State) with something very like the full sanction of the Government, for everything in that Report which can be deemed of the nature of censure, is censure for the impropriety towards itself, and disregard to the dignity of Mr. Shiels' own position; not one word of censure does there appear for the outrage upon me; on the contrary, the tone, as far as I am concerned, is unequivocally that of palliation and excuse.

If the entry does appear there as Mr. Shiels asserts it does, then arises my solemn undertaking to prove it to be a fraudulent insertion. The charge is no trivial one. I believe there is no place within the dominions of the British Crown for the last 200 years in which such a charge brought home to a Judge would not have declared him infamous.

The Attorney-General has done me the honour to make special allusion to me personally,—he alludes to what he is pleased to designate my "personal position." What the precise meaning of this elegant expression may be, I confess myself not very clear about. Possibly the Attorney-General is emulating Mr. Shiels in a refined strain. But if the Attorney-General means my *position in society*, I have no objection to tell him what that is. I am, as he re-

*Report.**Answer.*

presents, of professional education. I hold Her Majesty's commission as Deputy-Lieutenant of an English County. I am also in Her Majesty's commissions of the Peace for three English Counties, in one or other of which for thirty years of my life, and upwards, I have been an acting and active magistrate, and conscientiously can I say (the object of vile scurrility, endorsed as it were, by this Provincial Government, palliated, if not positively justified by the Crown officers of the Province, I may be pardoned this little burst of egotism) have ever yet been true to my own heraldic motto,—“nil conseire sibi,” and have fairly earned in the opinion of all who have ever known me, the augmentation, “sans tache sans peur.” I, it is, who have pitted myself against this stipendiary magistrate of the Province of Nova Scotia to prove that if he has not perpetrated a reckless falsehood, palpable of detection, he has falsified the Records of his Court.

I believed I was supported, possibly by direct testimony, irrespective of my own direct evidence, certainly by collateral circumstances. However controverted statements may task the discriminating powers of the Crown officers of the Province of Nova Scotia beyond their strength, with reference to my other charges, this 5th charge scarcely needed “a Daniel come to judgement.”

The writ of execution itself as an entire and substantive document might, indeed, be a fabrication and no one probably able to detect it, but an interpolation in a fairly written Record, as I saw the contents of this book to be, is no safe or easy matter to attempt: there is interlineation, over crowding of space, possibly erasure, probably perceptible difference in the ink,—particularly in cases where scrutiny is prompt,—all, more or less, probable ingredients of detection; and yet, for aught I know, or can infer to the contrary, not a single step has been taken towards investigation!

His Excellency the Lieutenant-Governor kindly permitted me to withdraw certain expressions which I had inserted in my letter to His Grace the Colonial Secretary of State,—“evade and smother” were the words. I wished to withdraw them, because I felt that they might be considered as used, with reference to the head of the Government, a disrespect that I was incapable of intending, because I believe it would

*Report.*

*Answer.*

be most unjust, for it was the proper and perhaps only course (certainly at first) that His Excellency could adopt, viz. : to refer my charges, as he did, to the law officers of the Crown. I must, however, now take the liberty to resume those expressions, with reference to the Crown officers themselves,—and I do so out of no disrespect to them either.

The imputation of almost any motive would be flattering, rather than the imputations which they would cast upon themselves, viz. : that their reasoning powers are of such infirmity as to induce them to abandon all attempts at investigation of truth, if the facts of a case may happen to be at all in controversy, and that they labour under such obtuseness of moral perception as not to see and feel the judicial turpitude of the conduct that I have laid to the door of Mr. Shiels. I cannot, I will not, infer this. I understand the gentlemen alluded to, to be of high professional reputation and much public estimation generally, in the Province of Nova Scotia. But the miserable politics of the Province are notorious. Party strife, none the less virulent, because there is no distinguishing principle on either side—merely ins and outs. Mr. Shiels boasts, as he calls it, his “service to the state in old,” and I am told that he really has been a serviceable party tool. They were bound to support him.—The work had to be done.—I will only say that I think it might have been done a little more artistically,—for *evasion* has degenerated into *clumsy shuffling*, and *smothering* to *transparent trickery*.

GEO. P. DAWSON.

Dartmouth, N. S., Jan'y. 26, 1863.

