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LOWER-CANADA.

REPORTS and CORRESPONDENCE on the subject  
of the Charges preferred against Mr. *Chisholme*  
and Judge *Fletcher*.

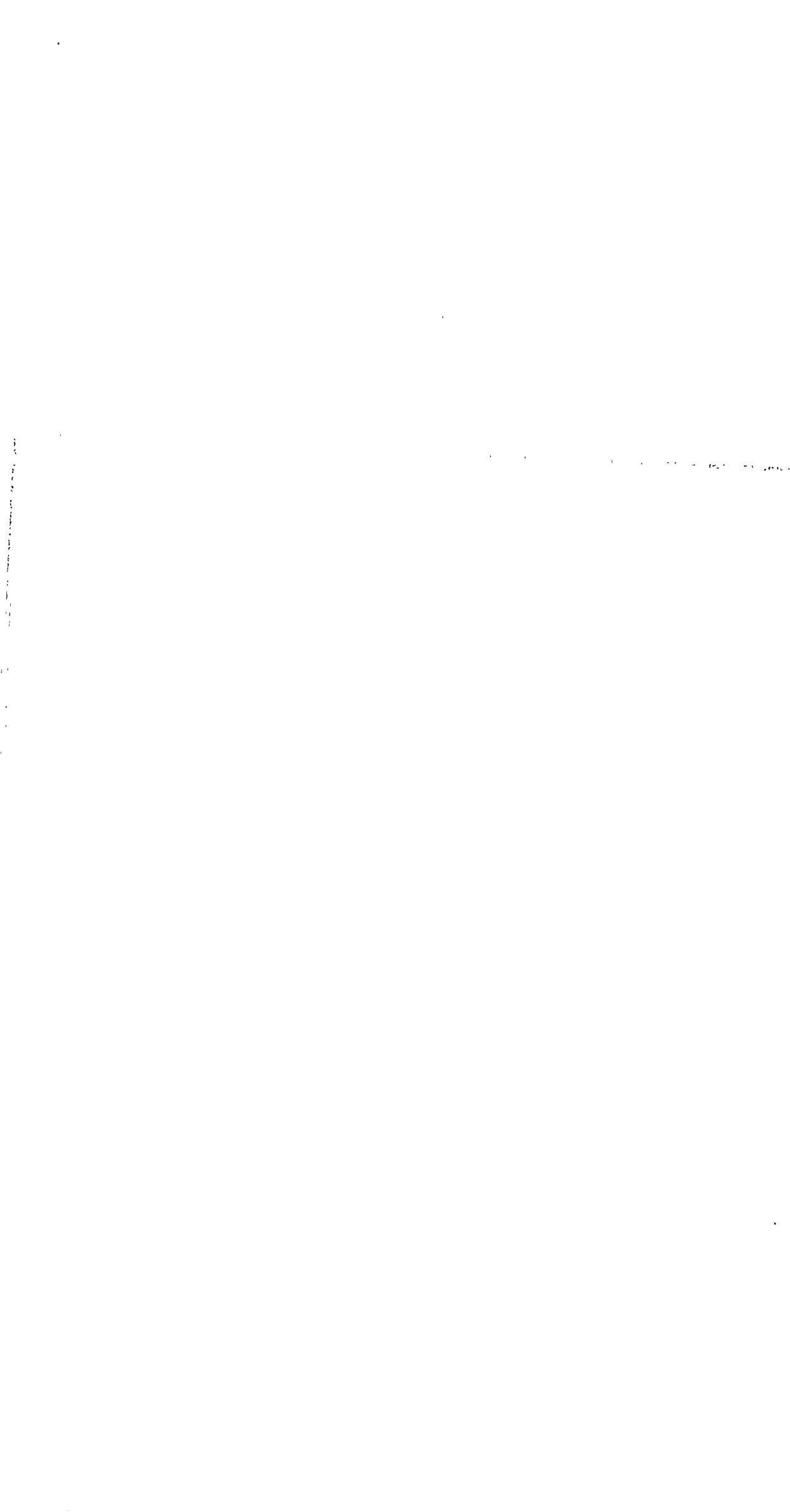
(*Mr. Roebuck.*)

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Ordered, by The House of Commons, to be Printed,  
3 May 1837.

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LOWER CANADA.

RETURN to an ADDRESS from the Honourable The House of Commons,  
dated 16 March 1837;—for,

COPY of a REPORT of a Select Committee of the House of Assembly of  
*Lower Canada*, respecting Mr. *Chisholme*, Clerk of the Peace for Three Rivers,  
and any CORRESPONDENCE between the Earl of *Gosford* and Lord *Glenelg*,  
on the subject of the Charges preferred against Mr. *Chisholme*.

COPY of a REPORT of a Select Committee of the House of Assembly of  
*Lower Canada*, respecting Judge *Fletcher*, and of any CORRESPONDENCE  
between the Earl of *Gosford* and Lord *Glenelg*, on the subject of the Charges  
preferred against that Judge.

Colonial Office, Downing-street, }  
2 May 1837.

G. GREY.

(Mr. Roebuck.)

Ordered, by The House of Commons, to be Printed,  
3 May 1837.



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## SCHEDULES.

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### CHARGES AGAINST MR. CHISHOLME.

- No. 1.—Copy of a Despatch from the Earl of Gosford to Lord Glenelg, dated Government-House, Montreal, 12 August 1836.—(Four Enclosures) - - - - - p. 1
- No. 2.—Copy of a Despatch from Lord Glenelg to the Earl of Gosford, dated Downing-street, 29 November 1836 - - - - - p. 60
- No. 3.—Copy of a Despatch from the Earl of Gosford to Lord Glenelg, dated Castle of St. Lewis, Quebec, 31 October 1836.—(Twelve Enclosures) - - - - - p. 63
- No. 4.—Copy of a Despatch from Lord Glenelg to the Earl of Gosford, dated Downing-street, 8 December 1836 - - - - - p. 79
- 

### CHARGES AGAINST JUDGE FLETCHER.

- No. 1.—Copy of a Despatch from the Earl of Gosford to Lord Glenelg, dated Government-House, Montreal, 9 July 1836.—(Six Enclosures) - - - - - p. 80
- No. 2.—Copy of a Despatch from Lord Glenelg to the Earl of Gosford, dated Downing-street, 22 August 1836 - - - - - p. 102
- No. 3.—Copy of a Letter from Lord Glenelg to the Lord President of the Council, dated Downing-street, 27 August 1836 - - - - - p. 103
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CHARGES AGAINST MR. CHISHOLME.

COPY of a REPORT of a Select Committee of the House of Assembly of *Lower Canada* respecting Mr. *Chisholme*, Clerk of the Peace for Three Rivers, and any Correspondence between the Earl of *Gosford* and Lord *Glenelg*, on the subject of the Charges preferred against Mr. *Chisholme*.

SCHEDULE.

- No. 1.—Copy of a Despatch from the Earl of Gosford to Lord Glenelg, dated Government-House, Montreal, 12 August 1836.—(Four Enclosures) - - - - - p. 1
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— No. 1. —

COPY of a DESPATCH from the Earl of *Gosford* to Lord *Glenelg*.

My Lord, Government House, Montreal, 12 August 1836.

THE House of Assembly having in its last Session addressed me for the removal of Mr. Chisholme from his office of clerk of the peace for the district of Three Rivers, and of all other places of confidence in the province, I deem it advisable to pursue the same course in this instance that I have adopted with regard to several other of the public officers who have been accused by the Assembly, and to transmit for your Lordship's consideration all the information and documents in my possession connected with this case. The documents are, the Address of the House, my Answer thereto, the Third Report of the Special Committee appointed to inquire concerning Fees and Emoluments received by the Sheriffs and other Officers connected with the Civil and Criminal Courts of Judicature in this Province, with the Evidence on which it is founded, and the Defence of Mr. Chisholme, with the several documents (4 in number) which accompanied it.

The accusation against Mr. Chisholme is that he has been in the habit of framing indictments on verbal information only, and on depositions which do not contain facts to substantiate the crimes forming the subject of the prosecution, whereby, and with the sordid and corrupt view of increasing his emoluments, he has been guilty of oppression towards the subjects of His Majesty, and of fraud towards his government in this province, and of high misdemeanors and malversation in his office.

It is stated in the report of the committee, which was concurred in by the House, that Mr. Chisholme was appointed clerk of the peace for the district of Three Rivers in the month of November 1826; that since that time about one-fifth at least of the indictments presented to the grand jury of the court of quarter sessions for the district have been framed by him on verbal and unsworn information; and that for some years past indictments for common assaults have, in almost all

Correspondence  
respecting  
Mr. Chisholme.

Enclosure, No. 1.  
Enclosure, No. 2.  
Enclosure, No. 3.

Enclosure, No. 4.  
(A), (B), (C), (D).

Correspondence  
respecting  
Mr. Chisholme.

instances, contained two counts, one for simple assault, and the other for an assault with intent to murder; whilst previously, indictments containing the latter count were of very rare occurrence; and the committee attribute this practice, namely, the insertion of the latter count, to a corrupt desire on the part of Mr. Chisholme to increase his emoluments, inasmuch as on each indictment for a crime, other than a simple assault, the clerk of the peace receives 6 s. 8 d. from government, and an additional 13 s. 4 d. when the trial takes place, besides fees on subpoenas and bench warrants; and they urge in support of these charges, that in the five years which preceded 1831, there were only five indictments preferred for assault and battery with intent to murder; while for the last five years, out of 89 indictments submitted to the grand jury, all but five contained a count to that effect; and further, that only six persons were found guilty of the crime as laid in the indictment.

It will be unnecessary for me to go into the details of Mr. Chisholme's defence, or to do more than to state one or two of the most prominent points in it.

He has transmitted for my information, as part of his defence, a list (marked A.) certified upon oath by the compiler (Mr. Fearon, the interpreter of the criminal court at Three Rivers) of all indictments that since his appointment in November 1826, have been laid before the grand jury of the quarter sessions for the district. The whole number from that time, a period of nine years, he states to be 538, of which only 83 can be discovered to have been drawn without previous information in writing under oath. That in 70 out of the 83 excepted cases, the grand jury found true bills, and that the remaining 13 indictments were preferred at the suit of constables and other public officers, whom he conceives entitled to at least such a degree of credit as would justify the preferring a bill of indictment without the previous ceremony of taking down the information in the shape of written depositions; and he further states, that in laying indictments before the grand jury without observing such preliminary ceremony, he saved the province 1 l. on each case, diminishing, at the same time, his own emoluments.

To rebut a statement in the report of the committee, that, of the indictments framed on unsworn verbal information, few have been followed by convictions, Mr. Chisholme refers again to the certified list (A.), from which it appears that at least 30 convictions have ensued on indictments thus framed, being nearly one-half of the true bills found by the grand jury; and he adds, that as compared with the number of convictions on indictments framed on written information, this is in the proportion of at least five to one. In another part of his defence he calls my attention to a clerical or typographical error in that portion of his evidence before the special committee, which states that he did not think it was consonant with law to prefer indictments upon verbal information, whereas his answer, as he alleges, was, "that he did not know that it was consonant," &c.

I felt it right to place all the documents connected with the accusation and defence of Mr. Chisholme before the Attorney and Solicitor-general of the province, in order to ascertain whether any part of the charges of the Assembly against that gentleman involved matter cognizable by a court of law; but the law officers of the Crown have reported that there is no law point arising in the case upon which they could offer any advice. In these circumstances I have caused Mr. Chisholme to be informed that I should reserve the matter for the decision of His Majesty's Government, and refer all the proceedings to the Secretary of State for the Colonies. He therefore continues to perform the duties of clerk of the peace and coroner for the district of Three Rivers, subject to the expression of His Majesty's pleasure.

I have, &c.  
(signed) Gosford.

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Enclosures in No. 1.

Enclosure 1, in No. 1.

House of Assembly, Saturday, 20th February 1836.

RESOLVED, That David Chisholme, esq., clerk of the peace for the district of Three Rivers, by persisting for many years last past in framing indictments on verbal information, and on depositions which do not contain facts to substantiate the crimes which formed the subject of the prosecution, has been guilty of oppression towards the subjects of His Majesty, of fraud towards his Government in this province, and of high misdemeanors and malversation in his office, and that with the sordid and corrupt view of increasing his emoluments.

Resolved,



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.

Correspondence  
respecting  
Mr. Chisholme.

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.

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 attorneys, 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.

#### 4 LOWER CANADA:—CORRESPONDENCE RESPECTING

Correspondence  
respecting  
Mr. Chisholme.

Your Committee have, moreover, to express their surprise, that the inferior officers of the court of quarter sessions at Three Rivers, since the accession of Mr. Chisholme to office, have acted the part of spies and informers, and that they have thus secretly, and without any responsibility on their part, caused many innocent persons to be wrongfully accused.

It also appears that, for some years past, and particularly for the last five years, indictments for assault and battery have, in almost all instances, contained a count for an assault and battery with an intent to murder, and that, previously, indictments containing such a count were of very rare occurrence.

This circumstance giving necessarily reason to suppose that the brawls and disputes which have occurred of latter years, in the district of Three Rivers, have been nearly all marked with a degree of ferocity, which the intent to commit the atrocious crime of murder must suppose, could not but particularly arrest the attention of your Committee. Unless otherwise explained, such a circumstance would induce your Honourable House, and the province in general, to come to the conclusion, that the mild and peaceable habits which happily form the character of the inhabitants of Lower Canada, and of the district of Three Rivers in particular, have, in that district, almost instantaneously been changed for the worse, to the alarming degree that, with few exceptions, every quarrel, generally of such petty consequence in the other sections of the province, has been there, for several years past, attended with violence and a thirst for blood.

Your Committee, however, after examining the depositions upon which the indictments which have been laid before the grand jury have been framed, and the other documents produced to your Committee, see nothing to authorize the supposition, that the broils which have arisen in the district of Three Rivers are at all different from those which occur elsewhere in the province.

Your Committee beg to refer, in this respect, to that part of the testimony of Mr. Chisholme in which he owns, that many depositions which he has produced contain nothing to render him justifiable in having framed thereon indictments for assault and battery with an intent to murder. It is proper to remark to your Honourable House, that Mr. Chisholme has given, as his justification for having done so, that, independent of the facts as stated in these depositions, he probably received verbal information upon which he framed such indictments.

Your Committee refer also your Honourable House to the evidence of the Attorney-general of the province, and of such of the clerks of the peace who were examined on the subject. They declare that they would not consider themselves justifiable in framing indictments for assault and battery with an intent to murder, on depositions complaining of a simple assault and battery, or on verbal information of facts not stated in depositions submitted to them.

Your Committee find that many of the depositions produced by Mr. Chisholme contain the assertion, that the lives of the persons who made them were in danger, although the facts stated in the depositions authorise, in very few of the cases, such assertions. To explain this circumstance, it suffices perhaps to remark, that the greater part of these persons did not understand the language in which the depositions are written, Mr. Chisholme not being sufficiently acquainted with the French language to prepare in that, the depositions which he is in the habit of receiving.

In the five years which preceded the year 1831, there were only five indictments in all for assault and battery with an intent to murder, while your Committee find that, of 89 indictments submitted to the grand jury for the last five years, 84 have contained the count that the offence has been committed with the intent to murder. Of this number but six persons have been found guilty of the crime as laid in the indictment.

Many of the persons accused have not taken their trial when the indictment has been reduced by the finding of the grand jury to simple assault. The reason given by Mr. Chisholme is, that in these cases he does not proceed to trial unless his fees on the proceedings, subsequent to the finding of the bills, are assured to him by the private prosecutor; and he added, that in many cases the latter had paid him such fees. Your Committee having directed him to lay before them a list of such cases; he undertook so to do. This order not being complied with, your Committee were under the necessity of directing him to come down from Three Rivers a second time. Mr. Chisholme, on his second examination, stated that he could not produce the list demanded, because he was never paid any fees by the private prosecutor. Being asked how he explained the contradiction between this statement and his remarks on the former occasion, he was not able to do so in a satisfactory manner, and has thus, in the opinion of your Committee, been guilty of a manifest contradiction, and of a wilful misrepresentation of facts.

Your Committee have also found that, up to the year 1829, indictments for assault and battery, and proceedings thereon, formed part of the sentence pronounced against defendants when found guilty. A period was put to this practice by decisions of the court of King's Bench, condemning the clerk of the peace and the other officers of the court of quarter sessions to pay back these costs. It is this circumstance which, in the opinion of your Committee, explains the progressive decrease, from that time, of the indictments for assault and battery, for which the clerk of the peace has been since paid by the private prosecutor, and the progressive increase of indictments for assault and battery with an intent to murder, on which the clerk of the peace is paid by Government.

On each indictment for a crime other than simple assault, the clerk of the peace receives 6s. 8d. from Government, and 13s. 4d. more when the trial takes place, besides fees on subpoenas and bench warrants. This circumstance forms the explanation of the whole system which has been acted upon by Mr. Chisholme since his accession to office. He has, in  
the

the opinion of your Committee, for the sordid and corrupt motives of lucre and gain, harassed and vexed the faithful subjects of His Majesty, and has unjustly exposed them to the expense, shame and disgrace attendant upon criminal prosecutions. In consequence, your Committee have deemed it necessary to accompany the present Report with the following resolutions:

Correspondence  
respecting  
Mr. Chisholme.

1. Resolved, That it is the opinion of this Committee, that David Chisholme, esq., clerk of the peace for the district of Three Rivers, by persisting, for many years last past, in framing indictments on verbal information, and on depositions which do not contain facts to substantiate the crimes which formed the subject of the prosecution, has been guilty of oppression towards the subjects of His Majesty, of fraud towards His Government in this province, and of high misdemeanors and malversation in his office, and that with the sordid and corrupt view of increasing his emoluments.

2. Resolved, That it is the opinion of this Committee, that by this 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.

3. Resolved, That it is the opinion of this Committee, that for the reasons above mentioned 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.

The whole nevertheless humbly submitted.

22 January 1836.

(signed) *Edward Barnard*, Chairman.

### MINUTES OF EVIDENCE.

Wednesday, 9th December 1835.—LOUIS HYPOHITE LAFONTAINE, Esq., in the Chair.

*David Chisholme*, Esq., called in; and Examined.

1. Are you not the clerk of the peace for the district of Three Rivers, and when were you appointed?—I am, and was appointed the 11th November 1826.

2. Please state what are the duties of the clerk of the peace?—My duty is to attend at the peace-office, and to perform all police services therein, and to attend as the clerk of the weekly and quarter sessions of the peace.

3. Do you receive any and what salary as such clerk of the peace?—I do not; my emoluments are derived from fees established by a tariff made by the justices of the peace in general quarter sessions of the peace, and by another tariff, made, as I understand, by the executive, both which tariffs I produce. I also produce the tariff regulating the fees of the grand voyer, made by the said justices of the peace.

4. In virtue of what authority are established the tariff or tariffs made by the magistrates?—The tariff for the clerk of the peace and attorneys, constables and criers, is made in virtue of the Act of the provincial legislature, 41 Geo. 3, c. 7. I am not aware by what authority the said tariff made by the executive was made.

5. Do the fees established by such tariffs extend to the duties and acts done out of the courts of quarter sessions and of the peace?—The fees established by such tariffs are applied to my duties as clerk of the peace, performed both in the peace-office and in the sessions of the peace.

6. Since you have been in office have you claimed and received the fees established by the tariff which you conceive was made by the executive government?—I have charged them to the executive government.

7. Have you not received fees from individuals under the said tariff?—Never; that tariff applies only to criminal prosecutions instituted on the part of the Crown, such as larceny and petit larceny, and all cases of misdemeanors, except simple assaults and batteries.

8. Does that tariff apply to proceedings for simple assault and batteries?—It does not.

9. What is the average annual amount of fees for services done out of the courts since you have held the said situation?—The average may amount to about 60*l.* per annum for services performed out of the sessions, and I produce a statement showing the amount for the last four years; but I have not kept copies of the detailed accounts to which that statement refers.

10. What fees do you receive on certificates for licences, and in virtue of what authority?—I produce a statement showing the number of such certificates and the amount of such fees, and I receive them in virtue of the said tariff made by the justices of the peace.

11. Does that statement include fees on licences for ferries and pedlars?—Yes.

12. What fee do you charge and receive on certificates granted to tavern-keepers, when they have given security to enable them to have their licences?—I receive 3*s.* 6*d.*

13. Are you not aware that by the sixth clause of 35 Geo. 3, c. 8, the clerk of the peace is not entitled to more than 2*s.* 6*d.* for granting the said certificate to tavern-keepers?—I am not; I took the fees that my predecessor took for the certificates, on the authority of the said tariff made by the justices of the peace.

14. Are there any cases in which you receive other fees than the said sum of 3*s.* 6*d.* on licences

Correspondence  
respecting  
Mr. Chisholme.

licences for ferries and pedlars, or other persons, and please detail such cases and fees?—When pedlars and ferrymen make applications for a licence, they pay a fee of 7s. 6d. for each application, and the former pay 1s. for the fee for administering the oath of allegiance on their being first licensed.

15. Is it voluntary on the part of persons wishing to obtain such licence to dispense with making such application, and can he get such licence without making such application?—Ferrymen can, but not pedlars. I have been instructed by the provincial secretary to issue licences to ferrymen whenever applied for.

16. Do you conceive that the persons who apply for licences as ferrymen are aware that there is no necessity for making such application?—I believe they are.

17. Do not persons obtaining licences for ferries pay you fees for tariffs with which you furnish them?—Yes, they do when they first get their licences. By an Ordinance, the justices of the peace are authorized to make rules and regulations with respect to ferrymen; and in the rules made by the justices of Three Rivers there is one which authorizes the clerk of the peace to receive a fee of 10s. or 10s. 6d. for each copy of such rules and regulations. In these rules and regulations are included the tariff which both the ferryman and myself receive.

18. Does the person obtaining such licence pay you for more than one copy of such rules and regulations, including such tariff?—No.

19. Not when they obtain a licence to ferry over both sides of the river?—In that case they take two licences.

20. When they take two licences, do they pay you the fees on each?—They do.

21. In what case is the same person forced to take two licences?—There are no cases in which the same person is compelled to take two licences, his doing so being optional; but he runs the risk of being prosecuted, if he has not two.

22. Could you state what law makes him liable to prosecution, if he has not two licences?—There is a rule made by the justices of the peace on this subject, but I do not recollect the terms of it. I will furnish the committee with a copy.

23. Has the custom of the same person taking two licences prevailed since your accession to office, and did it prevail before?—In very few instances since my accession to office; and the rule with regard to ferrymen will show when the system commenced.

24. Do tavern-keepers ever pay you any other fee than the said sum of 3s. 6d. on their obtaining a licence?—When they get their licence for the first time, they pay 1s. for administering to them the oath of allegiance. The tavern-keepers in town, before they obtain a licence for the first time, are obliged to make an application for the same to the justices, for which they pay me a fee of 7s. 6d.

25. Do they renew this application every year?—No.

26. What law imposes the obligation of making such an application?—I cannot say.

27. How do you then account for their making such an application, there being no law which to your knowledge renders such an application necessary?—When an application is made, it is given to me for the purpose of being laid before the justice of the peace.

28. Do you conceive that if a person in town applied verbally for a licence, it would be refused him, unless he produced a written application?—It would.

29. Do you receive fees when tavern-keepers in the country give security before the magistrates there; if so, for what services do you receive such fees, and in virtue of what authority?—For the certificates only; when such security is given, the bond is returned to me, and I certify that the tavern-keeper is duly licensed, for which certificate I receive 3s. 6d.

30. When a warrant is issued to arrest a person for a misdemeanor, who pays for the taking of the deposition and of the warrant?—In every case, except in simple assault and battery, by the government.

31. In cases of assault and battery, who pays for such deposition and warrant?—The party applying for them.

32. Are the sums so paid by the person applying for them reimbursed, if the complaint be well founded?—No, whether the complaint is well or ill founded.

33. Is not the necessity of a person assaulted paying for the deposition and warrant calculated to prevent persons, more particularly needy persons, from obtaining justice?—I think it is, and almost daily such persons do not receive justice.

34. When the deposition and warrant are drawn by a magistrate, do you receive any fees?—No.

35. Is it to your knowledge that the magistrates refuse to take depositions or grant warrants, and thereby oblige the person complaining to apply to you for the taking of such deposition and preparing such warrant?—Yes, often.

36. Do you draw up in your office depositions and other documents to be submitted to the court, in English, even when such depositions are made by persons only speaking the French language?—Frequently.

37. How is it possible in such case for the person making the deposition to be able to swear to its contents?—It is translated to them by the justice of the peace.

38. What is the reason why the deposition is not in such case rather drawn up in French?—Because I am not a very good French scholar.

39. Do you make any difference in your charges between certificates granted to tavern-keepers residing in the town and to those residing in the country?—No.

40. What is the annual amount of all fees and perquisites by you received, as clerk of the peace, for the last five years?—I produce the statements, Nos. 1, 3, 7, 8 and 9, which form an answer to this question.

41. Do you employ any and what clerks in your office?—I occasionally employ a clerk.

42. What

42. What salary do you give him?—In the course of the year the clerk costs me about 30*l*.

43. Do you also receive, as clerk of the peace, fees for other public officers, and for whom?—I refer to and produce the statements, Nos. 10 and 11; the fees therein mentioned are received by me, and accounted for to the high constable and the crier.

44. What may be the annual income received by the high constable and crier, as such, either in the shape of fees or otherwise?—I cannot say.

45. What is the name of such crier, and by whom is he appointed?—The name of the crier is Antoine Hamel, the younger, and was appointed by the court of general quarter sessions.

46. How often does the court of weekly sessions sit at Three Rivers?—Only 19 times since January last.

47. Is it to your knowledge that there is often no court, even on the days when there is business to come on, and what is the reason?—It is, and the reason is because the magistrates do not attend.

48. Is any inconvenience the result, and what?—It is a very great inconvenience; and the parties are exposed to costs and trouble without redress.

49. Is it usual for you, in drawing up indictments for assault and battery, to insert a count that it has been committed with an intent to murder?—When it is mentioned in the deposition.

50. How many depositions since the last five years have been made for assault and battery, without stating that it has been committed with an intent to murder?—I cannot say.

Tuesday, 10th December 1835.

*David Chisholme*, Esq., again called in; and Examined.

51. Please produce a list of indictments presented to the grand jury of the court of quarter sessions for the last 10 years?—I now produce it, No. 4.

52. Does that list distinguish, as to indictments for assault and battery, those brought for assault and battery with an intent to murder?—It does.

53. The Committee remark, that since the year 1831, indictments for assault and battery have been seldom brought, and that indictments for assault and battery with an intent to murder, have been frequent; how do you account for this circumstance?—I cannot account for it otherwise than is done by the depositions made by the complaining parties, and other verbal information given to me by the high constable, a petty constable, or some other person of credit.

54. To whom was that information given, and was it verbal or written, but not under oath?—The information was given to me verbally, but not under oath.

55. Since when have you been in the habit of drawing up indictments for assault and battery, with intent to murder, on such information?—Ever since I came into office, so far as I can recollect.

56. Was such the practice before?—I presume it was.

57. Could you state to the committee upon what you ground this belief?—From my having followed the practice, and having a clerk who was in the employment of my predecessors.

58. You state then that such was the practice before your accession to office?—I presume it was.

59. Have you any other reason for presuming so, than the information in this respect which you obtained from such clerk?—I do not recollect at present.

60. What is the name of the clerk of whom you have just spoken?—John Campbell Fearon.

61. Does he hold any office under government, and which?—He is interpreter to the court of general quarter sessions of the peace.

62. Did you ever receive from him verbal information upon which you caused such indictments to be laid before the grand jury, and how often?—I frequently have, but how often I cannot say.

63. Is it to your knowledge that he acts as interpreter to the grand jury in their private sittings, and how long has he so done?—Since the passing of the last Jury Act; and he did so by order of the court of quarter sessions.

64. Would you be inclined to think it is possible from his acting as such interpreter, that he might feel a bias on indictments drawn up from information which he had previously and verbally given you?—He was not in my constant employment when he attended the grand jury, and I cannot say, though I should feel inclined to think the contrary.

65. Do you think that the preferring of indictments for assault and battery with an intent to murder, on verbal information not upon oath, is consonant to law?—I do not think that it is; but the finding of the bills of indictment is the act of the grand jury.

66. Please state the names of the other persons who have been in the habit of giving you verbal information not under oath, upon which such indictments have been preferred?—I cannot at present state the names of any one, except those already mentioned.

67. Could you at another time state the names of such persons?—I am almost sure I could not.

68. What is the name of the high constable, and how often has he given you such information?—The name of the high constable is Philip Burnes; but how often he gave me such information I cannot say.

69. Have you any means of ascertaining how often and in what cases such information was given you, and by whom?—I have not.

Correspondence  
respecting  
Mr. Chisholme.

70. Please state the names of such petty constables from whom you obtained such information, and how often each and which of them gave you such information?—I have not a list of them with me; and if I had I do not think I could point them out.

71. Were such persons from whom you obtained such information examined before the grand and petty jurors, as witnesses on the part of the Crown?—I really cannot say. I uniformly put the names of the witnesses on the back of the indictments, and these witnesses are sworn by the grand jury.

72. Were the names of such persons giving you such information put on the back of the indictment as witnesses for the Crown?—I really cannot say, but it is probable that they were.

73. Can you say whether "true bills" were generally found by the grand jury on indictments preferred upon such information?—I cannot say without referring to the bills themselves.

74. When "true bills" were so found, can you say whether convictions for assault and battery, with an intent to murder, generally ensued?—Sometimes, but seldom.

75. Is it not of rare occurrence that convictions take place for assault and battery with an intent to murder?—It is. I generally put two counts in such indictments; and it almost uniformly happens that a conviction ensues for a simple assault.

76. Out of a given number of indictments for assault and battery with an intent to murder, say 50, how many "true bills" should you say are found, not only for a simple assault, but for the crime as laid in the indictments?—I should think two-thirds, though I cannot be positive.

77. Out of the two-thirds of such bills, making, say 34, about how many convictions for the crime as laid in the indictment ensue?—Perhaps not one.

78. Do you conceive that it is in the view of furthering the ends of justice, that the persons to whom you have referred as being in the habit of giving you such verbal information, are actuated in doing so, or can you imagine any other less pure motive?—I do not know what their motives may be; but I know that my own, in receiving such information, are for furthering the ends of justice, to the best of my ability.

79. Are such persons, to your knowledge, either directly or indirectly, interested in giving such information?—They must be either the one or the other, except the high constable.

80. Please state what interest you conceive may actuate them?—The attainment of justice and redress.

81. Do they either directly or indirectly, to your knowledge, obtain fees or rewards in any shape whatever, from giving such information?—They do not to my knowledge.

82. When you speak of the petty constables as having given you such information, do you mean to say they have all, more or less, been in the habit of doing so?—They have.

83. Since what time?—Some time back; perhaps six years.

84. Who pays for indictments and proceedings thereon for simple assault and battery?—The private prosecutor.

85. Are the costs so by him paid to you, reimbursed to him by the defendant if convicted?—Not to my knowledge.

86. Were they formerly reimbursed to him, and when did that practice cease?—I never knew that the practice existed.

87. Was not the defendant, when convicted, condemned formerly to the costs of the prosecution?—Yes.

88. When did that practice cease, and what put an end to it?—It ceased some years ago, in consequence of the officers receiving such costs being sued in the civil courts, and condemned to refund them.

89. What was the average amount of costs to which a defendant, when convicted for assault and battery, was formerly condemned to pay?—About 3*l*.

90. Who pays for indictments and proceedings thereon for assault and battery with an intent to murder?—The government.

91. What is the amount of fees paid to you by government on each indictment for the said crimes, when the bill is not found?—Six shillings and eight pence.

92. When found?—When found, and the trial ensues, 13*s*. 4*d*.

93. Do these fees include every charge made against government, relating to all proceedings to which the indictment gives rise?—No, there are fees allowed upon subpoenas and bench warrants; upon every original of the former, 3*s*.; upon every copy, 1*s*.; and upon the latter, 5*s*.

94. What is the average amount paid by government on an indictment and proceedings thereon, to and including the trial?—I should say about 20*s*.

95. The committee beg to call again your attention to your answer to the 53d question. Do you not suppose that the complaining parties who gave their depositions under oath, may have been induced to represent their cases as being aggravated ones, and that the assaults have been committed with an intent to murder, in order not to pay themselves your fees, but that they might be charged to government?—Yes, I should think they might.

96. Do you believe they were aware that in doing so they were liable to be accused of perjury?—I do not know, indeed.

97. You said yesterday, that you were in the habit of drawing up depositions in English, even when the party complaining only understands French; does this answer apply to depositions to which the two last questions refer?—I cannot say.

98. Have any depositions, upon which indictments have been preferred for assault and battery with an intent to murder, been drawn up by you in French, even when the party complaining

complaining only understood the latter language?—Not by me; but this has been sometimes the case when the depositions were drawn by the justices.

99. Does the latter part of your answer apply to the town or country; you stated magistrates in town seldom draw up depositions?—Principally in the country.

Correspondence  
respecting  
Mr. Chisholme.

Friday, 11 December 1835.

*David Chisholme, Esq., again called in; and Examined.*

100. Indictments for assault and battery with an intent to murder, having been preferred on verbal information, in what way could the person accused falsely cause the individual giving such verbal information to be indicted for perjury, no written deposition remaining in your office on record?—I do not know, but I conceive, that as public prosecutor, I have not only the right, but it is my duty to lay bills before the grand jury, for any offence cognizable in the court of quarter sessions, whenever information is given to me either verbally or written.

101. You said yesterday, you could not then recollect whether you had any other reason for presuming that it was the practice of your predecessor in office to prefer indictments for assault and battery with an intent to murder, on verbal information not under oath, than the information you said you had received from your clerk; have you anything else to add to-day to your answer in this respect?—I have not; but I am not quite positive whether such information was directly given to me by my clerk, or that he, in the performance of the duties of my office, followed the practice of my predecessors.

102. Please examine the deposition of Jean Baptiste Gauthier, of the 8th day of June last, and say what part of the said deposition seems to you to be of a nature to have authorized you to frame thereon an indictment for assault and battery with an intent to murder?—No part; but it is probable some verbal information may have reached me through the witnesses marked on the back of the deposition.

103. Does the answer to the last question apply to the deposition of Catherine Taylor, of the 16th February 1832, upon which it appears by the list No. 4, by you furnished to the committee, that an indictment was framed for an assault with an intent to murder?—Yes; and if I recollect well, the defendant was convicted for an assault with an intent to murder; but I am far from being positive with respect to the latter.

104. Does the same answer apply to the depositions of Joseph Gignac, of the 9th day of January 1833; of Louis Perrault, of the 13th September 1831; of Edward McCabe, of the 26th January 1833; of Joseph Rondeau, of the 1st April of the same year; of William Henry Vallières de St. Réal, of the 2d December of the same year; of Hilarie Richard, of the 30th March 1834; of Charles O. Boudreau, of the 19th July of the same year; of Thomas Thibaudeau, of the 27th September of the same year, and of Ezekiel Hart, of the 8th day of June last; upon all which depositions, it appears by the said list that indictments for assault and battery, with an intent to murder, were framed by you, and presented to the grand jury in the quarter sessions?—Yes; but I think proper to state, that unless the grand jury found the bills of indictment true, with respect to the count for an assault with an intent to murder, I did not proceed to trial without the authority of the private prosecutors, who then became responsible for the costs in prosecuting to conviction on the count of simple assault.

105. Were the cases to which you refer, paid to you by the private prosecutors?—In many cases.

106. Can you detail the cases in which those costs were paid to you?—I cannot at present.

107. Could you at a future day, and when?—I shall endeavour to do so as soon as possible.

108. Have you any way of ascertaining on how many of the indictments mentioned in the three last questions, you received verbal information, upon which you inserted the count for an assault and battery with an intent to murder?—No, I have not.

109. Could you say whether true bills were found on any of the indictments framed on the foregoing depositions, and on which?—I cannot at present.

110. How many convictions for the crime, as laid in these indictments, ensued?—I cannot say at present.

111. Please detail the cases for which you are paid by government?—I have already said that I am paid by the executive government for all cases of felonies and misdemeanors, except for cases of simple assault and battery.

112. Did you receive from government, since your accession to office, orders not to charge to it indictments and proceedings thereon, which previously it had been in the habit of paying?—No, I did not.

113. Could you forward to the committee copies of all instructions received by you or your predecessors in office, from government, respecting the fees to be charged to it by the clerk of the peace, or respecting other duties of the said office, or regulating the same?—I shall do so as soon as possible.

114. Do any of these instructions relate to indictments before the quarter sessions?—They do.

115. In what particulars?—I cannot give the particulars; but they will be found to be contained in the copies which I shall transmit to the committee.

116. What are generally, and on an average, the expenses attending a suit at the court of

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weekly sessions?—About 30*s.* in all; 15*s.* of which may be payable to the clerk of the peace, and the rest to the attorney, constables and the crier.

117. What is the amount of the fines imposed by the weekly court for violations of the police regulations?—The highest 5*l.*, the lowest 5*s.*, and there is no difference in the amount of the fees.

118. Do you conceive that the late statutes imposing additional duties on tavern-keepers, impose also new duties on the clerks of the peace in each district?—They do not.

119. When a tavern-keeper gives his bail before a country magistrate, according to the late statutes, are not your duties lessened?—Very much.

120. How many offices do you enjoy, and what is the aggregate amount of salaries or fees derived from those offices?—Clerk of the peace and coroner; what the aggregate amount of fees may be, I cannot at present state. As coroner, I have a salary of 50*l.*

121. The committee remark, from the statement No. 7, by you produced, that in the year 1831 you do not state the amount of the accounts for police services charged to government, what is the reason of the omission?—I could not find it before I came from home; but I shall diligently search for and produce it to the committee.

122. How do you account for the progressive increase since the year 1830, of the accounts for police services; are crimes on the increase in the district?—I think they are, and that accounts for the increase in the amount.

123. Have any persons to your knowledge guilty of trespass been prosecuted for felony before the court of quarter sessions, and tried for stealing property, either purchased or found, and without any circumstances rendering the accused suspicious, and were not those persons of good character and reputation?—Not that I remember.

124. Do your remarks respecting indictments for assault and battery with an intent to murder, framed on verbal information, apply to indictments for larceny, nuisance, riots, affrays and other crimes of the competence of the quarter sessions?—They do.

125. Out of a given number of indictments which have been preferred for the last five years, say 50, how many should you say have been drawn up from verbal information not under oath?—I really cannot say.

126. Would you say one-third, or more?—Not so much; it is impossible for me to say.

127. Would you say that out of 50, there have been at least 10 so framed on verbal information?—I would.

128. In reference to your answer to the 104th question, it would appear that the reason which induces you to insert the two counts in the indictment, when, in the deposition under oath, there is no mention made of the assault and battery having been committed with the intent to murder, is to see whether you will take any further proceedings or not, and to assure to yourself the payment of your fees from government, since when the grand jury bring in a "true bill" for a simple assault and battery only, you do not proceed without the authority of the private prosecutor, and his becoming responsible for the costs; is this the case?—My only object is the discharge of my duty, to the best of my knowledge and ability, and not for the sake of the fees; and I charge only 6*s.* 8*d.* to government, after the bill is thrown out for the count for the assault with intent to murder; but it frequently happens that the private prosecutor does not proceed on the count for simple assault.

129. Do you intend to say that the bill, not being found by the grand jury for the assault and battery with the intent to murder, you do not proceed to the trial unless the private prosecutor assures you of your fees on the proceedings subsequent to the finding of the bill?—I frequently proceed to the trial whether the private prosecutor assures me of the fees or not.

130. What becomes of a bill of indictment in which the two counts are inserted, when the grand jury throws out the count for the assault and battery having been committed with an intent to murder, but finds the bill on the other count only, when the private prosecutor refuses to pay you or give you any assurance for your fees on the subsequent proceedings?—In almost all cases I proceed to trial, and in some I do not.

131. In how many cases, since the last five years, have you not proceeded to trial under these circumstances?—I cannot say.

132. You have no fee to claim from the government when the bill of indictment is for mere assault and battery?—I have not.

133. When the deposition is for a simple assault and battery only, do you not consider that you go beyond the complaint when you prefer an indictment for assault and battery with an intent to murder?—That may be the case, but I make myself the judge of the bill to be laid before the grand jury.

Ordered, that Mr. Chisholme do transmit to this Committee, on or before the 18th instant,

1.—Rules and regulations concerning ferrymen, and also the rules obliging ferrymen to take two copies of such rules in certain cases.

2.—List of all indictments for assault and battery with an intent to murder, for the last five years, stating whether the bill was found or not, whether a trial was or was not had thereon, and for what reason the trial did not take place, and if found, whether a conviction ensued, and whether it was for a simple assault, or an assault with an intent to murder, and the amount of fees paid by or charged to government on such indictments, and on all proceedings relating to or incidental thereto.

3.—Copies of depositions of, No. 214, Catherine Defossés, 8th March 1831; No. 186, Louis Perrault, 15th September 1831; No. 289, Catherine Taylor, 16th February 1832; No. 1, Josephé Gignac, 9th January 1833; No. 20, Edward McCabe, 26th January 1833; No. 13, Joseph Rondeau, 1st April 1833; No. 107, W. Henry Vallières de St. Réal,

21st December



21st December 1833; No. 138, Hilarie Richard, 30th March 1834; No. 164, Charles O. Boudreau, 19th July 1834; No. 193, David Thibeau, 27th September 1834; No. 161, Henry Mahon, 11th July 1834; No. 266, François Larose, 8th June 1835; No. 267, Ezekiel Hart, same day; upon which depositions indictments for assault and battery with an intent to murder have been preferred.

4.—Copies of the depositions upon which the first five indictments of each year since 1831, presented to the grand jury for assault and battery with an intent to murder, were founded.

5.—List of cases in which proceedings on indictments for assault and battery with an intent to murder have been paid by the private prosecutor.

6.—Copies of instructions received by you or your predecessors in office, regulating the fees to be charged to government, or respecting the said office of clerk of the peace.

Tuesday, 15 December 1835.

*William Bell, Esq.*, called in; and Examined.

1. Are you the prothonotary and clerk of the peace for the district of St. Francis; and when were you appointed?—I am. I was appointed the 12th March last.

2. Since your accession to office, could you state how many indictments have been laid before the grand jury for assault and battery with an intent to murder?—None; there is little business in that court; there has been only one term of session held since I have been in office, and but six or seven bills laid before the grand jury.

3. Of the said bills, how many were there for simple assault and battery?—There were only one or two, to the best of my recollection.

4. Does the private prosecutor or the Crown pay for proceedings on indictments for assault and battery?—The private prosecutor.

5. Should indictments for assault and battery, with an intent to murder, be laid by you before the grand jury, to whom would you apply for your fees?—I should apply to the Crown.

6. Would you deem yourself authorized to lay before the grand jury such indictments, on verbal information received by you not under oath?—Certainly not.

Wednesday, 16 December 1835.

*Joseph François Xavier Perrault, Esq.*, Clerk of the Peace at Quebec, called in; and Examined.

1. Do you present indictments on verbal information only, without any deposition on oath?—Certainly not; never.

2. You receive only the same fee whatever may be the number of counts in the indictment?—The same.

3. Are there any prosecutions, the costs of which are paid you by the private prosecutor alone?—All cases of mere assault and battery, in which we receive the same fees as aforesaid, except on the original subpoena, on which we receive only 1s. 6d.

4. When the deposition contains only a complaint of mere assault and battery, do you sometimes draw up the indictment for assault and battery with intent to murder, on verbal information relative to the assault and battery mentioned in the deposition?—Never; we should not be justifiable in doing so.

Monday, 21 December 1835.

The Chairman laid before the committee the following documents received from Mr. Chisholme, in part answer to the order of the committee of the 11th instant.

No. 1.—Rules and regulations concerning ferrymen (Appendix B.)

No. 2.—List of bills of indictments for assaults with intent to murder, for the years 1831, 1832, 1833, 1834 and 1835 (Appendix C.)

No. 3.—Copies of 13 depositions upon which indictments for assault and battery with intent to murder have been preferred (Appendix D.)

No. 4.—Copies of 17 depositions upon which some of the first indictments of each year since 1831, presented to the grand jury, for assault and battery with an intent to murder, were founded (Appendix E.)

No. 5.—I regret exceedingly that it is not in my power to furnish the committee with "List of cases in which proceedings on indictments for assault and battery with an intent to murder have been paid by the private prosecutors."

Three Rivers, 19 December 1835.

*David Chisholme, Ck. P.*

Tuesday, 22 December 1835.

Ordered, that David Chisholme, esq., clerk of the peace for the district of Three Rivers, do appear before this committee on Monday the 28th instant, and do produce and lay before this committee:

1st.—List of cases in which proceedings on indictments for assault and battery with an intent to murder have been paid by the private prosecutor, since his accession to office.

2d.—The rule obliging ferrymen, in certain cases, to take two copies of rules and regulations concerning ferrymen.

Tuesday, 29 December 1835.

*David Chisholme, Esq., again called in; and Examined.*

Correspondence  
respecting  
Mr. Chisholme.

1. Can you furnish to the committee the papers required by the order addressed to you and dated 22d December instant?—I cannot produce the list No. 1, required, namely, "List of cases in which proceedings on indictments for assault and battery with an intent to murder, have been paid by the private prosecutor," because I was never paid any fees in such cases by the private prosecutor; and as to the second, viz., "The rule obliging ferrymen to take two copies of Rules and Regulations concerning Ferrymen," I cannot produce such rules, as none such exist; having in answer to a former question, confounded the eighth with the 12th rule respecting ferrymen.

2. Notwithstanding the absence of such a rule, have not ferrymen been obliged to take two copies of the regulations concerning ferrymen?—They have not been obliged to do so, but I believe that in one or two instances, two copies of these rules and regulations have been taken by ferrymen who had obtained licences on both sides of the river.

3. In how many cases have ferrymen been obliged to take two copies of the regulations concerning ferrymen since your appointment as clerk of the peace?—I believe that not in more than six instances, if in so many; but I have no perfect recollection on that subject.

4. Have you a list of those ferrymen who have been obliged to take two copies of the said regulations?—I have not; and I do not think that I could produce them, though I shall endeavour to do so should the committee require it.

5. Could you transmit to this committee such a list, mentioning the names of the ferrymen, the dates at which two copies were taken, and the sums paid by such ferrymen for the same?—I shall endeavour to do so, on or before the 10th proximo.

6. You have stated, on a former occasion, before this committee, that when an indictment for assault and battery with intent to murder, was found by the grand jury a true bill only as to the assault, you did not, in such cases, proceed "without the authority of the private prosecutor, who then became responsible for the cost in prosecuting to conviction on the count for simple assault," and that in many cases the costs to which you have referred were paid to you by the private prosecutors; that you could not detail these cases then, but that you would endeavour to do so as soon as possible. Being required to transmit the same to this committee on or before the 18th December instant, and not having done so, the committee required your presence here this day with such a list; you appear and answer now that you were never paid any fees, in such cases, by the private prosecutor; how do you explain such discrepancies?—What I meant to say was, that when indictments for an assault and battery with an intent to murder were laid before the grand jury, and when they were found true as to the assault and battery only, the private prosecutors became responsible for the fees for the trial only, if the trial took place.

7 This explanation you have already given. And were you not aware that the intention of the committee, in requesting you to furnish a "List of cases in which proceedings on indictments for assault and battery with an intent to murder, have been paid by the private prosecutor," was grounded upon this very explanation, and was, to procure from you a list of such cases of assault and battery with an intent to murder, reduced by the finding of the grand jury to simple assault, in which the costs were paid to you by the private prosecutor?—I cannot recollect one instance wherein I was paid by the private prosecutor.

8. Are the committee to infer that in such cases you were never paid by the private prosecutor?—I might have been in some cases; but I cannot say in how many, or by whom.

9. How came you then to state positively, on a former occasion, that "in many cases the costs to which you referred were paid to you by the private prosecutors," "that you could not detail these cases then, but would endeavour to do so as soon as possible"?—I have made every endeavour to get the detail of those cases, thinking that I should have been able to do so; but I find that I cannot, though exceedingly willing to furnish the committee with every information in my power.

10. If you, as you state in your first answer this day, were never paid any fees in such cases (meaning the indictments for assault, with intent to murder, reduced to simple assault) by the private prosecutors, how could you furnish a list of such cases, and how could you undertake to do so on a former occasion?—I stated, on a former occasion, that I would furnish the committee with a list of cases of assault and battery with an intent to murder, reduced to simple assault by the finding of the grand jury; I thought at the time that I should have been able to have done so. I am afraid that in some instances on the subject I may have misapprehended the questions of the committee.

11. Why can you not now furnish a list of such cases, viz., a list of indictments for assault and battery with intent to murder, reduced to simple assault by the grand jury, in which the costs were paid to you by the private prosecutors; have you not those indictments of record in your office; and if, as you stated on a former occasion, you were paid in such cases by the private prosecutors, could you not make out a list of such cases, and lay it before this committee?—I have the indictments on record, but I cannot say for which of them, if any, I have been paid by the prosecutors, because I did not mark such payments on the indictments. I however believe that in many instances I have proceeded to trial for simple assaults, without being paid by the private prosecutors, though I cannot state them in detail.

12. You state, that you have those indictments in record, but that you cannot say for which of them, if any, you have been paid by the private prosecutors; then you have some doubts whether or not you received any costs from private prosecutors in the cases above alluded to?—I certainly have doubts.

Wednesday, 30 December 1835.

*David Chisholme, Esq.*, again called in; and after having read his answers to the questions submitted to him yesterday, requested that the committee would allow him to add to his answer to the 12th question the following words:—I shall make further effort to find out and lay before the committee a list of cases, if any, wherein I may have been paid by the private prosecutors in cases reduced to simple assault and battery.

*Mr. Chisholme* was then further Examined.

13. When was the order of the committee, dated 18th December instant, addressed to you, and where did you receive it?—I received that order in the lobby of the house.

14. Do you keep a regular cash-book for the receipts of fees in your office as clerk of the peace?—I do not.

15. How then can you furnish annually to the executive of this province a statement of the fees you receive as clerk of the peace?—I make it out from the various papers and documents deposited in my office, such as depositions, indictments, and the registers of the quarter and weekly sessions.

16. How then can you distinguish what is due to you by government and by individuals?—When I make the annual return to government I endeavour, to the best of my knowledge, to include the whole of my emoluments from whatever source derived.

17. Do you not keep books of any description as to the receipt of fees in your office?—I do not; but I keep a book in which I insert the gross amount of my contingent account with government.

18. On reference to the said book, could you not make out the list No. 5, demanded by this committee on the 18th December instant?—I could not.

Thursday, 31 December 1835.

*Charles Richard Ogden, Esq.*, Attorney-General, called in; and Examined.

1. When a deposition under oath is placed in your hands, do you sometimes present an indictment for a greater offence; for instance, if the complaint is for a mere assault and battery, does the Crown-officer present an indictment of such cases for assault and battery with intent to murder?—Certainly not. I should not consider myself justifiable if I were doing so.

2. Ought the officer, appointed by law to conduct criminal prosecutions, to present indictments on verbal information alone, without any deposition on oath?—My own practice has been to proceed on depositions in writing only; nevertheless cases might occur in which it might be otherwise.

3. When you draw an indictment on a deposition which alleges a specific offence, do you sometimes insert a count for a more serious offence, grounding such insertion on verbal information only?—No.

4. Do you include in the cases which you except in your answer to the 2d question, cases of minor offences, such for instance, among others, as cases of assault and battery?—No.

Monday, 11 January 1836.

The Chairman laid before the Committee the following letter:

Sir,

Three Rivers, 8 January 1836.

In doing myself the honour of transmitting to you, for the information of the committee, the enclosed document, with respect to the number of rules and regulations respecting ferries taken out by ferrymen, I beg leave to state to you, that notwithstanding the most diligent and minute inquiry and research, I have not been able to ascertain the name of any individual who may have paid to me fees in cases of assault, with an intent to murder, reduced by the finding of the grand jury to a case of simple assault and battery: otherwise it would have afforded me the highest satisfaction to transmit the same herewith to the committee.

I have, &c.

(signed)

*David Chisholme,*  
Clerk of the Peace.

L. H. Lafontaine, Esq., M.P.P.  
&c. &c. &c.

Correspondence  
respecting  
Mr. Chisholme.

(Enclosure in the preceding Letter.)

LIST of Ferrymen in the District of Three Rivers who have taken two Copies of the Rules and Regulations respecting Ferrymen since the Year 1826, to the best of the Knowledge and Recollection of the Subscriber.

DATE.	NAMES.	RESIDENCE.	Number of Licences taken out.	Amount paid for each Licence.
1 May 1832	François Crevier - - -	St. François - - -	2	£. s. d. - 10 -
10 May 1833	François Gingras - - -	Bécancour - - -	2	- 10 -
- - -	François Allard - - -	St. François - - -	2	- 10 -
22 - - -	François Plamondon - - -	- ditto - - -	2	- 10 -
1 June - - -	Benjamin Crevier - - -	- ditto - - -	2	- 10 -
25 - 1835	Augustin Gingras - - -	Batiscan - - -	2	- 10 -

Three Rivers, 8 Jan. 1836.

David Chisholme, Clerk of the Peace.

Appendix (A.)

LIST of the Indictments laid before the Grand Jury at the Court of General Quarter Sessions of the Peace holden at Three Rivers during the Years 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834 and 1835; distinguishing the Offence.

Year.	OFFENDERS.	OFFENCE.	Year.	OFFENDERS.	OFFENCE.
1826	Louis Ducheny - - -	assault and battery.	1827	Jeremie Lemay - - -	assault and battery.
	James Dunsmuir - - -			Antoine Delaurier & al. - - -	disorderly house.
	Augustin Duleé - - -			Mathilde Provost, alias	larceny.
	F. Laine, dit Gremouche - - -			Reine Provost.	
	Alexis Pechette - - -			Pierre Berneche - - -	petit larceny.
	Alexander Tunis - - -	Joseph Pathier - - -		engrossing.	
	P. Baron, dit Lafreniere - - -	Antoine Damphause - - -		assault and battery.	
	P. Baron, dit Lafreniere - - -	Antoine Caurnoyer - - -			
	Antoine Parent - - -	Raymond Carufel & al. - - -		riot and assault.	
	François Bellerive - - -	Euphrosine Roi & al. - - -		negligent escape.	
	John Short - - -	William Kent - - -		assault and false imprisonment.	
	Jean Baptiste Veillet - - -	Louis Gronden - - -			
	James Falkender Bauce - - -	Antoine Bellanger - - -		assault and battery.	
	Charles L. Duplessis & al. - - -	J. Bap. Eudon, dit Beaulieu			
	Pierre Cartier, fils - - -	Arel Blake Hart - - -			
	Antoine Lesieur Desaunier - - -	François Isabelle - - -			
	Marie Hournier - - -	Antoine Franchère - - -			
	Michel Lacharité - - -	Joseph Laplante - - -			
	Bazile Toussaint - - -	Joseph Provancher - - -			
	Donald M'Phee - - -	Joseph Brunelle - - -			
James Sutherland Ross and Alexis Tessier. - - -	Modeste Marie - - -				
Jean Cauvillon - - -	Selby Burn - - -				
Marie M'Leod & al. - - -	Charlotte Lomenal & al. - - -	nuisance; keeping hogs in a street.			
Joseph Lupien & al. - - -	Samuel Cowan - - -				
Joseph Douellette - - -	Hubert Duplessis - - -				
Joseph Douellette & al. - - -	David Bellhouse - - -				
Pierre St. Aunaud - - -	Clément Langlois - - -				
Louis André Ducheny - - -	Laurent Girardeau - - -	assault and battery.			
Pierre M'Line, al. Peter M'Line - - -	Charles Veillet - - -	petit larceny.			
Joseph Ricard, fils, & uxors	Marie Jarvier - - -	larceny.			
Antoine Parent - - -	Antoine Jacques - - -	nuisance; firing cannon in a street.			
Pierre Benj. Dumoulin - - -	Joseph Nickless - - -	nuisance; keeping hogs in a street.			
Louis Hyacinthe, alias Louis Bellcrose. - - -	François Normand - - -	nuisance; disorderly house.			
James Wallace - - -	Alexis Pechette & uxors - - -				
	Alexis Carpentier - - -	assault and battery.			
	George N. Turner - - -	riot and assault.			
	James Peoples & al. - - -	assault and battery.			
	James Jackson - - -				

Year.	OFFENDERS.	OFFENCE.	Year.	OFFENDERS.	OFFENCE.	
1828	Thomas Laframboise	-- assault on a constable.	1829	Jean Baptiste Belletête	-- assault, with intent to murder.	
	Thomas Laframboise & al.	riot and assault.		Pierre Giguère	-- forestalling.	
	Charles Houle	-- forcible entry and detainer.		Etienne Dubois	-- grand larceny.	
	Pierre Menançon	} larceny.		Louis Paquette	-- petit larceny.	
	Eliza Ann Fisher			Joseph Haule & alios	-- larceny.	
	Eugene Rousseau	} assault and battery.		Jean Cauvillon	-- breaking out of house of correction.	
	Benjamin Vadebonœur			Pierre Caya	} assault and battery.	
	Jos. Deguise, dit Derosier			Joseph Mathon		
	Emanuel Firmin			Thomas Graham		
	Emanuel Firmin			Robert M'Vecker	-- assault, with intent to murder.	
	Emanuel Firmin	-- assault, with intent to murder.		François Patoelle		
	Michel Dumas & al.	affray.	1830	Pierre Olivier	} petit larceny.	
	Magdelaine Godin	-- petit larceny.		Joseph Léonnais		
	Pierre Daucet	-- blaspheming.		Louis E. Dubord	} assault on a constable, &c.	
	Arel B. Hart	} assault and battery.		François Lespérance		
	James Bell			Edouard Mathon & alios		-- riot and assault.
	Leandre Morels et al.			Michel Gailloux	-- blasphemy.	
	Edouard Chatebreaux			Jean Guille	} assault and battery.	
	Augustin Antaya		-- petit larceny.	Antoine Bazin		
	Bazile René	} larceny.	Louis Beaudry			
	François Lacharité			Gabriel Proulx		
	Margaret Laing	} petit larceny.	Joseph Craig Morris			
	Germain Talbot			Antoine Robert		
	Magdelaine Godin	} larceny.	Joseph Craig Morris	-- assault on a constable, &c.		
	Joseph Lapière			David Harvey	-- assault, with intent to murder.	
	Amable Courteau	} petit larceny.	Généviève Paille	-- keeping a disorderly house.		
	Nicolas Labrègue			François Plamondon	-- assault and battery.	
	Nicolas Labrègue	} petit larceny.	Charles Labonté	-- breaking out of gaol, &c.		
	Louis Paquette			Charles Parent	-- assault on a constable, &c.	
	Louis Paquette	} assault and battery.	Joseph Sebastien Letiecq	} petit larceny.		
	Denis F. Vadebonœur				François Deguise	
	François Baroletti		Emanuel Firmin		-- obtaining a watch on a false pretence.	
	Hubbard Cummings	} assault and battery.	1831	Campbell Murray	-- petit larceny.	
	Joseph Provancher			Moses Hart	-- assault, with intent to ravish.	
	Jean Baptiste Cartier	} assault and battery.		Guillaume Smith	-- extortion.	
	Bonaventure Lacourse			Alexis Thibodeau & al.	-- assault to murder.	
	François Brassard & al.	-- assault, with intent to murder.		Noël Gingras	-- petit larceny.	
	Thomas Dubord & al.	-- refusing to assist a constable, &c.		Julie Regis, alias Parc	-- disorderly house.	
	François Cyre & al.	-- assault on an officer, &c.		John Tawle	-- larceny.	
1829	Jean Cauvillon	} larceny.		Marie Benoit & al.	-- riot and assault.	
	Antoine Brière and Johnston Ogilvie.			Marie Benoit & al.	-- assault to murder.	
	Antoine Brière	} petit larceny.		James Crawford & al.	-- riot.	
	Johnston Ogilvie			Bazile Branconnier	} larceny.	
	François X. Durand		Pierre Fortier			
	Gabriel Haule	-- assault on an officer, &c.	Pierre Fortier	-- disorderly house.		
	Charles Pressé & alios	-- keeping a disorderly house.	Michael Mullen	-- assault on a constable.		
	Marie Benoit	} larceny.		Ambroise Mairand	-- larceny.	
	Joseph Gilbert			Jean Baptiste Boisvert	-- assault on an officer.	
	Joseph Gilbert	} petit larceny.		Louis Tomaquois & al.	-- assault to murder.	
	Marie Girardeau & alios			Joseph Gouin	-- assault and battery.	
	Ann Taylor	} assault and battery.		Casimir Dery	-- assault to ravish.	
	James Alex. Thompson			Louis Thibeau	-- neglect of duty as a constable.	
	Pierre Héroux, alias Bourgainville, alias Boisclair.	-- assault on a constable.		Regis Bergevin, alias Langevin.	-- larceny.	
	Louis Gagnon	-- larceny.		Michel Guille	-- assault and battery.	
	Thomas Leary & alios	-- riot and assault.		Louisa Chapman	-- disorderly house.	
	Joseph Lauranger	-- assault on clerk of the market, &c.		François Baurré	-- assault on a bailiff.	
	François Cloutter & ux.	} keeping a disorderly house.		Joseph Reid	-- assault to murder.	
	Gabriel Benoit & alios			Honoré Hudon Beaulieu	-- assault and battery.	
	Noël Darois & alios	-- assault and battery.	Pierre Robitaille & al.	-- riot.		
	Gabriel Haule	-- assault on a bailiff, &c.	Louis Robert	-- assault to murder.		
	Pierre Paquin	-- assault and battery.	Joseph St. Pierre	-- petit larceny.		
	Jos. Lefebvre, alias Labbé	-- larceny.	Pierre Girard & al.	-- riot.		
	Joseph Lauranger	-- assault on clerk of the market, &c.				

(continued)

Year.	OFFENDERS.	OFFENCE.	Year.	OFFENDERS.	OFFENCE.		
1831	Bellermin Masecot	} petit larceny.	1832	Jean F. C. Ouellet	assault on officers.		
	Timothy Tallen			Zephirin Dugas, dit La-	breche.		
	François Beaulieu & al.			assault to murder.	Angele Tailly	illegally milking a	
	François Beaulieu & al.			affray.		cow; petit larceny.	
	William Hicks			assault.		assault on an officer.	
	Felix Laplante & al.			larceny.		George Carpentier	petit larceny.
	Alexis Latreille			assault to murder.		Jean Gobin	assault to murder.
	Louis C. Moreau			petit larceny.		Hypolite Simard, alias La-	} petit larceny.
	Angelique Baril & al.			disorderly house.		branche.	
	Michael Mullen & al.			affray.	1833	Ann M'Cormack	
	Raphael Baril			assault on an officer.		James Dunn & al.	affray.
	Charles Lamotte & al.			disorderly house.		Hilaire Ayotte	} petit larceny.
	Victoire Vient			larceny.		Margaret Fowls, alias Laing	
	Jean Noël					Pierre Sans Awagawet	} petit larceny.
	Louis Hyvon & al.					John O'Brien	
	Henri Eli, dit Brcton			petit larceny.		Joseph Hamel	
	Charles Mathon					Antoine Montreuil	petit larceny; vide
	William, alias Jas. Jenkinson						ante, 1832.
	John Thayer			grand larceny.		Pierre Vasseur	petit larceny.
	Edward Langevin			blasphemy.		Thomas Maine	} assault to murder.
Edward Fitzgerald	soliciting to riot,		Pierre Baron Lafrenière				
	and escape from gaol.		Pierre Allain				
Charles Haule	assault upon an officer.		Adolphus Stein				
Jean Gobin	assault to murder.		Robert Campbell				
Pierre P. Dérosier & al.	riot and assault.		Augustin Lazard				
Willebrode Demers & al.			James M'Kinnon & uxor	affray.			
Pascal Rondeau	assault on an officer.		Charles Pepin	assault to murder.			
George Bright	assault to murder.		John Stronach & al.	riot.			
Catherine Lagrave	fraud.		François Cadoret	petit larceny.			
Joseph Vient			Eugène Rousseau	assault to murder.			
Antoine Paquet	petit larceny.		André Baudouin	} petit larceny.			
Joseph Precour			Michel Hamel				
John Houleston	assault to murder.		Olivier Courteau				
Catherine Lagrave			John Savage & al.	grand larceny.			
Joseph C. Morris & al.	affray.		François C. Bellerive	assault to murder.			
Henry Drennan			John Ralph	} assault to murder.			
Edward Carrigan			Joseph Robert				
John M'Phail	assault to murder.		Matthew Minnick				
Marie Desange Baril			Pierre Bergoron				
Alexander Ferguson	grand larceny.		Pierre Fortier & al.	riot and assault.			
Marie Baril			Antoine Raymond & al.	affray.			
John Cox	assault to murder.		Joseph Gilbert & al.	} disorderly house.			
Louis André Arenhoe			Marie Louise Baudette				
Olivier Taupin & al.	riot and assault.		François Cadoret & al.	petit larceny.			
John Cox & al.			Pierre Flammand	assault to murder.			
John Smith & al.	affray.		Noël René	petit larceny.			
John Cox			François Sanchagrin	grand larceny.			
Jean Baptiste Plauff	disorderly house.		Michel Cyr	deceit.			
Joseph Gilbert & al.			Marie Smautre	nuisance.			
Marie E. Muncé	grand larceny.		François Lacharité & al.	} riot.			
Euphrosine Bellant & al.	disorderly house.		Augustine G. St. Louis & al.				
Amable Decoteau	indecency.		Joseph V. Vertefeuille	assault to murder.			
Antoine Montreuil	petit larceny.		Louis Lefebvre	assault to murder			
Louis Beaudry	assault on an officer.			with a drawn			
Thomas Moss & al.	affray.			sword.			
Hector R. Major	assault to murder.		Antoine A. Raymond	} assault to murder.			
Adelaide Belisle	disorderly house.		Athert Robinson				
Claude Feron & al.			John Perkins & al.				
Généviève Carpentier	petit larceny.		François Sanschagrin	escape.			
Emilie Belleville	disorderly house.		Pierre Marcouillier & al.	refusing to ex-			
Pierre A. Dorion & al.	riot.			ecute the order of			
John M'Gowen	assault to murder.			a justice of the			
Marie Baril	disorderly house.			peace.			
Marie Racine	petit larceny.		Magdelaine Blais & al.	nuisance; disorderly			
David Houle & al.	riot.			house.			
Louis Cormier	assault to murder.		François Sanschagrin	petit larceny.			
Flavien Vadebonceur & al.	affray.		Antoine A. Raymond	indecency.			
Joseph Lambert & al.	riot and assault.		Olivier Lamotte	assault to murder.			
Simon Simoneau	assault to murder.		Hubert Bernard & al.	riot.			
James Bothwell & al.	riot and assault.		Thomas Brewer	grand larceny.			
Louis Begué	assault to murder.	1834	Jean Baptiste Clairmond				
Pierre St. Hilaire & al.	affray.		Thomas Graham				
Jean Baptiste Peltier & al.	disorderly house.		Edouard Prevost	} petit larceny.			
Olivier Courteau & al.	affray.		John O'Sullivan				
Walter Tuite	assault to murder.		Hilaire Ayotte				
Joseph Bellemar	assault on an officer.		Augustin Lebeau				
Jean Baptiste Cauvillon	petit larceny.						

CHARGES AGAINST MR. CHISHOLME.

Year.	OFFENDERS.	OFFENCE.	Year.	OFFENDERS.	OFFENCE.	
1834	Benjamin Lami & al.	forcible entry.	1834	Hilaire Ayotte	breaking windows.	
	Augustin Girard			Jean F. Belouin	nuisance.	
	Joseph Peterson			Charlotte Lef. Baulae	indecenty.	
	William Tuffs			Arthur Michau	- - soliciting to commit a felony.	
	Jean Lacroix	- - refusing to obey order of a justice of peace.	Marguerite Douillette	- - blasphemous.		
	Joseph Robin & al.	assault on an officer.	Joseph Belouin	- - petit larceny.		
	Thomas Murphy & al.	affray.	Pierre Charbonneau	breaking windows.		
	Pierre Cadoret & al.		Charles Dennis	assault to murder.		
	Pierre Girard & al.		Joseph Robert	nuisance.		
	Antoine Baudette & al.		Antoine Quintal & al.	affray.		
	Joseph Lacroix & al.		Joseph Robert & al.	affray and assault.		
	Alex. M'Gweny & al.		Benjamin Vadeboncoeur & al.	petit larceny.		
	Pierre Mondor & al.		Charles Vallieres	fraud and deceit.		
	James Trench & al.		Marie Gagnon	breaking windows.		
	François Lacharité & al.		Gabriel Proulx & al.	nuisance.		
	Christopher Kennan & al.		John Johnston & al.	affray and assault.		
	Joseph Peterson	petit larceny.	Michael Mulbolland	assault to murder.		
	William Brown & al.	riot.	William M'Kenstry	nuisance.		
	William Brown & al.	affray.	1835	James Crawford	petit larceny.	
	François Lami	assault to murder.		Pierre Jean Roi		
	Joseph Roi, dit Mazarette	petit larceny.		Charles Denny	- - soliciting to commit a felony.	
	François Brannonier	grand larceny.		Hubert Munier	assault upon an officer.	
	Joseph Lacourse	petit larceny.		Louis Tirie & al.	assault to murder.	
	Joseph Noël	grand larceny.		Jean Cadoret & al.	breaking a door.	
	George Mellette & al.			Pierre Dehuret	an affray.	
	Andrew Brown			assault to murder.	Placide Gaillarde & al.	riot.
	Jean Baptiste Portugais			assault to murder.	Louis A. Duchesny & al.	nuisance.
	Pascal Mongrain			breaking a door.	James Dickson, esq.	riot.
	Solem Thelaut		an affray.	Louis A. Duchesny & al.	petit larceny.	
	Joseph Brimmer		petit larceny.	François Martin & al.	grand larceny.	
	Joseph Burgess		riot.	James Crawford, jun., & al.	petit larceny.	
	Desange Gervais		affray.	James Crawford, jun.	grand larceny.	
	David Henderson & al.		nuisance.	Pierre Denis	petit larceny.	
	Antoine Lafontaine & al.	assault to murder.	David Decoteau	- - receiving stolen money.		
	Antoine Raymond	assault on an officer.	Jean Baptiste Beaudry	- - assault to commit a felony.		
	Etienne Martin	affray.	Jean Baptiste Beaudry	assault to murder.		
	Louis M. Senechal	petit larceny.	Jean Baptiste Negageouis	assault to murder.		
	Joseph B. Larivière	a contempt.	Louis Proulx	assault to murder.		
	Jean Rocheleau	nuisance.	André Baudouin	assault to murder.		
	Thomas Graham	nuisance.	Denis F. S. Vadeboncoeur	assault to murder.		
	Roderick Neckals	assault to murder.	Louise Daniel	riot and assault.		
	Roderick Neckals & al.	affray.	Louis St. Antoine & al.	- - assault upon an officer.		
Jean Baptiste Delorme	petit larceny.	Louis St. Antoine & al.	nuisance.			
Pierre Gouin	a contempt.	Moses Hart	breaking windows.			
Pierre Girard & al.	nuisance.	James Crawford	breaking a door.			
Hon. J. R. V. de St. Réal	assault to murder.	Josephite Dufresne & al.	- - breaking a door and window.			
William Kent	riot and assault.	Marie Cairns	nuisance.			
Henry Drennan	affray.	Jos. Robert	- - refusing to obey a justice of peace.			
François Gingras	assault to murder.	Denis F. Vadeboncoeur	nuisance.			
François Carrier et uxore	affray.	Gilbert Lemai	keeping a furious dog.			
Charles Gerard et uxore	petit larceny.	Pierre Gauthier & al.	affray.			
Antoine Hebert	petit larceny.	Abraham Frigon	nuisance.			
Joseph Robert & al.	petit larceny.	Alexis le Blanc	- - refusing to obey a justice of peace.			
François Aulee & al.	petit larceny.	Louis Beaudry	nuisance.			
Charles Wallace	petit larceny.	Louis Beaudry	keeping a furious dog.			
Joseph Noël	petit larceny.	Jean Terron & al.	affray.			
Jean Baptiste Lacoste	petit larceny.	Thelesphore Leclair	nuisance.			
Joseph Peterson	petit larceny.	Thomas M'Guire	grand larceny.			
Etienne Guillemen	petit larceny.	John Slack & al.	grand larceny.			
Charles Garriepy	petit larceny.	John Slack & al.	grand larceny.			
Isidor Grammont	petit larceny.	Gabriel Proulx	petit larceny.			
Peter Plunket	petit larceny.	Jean Bte. Tivierge & al.	petit larceny.			
Michel Boivin	- - assault, with intent to murder.	Thomas M'Guire	assault to murder.			
Genevieve Rouillard	assault on an officer.	Marianne Dumas	assault to murder.			
David Thibaudeau	assault on an officer.	Louis Lachance	assault to murder.			
Marie Poirrier	assault on an officer.					
Benjamin Vadeboncoeur	assault on an officer.					
Pierre Flamman	assault on an officer.					
Michel Giroux	assault on an officer.					
Joseph Gouin & al.	assault on an officer.					
Octave Lottinville & al.	assault on an officer.					
Hilaire Ayotte & al.	assault on an officer.					
Joseph Lafrance & al.	assault on an officer.					
Arthur Michau	assault on an officer.					
John Cele	assault on an officer.					

(continued)

Year.	OFFENDERS.	OFFENCE.	Year.	OFFENDERS.	OFFENCE.
1835	Francis Kelly - -	assault to murder.	1835	Helen Coté - - -	petit larceny.
	François Noël - -			Elie St. Hilaire - - -	
	Luc Vincent - - -			Michel Gailloux - - -	
	François Larose - -			François Cloutier & al. - -	
	Alexis Rousseau - -			Joseph Maurico Janvier - -	
	Pierre Gageant - -	Hypolite Simard - - -		extortion.	
	Esther Pazer & al. - -	Joseph Turcot (1) - - -			
	Marie Baril - - -	Joseph Turcot (2) - - -			
	Thomas Coghlan & al. - -	Joseph Turcot (3) - - -		indeccency.	
	Thomas Coghlan & al. - -	Thomas Graham - - -			
	Joseph Robert - - -	George Michelin - - -		nuisance.	
	Mary O'Connor - - -	Olivier Mailloux & al. - -			
	Michel Gailloux - -	Jacques R. Baby & al. - -		riot and assault.	
	John Maclaren, jun. - -	François Lacroix & al. - -			
	Charles Burke - - -	Pierre Tessier & al. - -		breaking windows.	
	Olivier Chartier - -	Joseph Parent - - -			
	Augustin Houle & al. - -	Edouard Rancourt - - -		assault to murder.	
Joseph Turcot - - -	Benjamin Blanchette & al. - -				
Thomas Caghlan - - -	Joseph Craig - - -	- assault on a justice of the peace.			
Abraham Baucher - -	Louis Baulac & al. - - -	affray.			
André Decarrafte - -	Marie Racine & al. - - -	affray and assault.			
Amable Cadoret - - -	Charles Lallemand - - -	assault.			
Richard Clarke & al. - -	Abram Boucher - - -	grand larceny.			
Marie Bernard - - -					

Quebec, 10 December 1835.

Certified,  
David Chisholme, Clerk of the Peace.

#### Appendix (B.)

#### EXTRACT from the Rules and Regulations respecting FERRYMEN in the District of *Three Rivers*.

8th. THE clerk of the peace shall give a copy of the regulations in English and French to every ferryman; and each and every ferryman shall put up the same in some public part of his house, together with a copy of the tariff of his licence in English and French; and the clerk of the peace shall receive the sum of 10s. for every certified copy of the regulations and copy of the tariff from every ferryman, on the delivery thereof.

10th. Each and every ferryman who shall infringe the present regulations, or any part thereof, shall be liable to a fine not exceeding 20s. for each and every offence. No ferryman shall be held to take a copy of the tariff, or of the regulations, more than once, unless some amendment shall be made in such regulations and tariff; in which case the said ferrymen shall take a copy of the regulations and tariff as amended, at each and every time such amendments shall be made.

12th. That all and every person or persons who are now, or may hereafter be licensed ferrymen in this district, shall reside, or keep and maintain on the side of the river on which he or they shall be so licensed, the establishment of men, canoes, batteaus or scows, poles, paddles and oars, prescribed by the rules and regulations already in force respecting ferrymen; and that if one person should obtain a ferry licence for both sides of any river in this district, he shall be bound to have some person resident on each side of the river, and to keep and maintain the aforesaid establishment on each and both sides of such river, under the penalty of 20s.



Appendix (C.)

LIST of all INDICTMENTS for Assault and Battery with intent to Murder, for the last Five Years; stating whether the Bill was found or not, whether a Trial was or was not had thereon, and for what reason the Trial did not take place; and if found, whether a Conviction ensued for a simple Assault, or an Assault with an intent to Murder, and the Amount of the Fees payable by Government on such Indictments, and on all Proceedings relating and incidental thereto.

Years.	Names of Offenders.	Finding of the Grand Jury.	Verdict of the Petty Jury.	Amount of probable Fees payable by Government.	Reason why Trial did not take place.
1831	Alexis Thibadeau, &c.	true bill -	guilty of assault -	£. s. d. 1 - -	default, Bench warrant.
	Mary Benoit, &c.	no bill -	no trial -	- 6 8	
	Louis Tomaquois	true bill -	ditto -	- 11 8	
	Alexis Latreille -	ignoramus	ditto -	- 6 8	
	Louis Robert -	no bill -	ditto -	- 6 8	
	Hypolite Beaulieu, &c.	ditto -	ditto -	- 6 8	
	Alexis Latreille -	true bill -	guilty of assault -	1 - -	
1832	John Houliston -	ditto -	guilty of simple assault	1 - -	default.
	Henry Drinnan -	ditto -	ditto -	1 - -	
	John Macphail -	ditto -	ditto -	1 - -	
	Edward Gorrihan	no bill -	- - -	- 6 8	
	Catherine Lagrave	true bill -	ditto -	1 - -	
	George Bright	ditto -	- - -	- 11 8	
	Mary Desange Baril	no bill.	- - -	- - -	
	John Cox -	true bill -	ditto -	1 - -	
	Wm. Warrington	ditto -	not guilty -	1 - -	
	Hector Robert Major	ditto -	guilty of simple assault	1 - -	
	Louis Bigné -	ditto -	guilty -	1 - -	
Simon Simoulan -	ditto -	not guilty -	1 - -		
Walter Tule -	ditto -	guilty -	1 - -		
1833	Augustin Lazard	ditto -	ditto -	1 - -	default.
	Robert Campbell	ditto -	guilty of simple assault	1 - -	
	Thomas Monné -	ditto -	ditto -	1 - -	
	Charles Pepin -	ditto -	ditto -	1 - -	
	Adolphus Stein -	ditto -	ditto -	1 - -	
	Charles Lamolle -	ditto -	ditto -	1 - -	
	John Ralph -	ditto -	ditto -	1 - -	
	Matthew Merrick	no bill	- - -	- 6 8	
	F. C. Bellerive -	true bill -	ditto -	1 - -	
	Joseph Robert -	ignoramus.	- - -	- - -	
	Pierre Bergeron -	true bill for assault.	- - -	- 6 8	
	Pierre Dehwiel -	true bill -	ditto -	1 10 -	
	Pierre Barron -	ditto -	- - -	- 6 8	
	Joseph Vanasse -	ditto -	not guilty -	1 - -	
	Albert Robinson -	true bill for assault.	- - -	- 6 8	
	Antoine Raymond	ditto -	- - -	- 6 8	
	Olivier Lamotte -	no bill -	- - -	- 6 8	
	Charles Pampule	true bill -	guilty of simple assault	1 - -	
	Charles Duff -	ignoramus	- - -	- 6 8	
	Firmin Babineau	no bill -	- - -	- 6 8	
Flavin Cormier -	ditto -	- - -	- 6 8		
Michael Davis -	true bill -	not guilty -	1 - -		
Stephen Perkins -	ditto for assault.	- - -	- 6 8		
1834	Eugene Rousseau	true bill -	- - -	- 6 8	default.
	Firmin Babineau	ditto -	guilty of assault -	1 - -	default.
	Louis Cornier -	ditto -	- - -	- 6 8	
	John Brown -	ditto -	ditto -	1 - -	default.
	Joseph Vanasse -	ditto -	ditto -	1 - -	
	Jean Rochleau -	ditto for assault.	- - -	- 6 8	
	Jos. B. Larivière	ditto -	- - -	- 6 8	default.
	L. M. Sénéchal -	ditto -	- - -	- 6 8	
	François Lami -	true bill	guilty	1 - -	
	William Tuffs -	ditto -	guilty of assault -	1 - -	
	Ditto -	ditto -	ditto -	1 - -	
Thomas Graham -	ditto -	- - -	- 6 8		

Years.	Names of Offenders.	Finding of the Grand Jury.	Verdict of the Petty Jury.	Amount of probable Fees payable by Government.	Reason why Trial did not take place.
1834	Antoine Hebert - -	- true bill for assault.	guilty of assault - -	£. s. d. - 6 8	
	Roderick Nickalls - -	- ditto - -	- - - - -	- 6 8	default.
	Michel Mulhollan - -	- ditto - -	- ditto - -	- 6 8	
	Joseph Robert - -	- ditto - -	- ditto - -	- 6 8	
	Marie Poirier - -	- no bill - -	- - - - -	- 6 8	
	David Thibadeau - -	- true bill for assault.	not guilty - -	1 - -	
	Geneviève Rouillard - -	- ditto - -	- - - - -	- 6 8	default.
	Michel Boisvin - -	- ditto - -	guilty - -	- 6 8	
	Isidore Gramend - -	- no bill - -	- - - - -	- 6 8	
	Peter Plunket - -	- true bill for assault.	not guilty - -	- 6 8	
1835	Charles Gardippi - -	- ditto - -	- ditto - -	- 6 8	
	Felix Permentier - -	- ignoramus - -	- - - - -	- 6 8	
	Elie St. Hilaire - -	- no bill - -	- - - - -	- 6 8	
	Jean Bte. Nagagarva - -	- true bill - -	guilty - -	1 - -	
	Louis Proulx - -	- ditto - -	not guilty - -	1 - -	
	André Boudoine - -	- ditto - -	- ditto - -	1 - -	
	Louise Daniel - -	- ditto - -	- ditto - -	1 - -	
	François Larose - -	- true bill for assault.	- - - - -	- 6 8	
	Mary Anne Dumas - -	- ditto - -	- - - - -	- 6 8	
	François Noël - -	- true bill - -	guilty of assault - -	1 - -	
	Alexis Rousseau - -	- ditto - -	- ditto - -	1 - -	
	Charles Burke - -	- no bill - -	- - - - -	- 6 8	
	Pierre Gageant - -	- ditto - -	- - - - -	- 6 8	
	Luc Vincent - -	- ignoramus - -	- - - - -	- 6 8	
	Louis Lachance - -	- true bill - -	no verdict; traverse - -	- 6 8	
	Flavien Vadboncœur - -	- ditto - -	guilty of simple assault	1 - -	
	Francis Kelly - -	- ditto - -	- - - - -	- 11 8	default.
Edward Rancour - -	- ditto - -	not guilty - -	1 - -		
Benjamin Blauchet, &c.	- ditto - -	- ditto - -	1 - -		

Three Rivers, 15 December 1835.

(signed)

David Chisholme,  
Clerk of the Peace.

#### Appendix (D.)

COPIES of Thirteen Depositions upon which Indictments for Assault and Battery with an intent to Murder have been preferred.

#### District of Three Rivers.

*Catherine Defossés*, wife of the late Jean Baptiste Robert, of the town of Three Rivers, maketh oath and saith, that on the 8th day of March instant, at Three Rivers, in the county of St. Maurice and district aforesaid, Louis Robert, of the said town, labourer, did violently assault and beat this deponent by striking her with an iron poker several blows on the right hand, and other parts of her body, without any just and reasonable cause; wherefore the deponent prayeth that justice may be done in the premises, and saith she cannot sign.

Taken and sworn this 10th day of March 1831, before me, Jean Emanuel Dumoulin, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers.

(signed) *J. E. Dumoulin*, J. P.

(Endorsed.)

Q. S. No. 186. Information for an assault to murder, by *Catherine Defossés v. Louis Robert*.

Witness, *J. E. Dumoulin*, esq.

## District of Three Rivers.

*Louis Perrault*, shoemaker, of the town of Three Rivers, maketh oath and saith, that on the 13th day of September, at Three Rivers, in the county of St. Maurice, and district aforesaid, *Pascal Rondeau*, labourer, of the same place, did violently assault and beat this deponent, by striking him with his fists on the breast, without any just and reasonable cause; wherefore the deponent prayeth that justice may be done in the premises.

Taken and sworn this 15th day of September 1831, before me, *David Grant*, one of His Majesty's justices of the peace in and for the district of Three Rivers.

(signed) *David Grant, J. P.*

(Endorsed.)

No. 241. Information for an assault, by *Louis Perrault v. Pascal Rondeau*, 15th September 1831. *D. Grant, esq., J. P.*

Witnesses, *Josephthe Pagé, Alexis Gauden, Louis Perrault, François Bordeleau.*

## District of Three Rivers.

The information and complaint of *Catherine Taylor*, of the town of Three Rivers, taken at the town of Three Rivers, this 16th day of February, in the year of our Lord 1832, before me, one of His Majesty's justices of the peace in and for the said district:

Who, being upon oath, says, that last night, being a lodger in the house of *John Cox*, of the town of Three Rivers, several persons were then and there assembled playing cards and drinking; that the persons so assembled did in the course of the evening quarrel amongst themselves, and that two of them in particular fought and struck each other; that besides this the company made great noise and disturbance; that the said *John Cox* and his wife also quarrelled; and that the said *John Cox* struck his wife several blows, at least two, and pushed her down stairs; that after this the deponent saw the said *John Cox* and his wife in the kitchen, where they had also quarrelled, and where she saw *Cox* strike his wife, upon which blood issued from *Mrs. Cox's* mouth; that upon this the deponent and another woman carried *Mrs. Cox* into an adjoining room, where the deponent left her under the care of this other woman; that the deponent also saw the said *Cox* strike one *Mrs. Smith*, a lodger, along with her husband in the house of the said *Cox*.

(Endorsed.)

No. 280. Information and complaint, upon oath, of *Catherine Taylor v. John Cox, &c.*, 16th February 1832. Assault to murder.

## District of Three Rivers.

*Josephthe Gigniac*, wife of *Pierre Flaumond*, of the town of Three Rivers, maketh oath and saith, that on the 9th day of January, at Three Rivers, in the county of St. Maurice, and district aforesaid, *Pierre Flaumond*, of the said town, did violently assault and beat this deponent by striking her with his fist several blows on the breast and other parts of her body, without any just and reasonable cause; wherefore the deponent prayeth that justice may be done in the premises.

Taken and sworn this 9th day of January 1833, before me, *B. P. Wagner* one of His Majesty's justices of the peace, in and for the district of Three Rivers.

(signed) *B. P. Wagner, J. P.*

(Endorsed.)

No. 1. Information for an assault, by *Josephthe Gigniac v. P. Flaumond*, 9th January 1833. Assault.

*Edward M'Cabe, sen.*, personally appears before me, and deposeth under oath, that on the 26th day of January instant, in the morning, *John Ralph, sen.*, came in his house in the township of Wickham, abused and insulted him and his family without any provocation; and on being ordered out of the house, he struck with his clenched fist the deponent's son, *Edward M'Cabe, jun.*, in the body, and then took up a stick of stove wood, and advanced on the said *Edward M'Cabe, jun.*, with a threatening gesture, cursing and swearing that he would beat him and every man in the house, when he was luckily prevented by *John Ralph, jun.*, the deponent's son-in-law, one of the inmates of the house, who wrested the stick

Correspondence  
respecting  
Mr. Chisholme.

out of his hands; as the deponent was doing all in his power to pacify him, the said John Ralph told him, only that he was an old man he would strike and beat him likewise. Furthermore the deponent sayeth not.

(signed) *Edward M'Cabé.*

Sworn to before me, at Wickham, this 26th day of January 1833,

(signed) *Christ. Menut, J. P.*

*Edward M'Cabé, jun.*, personally appeared before me, and deposed under oath, that on the 26th day of January in the morning, instant, he was in his father's house, and the rest of the family, when John Ralph, sen., came in the house, and began by abusing and insulting every person in the house without any provocation; and on his being ordered out of doors the said John Ralph struck him in the body with his clenched fist, and then took up a stick of stove wood and advanced on the deponent with an intention of striking him, and swearing at the same time that he would beat every man in the house, and being in the attitude of striking with the stick was luckily prevented by John Ralph, jun., one of the inmates of the house, who wrested the stick from his hand, and prevented him doing any more mischief. Further the deponent sayeth not.

(signed) *Edward M'Cabé, Jun.*

Sworn to before me at Wickham, this 26th day of January 1833.

(signed) *Charles Menut, J. P.*

(Endorsed.)

No. 20. Q. S. Dominus Rex v. John Ralph, sen., 26th January 1833, assault to murder.

Witnesses, Edward M'Cabé, sen., Edward M'Cabé, jun., and John Ralph, jun.

Province of Lower Canada, District of Three Rivers.

In the afternoon of this 1st day of the month of April, in the year of our Lord 1833, appeared before me, Jean Emanuel Dumoulin, esq., one of His Majesty's justices of the peace for the said district, *Joseph Rondeau*, labourer, residing in this town of Three Rivers, who being duly sworn on the Holy Evangelists to speak the truth, deposed and said, that Joseph Robert of the said town, labourer, has been for several months past in the habit of drinking strong liquors to such excess as to deprive himself altogether of his reason, and that being in that state, he disturbed not only his own family, but the neighbourhood; that this present afternoon the said Joseph Robert, being in a state of intoxication, struck, beat, and ill-treated Marie Rondeau, his wife, and knocked her down in a brutal manner, so as to disturb the neighbourhood; wherefore the deponent prays that the said Joseph Robert may be apprehended and required to find sureties for the peace, and be dealt with according to law.

Taken and sworn before me at Three Rivers, the day and year first above written.

(signed) *J. E. Dumoulin, J. P.*

(Endorsed.)

Quarter Sessions, No. 13. Dominus Rex v. Joseph Robert, 1st April 1833. Assault to murder.

Witnesses, 1. Joseph Rondeau; 2. Marie Rondeau.

Province of Lower Canada, District of Three Rivers.

The information and complaint of *William Henry Vallières de St. Réal*, of the parish of the town of Three Rivers, yeoman, taken at the town of Three Rivers this 2d day of December, in the year of our Lord 1833, before me, Joseph Pacaud, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers aforesaid:

Who, being upon oath, saith, that this day, while the deponent was putting a lock on the door of a barn belonging to the Honourable Remi Vallières de St. Réal, where certain quantities of barley, wheat and peas are placed under seizure, and of which the deponent is guardian, duly appointed, one William Tuffs, of the said town, yeoman, came to the deponent with an axe in his hand, and then and there with the said axe threatened to beat and assault this deponent, and said that if he, the deponent, would put the said lock on the said barn, he, the said Tuffs, would pull it off.

(signed) *Wm. H. Vallières de St. Réal.*

(signed) *Jos. Pacaud, J. P.*

(Endorsed.)

Quarter Sessions, No. 107. Dominus Rex v. William Tuffs, 2d December 1833. Assault to murder.

Witness, Wm. Henry Vallières de St. Réal.

## Province of Lower Canada, District of Three Rivers.

Correspondence  
respecting  
Mr. Chisholme.

This present 31st day of the month of March, in the year 1834, personally appeared before me, Luc Michel Cressé, esq., one of His Majesty's justices of the peace for the said district of Three Rivers, *Hilaire Richard*, of the parish of St. Gregoire, farmer, who, being duly sworn on the Holy Evangelists to speak the truth, stated and deposed as follows; that is to say, that on Friday the 28th day of March last or instant, being then in the peace of our Lord the King, he was insulted and abused by Joseph Beaudon dit Larivière, of the said parish of St. Gregoire, farmer, who threw at deponent a stone which he then had in his hand, with the intent of striking deponent with it; and that he further threatened deponent with an axe-handle, which he took up and held in his hand; and that, on Saturday last, the said Joseph Beaudon took a stick, and struck deponent therewith; the whole without any provocation on the part of the said deponent. Wherefore the said deponent, having reason to fear that the said Joseph Beaudon Larivière may do him some further injury, prays that he may be apprehended, and made to give security to keep the peace, and also to appear at the next court of general quarter sessions of the peace which shall be held in the said district, in the court-house in the town of Three Rivers, on Monday the 21st day of the month of April next, then and there to abide by the judgment of the said court, and to be dealt with according to law; and the said deponent, being asked, declared himself unable to sign his name, these presents being duly read.

Taken and sworn to by the said deponent before me, at Nicolet, the year and day aforesaid.

(signed) *L. M. Cressé*, Justice of the Peace.

(Endorsed.)

Quarter Sessions, No. 138. Dominus Rex v. Joseph Beaudon Larivière, 30th March 1834. Assault to murder.

Witness, *Hilaire Richard*.

## Province of Lower Canada, District of Three Rivers.

This present 19th day of the month of July, in the year 1834, personally appeared before me, Luc Michel Cressé, esq., one of His Majesty's justices of the peace for the said district of Three Rivers, *Charles Oirzease Boudreau*, residing in the parish of St. Antoine de la Baie du Febvre, farmer, who, being duly sworn upon the Holy Evangelists to speak the truth, deposed and stated as follows; that is to say, that on the 15th day of the present month, between nine and ten o'clock in the evening, being then in the peace of our Lord the King, he was struck on the right arm by Isidore Grandmond, of the said parish of St. Antoine de la Baie du Febvre, farmer, with a stick which he held in his hand, by means of which blow with the said stick deponent is unable to work; the whole without any provocation on the part of deponent. Whereupon the said deponent, having reason to fear that the said Isidore Grandmond will do him further injury, prays that he may be apprehended, and obliged to find sureties to keep the peace, and also to appear at the next court of general quarter sessions of the peace which shall be held for the said district, in the court-house in the town of Three Rivers, on Tuesday the 21st day of the month of October next, then and there to abide by the judgment of the said court, and to be dealt with according to law. And deponent, being asked, hath declared himself unable to write his name, these presents being duly read.

Taken and sworn to by the said deponent before me, at Nicolet, on the day and year aforesaid.

(signed) *L. M. Cressé*, Justice of the Peace.

(Endorsed.)

Nicolet, 19th July 1834, No. 164. Deposition of Charles O. Boudreau v. Isidore Grandmond. Assault to murder.

Witness, *Charles Oirzease Boudreau*.

## Province of Lower Canada, District of Three Rivers.

The information and complaint of *David Thibaudeau*, of the parish of St. Gregorie, labourer, taken at the town of Three Rivers this 27th day of September, in the year of our Lord 1834, before me, Jean E. Dumoulin, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers aforesaid, who, being upon oath, saith, that on the 15th day of September instant he was violently assaulted, and his life, as he verily believes, put in danger by one Marie Poirrier, of the said parish, widow, who then and there had a knife in her hand, with which she threatened the deponent with bodily injury.

(signed) *J. E. Dumoulin*, J. P.

(Endorsed.)

Quarter Sessions, No. 193. Dominus Rex v. Marie Poirrier, 27th September 1834. Assault to murder.

Witnesses, 1, *David Thibaudeau*; 2, *Alexis Thibaudeau*; 3, *Louise Thibaudeau*.

Correspondence  
respecting  
Mr. Clisholme.

District of Three Rivers, County of Drummond, Township of Grantham, Lower Canada.

*Henry Mahan*, of the village of Drummondville, in the said district, county and township aforesaid, personally came and appeared before me, John Ployart, esq., one of His Majesty's justices of the peace for the said district, and having been duly sworn upon the Holy Scriptures, depose, that, having met Peter Plunkett, of the township of Wickham, in the said village of Drummondville, the said Peter Plunkett requested the deponent to go with him as far as Mr. Sutherland's, where he would treat the deponent with liquor; that he, the deponent, accordingly accompanied him, the said Peter Plunkett, to Mr. Sutherland's; and there, not being able to obtain any liquor, the deponent then proposed to the said Peter Plunkett that he would go and get half a pint, which the said Peter Plunkett consented to, and told the deponent, at the same time, to fetch the deponent's father, that he might also share the liquor; accordingly, the deponent took Peter Plunkett's mare, in order to go the quicker, and then went as far as the registry office, where the deponent's father was, whom he requested to come to see the said Peter Plunkett; the deponent's father declined the invitation, saying he would not; the deponent then returned, and, when arrived opposite Mr. Henry Menut's tavern, met again the said Peter Plunkett, crying out damnation to deponent's soul; and immediately the said Peter Plunkett knocked the deponent down with a club that the said Peter Plunkett held in his hand. This happened on Thursday the 10th of July.

Sworn to before me at the township of Grantham, this 11th day of July 1834.

(signed) *John Ployart, J. P.*

(Endorsed.)

Quarter Sessions, No. 161, October 1834. *Dominus Rex v. Peter Plunkett. Assault to murder.*

Witnesses, Henry Mahan, George Marler, Thomas Sadler, Henry Buttle, Joseph Doherty, Mrs. Prosser.

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Province of Lower Canada, District of Three Rivers.

The information and complaint of *Jean Baptiste Gauthier*, of the town of Three Rivers, baker, taken at the town of Three Rivers, this 8th day of June, in the year of our Lord 1835, before me, Henry F. Hughes, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers aforesaid, who, being upon oath, saith, that the deponent this day saw one François Larose, of the said town, labourer, assault and beat one Louis Gabourie, son of Jean Gabourie, of the said town, shoemaker; the age of the said boy, as the deponent is informed, 11 years.

(signed) *Henry F. Hughes, J. P.*

(Endorsed.)

Quarter Sessions, No. 266. *Dominus Rex v. François Larose, 8th June 1835. Assault to murder.*

Witnesses, 1, Jean Baptiste Gauthier; 2, Louis Gabourie; 3, Jean Gabourie; 4, Michel Giroux.

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Province of Lower Canada, District of Three Rivers.

The information and complaint of *Ezekiel Hart*, esq., of the town of Three Rivers, this 8th day of June, in the year of our Lord 1835, before me, René Kimber, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers aforesaid, who, being upon oath, saith, that this day the deponent was threatened to be assaulted and struck by one Pierre Gageant dit Lafleur Fleurie, of the said town, labourer, he, the said P. G. dit Fleurie, having at the time of the said assault an axe in his right hand; and this without any just cause of provocation.

(signed) *René Kimber, J. P.*

(Endorsed.)

Quarter Sessions, No. 267. *Dominus Rex v. Pierre Gageant dit Lafleur, 8th June 1835. Assault to murder.*

Witness, Ezekiel Hart, esq.

## Appendix (E.)

COPIES of Seventeen Depositions upon which some of the first Indictments of each Year, since 1831, presented to the Grand Jury for Assault and Battery with an intent to murder, were founded.

## District of Three Rivers.

*Jean Robicheau*, of the parish of Nicolet, labourer, being duly sworn on the Holy Evangelists, deposes and saith, that yesterday, being on his way travelling from Nicolet to Bécancour, he and his father, François Robicheau, entered the house of one Knock, a capitaine of the parish of St. Grégoire, where they found and met Alexis Thibeau and Nicholas Trudel of the said parish of St. Grégoire, both of whom, without any provocation on the part of himself or his father, fell upon them both in the most violent manner, struck them to the ground, and maltreated the deponent so severely that he was rendered senseless for some time, in consequence of the severe blows which he received from the said Alexis Thibeau, the said Trudel holding the door shut to prevent his getting out and making his escape. That the violent treatment which this deponent received from the said Thibeau and Trudel was of such a description, that had he not at last made his escape from the said house, they would have murdered him on the spot. Wherefore he prays that they may be dealt with according to law; and he cannot sign.

Sworn before me, this 19th day of October 1830.

(signed) J. M. Badeaux, J. P.

(Endorsed.)

Q. S. No. 136. Deposition of Jean Robicheau v. Thibeau and Trudel, 19th of October 1830. Assault to murder.

## District of Three Rivers.

Before me, the honourable T. Coffin, esq., one of His Majesty's justices of the peace for the district aforesaid, appeared François Rottono, of the said town of Three Rivers, grand chief of the Algonquin Indians, who being duly sworn on the Holy Evangelists to speak the truth, hath declared and said, that on this day, about one o'clock in the afternoon, Louis Tomaquois, an Abenakis Indian, and Josef Launière, an Algonquin Indian, came into his house, and without any provocation threatened to kill him; wherefore deponent has reason to believe and fear that the said Louis Tomaquois and Josef Launière have a design against his life, and prays that they may be apprehended and dealt with according to law; and hath declared himself unable to write his name.

Three Rivers, 13 November 1830.

Taken and sworn before me at Three Rivers, the day and year above written.

(signed) T. Coffin, J. P.

(Endorsed.)

Q. S. No. 114. Deposition of François Rottono v. Louis Tomaquois and Josef Launière, 13th November 1830. Assault to murder.

## District of Three Rivers.

Before me, Jean E. Dumoulin, esq., one of His Majesty's justices of the peace for the said district, appeared Marie Desilait, wife of Joseph Loranger, of the parish of le Cap de la Magdeleine, who, being duly sworn on the Holy Evangelists, deposed and said, that on Saturday last, the 8th instant, between nine and ten o'clock in the evening, Alexis Latreille, of the parish of le Cap de la Magdeleine, farmer, broke open the door of the house in which she lives; that having so broke open the said door, which was shut and had a bar above the latch, he entered the house, saying "Where is Marchand?" that having been informed that Marchand was absent, he came up to the bed of deponent's husband, ill-treated him, and pulled him about; and forced him to get out of his bed by the violence he offered him; that the said Alexis Latreille came in cursing and swearing, and also assaulted deponent, who is with child, and who being afraid that he the said Latreille, being then in a passion, would do her further injury, was forced to fly to a neighbour's house with her child in her arms; that from the threats then used by the said Latreille, she has reason to believe that he had a design against her life, or that of her husband, or William Marchand, if he had been in the house; and that she has reason to believe, from the threats used by the said Latreille, that

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he will repeat his violence. Wherefore she prays that the said Latreille may be apprehended and dealt with according to law; and hath declared herself unable to write her name.

Taken and sworn before me at three Rivers, the 14th of January 1831.

(signed) *J. E. Dumoulin, J. P.*

(Endorsed.)

Q. S. No. 176. Deposition of Marie Desiloit v. Alexis Latreille, 14 January 1831. Assault to murder.

Yamaska, 19 August 1831.

About nine o'clock this morning, — *Bright*, the millwright, came up to my house when at breakfast, and said he wanted to speak to me. I observed to him to go away and finish his work. He went away accordingly, observing in a low tone of voice (but which I distinctly heard) that he would break my wheels before he left. I followed him down to the mill, where I observed him with an axe knocking at the wheel. I desired him to stop, or I would grant a warrant for him, and have him taken up by a constable. He then drew an axe, and swore he would cut my head off, or any constable that would attempt to put a finger on him. I withdrew for fear from my engine-house.

(signed) *W. Buchanan.*

Sworn to before me by William Buchanan, esq., St. Michael de Yamaska, 19th of August 1831.

(signed) *Pre. The. Chevrefils, J. P.*

(Endorsed.)

No. 233. 19 August 1831. Deposition of William Buchanan, esq., v. George Bright.

District of Three Rivers.

*Edward Gorrigan*, of the parish of the town of Three Rivers, maketh oath and saith, that on the 30th day of December, at the said parish in the county of St. Maurice, and district aforesaid; *Henry Drinnan*, of the said parish, yeoman, did violently assault and beat this deponent, by striking him with a pitchfork several blows on the head and other parts of his body without any just and reasonable cause; wherefore the deponent prayeth that justice may be done in the premises, as he, the deponent, verily believes that the said *Henry Drinnan* would have murdered him, and did intend to murder him.

(signed) *Edward Gorrigan.*

Taken and sworn this 13th day of December 1831, before me, T. Coffin, one of his Majesty's justices of the peace in and for the district of Three Rivers.

(signed) *T. Coffin, J. P.*

(Endorsed.)

No. 268. Information for an assault to murder, by *Edward Gorrigan* v. *Henry Drinnan*. 13th December 1831.

Witnesses, *Louis Nouvelle Lacroix*, *Cap de la Magdeleine*; *Edward Gorrigan*.

District of Three Rivers.

The information and complaint of *Henry Drinnan*, of the parish of the town of Three Rivers, taken at the town of Three Rivers this 14th day of December, in the year of our Lord 1831, before me, one of His Majesty's justices of the peace in and for the said district.

Who, being upon oath, says, that yesterday, the 13th day of December instant, at the said parish, *Edward Gorrigan*, of the said parish, labourer, did violently assault and beat the deponent, by striking and stabbing him in the head, and other parts of his body, with a knife; and the deponent verily believes that the said *Edward Gorrigan* intended to murder him.

(signed) *Henry Drinnan.*

Taken before me the day above written.

(signed) *David Grant, J. P.*

(Endorsed)

No. 269. Information and complaint to murder, upon oath of *Henry Drinnan* v. *Edward Gorrigan*, 14th December 1831.

Witnesses, *Henry Drinnan*, *Louis Nouvelle Lacroix*, *Pierre Grenier*.



## District of Three Rivers.

*John Shaw*, of the parish of Gentilly, labourer, maketh oath and saith, on the 18th day of December instant, at Gentilly aforesaid, in the county of Nicolet and district aforesaid; *John Macphail*, of the said parish, labourer, did violently assault and beat this deponent, by striking him several blows on the head and other parts of the body, without any just and reasonable cause. Wherefore the deponent prayeth that justice may be done in the premises, as he saith and verily believes that the said *John Macphail* intended to take his life, telling him at the same time that he would do so.

Taken and sworn this 20th day of December 1831, before me, one of His Majesty's justices of the peace, in and for the district of Three Rivers.

(signed) *J. E. Dumoulin, J. P.*

(Endorsed.)

No. 270. Information for an assault to murder, *John Shaw v. John Macphail*, 20 December 1831.

Witnesses, *Joseph Révard dit Lavigne*, of the parish of Gentilly; *Magdeleine Poisson*, his wife; *Valère Révard dit Lavigne*.

## District of Three Rivers.

Deposition of *Marie Josephite Aloncaret*, an Abenakis woman, wife of *François Joseph Lazard*, an Abenakis Indian, of the village of St. François, in the county of Yamaska, in the said district of Three Rivers.

The said *Marie Josephite Aloncaret*, wife of the said *François Joseph Lazard*, being duly sworn to speak the truth, deposed and said, that during the absence of her husband, by whom she is about eight months gone with child, and who has been absent hunting since last winter, *Augustin Lazard*, her brother-in-law, an Abenakis of the said village of St. François, being drunk and in a passion, came into the house of deponent, his sister-in-law, in the afternoon, about the month of May last, and being there, struck the tables and partitions for the purpose of alarming the deponent; that several persons came in about the same time, on seeing whom he desisted from his proceeding, but deponent does not know to what point he might have carried his audacity if no one had come in at the time; that since the said time, the said *Augustin Lazard* has on many occasions constantly manifested a certain hatred and spite against deponent, of which she cannot discover the cause; that more particularly on Monday last, the 22d day of the month of October instant, about an hour before sunset, the said *Augustin Lazard*, being drunk and in a passion, came towards the door of the deponent, at the said village of St. François; that on perceiving him, deponent withdrew into her house, shut the door, and kept it closed with a small piece of wood which she held in her hands, in order to prevent him from coming in; that notwithstanding this, the said *Augustin Lazard* tried to force the door for the purpose of getting in; that being unable to enter by the door, he perceived a window open which had been taken out for the purpose of taking in some Indian corn, and he entered the house by the said window; that being then in a violent passion, he made himself master of the house, striking with his fist upon the partitions and table, as if he wished to break them, and coming towards deponent to beat and ill treat her; that she withdrew into another apartment to get out of his way; that she remained there trembling with fear at the appearance of the said *Lazard*, who, as it appeared to her, was determined to beat and maltreat her, which she believes he would really have done, if he had not been opposed by the mother and sister of deponent, who gave her time to get out of his way by placing themselves before her; the whole without any provocation on the part of deponent; from all which, deponent has reason to believe, and does believe and fear that her life is in danger, and more especially that of the child she carries in her womb, and that being in this state of fear she is prevented from going out alone to attend to her business, and is obliged to shut herself up early every evening with her relations, under the apprehension that she may be exposed to some new acts of violence on the part of the said *Augustin Lazard* ever since the period aforesaid; wherefore, she demands the aid of the law to cause him to be apprehended; and further she saith not, but hath persisted in this deposition, made at St. Michael d'Yamaska, this 26th day of the month of October 1832; deponent declaring herself unable to write; these presents being duly read.

The foregoing deposition sworn to before me, by the deponent therein named, at St. Michael d'Yamaska, this 26th day of October 1832.

(signed) *Pre. Sh. Chevrefils, J. P.*

(Endorsed.)

Q. S. No. 559. Deposition of *Marie Josephite Aloncaret*, wife of *Frs. Jos. Lazard*, an Abenakis Indian v. *Augustin Lazard*. Assault to murder.

Witness, *Marie Josephite Aloncaret*.

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District of Three Rivers.

*James Mackinnon*, of the town of Three Rivers, tailor, being duly sworn, deposeth and saith, that on the night of Friday, the 16th day of November instant, one Robert Campbell, of the same town, mason, came to the door of this deponent's house, and with violence endeavoured to force it open; that being at last admitted, he seized this deponent's wife, Catherine Lynch, by the throat, and this deponent verily believes that had he, the deponent, not gone to her assistance and rescued her, the said Campbell would have then and there killed and murdered his said wife.

(signed) *James M'Kinnon*.

Sworn before me this 17th day of November 1832.

(signed) *Joseph Pacaud, J. P.*

(Endorsed.)

No. 561. January, Q. S., 1833. Dominus Rex v. Robert Campbell, 17th November 1832. Assault to murder.

Witnesses, James M'Kinnon, Catherine Lynch, Mary Costley (Mrs. Tweets), Charles Cadaret, John Mann.

By one of His Majesty's Justices of the Peace for the District of Three Rivers.

*George Newsom Turner*, boot and shoemaker of the town of Three Rivers, personally appeared before me and made oath on the Holy Evangelists, that his life was threatened by Thomas Maine, on the 25th of December, and that the said Thomas Maine violently swore that before he would sleep he would have his hands through the inside of deponent; at the same time, that the said Maine had a knife in one hand and a shoemaker's hammer in the other. Deponent further swears that after giving said Thomas Maine in charge to John Jurden, constable, he refused to go to gaol, and kicked said John Jurden and deponent in a most violent manner; and deponent further swears that he verily believes that the said Thomas Maine intends to assassinate him, without deponent giving him the smallest provocation.

Three Rivers, 26 December 1832.

Sworn before me and signed by the deponent.

(signed) *George N. Turner*.  
*J. E. Dumoulin, J. P.*

(Endorsed.)

Q. S. No. 574, January 1833. Dominus Rex v. Thomas Maine, 26th December 1832. Assault to murder.

Witnesses, George Newsom Turner, John Jurden, John Stronach.

Province of Lower Canada, District of Three Rivers.

The information and complaint of *Louis Desiré Caron*, of the parish of River du Loup, yeoman, taken at the town of Three Rivers, this 12th day of November, in the year of our Lord 1833, before me, Jean Emanuel Dumoulin, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers aforesaid.

Who being upon oath, saith, that yesterday the 11th day of November instant, this deponent was violently assaulted by one Joseph Vanasse, of the said parish of River du Loup, yeoman; the said Joseph Vanasse having then and there an axe and a knife in both his hands, with which this deponent verily believes the said Joseph Vanasse then and there intended to kill and murder this deponent.

(signed) *Louis Desiré Caron*.  
*J. E. Dumoulin, J. P.*

(Endorsed.)

Quarter Sessions, No. 101. Dominus Rex v. Joseph Vanasse, 12th November 1833. Assault to murder.

Witnesses, 1. Louis Desiré Caron; 2. Benjamin Bellmard; 3. Moyse Vanasse;  
4. François Pacquin; 5. Jean B<sup>te</sup> Belland; 6. Alexis Vanasse.

Province of Lower Canada, District of Three Rivers.

The information and complaint of *John Liddle*, of the parish of the town of Three Rivers, labourer, taken at the town of Three Rivers, this 28th day of December, in the year of our Lord 1833, before me, Henry Francis Hughes, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers aforesaid :

Who being upon oath, saith, that this morning this deponent was violently assaulted and beaten in the head with an iron collar, by one John Brown, of the said town, labourer; that from this attack the deponent considered his life to be in danger.

(signed) *Henry F. Hughes, J. P.*

(Endorsed.)

Quarter Sessions, No. 111. Dominus Rex v. John Brown, 28th December 1833. Assault to murder.

Witnesses, 1. John Liddle; 2. George Lindsay; 3. Robert Dewar; 4. John Swanson.

Province of Lower Canada, District of Three Rivers.

The information and complaint of *Xavier Durand*, of the town of Three Rivers, labourer, taken at the town of Three Rivers this 26th day of November, in the year of our Lord 1834, before me, Sueton Grant, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers aforesaid :

Who being upon oath, saith, that last night having asked Elie St. Hilaire, of the said town, labourer, to pay to him the sum of 2s. 6d., which he owed to the deponent, he having a knife in his hand, assaulted the said deponent with the said knife, with intent, as the deponent believes, to kill and murder this deponent; that Catherine Petit, the wife of the said Elie St. Hilaire, also beat and assaulted the deponent last night.

Taken before me, year and day above written.

(signed) *S. Grant, J. P.*

(Endorsed.)

Quarter Sessions, No. 213. Dominus Rex v. Elie St. Hilaire and his wife, 26th November 1834. Assault to murder.

Witnesses, 1. Xavier Durand; 2. Louis Courteau; 3. Jacques Durand; 4. Pierre St. Hilaire.

District of Three Rivers.

*Laurent Portneuf*, of the Abenakis tribe, of the village of St. François, hunter, being duly sworn on the Holy Evangelists, doth depose and say, that on Saturday last, the 31st day of January last, Jean B<sup>te</sup> Nagagawa, of the same tribe, hunter, assaulted, threatened, struck and beat him, and afterwards assaulted him with an axe handle and threatened to kill him; and that deponent fears that the said Jean B<sup>te</sup> Nagagawa will carry his threats into execution, and demands my authority to cause the said Jean B<sup>te</sup> Nagagawa to be apprehended and dealt with according to law, and hath declared himself unable to sign his name.

Sworn before me at La Baie St. Antoine, this 6th day of February 1835.

(signed) *Fr. Cottrell, J. P.*

(Endorsed.)

No. 246. 6th February 1835. Deposition of Laurent Portneuf v. Jean B<sup>te</sup> Nagagawa. Assault to murder.

Province of Lower Canada, District of Three Rivers.

The information and complaint of *Elie St. Hilaire*, of the town of Three Rivers, labourer, taken at the town of Three Rivers, this 10th day of February, in the year of our Lord 1835, before me, Sueton Grant, esq., one of His Majesty's justices of the peace in and for the district of Three Rivers aforesaid :

Who being upon oath, saith, that this day the deponent was violently beaten and assaulted by one Louise Daniel, of the said town, widow, she having a knife in her hand, with which the deponent verily believes she intended to kill and murder the deponent, against the peace, &c.

Sworn before me.

(signed) *S. Grant, J. P.*

(Endorsed.)

Quarter Sessions, No. 236. Dominus Rex v. Louise Daniel, 10th February 1835. Assault to murder.

Witnesses, 1. Elie St. Hilaire; 2. Catherine Petit.

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*Jean Baptiste Boudreau* and *Placide Guillardé*, both of the parish of St. Grégoire, seamen, being duly sworn, deposeseth and saith, that on Thursday the 25th day of December 1834, a man of the name of Louis Proulx, also of the said parish, came into the house of one of the deponents, Jean Baptiste Boudreau, where the other deponent, Placide Guillardé, then was; that the said Louis Proulx then and there threatened, struck and assaulted the said Placide Guillardé, and that the said Louis Proulx did in fact strike and assault the said Placide Guillardé, with the intention of killing and taking the life of the said Placide Guillardé, and this in the house of one of the deponents, Jean B<sup>te</sup> Boudreau; and further the deponents say not. This deposition being read over to them, they declare that it contains the truth, and persist therein; and one of them hath signed the same, the other declaring himself unable to do so.

(signed) *Placide Guillardé.*  
his  
*Jean B<sup>te</sup> × Boudreau.*  
mark.

Three Rivers, 12 January 1835.

Taken in open court.

(signed) *David Chisholme, Clk. P.*

(Endorsed.)

No. 224. Q. S. April 1835. Dominus Rex v. Louis Proulx, January 1835. Assault to murder.

Witnesses, Jean B<sup>te</sup> Boudreau, Placide Guillardé.

Province of Lower Canada, District of Three Rivers.

*Marie Chartier*, wife of Amable Allard, of the town of Three Rivers, labourer, being upon oath, deposeseth and saith, that the day before yesterday, the 26th day of February instant, she saw one André Boudoin, of the said town, shoemaker, assault his wife, Leclair Rousseau, with a knife, against the peace; and being afraid that the said Boudoin will do further harm and injury to his said wife, the deponent prays that justice may be done in the premises.

Sworn before me, this 28th day of February 1835.

(signed) *J. E. Dumoulin, J. P.*

(Endorsed.)

Q. S. No. 228. April 1835. Dominus Rex v. André Boudoin. Assault to murder.

Witnesses, Marie Chartier, Leclair Rousseau.

Enclosure 4, in No. 1.

Mr. Chisholme's Defence; with Four Enclosures, (A.), (B.), (C.), (D.)

To his Excellency the Right Honourable the Earl of Gosford, Captain-general and Governor-in-chief in and over the Province of Lower Canada.

The Memorial and Defence of David Chisholme, Clerk of the Peace for the district of Three Rivers, to the charges advanced against him by the House of Assembly of Lower Canada:

May it please your Lordship,

By a letter, dated the 2d of March instant, which I had the honour to receive from the civil secretary, I am officially informed that your Excellency having received an address from the House of Assembly, accompanied by accusations of a very grave nature against my character and conduct as a public officer, your Lordship deems it right, before taking any steps in the matter, that I should have an opportunity of making any defence to the charges advanced against me that it may be in my power to offer.

I sincerely thank your Lordship. You have imposed a great task, but a still greater obligation upon me; for though placed at the stake, it is a consolation to find that I am not to be sacrificed unheard. Indeed it were wonderful if, in a British soil, and surrounded and protected by British laws, as we here have still the good fortune to be, the contrary should ever happen. But, I must say it, that there exists at present in these parts of the King's dominions a hunt of obloquy, and an enraged and savage cannibalism of private and public reputation, which is not only without parallel, but a disgrace to a free christian people; and it would be truly well if every power and faculty of the laws were enforced to restrain and annihilate

annihilate so terrible a scourge. Amongst a free people, governed and ruled by free institutions, it cannot indeed but be that strife and animosity will arise between contending parties, and impel either side to the perpetration of deeds and actions which, when the storm is over, and the mind restored to its natural element and powers of reflection, must ever be the source of much sorrow and shame. But when parties descend to personal retaliation and the interchange of the basest and most malignant passions of the human heart, no moral power can control them, and no remorse compensate the evils which they inflict upon civil society, and, in truth, society itself must inevitably be dissolved. It is therefore with the discretion, the decision and ability of vice-royalty, that your Lordship is both morally and politically bound to destroy a pestilence which threatens to involve a people, almost otherwise happy, in ruin and confusion. With these sentiments I beg leave to approach your Lordship with mine humble, but, I trust, efficacious defence.

I am called upon, with the least possible delay, to furnish answers to charges which have occupied nearly four months in their manufacture. It is well; but I did not think it would come to this. I did hope that, if at all put upon my defence, I should have been permitted to confront my adversaries face to face, and have been allowed equal time, equal opportunity and equal ability to assist me. But it is no matter; alone, and totally unaided though I am, I do not shrink from the duty and commands imposed upon me. I have a character to maintain, and civil rights to defend. It is true my abilities are humble, and in every way inadequate to the task, but I thank God that Justice is still as blind to the influence of talent, however combined, as to that of corruption, and that truth is still the polar star of her sacred functions.

In thus, then, availing myself of the indulgence afforded to me, it must be very obvious to your Lordship, endowed as I am sure you are with a competent and extensive knowledge of the principles and practice of our happy constitution of government, and the imprescriptible rights and liberties of a British subject, that the communication which it has been your pleasure to order to be made to me, has most unexpectedly placed me in a very extraordinary and unparalleled predicament. I am suddenly, and in a moment of time, called upon to plead before a tribunal happily unknown to our laws, a tribunal that arrogantly assumes to itself the incompatible and dangerous offices of accuser and judge. I am called upon to make my defence to charges that have no foundation, either in fact, in civil, in criminal, or in constitutional law. I am called upon to answer accusations which I know and could prove to have originated in private and not in public motives, and to have been preconcerted in a secret conclave; not, to do it justice, of the House of Assembly, nor of its committee, but of private and personal enemies in every respect worthy of being denominated a modern order of St. Dominick. But who has accused me to your Lordship, or to any of the other branches of the legislature, of the high crimes and misdemeanours laid to my charge? Has any magistrate, any grand or petty juror, any defendant, any prisoner, or any other individual, public or private, who may have been injured by any of my official acts or misdeeds? Not one, my Lord. Yet, strange to tell, I am called upon to answer charges without a complaint, or even a complainant, except those who have at once accused, tried and condemned me! I am called upon to repel charges against my character and conduct as a public officer, in support of which no evidence was ever adduced, and which have never been proved either legally or constitutionally. I am called upon for my defence, not on or before trial, but after my condemnation; and at the point where execution is ordered, and desired to be carried into effect, I am called upon for my defence: instead of my last words and dying speech, I am put upon my deliverance when, if the House of Assembly have power to award judgment, no plea can avail me, no defence acquit me, and no counsel serve me. If I plead at all, I must do so in irons; condemnation has already gone forth against me; and if the forms and the sacred principles of justice are to be deviated from, and basely trampled under foot, as it is attempted to be done on the present occasion, who can stay the ruthless and despotic arm of tyranny and oppression? What then remains for me, but solemnly to protest against such proceedings? They are unheard of in civil, criminal or constitutional law; they are not written in any code of British jurisprudence; and are totally excluded from the consecrated immunities of freemen. What then, my Lord, I repeat, remains for me but to appeal from proceedings so unprecedented to the principles of eternal justice, and the inherent rights and liberties of a British subject?

Before proceeding, therefore, to refute more specifically the nature and character of the charges urged against me by the House of Assembly, I must be permitted by your Lordship to enter upon a slight discussion of what I humbly and respectfully conceive to have been hitherto considered as an infringement of the rights and principles which I have ventured to invoke.

On the 30th of November last I was summoned to appear before a special committee of the House of Assembly, "appointed to inquire concerning the fees and emoluments received by the attornies, clerks of the peace, and by 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." I accordingly appeared before the committee, and, in terms of the order transmitted to me, laid before it "all books and documents tending to show correctly, and without reserve, the amount of the fees and emoluments of the said clerk of the peace, and of the other officers of the court of quarter sessions of the peace, from whatever source derived, during the last five years." And here let me be permitted to call the especial attention of your Lordship to the fact, that in calling for all these "books and documents," the special committee assumed to itself a power which it did not and could not possess, by deviating from the order of reference made by the House of Assembly; and in addition to the "books and documents" in question, called upon me to bring and lay before it, "A list of

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all the indictments laid before the grand jury of the court of quarter sessions for the district of Three Rivers, during the last 10 years; distinguishing cases of mere assault and battery from those where the indictment was for assault and battery with intent to murder;" and "the depositions or affidavits on which such indictments, either for mere assault and battery, or for assault and battery with intent to murder, were preferred."

I had nothing to conceal from the special committee, the House of Assembly or the public at large; I yet have nothing, and if I had been called upon to give an account of my private affairs and my domestic economy, I should have been equally ready and willing to comply with the request, however indecent or illegal I might be tempted to esteem an investigation so unusual, and at such variance with the courtesy of society. Men of honour and conscientious integrity may err, and often do so, but they cannot deceive. It is that they are so frequently circumvented, though not ultimately vanquished, by persons of design, intrigue and malevolence. I trust that this is my own situation in the present case; and although the maxim may be a general one, yet that its application may be both correct and special. It was, therefore, with the utmost promptitude that I laid open to the special committee the public repositories committed to my care, and gave such an account of my own public conduct as the nature and scope of the investigation demanded. In doing so, I was totally unconscious of guilt, and equally regardless of accusation. But it is neither innocence nor an indifference to consequences that can yield security in times like the present. I have discovered, perhaps too late, that to be charged with a crime by a special committee of the House of Assembly, is tantamount to being judged and condemned by the body at large, and that the only proof of delinquency consists in the bare fact of being denounced. However, I readily complied with the orders of the special committee to their fullest extent, and the consequences soon became evident: indeed they might have been foreseen, and perhaps they were so; but, as already hinted, those who have nothing to conceal can have little to fear.

Referring then, with submission, your Lordship to the order of reference made to its special committee by the House of Assembly, and comparing its tenour and the original object of its inquiry with the ultra and irrelevant documents called for by the former, it will at once be perceived what the real object in view had been with respect to me, from the beginning to the end of the inquisition; it will be perceived that the object of the committee was not in reality to examine and report upon the nature and amount of my fees and emoluments, but insidiously and extrajudicially, if the term may be allowed, to investigate my conduct and bearing as a public functionary; a power which had never been delegated by the House of Assembly. In short, I had, somehow, become obnoxious to the committee, or to some one of its members, and it was evidently predetermined that, if possible, no matter for the means, I should be rendered equally obnoxious to public contempt, and persecuted to death as a delinquent in the eyes of the law, the constitution and the government whom I served. It was not sufficient thus to overleap the boundaries prescribed by the order of reference as to the facts and circumstances of a mere pecuniary income; but the committee must extend its jurisdiction over time as well as events. This will become manifest when it is observed, that while I am called upon to render an account of my fees and emoluments for the space of only five years, I am enjoined to furnish the committee with documents supposed to implicate my public integrity for the extended period of ten years! These are facts, my Lord, which require no comment from me, however much it may be my right and interest to demur to them. They betray at once the motives which gave origin to the present prosecution, and ought to convince your Lordship that, should you ever come to pronounce my doom, it will become necessary to take motives of action and principles of equity into consideration, as well as the empty pomp and circumstance of reports, resolutions and addresses, especially when character and fortune are at stake.

Nevertheless, the result of the whole matter is this, that upon the information orally furnished to the committee, without any information of its criminating tendency, or any notice of being upon trial for integrity and infamy, and the voluminous documents laid before it, I have been incidentally, and without any public accusation whatever, charged with high crimes and misdemeanours. The House of Assembly, as a matter of course, has sanctioned the decision of its committee, and it remains for your Lordship to approve or reject a proscription as unexampled as it is contrary to law.

Your Lordship is well aware, that "the first maxim of a free state is that the laws be made by one set of men and administered by another: in other words, that the legislative and judicial characters be kept separate."

The maxim is wise, and the reason obvious. If either of them required illustration, the case immediately before us is more than sufficient. Here we have a legislative body not only acting in its natural capacity, and exercising all the functions of lawmakers, for private ends and a specific purpose, but assuming to itself at the same time all the faculty and powers of a judicial tribunal, and administering a law made to suit its own inclinations. The House of Assembly has gone a step further: it has accused as well as legislated and judged. With such powers, who or what can withstand it! Nothing can be more adverse to both the spirit and letter of our constitution of government and laws; nothing more destructive of the end and happiness of the social union, than this indiscriminate assumption of the various and distinct attributes of a well-ordered and well-governed state. It would be bad enough, and equally unconstitutional and illegal, if your Lordship had united with the two other branches of the legislature, for the purpose of removing and confounding the landmarks of the legislative and judicial functions; but should we behold one branch of the same legislature thus conspiring against the rights and liberties of the people, nothing remained for us to do but to be mute, and tremble for our fate. Would your Lordship, as a branch of the legislature of this province, dare (I speak with respect and confidence) so far to compromise the prerogative of the Crown and the liberties of the people, as to call

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your council around you, and there, in the security of your retirement, and in the impunity of your high office, accuse, try and condemn any individual in or out of office, without as much as intimating to him that he was upon his trial, calling evidence for or against him, or permitting him to be heard in his own vindication? No! my Lord, you would not: you would scorn and abhor the very idea of such a piece of infamy; I entertain too high an opinion of your Lordship's sense of humanity and justice, as well as of your intimate knowledge of our laws, than for a moment to think it. But although your Lordship would not do so, yet you might thus destroy the character and fortune of an innocent individual, and entail ruin and disgrace upon his family, with the same impunity that others have attempted to have done the same thing. Your authority, my Lord, is equally potent with that of any of the other constituent branches of the legislature, your capacity is equally great, and your power equally irresistible: but I trust, indeed I am sure, that they never will be illegally or unconstitutionally exercised to the disadvantage of the meanest of His Majesty's subjects, and least of all in the mode and manner complained of on the present occasion. It is thus then, my Lord, that the danger and iniquity of that combination of power assumed by the House of Assembly are brought home to our reason and feeling; it is thus that we now so readily perceive the force and justice of the fundamental maxim alluded to, and it is thus that we ought to be constantly on our guard against inroads upon our liberties, from whatever source they may proceed.

But it has been said, and trumpeted in our ears, for I know not how long, that the House of Assembly of this province constitutes the grand inquest thereof, and may at all times present any individual or functionary for misconduct and malversation. Emanating as our constitution has done from that of the mother country, and circumscribed and limited as the powers conferred upon us necessarily are, and must be, I have no hesitation whatever to demur to the proposition: but should it be extended to the second branch of the legislature, I mean the Legislative Council, I would have no great objection to acquiesce in its truth and justice. However, I lay all cavil aside, and, for the sake of argument admit the truth of all that the advocates of the House of Assembly are pleased to urge in favour of its pretensions. But will such admission serve to facilitate our progress to the goal of our inquiries? Let us see, my Lord. We have come to the conclusion that the House of Assembly forms the grand jury of the province, as the representatives of the people, and in that capacity is empowered to accuse whom it will. We know that before a grand jury can charge any individual with an offence, some previous investigation becomes necessary by means of witnesses on oath before God and their country; and that when some conclusion is come to, a presentation is made to a tribunal established by law, for the purpose of trying any one who is so unfortunate as to be so presented. These all must allow to be the just rights and powers of grand jurors, both legally and constitutionally; but are these the principles which actuated, and the practice which guided the grand inquest of the province on the present occasion? Did they examine witnesses on oath, or otherwise; and did they impeach the supposed delinquent before any court or other tribunal established by law for putting him on his trial in the face of his accusers and their witnesses? by no manner of means: our grand national inquest, as they had another and a different object in view than affording an unfortunate individual the means of a fair, open and impartial trial, so they adopted a corresponding code of procedure: no witness was examined, except the accused himself, thus putting him to the torture as an evidence against himself. It is a poor cause that cannot afford at least one disinterested witness; but *ex post facto* laws provide for themselves both victims and witnesses at pleasure. No bill of impeachment was laid by this grand inquest before any other tribunal, and no trial was had that I know or have ever heard of; yet, strange to say, conviction ensued notwithstanding, and judgment has solemnly been pronounced. The whole duty and offices of accusers, jurors and judges have been most unconstitutionally united in one and the same body; and there is no alternative but to submit to its fiat, with all its overwhelming and ruinous consequences.

But, my Lord, is this the way in which a freeborn British subject is to be deprived of his rights, and a public servant degraded from his office? I trust not; I, for one, object to it; I, for one, protest against it; I, for one, will not submit to it. It is contrary to every principle of equity and justice, and at variance with the fundamental rights and liberties of Englishmen. "In the infliction of punishment," says Paley, "the power of the Crown and of the magistrate appointed by the Crown, is confined by the most precise limitations; the guilt of the offender must be pronounced by twelve men of his own order, indifferently chosen out of the county where the offence was committed; the punishment, or the limits to which the punishment must be extended, are ascertained, and affixed to the crime by laws which know not the person of the criminal." "No freeman," says the great charter of our liberties, "shall be seized and imprisoned, or disseised, or outlawed, or any way destroyed: nor will we try him or pass sentence on him, except by the legal judgment of his peers, or by the law of the land." If I am to be tried at all, these are the laws, the principles and the proceeding by which alone I claim to be either condemned or acquitted. They are my birthright, to them I appeal; and, my Lord, by none other shall I be judged.

However, to come to the point at once, I beg leave firmly but respectfully to maintain, that so far from being competent to exercise any judicial act whatever, the House of Assembly has no right or power even to impeach any one of His Majesty's subjects or officers without the concurrence of the Legislative Council. There is in this province no tribunal established by law for the purpose of trying public delinquents; and the only way in which, at present, they can be overtaken by justice, is by the union of the second and third branches of the legislature in an accusatory address, either to your Lordship as Governor-in-chief, or to the King himself. Even this power is admitted only in consequence of the analogy between it

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and that immediately possessed by the Imperial Parliament. Our constitutional Act is totally silent upon the subject; and it does not follow, as a matter of course, that when Parliament endowed the people of this province with specific rights of legislation, all the powers and privileges enjoyed by that supreme body became inherent in the dependent and subordinate legislature of Lower Canada. If this were the case, the authority and the dependency subsisting between the two bodies would soon cease; and in all matters of privilege as well as of legislation, their powers would become reciprocal and co-ordinate.

My Lord, I am a poor man, and my resources of literary information and legal and constitutional reference are consequently very limited; but limited though they be, I trust that by referring to one or two authorities at hand, I shall be able to convince your Lordship of the truth and correctness of my present position.

I find, then, from Hallam's Constitutional History of England, vol. 1, p. 486, that one Giles Mompesson, who had obtained a patent for licensing inns and ale-houses, had become obnoxious to the Commons in consequence of having used extreme violence and oppression. "The House of Commons proceeded to investigate Mompesson's delinquency; conscious that the Crown had withdrawn its protection, he fled beyond sea. One Michell, a justice of the peace, who had been the instrument of his tyranny, fell into the hands of the Commons, who voted him incapable of being in the commission of the peace, and sent him to the Tower. Entertaining, however, upon second thoughts, as we must presume, some doubts about their competence to inflict this punishment, especially the former part of it, they took the more prudent course with respect to Mompesson, of appointing Nay and Hakewell to search for precedents, in order to show how far and for what offences their power extended to punish delinquents against the State, as well as those who offended against that House. The result appears some days after in a vote, that they must join with the Lords for punishing Sir Giles Mompesson, it being no offence against our particular House, nor any member of it, but a general grievance." This is a strong case, my Lord, and ought to be maturely weighed and considered in deciding a question like the present, where not only the public character of an individual is in jeopardy, but where the whole universal rights and liberties of a free people are menaced. And accordingly, I presume, that it was in conformity to so good and constitutional a precedent the Legislative Council of the province, as far back as the 2d of March 1814, passed, among others, resolutions to the following effect. "That by the criminal laws of England, and of this province, no man can be charged with or impeached of any crime or criminal offence but by an inquest of the country, the cases excepted in which an information on the part of the Crown may be filed; that the lawful inquest of every county, district or government by whose ministry any subject of his Majesty is charged with or impeached of any crime or criminal offence, however chosen or appointed, represents, for the purpose of such charge or impeachment, the entire community of the people of the county, district or government in which such subject is so charged or impeached, and acts on their behalf, and in their right; that the right to charge or impeach any officer or officers of his Majesty's Government in this province, with or for any crime or criminal offence or misdemeanor in office (if any such right exists in this province) is by law vested in the entire community of the people of this province; that the right to charge or impeach any officer or officers of his Majesty's Government in this province with or for any crime, or criminal offence or misdemeanor in office, doth not vest, nor can be vested in any one part of the people of this province, more than in another; but is vested in the whole collectively, generally and equally: that the right to charge any officer or officers with or for any crime, criminal offence or misdemeanor in office, doth not, nor can, exclusively exist in the representatives of any one part of the people of this province, nor can by them be exercised without the participation of the remainder: that the members of this House are a component part of the people of this province: that the members of this House being appointed by the Crown for life, do sit and vote in the Provincial Parliament in their own right, and are not represented in the Assembly: that the Assembly of this province, inasmuch as the members of this House are a component part of the people of this province, are not therein represented, are the representative of a part only of the people of this province: that every charge or impeachment of the Assembly alone is a charge or impeachment of a part only of the people of this province: that no charge or impeachment of any officer or officers of his Majesty's Government in this province, with or for any crime or criminal offence or misdemeanor in office, can by the laws and constitution of this province be exhibited by the Assembly alone, nor without the participation of this House; that the Imperial Parliament of the United Kingdom of Great Britain and Ireland is the true and perfect representative of the entire community of the people of the said United Kingdom: that the right to charge or impeach any officer of his Majesty's Government with or for any crime, criminal offence or misdemeanor in office is by the law and constitution of the United Kingdom of Great Britain and Ireland vested in the entire community of the people of the said United Kingdom, but is exercised on their behalf and in their right by the House of Commons alone, to the exclusion of the House of Lords: that the right of hearing and determining all impeachments exhibited in the United Kingdom of Great Britain and Ireland by the people of the said United Kingdom, by the ministry of the House of Commons, is by the law and constitution of the said United Kingdom vested in the House of Lords, to the exclusion of the House of Commons and of every other tribunal: that the House of Lords is thereby, and thereby only, excluded from all participation in voting or exhibiting any such impeachment. The offices of accuser and judge being totally incompatible, that the right of hearing and determining impeachments exhibited in this province, is not vested in the Legislative Council of this province, and that the Legislative Council is not therefore excluded from a participation in voting or exhibiting any such impeachments."

I shall



I shall not proceed further in support of this point, and I hope your Lordship will be of opinion that it is altogether unnecessary. I think I have said enough to convince your Lordship that I have not only been illegally tried and convicted by the House of Assembly, but that in doing so, that body has usurped powers which do not legitimately belong to it; and has thus endeavoured to assail with an iron arm of oppression the dearest and most valuable rights of a British subject, in order to gratify some malevolent passion which I am not conscious, for my own part, of having ever deserved or inspired. My Lord, too much care cannot be taken to guard against encroachments and innovations of this kind: They will, otherwise, overturn the firmest foundations of law and of good government, and bring down ruin and desolation on the fair fabric of our inestimable institutions. "The case of Floyd," says Hallam, the respectable authority whom I have already quoted, "is an unhappy proof of the disregard that popular assemblies, when inflamed by passion, are ever apt to show for those principles of equity and moderation, by which, however the sophistry of contemporary factions may set them aside, a calm and judging posterity will never fail to measure their proceedings. It has contributed at least, along with several others of the same kind, to inspire me with a jealous distrust of that indefinable, uncontrollable privilege of Parliament which has sometimes been asserted, and perhaps with rather too much encouragement from those whose functions it is to restrain all exorbitant power."

Your Lordship will, I hope, excuse the nature and extent of these preliminary observations; they seemed, to my humble capacity, to have been unavoidable on an occasion like the present. My fame and fortune are at stake; my rights and liberty as a British subject are involved; my cause is the common cause of every individual who boasts in the name of Briton. To what sanctuary therefore could I so naturally and justifiably have resorted, as to the common patrimony of us all; to those laws and principles of government which have been won by the swords and consecrated with the blood of our forefathers? I will therefore conclude them in the words of Lord Bacon, the greatest of our countrymen. "As far as it may lie in you, let no arbitrary power be intruded; the people of this kingdom love the laws thereof, and nothing will oblige them more than a confidence of the free enjoying of them. What the nobles upon an occasion once said in Parliament, '*Nolumus leges Angliæ mutare,*' is imprinted in the hearts of all the people."

I come now to the consideration of what more immediately concerns the present discussion.

1. The first and principal charge brought against me by the House of Assembly, is, that since my appointment to the office, 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 me on information, not under oath, and verbally given by my clerk, the high constable and petty constables. The list of informers ought to have been extended in the report of the special committee to "some other persons of credit, as stated by me in my answer to the 53d question of the committee." My Lord, it may be so, as to the fact itself, though quite the contrary as to the undeviating rule of practice, and the number of indictments said to have been preferred. To the question No. 100, put to me by the special committee, I answered that I conceived "that as public prosecutor, I have not only a right, but it is my duty to lay bills before the grand jury for any offence cognizable in the court of quarter sessions whenever information is given me either verbally or written." With great submission to your Lordship, I still continue to be of the same opinion. I have never learned that there existed any law to the contrary. Surely a right inherent in every one of His Majesty's subjects might, without any inordinate stretch of power, be assumed and exercised by an officer appointed for the express purpose of prosecuting all criminal offences coming to his knowledge. I know your Lordship is well aware that the criminal law of England happily and providentially constitutes the criminal law of this province. Your Lordship also knows, that by virtue of this law any man may prefer and prosecute an indictment in His Majesty's name; and in so doing necessarily assume the consequences that may accrue from an undue exercise of his right. In confirmation of this fundamental privilege, Blackstone observes that "the grand jury are previously instructed in the articles of their inquiry, by a charge from the judge who presides upon the bench. They then withdraw to sit, and receive indictments, which are preferred to them in the name of the King, but at the suit of any private prosecutor; and they are only to hear evidence in behalf of the prosecution; for the finding of an indictment is only in the nature of an inquiry on accusation, which is afterwards to be tried and determined." Dickenson, in his "Guide to the Quarter Sessions," is still more clear and explicit on the same subject. He says, "as all prosecutions are conducted in the name of the Crown, and for the public security, any person may lawfully prefer an indictment for misdemeanor or felony, but it is not usual for parties thus to interfere, unless they are individually aggrieved by the offence, or sustain some offence which renders it peculiarly incumbent on them to bring the offender to justice." The same respectable authority, in treating of the office of clerk of the peace, observes, "that it is his duty when prosecutors do not choose to seek professional assistance elsewhere, to draw bills of indictment." This is evidently the imposition of an imperative duty. Neither option nor discretion is left at his disposal. He must be aiding and assisting any private prosecutor that may call himself such, whether it be true cause or not, and whether there be written information on oath or otherwise. Thus it would evidently appear that any private prosecutor may resort to the clerk of the peace, and insist upon his preparing a bill of indictment according to the nature of the offence complained of, and that, unless he comply with the requisition, however well or ill-founded, he is subject by law to very high pains and penalties.

Being thus fettered to the execution of his functions, it is clear and palpable that the mere act of preparing a bill of indictment for the purpose of being laid before the grand jury,

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which we have seen any professional man may do, can neither be construed to have originated in a perverse ministration of his duties, nor to implicate him directly or indirectly in any evil consequences that may ensue, for it cannot be that a compulsory act is also a punishable one. The whole matter is therefore in law the business of the private suitor, who alone is liable, and ought alone to be liable, to an action for a malicious prosecution, should that prove to be necessary, just as much as if 10,000 written informations, upon oath had been previously filed of record in the office of the peace. It was in accordance with these opinions, I presume, that in August 1830 I received a circular letter from the Executive Government, directing me, among other matters, to observe "that as it was the duty of the clerk of the peace to prosecute offences in the quarter sessions, the object in view cannot be obtained without an assiduous discharge of this duty on the part of this officer, and his Excellency feels it therefore necessary to convey to you his expectation that you will bring forward and prosecute all cases cognizable by that court, wherever practicable, at the next ensuing quarter sessions after the committal of the offender."

But it would appear from the report of the special committee, that the practice of other clerks of the peace is different from mine; and that they would revolt at the bare surmise of drawing a bill of indictment without written information upon oath. His Majesty's Attorney-general, the first law officer of the Crown in the province, it would appear is not quite so strait-laced, for he honestly and distinctly states to the committee, "My own practice has been to proceed on depositions in writing only; nevertheless cases might occur in which it might be otherwise." And so cases of this kind do frequently occur; and if the Crown officers are not to be permitted to exercise some discretionary powers, and some latitude of conduct in the discharge of the functions of their office, many criminals will escape unpunished, and the safety and security of the subject will be constantly exposed to insult and injury. Without such powers the criminal law of the country can never be vigorously or efficiently enforced, and criminals would stalk forth amongst us with a boldness and impunity altogether unworthy of civilized society.

I entertain a very high respect for both of my brother officers to whom I have just alluded, and whose opinions I have respectfully ventured to question. One of them at least is my particular friend, and I hope he may long continue to be so. They are, however, better lawyers than perhaps I can pretend to be, for I am not of the profession; but I will yield to neither of them in honesty of intention. They may be right in their opinions, and their practice may be far more correct and salutary than mine. I may be entirely in the wrong, while they are altogether in the right.

Yet still I must persist in maintaining that I have never been able to discover any rule of law which provides for the one practice more than for the other. Nevertheless, I freely and candidly admit, that I may have misconceived my duty on this particular point. I may have been very zealous without much judgment. I may all along have been labouring under very erroneous impressions as to the line of my duty; and have been afflicted with some official hallucination. But will your Lordship suffer me to be utterly destroyed by venial causes like these, neither meriting or justifying any retributive acts of justice? Am I to be degraded from office, and my name branded throughout the empire, because, in the discharge of what I conceived to have been my bounden duty to my King and country, I had the misfortune to put a different interpretation on the laws from others, and pursued a practice, not against which any positive law had existed, but in the establishment and maintenance of which both law and immemorial right have long been united? Are the very objects to be permitted to point at me in derision, because, in the discharge of an irksome, invidious and ill-requited office, I have sacrificed my private feelings as a man to what I conceived to have been my duty as a public officer? Surely, surely, no! There are errors that may be corrected, and wrongs that may be amended and compensated, without the utter and irremediable sacrifice of their author to either party or passion. The first principle of civil government is, to correct impropriety of conduct, without extinguishing all hopes of reformation, and undoubtedly the present is a case that comes within the scope of so humane and useful a maxim. But this, it will readily be perceived, is arguing the question at issue on the supposition, and even admission, not only of the correctness, but the extreme delinquency of the charges brought against me. To be sure it is. I had a clear and legitimate design in doing so; I have done it on purpose to be better able to convince your Lordship, as I presently hope to do, that these charges are far from being of so deep and an enormous a die as at first sight one might otherwise be induced to believe.

2. I have the honour of transmitting herewith, for the perusal and satisfaction of your Lordship, a list (marked A.), certified on oath by the compiler of all indictments laid before the grand jury of the court of quarter sessions of the peace for the district of Three Rivers, since my appointment to office in November 1826; showing and exhibiting the dates, the names of the offenders, the nature of offences, the findings of the grand jury, and in what cases there have or have not been depositions, or informations in writing under oath: It will be found from this list, that during the period of nine years only 538 indictments, of whatever descriptions, have been preferred to the grand jury in quarter sessions. If compared with the number of indictable offences presented in the other districts of the province, and the sum of the population of each district, it will be easily discovered that in none of those districts have so few criminal offenders been brought to justice as in this one. Instead, therefore, of making the number of indictments preferred, either with or without information in writing upon oath, a charge of malversation against me, the House of Assembly ought rather to have complimented the district at large on its orderly and moral good conduct, and to have congratulated itself upon the fact, that at least among one portion of the province, public crimes have by no means advanced in a greater ratio than might naturally have

have been expected from the progressive increase of the population. I will say it for them, my Lord, because I have better means of speaking to the fact than the special committee, that there is not a more peaceable, industrious and moral people in any part of the province than the inhabitants of this district; and that although it be impossible at all times to restrain the passions and propensities of the foolish and the dissolute, yet they are as little stained by guilt and contaminated with vice as any of their fellow subjects. But be this as it may, it will still be found from the statement before us, that out of the 538 indictments preferred as above, only 83 can be discovered to have been drawn without previous information in writing on oath. What, however, will be said or thought by any reasonable and unprejudiced individual, when he learns from the same authority, that of these 83 indictments, 70 were found "true bills" by the grand jury, thus leaving but 13 to be accounted for, if account be necessary, during the long period of nine years; but, moreover, it will also be found that out of these 13 indictments, 13 were preferred at the suit of constables and other public officers, who must always be allowed to be entitled to at least such a degree of credit as will justify the preferring a bill of indictment, without the previous ceremony of taking down their information in writing and upon oath. If it be so, this at once reduces the number for which I may be supposed to be accountable—to what, my Lord? to just, nothing! And this is the head and front of my offending!!!

It will be for your Lordship seriously to reflect upon this short and simple statement. It will be for your Lordship to decide, after having had the trouble of perusing it, whether I am really deserving of being publicly pointed out as an object worthy of your Lordship's contempt, and of being forthwith driven from His Majesty's grace and service. Is there anything here to justify such a demand, or such a result? Is there anything here to justify the extraordinary and groundless assertion that a systematic plan had been laid by me for enriching myself by the ignoble means of annoying and oppressing my fellow subjects, the honest inhabitants of this district, and that, without the least vestige of a complaint having been made against me by any of them? Quite the contrary, my Lord. As already stated, I conceived it to have been my duty, in a variety of cases, to lay indictments before the grand jury without information in writing. With the exception of the paltry number of 13, it appears that the grand jury found all these indictments true, and consequently well founded; what then, my Lord? Why, with great deference, neither more nor less than this, that the findings of the grand jury, having entirely and completely exonerated me from any criminal offence or misdemeanor in office, even in the event of its having been proven, which it is not, that I had acted contrary to law in preferring indictments in the mode asserted to have been done; that those findings stand between me and blame as a legal and moral shield that cannot be penetrated; that nothing can be more oppressive and tyrannical than this attempt to render me accountable for any official act of duty, after it had been approved of and sanctioned upon oath by the grand jury, the whole body of the district; that this body being the only competent judges of the necessity of calling on an offender to answer to his country, and having done so, neither I, nor any other officer who may have been the immediate instrument of presenting the offence to the grand jury, can, or ought, either in law, justice or equity, to be made responsible to any tribunal whatsoever, legislative or judicial, for the exercise of an act of ministerial duty; that these findings of the grand jury sanction and confirm all that may previously have been done in bringing the subject matter of complaint before them; that as the findings and presentments of the grand jury cannot be set aside, so none of the proceedings of those who may have initiated them ought to be subject to any scrutiny or investigation out of the due course of law; that the finding of a true bill by the grand jury is all that the law contemplates or requires for the purpose of putting the offender upon his country; that for this end some public or private prosecutor must furnish the grand jury with the necessary documents, and, in fine, that no public or private prosecutor ought to be amenable for the exercise of any right or duty after his conduct has been confirmed by the verdict of the grand inquest of the district wherein he resides. It is impossible, my Lord, to come to any other conclusion.

Having thus disposed of the grand fundamental charges preferred against me, I am not sure that it becomes necessary for me to proceed further in the line of my defence. But to show and satisfy your Lordship that I am neither afraid nor reluctant to encounter my prosecutors upon their own ground, I shall take up the report of the special committee with which your Lordship has been pleased to favour me; and to the best of my ability, endeavour to answer it, article by article, and point by point. The report is so wretchedly drawn up, so exceedingly ill arranged, so monstrously huddled together, and so illogically composed, that I regret to say the process must be a very tedious and irksome one to your Lordship. But the occasion warrants it; and I shall be as brief in my observations as the nature and circumstances of the case can possibly admit of.

3. It is stated that "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 constables. 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."

It is very true, my Lord, that my appointment as clerk of the peace of this district took place in November 1826, but that there may be no mistake about dates, with respect to which the committee seems to have been particular, I may as well observe that my commission is dated the 11th of that month. It was signed on that day, and was the spontaneous

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gift, I am proud to say, of the King's representative in this province; a nobleman, who, without the least disparagement to his high and respected order, for private worth, public integrity, manliness of heart, and firmness of purpose in the discharge of every civil and military duty, is not surpassed by any peer that wears a star or a coronet. It is true that my deserts and services had been small, but his Lordship was pleased to be of a different opinion; and no doubt thought as well as said, that, by good conduct and industry, the first step in the public service might lead, in due time, to higher and more important appointments. I trust that it is neither the fate of his Lordship to be disappointed, nor mine to be prematurely blasted in my just expectations.

As to the number of indictments which have been laid before the grand jury since that time, without written information on oath, it is totally unnecessary to speak in this place, as that head of accusation has already been sufficiently discussed; and the list marked (A.), herewith transmitted and referred to, will at once enable your Lordship to decide upon the justice and correctness of the statement of the special committee on this subject. And as to the persons stated to have conveyed to me the verbal information upon which the indictments were founded, it ought to be explained, that, when they were not themselves the party aggrieved, they were merely the medium by which the complaints of the private prosecutors had been brought under my notice; they could not themselves, being public officers, have been the true informants and private prosecutors in every case. The petty constables, indeed, have, in very many instances, been the parties immediately injured, in consequence of having been frequently called upon to abate nuisances of different kinds, to stay sudden affrays and riots, and of being often assaulted in the execution of their office. Generally speaking, it is only during the sittings of the quarter sessions that any of the petty constables are in attendance; and as it is in consequence of this attendance, and the duties attached to it, that their complaints generally accrue, so it was always during the hurry and confusion of the sessions that I was in the practice of receiving their verbal informations; and, instead of committing them to writing in the form of an affidavit, issuing a warrant against the offenders, and employing a constable to apprehend them, I directly laid the case before the grand jury in the form of an indictment. I shall have another opportunity of discussing the motives by which, it is said, I have been actuated in adopting this mode of procedure; but it is right to state in this place, that, by so laying the case before the grand jury, a sum of at least 20s. was saved to the province in every case.

Thus, for the deposition, warrant and examination, being the fees paid to	£.	s.	d.
the clerk of the peace, in one case with another	-	-	12 6
To the constable for the apprehension of the offender, at least	-	-	7 6
Making, in all			
	£.	1	- -

So that, according to the mode of procedure in question, whether right or wrong, it will appear, from the list already alluded to, that the province has been saved upwards of 83*l.*; and that I have suffered loss of upwards of 50*l.*

It has been discovered, I know not upon what evidence, that I have a clerk, that his name is John Campbell Fearon, and that he is interpreter to the courts at Three Rivers. Would there be any great sin in this, my Lord, if it were true? But it is not true. I have no clerk, and have had none since 1830, which will be seen from Mr. Fearon's affidavit marked (B.), herewith enclosed. The emoluments of my office are but ill adapted to bear the expense; and the mode and terms of payment are still less calculated to justify any unnecessary expenditure. That, up to the period in question, Mr. Fearon acted as my clerk in the peace-office is most true; but he has not since done so, although I have occasionally found it necessary to employ him, as well as others, in writing for me. As interpreter to the courts, he is an independent officer, in the performance of the duties of which I neither exercise, nor can exercise, any influence or control whatever over him; he is, in that capacity, his own master. To combine, therefore, his name with mine, as has been done on the present occasion, with the view, no doubt, of implicating my conduct still deeper in the estimation of your Lordship and the public, is so unwarrantable an instance of the perversion of truth to obtain an end, by no means humane or patriotic, as to merit your Lordship's particular attention and investigation.

4. "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."

I have already fully and sufficiently explained by whom, and in what manner, the information here alluded to came into my possession. If, therefore, any difficulty may have arisen with respect to the source whence the information in question was derived, it can only apply to the difficulty to ascertain the names of the private prosecutors. This could not be done without having recourse to the indictments themselves; and that was impossible while under examination at Quebec. The committee imposed no injunction upon me to this effect at any period. It, therefore, appears to me a very hard thing to be now obliged to answer a charge that could so easily have been obviated by the least forethought on the part of the committee. It is tantamount to being compelled to make bricks without straw; indeed, it is much worse, for it obliges me to defend myself against an accusation urged without either foundation or inquiry. As to the convictions being few in number, if it really be so, it is impossible to ascribe it to me as any fault or blame whatever. It was surely not necessary for me to have been endowed with a prescience that would enable me to discern, at one glance, the ulterior result of every indictment laid before the grand jury. But, in sober seriousness,

seriousness, can the committee, for a moment, imagine that the fact of the fewness of convictions can, by any possibility, amount to a crime or misdemeanor on the part of any one? I cannot think, or believe it. If blame lies anywhere, it is entirely with the grand and petty juries, and not on my already over-burdened shoulders. I was only the humble instrument of calling the attention of those respectable bodies to the nature of the offence and the offender; and for the result, be it conviction or acquittal, I shall never condescend to consider myself accountable. By referring to the 75th question put to me by the committee, it will be found that my answer could only relate to the paucity of convictions, in cases of assault and battery with intent to murder, and not to a general catalogue of offences tried at sessions. I may here, however, be permitted to state, with respect to those cases in particular, that, by referring to Appendix (C.) of the Report of the Committee, it will be seen that convictions almost invariably followed, in as far as the minor offences contained in the same indictments was concerned. This will show the necessity of two counts, and be a convincing proof to your Lordship that, had I not adopted so legal and necessary a precaution, many atrocious offenders would have escaped altogether unpunished.

5. "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 peculiarly so in the present instance, independently of the facts already stated, that convictions have seldom ensued on indictments framed on such verbal information."

I am not disposed, on the present occasion, to be either critical or hypercritical; but, if I were, I could easily gather from this ill-conceived, ill-expressed, ill-arranged, and altogether extraordinary passage, ample materials for the exercise of a faculty by no means congenial to my disposition. It is asserted, upon the evidence of one of the clerks of the peace for Quebec, that neither there nor in any other part of the province does the practice exist of framing indictments upon verbal information. If it be so, I might surely claim exemption from blame as well as the gentleman who furnished evidence at once so comprehensive and satisfactory to the committee. But I have already sufficiently discussed the principle evoked by this part of the Report, and clearly shown to your Lordship that, whatever may have been the practice elsewhere, there can be neither rule nor practice without exception; and that neither the committee nor its witness did, nor could, nor can produce even the least authority for forbidding to me, or to any other public or private prosecutor, a right that is as universal and prevalent as the criminal code of England; a right which, at the very least, is as justifiable as the daring assumption, on the part of the committee, of constituting itself a judicial tribunal, with the plenary and anomalous powers of at once accusing, trying and condemning. These are, indeed, proceedings which may well be denominated "illegal and vexatious." In Scotland, than whose criminal laws none in the world can be more equitable and humane, no information, on oath, is either taken, or required to be taken, previous to indictment; and in many respects the practice is thought to be attended with many beneficial results. In particular, it prevents rash and heedless swearing, on the part of private prosecutors, in a moment of great heat and excitement, occasioned by personal injury or the loss of property. In truth, the committee is tacitly compelled to admit the general correctness and utility of the principle, and allows that, under peculiar circumstances, a Crown officer may be justifiable in framing indictments on verbal information; but, then, the committee disapproves of the systematic plan in which, it is said, my operations have been conducted, and declares it to be illegal and vexatious. Where is the law which renders it illegal, and proof of the fact, in as far as I am concerned? Has the committee, by any means or evidence whatsoever, proved that the system was either an organized one, and had been resorted to for the purpose of aggrandizing any improper feeling or passion, or for oppressing any the most humble of the King's subjects? Far, far from it. There is no such proof; there is no such evidence before the committee; and nothing, therefore, could have been so insidiously premature as to deduce conclusions from premises that never existed, except in some sanguine and over-heated imagination, bent upon some ultimate object, at once cheering in prospect and delightful even in anticipated enjoyment. Of all the individuals whom I have ever indicted, which of them has complained of being either oppressed or vexed by the mode of procedure adopted against them? Has any one of the special committee been ever indicted in the way objected to? If not, and I hope not, I am humbly of opinion that it was travelling somewhat out of the record of the case, thus to have attempted the erection of so huge and novel a superstructure, without either foundation or prop.

It is in this place, in consequence of the charge having been repeated, that it becomes necessary to refute the objection taken to the smallness of the number of convictions which "ensued on indictments framed on such verbal information." Whatever the number may have been, I do not think the committee had any evidence before it in support of the assertion. But, be that as it may, if your Lordship will be pleased once more to refer to the enclosure marked (A.), it will be seen, from the column of remarks, that at least 30 convictions ensued on indictments framed on verbal information, being nearly half of the true bills found by the grand jury. I have no time to compare this statement with the number of convictions that has followed indictments framed on written information; but I shall venture to assure your Lordship, that the former is in the proportion of at least five to one of the latter. It is thus that we arrive at the real state of matters; and it is thus that your Lordship will be

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warned against the danger of placing confidence in assertions, not only unsupported by evidence, but which tend to inwrap the best and highest interests of individuals.

I will, in this place, beg permission to call your Lordship's attention to my answer to question No. 65, put to me by the special committee. It is there stated, in consequence, I presume of some clerical or typographical error, that I said, "I do not think it is consonant to law to prefer indictments on verbal information;" whereas in truth and in fact my answer was, "I do not know that it is;" which makes the greatest difference in the world in the meaning intended to be conveyed; and I am not so good a lawyer as to be able to decide the question off-hand, without any consideration. I merely expressed my total ignorance upon the subject, and surely no unfavourable conclusions ought to be drawn from my having done so.

6. "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."

It is quite unnecessary to enter into any formal refutation of this charge, for it has been frequently urged, and as frequently defeated. It is an old proposition in somewhat of a new dress, clothed in habiliments a good deal the worse for wear; it seems to form the *Io pæan* of the Report, and very much resembles the chorus of some ancient ditty, sung in better and in happier times. The tenacious spirit in which it is followed up reminds me of the redoubted warrior in Chevy Chase, who fought upon his stumps; and of the equally redoubted champion of letters, who

"Ev'n though vanquished, he could argue still."

I shall, therefore, only trouble your Lordship with a very brief and slight review of it. The committee is pleased to express its surprise at a practice asserted to be contrary to law. But, as already observed, where is that law? when was it passed? where was it written? in what volume, ancient or modern, is it to be found? I have searched far and near for it, east and west, south and north, and at every point of our legal and constitutional charts and compasses; but in vain. I believe that the committee was wholly composed of lawyers. One would therefore reasonably suppose, that amidst the learning and research that must necessarily be possessed by one and all of them, they could easily exhibit to our benighted intellects either the *lex scripta*, or the *lex non scripta*, which constitutes the very foundation and corner stone of their whole procedure against me. Yet no such thing. Presuming rather too much on their own impeccable powers, they imagine that your Lordship is bound to listen to all their statements as facts, and all their *dicta* as law; but your Lordship is not to be thus summarily driven away from the posts and landmarks of right, justice and equity; and the members of the committee, instead of yielding implicit obedience to the demon of passion and prejudice, ought to have known that it was totally unworthy of themselves, and the high station which they affect to maintain as representatives of the people, to have advanced as law that which is neither law, nor attempted to be proven to be such. There is as little of logic as of law in the reasoning of the committee on this point. Conclusions are not only deduced from false and groundless premises; but it is presumed that, to suit certain views, the committee can create premises at pleasure, that these premises ought to be intuitively received as truth, and that, therefore, it is quite unnecessary to support them by any secondary proof whatever. It is fortunate, my Lord, that a government of checks and balances is founded on reason, and that the principles of reason and judgment are those alone by which right is to be vindicated, and innocence protected.

It is stated in the next place, that the practice in question has been attended with consequences manifestly injurious to the whole community. Is there any proof of this manifest injury before the committee? Is there any evidence before your Lordship in support of this assertion? What witness, what document has the committee adduced in support of this charge? Who are the individuals, more or less, who have endured such manifest injury, and have complained of it either to the committee, or to any other corrective or retributive tribunal? No, not one. Strange, after such a heavy charge, and so impetuous! Truly, my Lord, this is a new and unheard-of mode of trial and procedure for the purpose of establishing either the guilt or innocence of an individual. Truly this is a tribunal endowed with extraordinary powers; it accuses without inquiry, tries without evidence, and condemns without guilt. From such may me and mine for ever be delivered!

It is then said that His Majesty's subjects have been exposed to the danger, expense and shame of prosecution for crimes, of which, in most cases, they have been declared innocent. The calendar of the district for the last nine years is before your Lordship; and by referring to it once more, it will be discovered that it contains nothing to corroborate this statement; nor more does anything to be found in the Report of the committee. It is no matter whether the persons accused were declared to be innocent or not; the only question at issue is, whether there had been cause for accusation? It is better that 99 guilty persons should escape than that one innocent individual should perish; but if it were otherwise, who is to blame? Me? Yes, most undoubtedly, in the opinion of the committee; but, I trust, not in the more candid and impartial estimation of your Lordship. It ought to be remembered that if danger, expense and shame were endured; of which, however, there is no proof before the committee, it was the grand jury, and the grand jury alone, who was the cause of exposing their fellow subjects to such severe afflictions. However, the committee neither called for nor received any

evidence

evidence whatever to justify such conclusions, except as to cases of assault and battery with intent to murder; for though it obtained a list of indictments for the last 10 years, with a description of the offences, it appears to have had some private reasons of its own for not calling upon me for returns of the findings of the grand, and the verdicts of the petty juries. As to the means of punishing their accusers, that can never be wanting to an aggrieved British subject, while justice continues to be administered in the land; and in a good cause the generosity of lawyers is proverbial.

7. "Your committee have moreover to express their surprise that the inferior officers of the court of quarter sessions at Three Rivers, since the accession of Mr. Chisholme to office, have acted the part of spies and informers; and that they have thus secretly, and without any responsibility on their part, caused many persons to be wrongfully accused."

Should your Lordship be pleased to consider this paragraph in its native literal acceptation, I am afraid you will be inclined to imagine that since my appointment to office, I have been in the habit of dedicating more of my time to the exhibition of public shows and spectacles, mimes and pantomimes, than to the more necessary performance of my official duties, and that I have maintained a sort of amateur theatre, wherein have been "acted" the various "parts" of spies and informers. Now, I do most candidly and honestly avow my great admiration and respect for the drama, both tragic and comic. I have often been delighted in childhood with the celebrated performance of the "Forty Thieves," as well as with the perusal of John Paul Marana's Turkish Spy. I must, however, be permitted to declare to your Lordship that my enthusiasm for such pastimes has long ceased to adhere to me; and that since my appointment to office I have never witnessed "the part of spies and informers" acted upon any stage whatever, or under the licence of my authority. It is, indeed, very probable that real spies and informers may occasionally be lurking in this neighbourhood, and that numbers of idle and giddy persons may be somewhat addicted to the imitation of their actions; but I can assure your Lordship that neither of the parties has ever happened to be under my control or management, and that from the bottom of my soul I hate and scorn the real conduct of the one as much as I spurn and despise the loathsome mimicry of the other. But seriously, my Lord, what meaneth this ignominious charge? who has made it? who has proved it? what base "spies and informers have thus secretly, and without responsibility on their part, caused me to be wrongfully accused?" I much fear that the members of the committee were far off their guard when they made the accusation. I much fear that they had recourse to their own feelings and imaginations for evidence of what was wanting in fact. I much fear that by adding this extraordinary charge to their already overcrowded scroll of malversation, they have been as little studious of what was due to their own high and important functions as to my rights and privileges as a party accused before them. I greatly fear that they mistook what ought to constitute the real object in view for a phantom of their own creation, and clutched the shadow for the substance. I greatly fear that instead of pursuing the track of truth in a straightforward line, they unwarily plunged and deviated into the more intricate and thorny one, that leads to guilt without proof, and to condemnation without trial. If any testimony have been laid before them in justification of a charge of so infamous a nature, why has it not seen the light? why has it not been filed of record in the Report of the committee, and published to the world, and hawked from door to door, and from shop to shop, and from tavern to tavern, and from bar-room to bar-room, throughout this town and district, along with the other evidence appended to the Report? But what if such testimony has never been adduced before the committee, and no inquiry whatever made to substantiate so foul and grave a charge? What, my Lord, but that we have fallen on evil times and evil ways; and that I have had the misfortune to be arraigned and tried by a tribunal, having for its object condemnation and destruction of character rather than an inquiry into truth and the vindication of innocence. In fact, my Lord, the committee has had no evidence before it in support of the accusation in question, either against me or the inferior officers alluded to. Why then is it made? why is it suffered to tingle in our ears from morning till night, to the great prejudice and injury of humble but respectable individuals, who, in as far as the constables are concerned, are compelled by law to execute gratuitously the duties of an office that is in every respect as necessary towards the peace and good order of society as any that may contribute to the ends of sound principles of government, however high in rank or productive of emolument. Let the committee produce a single witness to whom I have ever offered or promised, or given, either directly or indirectly, any fee, reward or compensation, for information, verbal or written, of a civil or criminal nature; and I shall willingly submit to be branded with all the odium, obloquy and disgrace, that the Report of the committee endeavours to heap upon me. But, my Lord, I defy the committee to do so. I defy it to hurt a hair of my head with respect to a charge in support of which no evidence has been offered, which I know to be groundless, and feel to be totally unmerited. It therefore only remains for your Lordship to efface every impression of it from your mind and memory for ever, as totally incapable of constituting any criminal offence or misdemeanor whatever.

8. "It also appears that for some years past, and particularly for the last five years, indictments for assault and battery have, in almost all instances, contained a count for an assault and battery with an intent to murder, and that previously indictments containing such a count were of very rare occurrence."

"This circumstance, giving necessarily reason to suppose that the brawls and disputes which have occurred of latter years in the district of Three Rivers, have been nearly all marked with a degree of ferocity which the intent to commit the atrocious crime of murder must suppose, could not but particularly arrest the attention of your committee. Unless

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otherwise explained, such a circumstance would induce your honourable House and the province in general to come to the conclusion that the mild and peaceable habits which happily form the character of the inhabitants of Lower Canada, and of the district of Three Rivers in particular, have in that district almost instantaneously been changed for the worse, to the alarming degree that, with few exceptions, every quarrel, generally of such petty consequences in the other sections of the province, has been there, for several years past, attended with violence and thirst of blood.

“Your committee, however, after examining the depositions upon which the indictments which have been laid before the grand jury have been framed, see nothing to authorize the supposition that the broils which have arisen in the district of Three Rivers are at all different from those which occur elsewhere in the province.

“Your committee beg to refer in this respect to that part of the testimony of Mr. Chisholme, in which he owns that many depositions which he has produced contain nothing to render him justifiable in having framed thereon indictments for assault and battery with an intent to murder. It is proper to remark to your honourable House that Mr. Chisholme has given as his justification for having done so, that, independent of the facts, as stated in these depositions, he probably received verbal information, upon which he framed such indictments.

“Your committee refer also your honourable House to the evidence of the Attorney-general of the province, and such of the clerks of the peace who were examined on the subject. They declare that they would not consider themselves justifiable in framing indictments for assault and battery with an intent to murder, on depositions complaining of a simple assault and battery, or on verbal information of facts not stated in depositions submitted to them.”

These five different heads of charge I have been induced, after mature reflection, to set down consecutively, because it will at once be perceived by your Lordship that they contain no accusation which has not been over and over again rebutted, both as to the facts which are assumed to be true, and the principles which they affect to involve. I might, indeed, be here tempted to enter more at large into the field of discussion which they present; but I trust that I have already done ample justice to my honour and character as a public officer, in as far at least as they are at present impeached. However much disposed I may be to extricate myself from the toils and meshes of my accusers, I feel that I owe no slight mark of consideration to the task imposed upon your Lordship, of perusing an overgrown mass of unnecessary argumentation. I therefore pass by these several charges, which, indeed, form but one in substance, without any comment; and I would only beg leave to recall your Lordship's attention to what I have before urged in my defence with respect to this particular subject; being quite sufficient, in at least my own humble opinion, to disburthen my mind of all care and anxiety as to the result.

9. “Your committee find that many of the depositions produced by Mr. Chisholme contain the assertion that the lives of the persons who made them were in danger; although the facts stated in the depositions authorize, in very few of the cases, such assertions. To explain this circumstance, it suffices perhaps to remark that the greater part of these persons did not understand the language in which the depositions are written; Mr. Chisholme not being sufficiently acquainted with the French language to prepare in that the depositions he is in the habit of receiving.”

Fraught as the Report of the special committee is with assertions that are not founded on fact, and with charges that are neither criminal in law, this, perhaps, is the most extraordinary and extravagant one of the whole. It is admitted that many of the depositions furnished by me to the committee “contain the assertion that the lives of the persons who made them were in danger;” yet it is immediately denied that the facts stated in the depositions authorize but in a few cases such assertions! This is surely a charge which carries along with it its own complete refutation. It is from facts alone, founded on truth, that we can either legally or logically deduce conclusions. If, then, a deposition contain the assertion that the life of the deponent was in danger in consequence of a certain violent assault that had been committed upon him, surely nothing could be more just and reasonable than to infer that it had been perpetrated with an intent to murder.

Yet the committee is pleased to insist upon it that the depositions ought to contain other facts in justification of an indictment. In the name of common sense, what other facts could or can be necessary? If, for instance, a man have missed a certain number of articles of household stuff, and swear that he verily believes and suspects he was robbed, and that the robbery was committed by such a person, without mentioning the hour, or describing the mode, the manner, and whole circumstances attending the transaction, it would be impossible to pretend that there had not been sufficient cause for a criminal prosecution. “Oh! but,” says the committee, “that won't do: it is not enough that the deponent thought and swore he was robbed, and his goods and chattels exposed to danger; we must ascertain whether the thief entered the house by the front or the back door, through the cellar or the garret, by a window or the chimney; whether he first seized the stolen articles with the right or the left hand; whether he carried them away on or under his arms, on his head or shoulders, and whether he ran or walked off with them; all these particulars we must have before we can suffer the felon to be indicted. The same with an assault with an intent to murder; we must be informed whether the assailant came before or behind; whether he struck with his fists or kicked with his feet; if he had a sword or a gun, a blunderbuss or a bodkin in his hands; whether he drew the trigger with his fore or middle finger; and whether the wounds were inflicted with a sharp or blunt instrument.” How truly absurd and nonsensical! never were and never can such circumstantial details be always and uniformly set down in a deposition; and if they could, it is by no means necessary.



sary. It is sufficient if it be generally stated that the offence was committed, and by whom, without descending to every petty and minute particular; and thus we come at once to the conclusion, a far different one from that entertained by the committee, that if by means like these the rights of property of one individual may have been endangered, so may the life of another be put in jeopardy when assaulted in such a manner as to induce the deponent to believe that it really was so; at any rate it was a sufficient justification to me for preferring an indictment, and the finding of the grand jury vindicated the practice. But as it would be difficult to convert the members of the committee to any other opinions or system of reasoning than those entertained by themselves for specific purposes, they proceed, as a matter of course, and without any hesitation whatever, to assign cause for so glaring an instance of dereliction of official duty, and complain that the depositions were drawn up in a language that was not understood by the deponents: "Mr. Chisholme not being sufficiently acquainted with the French language to prepare in that the depositions which he is in the habit of receiving:" as this is not the first time that this important subject has been mooted and made a topic of complaint in this province, it may be necessary to enter upon a slight discussion of it, in order to ascertain whether the offence, if it really be one, and ever have been committed, be of that atrocious nature which it is represented to be, and nearly amounting to the crime of subornation of perjury.

In the first place, the committee, as appears from the report, had but only 17 of the depositions in question before it; and as to the contents of the rest, since my appointment to office, and whether they were written in French or English, or in Greek or Latin, the committee had no evidence whatever before it. In the second place, it is but a very few of the depositions in question that I have drawn up either in my own hand, or by my directions. With respect to those which I did draw up, I merely acted as the amanuensis of the magistrate who may have taken the oath of the informant, and whose duty it was to explain the contents to the juror, in whatever language the affidavit may have been written. In the third place, it may be very true that I am not a proficient in the French language, though I sometimes contrive to read and write it. But is this a crime, or an offence in law or legislation? if it is, I am sorry for it, but cannot help it. I fear that I have spent too many years in the study and acquirement of other languages, both ancient and modern, ever to become an eminent French scholar. I have had the good or bad fortune to be born and educated during the French revolutionary war, when neither France nor her sprightly and vivacious language, whatever they may have been to statesmen and warriors, could have been an object of much interest in the British isles to retired and juvenile students. It is a hard thing, my Lord, to be taunted with a misfortune, for it can only amount to that, which I could neither foresee nor obviate.

"Nemo in sese tentat descendere."

And in the fourth place, the committee, both as lawyers and politicians, ought to know that by the 4 Geo. 2, c. 26, "all informations, indictments, inquisitions and presentments must be in English, under the penalty of 50*l*."

That a justice of the peace, or any other justice or magistrate, or justice or magistrate's clerk, is bound by the criminal law of England, which is the criminal law of this province, to write down, in the language of the informant, the deposition or information of any one seeking public or private redress, is about as absurd and unauthorized a position as was ever advanced in this wide and speculative world. It would lead us, *à priori*, to suppose all judicial and ministerial officers to be, what the most learned judicial and ministerial officers have never yet been, familiarly acquainted with almost all languages spoken under the sun, whether they be Hebrew or Coptick, Greek or Latin, Gothick or Teutonic, Arabic or Hindostanee, Celtic or Irish, Dutch or Spanish, French or Italian, English or Broad Scotch, Huron or Iroquois, Algonquin or Patagonian; if not, we must *prèsuppose* what is equally impossible and absurd, that the person applying for redress is acquainted with the language of the magistrate, whatever that may happen to be. It very frequently happens that country justices of the peace in this province, who understand, though they cannot write English, take down the depositions of Englishmen in the French language. I have many such depositions in my custody, and stated the fact to the committee. Not long since a celebrated Indian, of the name of Minissinoo, was indicted in this place on the *ipse dixit* of an old squaw, who understood neither English nor French, and whose declaration was taken down in the latter tongue through the medium of an interpreter who could neither read nor write; yet Minissinoo was convicted of murder, or manslaughter, I forget which, and none of the judges intimated that the information, in virtue of which he was apprehended and prosecuted, was contrary to law. In fact, if the doctrine of the committee be applied to the Indian tribes of this province, no magistrate will be safe in issuing a warrant to apprehend, upon the information of any one of them, even though a Christian, unless such information be written in his own language; for surely if he be a British subject, the rule of the committee must be made applicable to his native tongue, as well as to that of the Englishman and Frenchman; and I do not think that a general rule, comprehending the rights and liberties of a British subject, is one which can admit of an exception, either in favour of or against any one, whatever the committee may have been disposed to imagine.

In Scotland, Ireland and Wales, where the rights and liberties of the people are as sacred and important as they can be in this province, where justice is as purely and impartially administered, where there are as learned and eloquent lawyers, and where, as in this province, many thousands of the people neither speak nor understand a word of English, are their depositions and other evidence written in the language of the deponent? By no means. I have personal knowledge of the fact. They are uniformly put down in English; and

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when the judge or justice is not versed in the language of the deponent, the laws allow him to swear an interpreter; but when the magistrate knows the language of the informant, he has only to read and explain the affidavit in the tongue in which it was uttered. In our sister province of Upper Canada there are also thousands who do not understand and cannot speak one word of English, and whose only and mother-tongue is the Gaelic language; a language of greater antiquity than either French or English. But though there are many magistrates there who perfectly understand, and can read and write Gaelic, yet they never commit depositions to writing in any language but English. They do this, because they know, without allowing their prejudice to get the better of their judgment, that, as I shall presently show, our criminal laws do not recognize any other language than that of the sovereign and country whence we have derived them. The same observations are equally applicable to all the other British provinces of North America; and surely no one can question the right of as many of the inhabitants of those provinces as do not understand English to be heard in their own native language, on the same principle that the French Canadians do; and I have never understood that any exception has been made in favour of the one more than of the other.

Having thus clearly demonstrated the absurdity as well as impolicy of taking down depositions in the French language, when that happens to be the language of the deponent, without extending the same rule to every other tongue, I proceed to discuss those more weighty and important considerations which have reference to this interesting subject.

I shall not in this place consider the too frequently mooted question, what ought to be the judicial language of a conquered people? Whether their own primitive tongue, or that of their conquerors? My only object at present is to refute the serious charge brought against me by the committee, and to that I shall strictly confine myself. But it may be observed, that the natural consequence of all national conquests is the mediate or immediate change of the language of the conquered to that of the victors; and the history of almost all the conquests of the world is a standing proof of the fact. It is obvious on the most cursory view of the French and Spanish languages, that they, as well as the Italian, are derived from one common source, the Latin. "Rome," says Augustin, "imposed not only her yoke, but her language, upon conquered nations." How deeply and indelibly the various dialects of the conquering barbarians of the north have been impressed upon all the languages of modern Europe, every scholar knows. Even so early as the eighth century, the *lingua Romana rustica*, as the vulgar patois had been called, acquired a distinct character as a new language. How then is it possible that the French of Canada can escape a doom so universal and irresistible? A mere dependent province ought and must ultimately submit to the general fate of nations. It may be unpleasant to do so, but the laws which regulate the destiny of man are as invincible as they are imperious. Yet the Canadians themselves, and their avowed advocates on this subject, have gone the length the committee has done in their claims to establish the exclusive use of the French language in all legal proceedings. They have confined themselves to the right of using that language merely in civil matters; maintaining that in no other language is it possible to administer their laws; but forgetting that the civil law of the Romans, which is the source of their own, is administered in almost all the dialects of modern Europe. Claiming, and not unnaturally or unreasonably, their own language for their own laws, they are willing, in a more liberal spirit than the committee, to extend the same privilege to such of the laws of England as have obtained in this province, but especially to the criminal law of that country. They are well aware that there exists no compact in virtue of which they can found a claim to the exclusive use of the French language with respect to either of the laws in force in the province. The capitulation, the final treaty of peace, and all the imperial and provincial statutes are entirely silent on the subject. Were the case otherwise, it would be impossible, even on their own principles, to administer the criminal law of England in any other language.

But whether this be possible or not is a begging of the question. Both the criminal law and the language of England are also the criminal law and language of this province; and as by no other law can crimes be established or criminals tried, so in no other language can this law be administered. The imperial law, by which this state of things exists, while perhaps the greatest boon that a great and generous nation ever conferred upon a dependent people, is happily the source of more general satisfaction and unfeigned gratitude than it has ever been the lot of history to record with respect to a conquered people. This law is written in the 11th section of the 14th Geo. 3, c. 83. "And whereas the certainty and lenity of the criminal law of England, and the benefits and advantages resulting from the use of it, have been sensibly felt by the inhabitants from an experience of more than nine years, during which it has been uniformly administered; be it therefore further enacted by the authority aforesaid, that the same shall continue to be administered, and shall be observed as law in the province of Quebec, as well in the description and quality of the offence, as in the method of prosecution and trial; and the punishments and forfeitures thereby inflicted, to the exclusion of every other rule of criminal law, or mode of proceeding thereon, which did or might prevail in the said province before the year of our Lord 1764."

Now it is very well known that the criminal laws which were in force in this province previous to the conquest, as well as the method of prosecution and trial, and "mode of proceeding thereon," were severe, arbitrary, tyrannical and despotic in the highest degree, and altogether of such a nature as not to be tolerated for a moment under British rule. But however degrading and injurious to the rights of civilized beings, we have cause to thank heaven that they have been for ever abolished by the above humane and constitutional statute. Can it then for an instant be questioned that the abrogation of the language in which such debasing laws and iniquitous proceedings were executed was not intended to be

equally

equally complete and permanent? There is every reason to conclude that it was the intention of the Imperial Legislature to set aside not only every vestige of the criminal jurisprudence of France, if it deserve the name, but also the language in which it was administered. At any rate it is quite clear that the whole of the criminal laws of England must be enforced in the language of that country; and unless we can discover that, while introducing these laws into this province, any exception has been made in favour of the French language, we must of course conclude that the same rule applies to them, in as far as it can be carried into effect without injury to the rights and liberties of the subject.

It is true that no criminal process can ever be carried on with justice to the parties accused but in their own language, as well as in that of the witnesses and jury. But this rule can only have reference to the oral part of the proceedings, with regard to which, both in England and in this province, ample provision is made by the introduction of translators and interpreters. But is it to be endured that the instant a criminal is put upon his trial, the record is to be kept in the language of the offender, whatever that may be, and not in that of the laws and the country before which he stands? Such a state of things would lead to interminable confusion; and the result would be that we could not boast of that which forms one of our greatest civil safeguards, an uniformity of language. If, therefore, it be true that the criminal laws of England have imposed their own language upon this province, and that all and every part of those laws must be administered in that language, surely nothing can be more idle and useless than thus to be constantly raising doubts and cavils upon the subject. If we refer to the imperial statute, nothing can be more demonstrative of my position; for the section already quoted expressly provides that the criminal law of England shall not only be the criminal law of this province, but that it shall be observed as law, "as well in the description and quality of the offence, as in the method of prosecution and trial." What, my Lord, can be more plain, simple and conclusive than this? and consequently, what can be more plain, simple and conclusive than that, if an information upon oath be the first step of a "prosecution," and as such, a matter of record, it ought to be written in the only language known to our laws, and not in that of the informant, who often speaks a tongue that is not a written language at all, and of which there are not a few on this continent? But it is unnecessary to pursue the argument further.

10. "In the five years which preceded the year 1831, there were only five indictments in all for assault and battery with intent to murder; while your committee find that of 89 indictments submitted to the grand jury for the last five years, 84 have contained the count that the offence had been committed with the intent to murder. Of this number, but six persons have been found guilty of the crime as laid in the indictment."

This charge has already been answered, and a reference to the list marked (A.), herewith transmitted, will afford to your Lordship another incontestable proof of the slight grounds upon which the committee find it convenient to advance and reiterate their accusations, and to frame them into every shape and mould that a perverted imagination can invent. Could the committee ever suppose that the number and quality of criminal offences are always to be the same in a given period of time, whatever may be the sum of the population and the circumstances of the times? I will venture, on the contrary, to assert that more breaches of the peace, and serious and deadly assaults were committed at Quebec during the last week, than have occurred in the district of Three Rivers during the last five years; which is a convincing proof that nothing can be more preposterous than to imagine that crimes are ever to continue to be in proportion to the wishes of the public guardians of the peace. But does the committee not know that criminal offences are progressively on the increase in this province? and that unless some more effective measures be speedily resorted to for the purpose of restraining so fearful a scourge by a more efficient system of police, and a better protection and remuneration of those to whom the execution of the laws is confided, the province will soon be placed in a most alarming position? I hold it to be a matter of no consequence to the present inquiry what may have been the number of indictments preferred within a certain period, more or less. Whatever the number may have been, I am not accountable; and that is entirely a matter of accident and contingency. But is it really true that the indictments here complained of have multiplied at a greater rate than those for other denominations of offences? Let us try. During the first period in question, it will be found from list (A.), that the number of indictments of every description amounted only to 131; whereas during the latter period it amounted to 407; thus increasing nearly fourfold in the space of four years. But in order that this prodigious increase may not be attributed in the slightest degree to the 84 indictments so grievously complained of, I shall deduct them from the gross amount, and we still find that these prosecutions increased in nearly a threefold ratio; the number being 323! Why then, my Lord, should I be thus persecuted and almost stoned to death? Am I to be thus treated because it has unfortunately been discovered that crime is upon the increase; and the members of the committee have taken it into their heads that, however this may be the case, there is one, and but one, species of offence that must always continue to be stationary? The answer is obvious, and has already been given. As to the number of persons "found guilty of the crime as laid in the indictment," it is only necessary to repeat that I am not, and cannot be made accountable for the verdict of a jury, whether it acquit or condemn. He little knows the general issue of criminal prosecutions who will venture to predict the result in every case. I thank God that it is in the acquittal, and not in the conviction of criminals that this charge has been urged against me.

11. "Many of the persons accused have not taken their trial, when the indictment has been reduced, by the finding of the grand jury, to simple assault. The reason given by

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Mr. Chisholme is, that in these cases he does not proceed to trial, unless his fees on the proceedings, subsequent to the finding of the bills, are assured to him by the private prosecutor; and he added, that in many cases the latter had paid him such fees. Your committee having directed him to lay before them a list of such cases, he undertook so to do. This order not being complied with, your committee were under the necessity of directing him to come down from Three Rivers a second time. Mr. Chisholme, on his second examination, stated that he could not produce the list demanded, because he was never paid any fees by the private prosecutor. Being asked how he explained the contradiction between this statement and his remarks on the former occasion, he was not able to do so in a satisfactory manner; and has thus, in the opinion of your committee, been guilty of a manifest contradiction, and of a wilful misrepresentation of facts."

This, my Lord, is a long story, with a most lame and impotent conclusion. I am charged with being "guilty of a manifest contradiction, and a wilful misrepresentation of facts." But I deny it, and shall prove that the charge is unfounded. I shall have but little difficulty in doing so. I shall only resort to the same grounds of evidence that the committee has done, and that is, my own examination; and, hurried and unpremeditated as my answers were, I have no hesitation to abide by the result, if impartially considered and weighed. In my answer to question 104 I stated, "that unless the grand jury found the bills of indictment true, with respect to the count for an assault with an intent to murder, I did not proceed to trial without the authority of the private prosecutor, who then became responsible for the costs in prosecuting to conviction on the count of simple assault." Your Lordship will be pleased to observe, that by such a finding, on the part of the grand jury, the case was entirely taken out of my hands as prosecutor for the Crown; and that the private prosecutor was the only one entitled by law to go on with the ulterior proceedings, and, of course, the only person responsible for the fees and costs to me, as public prosecutor in his behalf.

105. "Were the cases to which you refer paid to you by the private prosecutors?"—"In many cases."

And here it is necessary to remark, that the word "many" formed no part of my answer to this question; my answer was, "in several cases." By referring to Appendix (C.) to the Report, it will be seen that only 18 indictments for assault and battery with intent to murder had been reduced by the grand jury to cases of simple assault and battery; and, therefore, that the word "many," which means a great number, if really used, which it was not, could not, by any possibility, apply to so small a number as 18. This is a matter of but little consequence in itself; but it is best to adjust it in the proper time.

106. "Can you detail the cases in which those costs were paid to you?"—"I cannot, at present."

107. "Could you at a future day, and when?"—"I shall endeavour to do so as soon as possible."

Having been ordered by the committee to furnish a "list of cases in which proceedings on indictments for assault and battery with an intent to murder, have been paid by the private prosecutors," my simple answer, by return, dated the 19th December, was, "I regret, exceedingly, that it is not in my power to furnish the committee with the list in question." This answer will be found in the proceedings of the committee under the date of the 21st December 1835. It ought, however, to be particularly observed by your Lordship, that in calling so urgently for the document in question, the committee never condescended to make any distinction between Crown and private cases, as pointed out by me in my answer to question No. 104; and that, instead of commanding me to produce a list of cases of assault and battery with intent to murder, reduced, by the finding of the grand jury, to cases of mere assault and battery, they persisted in demanding a "list of cases in which proceedings on indictments for assault and battery with an intent to murder have been paid by the private prosecutors." It is very probable that the committee misstated the subject, and forgot its aim; but that was no affair of mine. I had but one simple duty before me, that of answering, to the best of my knowledge and belief, such questions as might be put to me; and that I have done.

I was again ordered to appear before the committee on the 28th December; I did attend; but it would appear that the members of the committee did not find it convenient to meet me; it was, perhaps, a *dies non* with them. Next day, however, they assembled, and the first question put to me was,

1. "Can you furnish the committee with the papers required by the order addressed to you, and dated the 22d December instant?"—"I cannot produce list No. 1, required, viz. list of cases in which proceedings on indictments for assault and battery with intent to murder, have been paid by the private prosecutor; because I was never paid any fees, in such cases, by the private prosecutor." Nor was I. If paid fees at all by the private prosecutor, it could only be in cases reduced, as above, to cases of mere assault and battery, and of which a more particular description is given in my answer to question 104. It will thus be perceived that my answer was correct and precise to the very letter, in every point of view. That it was so, is confirmed by my answer to question No. 6, of my second examination, thus: "What I meant to say was, that when indictments for assault and battery with intent to murder, were laid before the grand jury, and were found true as to the assault and battery only, the private prosecutors became responsible for the fees of the trial only, if the trial took place." Here the committee began to open its eyes, and to perceive the distinction which I had all along maintained between indictments for assault and battery with intent to murder, and such indictments reduced, by the grand jury, to simple assault and battery.

Accordingly,

Accordingly, in its seventh question the committee came to the point; and my answer corroborates everything that I had already stated: "I cannot recollect one instance wherein I was paid by the private prosecutor."

8. "Are the Committee to infer that, in such cases, you were never paid by the private prosecutor?"—"I might have been, in some cases; but I cannot say in how many, or by whom."

9. "How came you, then, to state positively, on a former occasion, that in many (several) cases the costs to which you referred were paid by the private prosecutors, that you could not detail these cases then, but would endeavour to do so as soon as possible?"—"I have made every endeavour to get the detail of these cases, thinking that I should have been able to do so; but I find that I cannot, though exceedingly willing to furnish the committee with every information in my power."

But it is time to draw the curtain over this frivolous and unprofitable scene. The object of the committee cannot have been mistaken; and that I have not been involved in a deeper and more inextricable labyrinth can only be owing, I will say it, to the fairness and honesty of my purpose. What, then, becomes of the evidence by which the "guilt of manifest contradiction and a wilful misrepresentation of facts is established?" I rather think, my Lord, that it is nowhere to be found, except perhaps in the perturbed and dreamy regions of infictious malevolence. It therefore only remains for me to express my utter scorn and derision of the loathsome imputation, and, with the greatest possible deference for your Lordship, to throw it back in the teeth of its insolent and slanderous authors, whoever they may be.

12. "Your committee have also found that up to the year 1829, indictments for assault and battery, and proceedings thereon, formed part of the sentence pronounced against defendants when found guilty. A period was put to this practice by decisions of the Court of King's Bench, condemning the clerk of the peace and the other officers of the court of quarter sessions to pay back these costs. It is this circumstance which, in the opinion of your committee, explains the progressive decrease from that time of indictments for assault and battery, for which the clerk of the peace has since been paid by the private prosecutor, and the progressive increase of indictments for an assault and battery with intent to murder, on which the clerk of the peace is paid by Government."

The first sentence of this charge is downright nonsense; for how "indictments for assault and battery, and proceedings thereon," could form "part of the sentence pronounced on defendants when found guilty," surpasses my poor capacity to comprehend; I therefore pass it by as unworthy of further notice. As to the costs said to have been forced back from the officers of the quarter sessions by decisions of the civil courts, the plain tale is this: At the period of my appointment to office, and ever since the institution of the court of quarter sessions in this district, the practice obtained, as well here as in the other districts of the province, of condemning defendants when convicted in cases of assault and battery, to pay the costs of prosecution. These costs generally consisted of the fees of the clerk of the peace for drawing the indictment and issuing the various processes of the court; of those of the attorney of the private prosecutor for conducting the trial, and which were uniformly the largest of the whole; of those of the crier of the court; and of the constables for summoning witnesses, &c. I do not justify the practice; I never did; and I can assure your Lordship that it was discontinued long before any suit had been instituted either against the clerk of the peace or others. But is the clerk of the peace the only officer of the court of quarter sessions who is to be rendered obnoxious to public censure, and dismissed from office for following, during a year or two, a practice that prevailed before he was born, and who was the very first to put a stop to it? What become of the sanction and decisions of the court itself, who taxed the bills of costs, and awarded judgment for their amount? The attorneys are officers of the court of quarter sessions; where are they who participated so largely in the iniquitous spoil? Nay, where is the King's counsel for the district himself, who both countenanced and derived benefit from the system? The committee saith not, and is silent with respect to every one except the unfortunate clerk of the peace, who must be hunted beyond the boundaries of society in order to gratify a rabid clamour against official delinquency.

It is very true that the circumstance alluded to by the committee will have had the effect of diminishing the number of indictments for simple assault and battery. It has to a certain extent tended to put a stop to the vindictive feelings of private prosecutors, and perhaps to the rapacity of "the other officers of the court of quarter sessions," as well as to the malversation of the clerk of the peace. But should private prosecutors enjoy the means of giving vent to their passions, for they are generally the poorest of the poor, it will be seen from list (C.), herewith enclosed, that an ample harvest could be reaped by themselves and their advocates during the last five years. And as to the increase of indictments for assault with intent to murder, the subject has already been amply discussed, and completely upset. One begins to loathe any reference to so hacknied a topic; and, for my part, I willingly consign it to perpetual oblivion.

13. "On each indictment for a crime, other than simple assault, the clerk of the peace receives 6s. 8d. from Government, and 13s. 4d. more when the trial takes place, besides fees on subpoenas and bench warrants. This circumstance forms the explanation of the whole system which has been acted upon by Mr. Chisholme since his accession to office. He has, in the opinion of your committee, for the sordid and corrupt motives of lucre and gain, harassed and vexed the faithful subjects of His Majesty, and has unjustly exposed them to the expense, shame and disgrace attendant upon criminal prosecution."

There is nothing in this charge worthy of a moment's serious consideration; and what there is in it, is totally unsupported by any proof whatever. I shall therefore be very brief

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in my reply. The subject has become stale upon our hands, my Lord; and the frequent repetitions and involutions of the report have made it doubly tedious and disagreeable. It is here charged against me that I receive certain fees for the performance of my duty as a public officer. Having no salary for doing so, it would be strange if I were not remunerated in some way or other. Did the committee suppose or expect that a public officer is bound to serve even his country for nothing? I do, then, receive the fees and emoluments in question; and if the amount were five times as much, no disinterested arbiter would grudge it to me, considering the duties I perform, and the responsibilities I incur by being from day to day subjected to the animadversions of the ignorant and the scrutiny of the malevolent. It is but justice to the House of Assembly to state, that by a bill lately passed in that House the emoluments of all the civil officers of the province were reduced one-third, except those of the sheriff and the clerk of the peace at Three Rivers: thus legislatively evincing the conviction of that honourable body that those two officers were far from being adequately compensated for the performance of their official duties.

I am next accused of being actuated by sordid and corrupt motives. But is there any evidence of this before us, my Lord? When there is, it will be time enough to discuss and refute the ignoble charge. I defy the committee and all mankind to establish the base and brutal insinuation. I was, thank God, cast in a different mould; and if I had not, it is somewhat more than probable that I would not now be so poor a man as I am. Those who know me best, know that I speak the words of soberness and truth; and, if necessary, would vouch for it at any time, or under any circumstances. I am therefore prepared to deny the accusation as sternly as, from the bottom of my soul, I despise those with whom it has originated.

The last charge is, that I have harassed and vexed the faithful subjects of His Majesty. Your Lordship will remember, for I am sure it is imprinted on your mind, that sufficient has been said to gainsay and repudiate this insidious, malignant and preposterous ground of accusation. I would only, therefore, with respect to one and all of the charges preferred against me, beg permission to call your Lordship's attention to the enclosure marked (D.), herewith transmitted. It is a spontaneous and unsolicited mark of approbation, originating with such of the magistrates of this town and district as have had access to know me best both in public and private life. I need not say that I am very proud of this tribute of the esteem of gentlemen of the highest respectability in every walk of life; and who, as the King's magistrates, have ever supported the honour and dignity of their station. I feel that I am most grateful for it. It is a great consolation to me in this the day of my adversity, and will ever affect me with the warmest sentiments of regard and goodwill.

I have done, my Lord. I hope I have said nothing that has been either offensive to your Lordship, or unbecoming the situation in which I stand. I am upon my defence, and my heart is full. I am not ambitious of office, and least of all of the tenure upon which it is at present held in this province. It is true that I have no other means of living; but me and mine would rather become wandering outcasts, and beg our bread from door to door, than submit to an inquisitorial tyranny that is at variance with every principle of the British constitution. I am in the hands of your Lordship. I expect that justice which is due to a British subject from the unsullied honour of a British peer.

I have, &c.

(signed) *David Chisholme,*  
Clerk of the Peace.

Three Rivers, 31 March 1836.

(A.)

LIST of INDICTMENTS laid before the Grand Jury of the Courts of General Quarter Sessions of the Peace in and for the District of *Three Rivers*, during the Years 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834 & 1835, inclusive.

DATE.	NAMES.	OFFENCE.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
1827: Jan. -	Louis Hyacinthe, alias Bellerose.	petty larceny - -	true bill -	no deposition.	
	Louis Grondin - -	- - assault and false imprisonment.	ditto -	deposition.	
	Euphrosine Roi & al. -	riot and assault -	ditto -	- ditto.	
	Raymond Camfel & al. -	- ditto - -	ditto -	no deposition.	
	William Kent - -	negligent escape -	ditto -	deposition.	
	Patrick Fitzpatrick -	petty larceny - -	ditto -	- ditto.	
	Jeremie Lemai - -	assault and battery -	ditto -	- ditto.	
April	James Wallace - -	- - ditto - -	ditto -	- ditto.	
	Pierre Berneche - -	petty larceny - -	ditto -	- ditto.	
	Jean Bte. Beaulieu -	assault and battery -	ditto -	- ditto.	
	Antoine Bellanger -	- - ditto - -	ditto -	- ditto.	
	Areli Blake Hart - -	- - ditto - -	ditto -	- ditto.	
	François Isabelle -	- - ditto - -	ditto -	- ditto.	
	Joseph Pothier - -	ingrossing - -	ditto -	no deposition	- conviction
Antoine Cournoyer -	assault and battery -	no bill -	deposition.	and fine.	

CHARGES AGAINST MR. CHISHOLME.

DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.	Correspondence respecting Mr. Chisholme.
1827: July -	Antoine Delaurier & al.	- nuisance, disorderly house.	true bill -	deposition.		
	Mathilde Provost	- larceny -	ditto -	- ditto.		
	Alexis Carpenter	- assault and battery -	ditto -	no deposition.		
	James Jackson	- ditto -	- ditto for assault.	- ditto.		
	Joseph Brunelle	- assault -	no bill -	- ditto.		
Oct. -	Marie Janvier	- petit larceny -	true bill -	deposition.		
	Antoine Jacques	- larceny -	ditto -	- ditto.		
	Joseph Neckless	- nuisance -	ditto -	no deposition -	- conviction and fine.	
	Modeste Alarie	- ditto -	ditto -	- ditto		
	Selby Burn	- ditto -	ditto -	- ditto		
	Charlotte Louval & al.	- ditto -	ditto -	- ditto		
	Samuel Cowan	- ditto -	ditto -	- ditto		
	Hubert Duplesses	- ditto -	ditto -	- ditto		
	Laurent Girardeau	- ditto -	ditto -	- ditto		
	David Bellhouse	- ditto -	ditto -	- ditto		
	Clement Langlois	- ditto -	ditto -	- ditto		
	François Normand	- ditto -	ditto -	- ditto		
	Joseph Laplante	- assault and battery -	ditto -	deposition.		
	Joseph Provancher	- ditto -	ditto -	- ditto.		
	George N. Turner	- ditto -	ditto -	- ditto.		
	Charles Veillet	- ditto -	ditto -	- ditto.		
	James Peoples & al.	- riot and assault -	- riot, but not assault.	- ditto.		
	Alexis Pichette & Ux.	- nuisance, disorderly house.	true bill -	- ditto.		
1828: Jan. -	Thos. Laframboise & al.	riot and assault	ditto -	- ditto.		
	Ditto	assault on constable, &c.	ditto -	- ditto.		
	François Barolette	assault and battery -	- ditto, simple assault.	- ditto.		
	Eliza A. Fisher	- larceny -	no bill -	- ditto.		
	Pierre Manaçon	- ditto -	true bill -	- ditto.		
	Charles Houle	- forcible entry and detainer.	no bill -	- ditto.		
April	Pierre Doucet	- blasphemy -	true bill -	no deposition -		
	Arch. B. Hart	- assault and battery -	ditto -	deposition.		
	Eugene Rousseau	- ditto -	ditto -	- ditto.		
	Emanuel Firmin	- assault to murder -	true bill -	deposition.		
	Ditto	- assault and battery -	ditto -	- ditto.		
	Ditto	- ditto -	ditto -	- ditto.		
	Benjamin Vadeboncœur	- ditto -	no bill -	- ditto.		
	Magdelaine Goden	- petty larceny -	true bill -	- ditto.		
	Jos. Deguire Derosier	- assault and battery -	-	- ditto		
July -	James Bell	- ditto -	true bill -	no deposition -		
	Margaret Laing	- larceny -	ditto -	deposition.		
	Fras. Lacharité	- ditto -	ditto -	- ditto.		
	Magdelaine Goden	- petty larceny -	ditto -	- ditto.		
	Augustin Antaya	- ditto -	no bill -	- ditto.		
	Edward Chateleau	- assault and battery -	ditto -	- ditto.		
	Leandre Morets & al.	- ditto -	ditto -	- ditto.		
	Hubbard Cummings	- ditto -	ditto -	- ditto.		
	Germain Talbot	- petty larceny -	true bill -	- ditto.		
Oct. -	Joseph Lahierre	- larceny -	ditto -	- ditto.		
	Aimable Courteau	- ditto -	ditto -	- ditto.		
	Nicholas Labrique	- ditto -	ditto -	- ditto.		
	Ditto	- petty larceny -	ditto -	- ditto.		
	Louis Paquette	- ditto -	ditto -	- ditto.		
	Ditto	- ditto -	ditto -	- ditto.		
	Denis F. Vadeboncœur	- assault and battery -	ditto -	- ditto.		
	Jean Bte. Cartier	- ditto -	- for a simple assault.	- ditto.		
	Jos. Provancher	- ditto -	true bill -	- ditto.		
	Bonaventure Lacourse	- ditto -	ditto -	- ditto.		
	Thomas Dubord & al.	- refusing to assist a constable, &c.	ditto -	- ditto.		
	Fras. Brassard & al.	- assault with intent to murder.	ditto -	- ditto.		
	Fras. Cyre & alios	- assault on an officer, &c.	true bill -	deposition.		

ditto, on information of a public officer.

by *vide* voce of private prosecutor during the sessions; conviction.

N.B. settled in court. conviction.

Correspondence respecting Mr. Chisholme.	DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
	1829:					
	Jan.	Pierre Paquin	assault and battery.	true bill	deposition.	
		Francis H. Durand	petty larceny	ditto	ditto.	
		Gabriel Houle	assault on an officer, &c.	ditto	ditto.	
		Ditto	assault on a bailiff.	ditto	ditto.	
		Etienne Dubois	grand larceny	ditto	ditto.	
		Jean Couvillon	larceny	no bill	ditto.	
		Antoine Briere & al.	ditto	true bill	ditto.	
		Ditto	petty larceny	ditto	ditto.	
		Johnstone Ogilvie	larceny	ditto	ditto.	
		Noel Darois & al.	assault and battery	ditto	ditto.	
	April	Joseph Lafèvre L'Abbé	larceny	ditto	ditto.	
		Jas. Alex. Thomson	assault and battery	ditto	ditto.	
		Pierre Heroux, alias Bois-claire.	assault on a constable, &c.	no bill	ditto.	
		Jos. Haule & al.	larceny	true bill	ditto.	
		Charles Pressé & al.	nuisance, disorderly house.	ditto	ditto.	
		Ann Taylor	assault and battery	ditto	ditto.	
		Marie Girardeau & al.	petty larceny	ditto	ditto.	
		Joseph Gilbert	ditto	ditto	ditto.	
		Ditto	ditto	ditto	ditto.	
		Marie Benoit	ditto	ditto	ditto.	
		Louis Gagnon	larceny	ditto	ditto.	
	July	Jean Couvillon	breaking out of house of correction.	ditto	ditto.	
		Louis Paquette	petty larceny	ditto	ditto.	
		Thomas Graham	assault and battery	ditto	ditto.	
		Robert M'Vickar	ditto	ditto	ditto.	
		Joseph Mathon	ditto	ditto	ditto.	
		Pierre Caya	ditto	ditto	ditto.	
	Oct.	Thomas Leary & al.	riot and assault	ditto against 4 defendants.	ditto.	
		Jean B <sup>e</sup> Belletête	assault with intent to murder.	true bill	ditto.	
		Gabriel Benoit	nuisance, disorderly house.	no bill	ditto.	
		Frans. Cloutier & Uxor	ditto	ditto	ditto.	
		Frans. Patoille, sen.	assault with intent to murder.	true bill	ditto.	
		Joseph Lauranger	assault on clerk of the market.	no bill	no deposition	by <i>virtu voce</i> of a public officer; clerk of the market.
		Ditto	ditto	true bill	ditto	
		Pierre Giguere	forestalling	ditto	ditto	
	1830:					
	Jan.	Jean Guille	assault and battery	ditto	ditto.	
		Pierre Olivier	petty larceny	ditto	deposition.	
		Joseph Leonnais	ditto	no bill	ditto.	
		Frans. L'Esperance	assault on a constable, &c.	ditto	ditto.	
		Louis E. Dubord	ditto	true bill for assault only.	ditto.	
	April	Michel Gailloux	blasphemy	true bill	ditto.	
		Ant <sup>ne</sup> Bazin	assault and battery	ditto	ditto.	
		Gab <sup>e</sup> Proulx	ditto	no bill	ditto.	
		Antoine Robert	ditto	ditto	ditto.	
		Edouard Mathon et al.	riot and assault	true bill, riot only.	ditto.	
		David Harvey	assault with intent to murder.	true bill	ditto.	
		Louis Beaudry	assault and battery	ditto	no deposition	conviction and fine.
		Jos. Craig Morris.	ditto	ditto	ditto	conviction.
		Ditto	assault on a constable, &c.	ditto	deposition.	
		Génévieve Paille	nuisance, disorderly house.	no bill	no deposition.	



CHARGES AGAINST MR. CHISHOLME.

Correspondence  
respecting  
Mr. Chisholme.

DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
1830: July -	Charles Labonté -	- - breaking out of the gaol.	true bill -	deposition.	
	Charles Parant -	- - assault on a constable, &c.	ditto -	- ditto.	
	Marguerite Dargie -	- larceny -	ditto -	- ditto.	
	Jos. Seb Letiecq -	- petty larceny -	no bill -	- ditto.	
	Emanuel Firmin -	- - obtaining a silver watch on false pretence.	true bill -	- ditto.	
1831: Jan. -	Francis Deguise -	- petty larceny -	ditto -	no deposition -	- - conviction, sent to house of correction.
	John Fowle -	- larceny -	ditto -	deposition.	
	Regis Bergeven, alias Langevin.	- petty larceny -	ditto -	- ditto.	
	Ambroise Mairand -	- ditto -	ditto -	- ditto.	
	Pierre Fortier -	- ditto -	ditto -	- ditto.	
	Ditto -	- ditto -	ditto -	- ditto.	
	Bazile Brannonier -	- ditto -	ditto -	- ditto.	
	Noel Gingras -	- ditto -	no bill -	- ditto.	
	Campbell Murray -	- ditto -	ditto -	- ditto.	
	Casimir Dery -	- assault to ravi-h	true bill -	- ditto.	
	Moses Hart -	- ditto -	ditto -	- ditto.	
	Louis Tamaquois & al.	- - assault with intent to murder.	- ditto, for assault & battery.	- ditto.	
	Marie Benoit & al.	- ditto -	no bill -	- ditto.	
	Louis Cantara & al.	- riot and assault	ditto -	- ditto.	
	James Crawford & al.	- ditto -	true bill -	- ditto.	
	Alexis Thibaudeau & al.	- - assault with intent to murder.	ditto -	- ditto.	
	Pierre Robetaille & al.	- riot, &c. -	no bill -	- ditto.	
	François Bourré -	- assault on a bailiff, &c.	true bill -	- ditto.	
	Michael Mullan -	- - assault on a constable, &c.	ditto -	- ditto.	
	Louis Thibeau -	- - neglect of duty as a constable, &c.	no bill -	- ditto.	
	Louisa Chassman -	- nuisance, disorderly house.	true bill -	- ditto.	
	Julie Regis, alias Pare -	- ditto -	no bill -	- ditto.	
	Guillaume Smith -	- extortion -	ignoramus -	- ditto.	
	Joseph Gouen -	- assault and battery -	true bill -	- ditto.	
	Michel Guille -	- ditto -	ditto -	- ditto.	
April	Moses Hart -	- nuisance, disorderly house.	no bill -	- presentment of grand jury.	
	Louis Robert -	- - assault with intent to murder.	ditto -	deposition -	- - deposition of Catherine De-fosse.
	Alexis Latreille -	- ditto -	ignoramus -	- ditto.	
	Ditto -	- ditto -	true bill -	- ditto.	
	Hypolite Beaulieu & al.	- ditto -	no bill -	- ditto.	
	Ditto -	- affray -	ditto -	- ditto.	
	Pierre Girard -	- riot and assault	true bill -	- ditto.	
	William Hicks -	- assault -	ditto -	- ditto.	
	Bellarmin Massirot -	- petty larceny -	ditto -	- ditto.	
	Joseph Lapeine -	- ditto -	ditto -	- ditto.	
	Timothy Hallen -	- ditto -	ditto -	- ditto.	
	Jean B <sup>te</sup> Boisvert -	- assault on an officer, &c.	ditto -	- ditto.	
	Felix Laplante & al.	- larceny -	ditto -	- ditto.	
July -	Jean B <sup>te</sup> Boisvert -	- purloining a writ, &c.	ditto -	- ditto.	
	Felix Laplante & al.	- larceny -	ditto -	- ditto.	
	Victoire Vient -	- petit larceny -	ditto -	- ditto.	
	Michael Mullen & al.	- affray -	ditto -	- ditto.	
	Marie Louise Baudet & alios.	- nuisance, disorderly house.	no bill -	- ditto.	
	Charles Lamotte & al.	- ditto -	ditto -	- ditto.	
	Raphael Baril -	- assault on an officer, &c.	true bill -	- ditto.	
	Edward Fitzgerald -	- - exciting persons to riot, &c.	no bill -	- ditto.	
Oct. -	Pascal Rondeau -	- assault on an officer, &c.	true bill -	- ditto	
	John Thayer -	- grand larceny -	ditto -	- ditto.	- - deposition of Louis Perrault.
	Antoine Deselets -	- assault -	no bill -	no deposition.	
	Jean Noel -	- petty larceny -	true bill -	deposition.	
	Toussaint Bandorun & al.	- ditto -	ditto -	- ditto.	
	Henri Elie, alias Breton	- ditto -	no bill -	- ditto.	
	Ditto -	- ditto -	ditto -	- ditto.	

52 LOWER CANADA:—CORRESPONDENCE RESPECTING

Correspondence  
respecting  
Mr. Chisholme.

DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
1831 :	William, alias James Jenkinson.	petty larceny - -	no bill -	deposition.	
	Charles Matton - -	- ditto - - -	true bill -	- ditto.	
	Charles Houle - -	- - assault upon an officer, &c.	ditto -	- ditto.	
	Edouard Langvin -	blasphemy - -	ditto -	- ditto.	
	Pierre P. Derosier & al.	riot and assault -	ditto -	- ditto.	
	Wellebrode Demers & al.	- ditto - - -	ditto -	- ditto.	
	George Bright - -	- - assault with intent to murder.	ditto -	- ditto.	
	Jean Gobin - - -	- ditto - - -	ditto -	- ditto.	
July -	Louis C. Moreau -	petty larceny - -	ditto -	- ditto.	
1832:					
Jan. -	Joseph Vient - -	- ditto - - -	ditto -	- ditto.	
	Antoine Paquet, alias Collins.	- ditto - - -	ditto -	- ditto.	
	Joseph Precour - -	- ditto - - -	no bill -	- ditto.	
	Catherine Lagrave -	- - obtaining goods on false pretences.	true bill -	no deposition -	- - conviction and sentence.
	Ditto - - -	- - assault with intent to murder.	ditto -	deposition.	
	Henry Dunman - -	- ditto - - -	ditto -	- ditto.	
	Edward Corrigan -	- ditto - - -	no bill -	- ditto.	
	John Macphail - -	- ditto - - -	true bill -	- ditto.	
	Marie Desarge Barel -	- ditto - - -	no bill -	- ditto.	
	John Hauleston - -	- ditto - - -	true bill -	no deposition -	conviction.
	Jos. Craig Morris & al.	affray - - -	- - ditto against two defendants.	deposition.	
April	Alexander Ferguson -	grand larceny - -	no bill -	- ditto.	
	Ditto - - -	- ditto - - -	ditto -	- ditto.	
	Marie Baul - - -	- ditto - - -	true bill -	- ditto.	
	Marie Euph <sup>ie</sup> Munie -	- ditto - - -	ditto -	- ditto.	
	Jean Baptiste Plouff -	- - nuisance, disorderly house.	no bill -	- ditto.	
	François Blandal -	- ditto - - -	true bill -	- ditto.	
	Joseph Gilbert & al.	- ditto - - -	ditto -	- ditto.	
	John Cox - - -	- ditto - - -	ditto -	- ditto.	
	Ditto - - -	- - assault with intent to murder.	ditto -	- ditto -	- - deposition, Catherine Taylor.
	Olivier Taupen & al.	riot and assault -	no bill -	- ditto.	
	John Smith & al.	affray - - -	ditto -	- ditto.	
	Amable Decoteau -	indecency - - -	true bill -	no deposition -	- - conviction and sentence.
July -	Généviève Carpenter -	petty larceny - -	ditto -	- ditto -	
	Hypolite Simard, alias Labranche.	- ditto - - -	ditto -	deposition.	
	Antoine Montreuil -	- ditto - - -	ditto -	- ditto.	
	Hypolite Simard, alias Labranche.	- ditto - - -	ditto -	- ditto.	
	Claude Ferron & al.	- ditto - - -	ditto -	- ditto.	
	Adelaide Belisle -	- - nuisance, disorderly house.	no bill -	no deposition.	
	Thomas Moss & al.	affray - - -	ditto -	deposition.	
	William Warrington -	- - assault with intent to murder.	true bill -	no deposition.	
	Hector R. Major - -	- ditto - - -	ditto -	deposition.	
	Louis Andre Arenhoo -	- ditto - - -	ditto -	- ditto.	
	Louis Baudry - -	assault on an officer, &c.	- d <sup>o</sup> , simple assault.	- ditto.	
Oct. -	Angeli Tailly - - -	petty larceny - -	true bill -	- ditto.	
	Zepherin Dugas, alias Labreche.	- ditto - - -	no bill -	- ditto.	
	Jean Baptiste Couvillion	- ditto - - -	ditto -	- ditto.	
	George Carpenter -	- ditto - - -	true bill -	- ditto.	
	Marie Racine - - -	- ditto - - -	ditto -	- ditto.	
	Jean Baptiste Peltier & al.	- - nuisance, disorderly house.	ditto -	- ditto.	
	Marie Baril - - -	- ditto - - -	ditto -	- ditto.	
	John MacGowan - -	- - assault, with intent to murder.	ditto -	- ditto.	
	Walter Fuite - - -	- ditto - - -	ditto -	- ditto.	

CHARGES AGAINST MR. CHISHOLME.

Correspondence  
respecting  
Mr. Chisholme.

DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
1832: Oct. -	Simon Simoneau	assault with intent to murder.	true bill	deposition.	
	Louis Bigué	ditto	ditto	ditto.	
	Joseph Bellemand	assault on an officer, &c.	ditto	ditto.	
	Jean F. C. Ouillet	assault on school trustees, &c.	no bill	ditto.	
	Jos. Lambert & al.	riot and assault	true bill	ditto.	
	Pierre A. Dorion & al.	ditto	no bill	ditto.	
	Flavien Vadeboncoeur & al.	ditto	true bill	ditto.	
	David Houle & al.	ditto	no bill	ditto.	
	Ditto	affray	ditto	ditto.	
	Pierre St. Hilaire & al.	ditto	true bill	ditto.	
1833: Jan. -	Olivier Courteau & al.	ditto	ditto	ditto.	
	Regis Gelinas	assault on an officer, &c.	ditto	ditto.	
	Eugene Rousseau	assault with intent to murder.	ditto	ditto.	
	Louis Connier	ditto	ditto	ditto.	
	Joseph Hamel	grand larceny	ditto	ditto.	
	Pierre Sans Awagoet	ditto	ditto	ditto.	
	Pierre Vasseur	petty larceny	ditto	ditto.	
	Hilaire Ayotte	ditto	no bill	ditto.	
	John O'Brien	ditto	ditto	no deposition.	
	Margaret Laing	ditto	true bill	deposition.	
April	Antoine Montreuil	ditto	ditto	ditto.	
	Ditto	ditto	ditto	ditto.	
	Ditto	ditto	ditto	ditto.	
	James Dunn	an escape	ditto	no deposition.	
	John Strenach & al.	riot and assault	no bill	ditto.	
	Pierre Allam	assault	true bill	deposition.	
	Robert Campbell	assault with intent to murder.	ditto	ditto.	
	James Mackennon & al.	affray and assault	no bill	no deposition	- cross bill on the antecedent indictment.
	Pierre Baron, alias Lafrencere.	assault with intent to murder.	true bill	deposition.	
	Adolphus Stein	ditto	ditto	ditto.	
Charles Pepin	ditto	ditto	ditto.		
Augustin Lazard	ditto	ditto	ditto.		
Thomas Maine	ditto	ditto	ditto.		
Charles Lamotte	ditto	ditto	ditto.		
July -	John Savage & al.	grand larceny	ditto	ditto.	
	Michel Hamel	petty larceny	ditto	ditto.	
	Olivier Courteau	ditto	ditto	ditto.	
	Louis Houle, alias Gervais.	ditto	ditto	ditto.	
	François Cadoret & al.	ditto	ignoramus	ditto.	
	André Baudouen	ditto	true bill	ditto.	
	Marie L. Bandette & al.	nuisance, disorderly house.	ditto	ditto.	
	Joseph Gilbert & al.	ditto	ditto	ditto.	
	Pierre Fortier & al.	riot and assault	ditto	ditto.	
	Antoine Raymond & al.	affray	ditto	no deposition.	
July -	John Ralph, sen.	assault with intent to murder.	ditto	deposition	- deposition of Edward M'Cube.
	Pierre Dehurel, alias Flammand.	ditto	ditto	ditto	
	Pierre Bergeron	ditto	true bill, assault only.	ditto.	- deposition of Joseph Gignac.
	Frederick C. Bellerive	ditto	true bill	ditto.	
	Joseph Robert	ditto	ignoramus	ditto	- deposition of Joseph Rondeau.
	Matthew Minick	ditto	no bill	ditto.	
	François Sanschagrin	grand larceny	true bill	ditto.	
	Ditto	petty larceny	ditto	ditto.	
	Ditto	an escape	ditto	ditto.	
	Pierre Marcoullier & al.	not obeying the order of a justice of the peace.	ditto	no deposition.	
Michel Cyr	deceit	ditto	deposition.		
Louis Lefebvre	assault upon an officer, &c.	true bill	ditto.		
Francis Lacharité & al.	riot and assault	no bill	ditto.		

Correspondence  
respecting  
Mr. Chisholme.

DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
1833: July -	Hubert Bernart & al.	riot	no bill	deposition.	conviction.
	Mary Smouth	nuisance	ditto	ditto.	
	Ant <sup>ne</sup> A. Raymond	indecenty	true bill	no deposition	
	Augustin Gadioux, alias St. Louis.	riot and assault	ditto	ditto.	
	Magdelaine Blais & al.	- nuisance, disorderly house.	ditto	deposition.	
	Stephen Perkins & al.	- - assault with intent to murder.	- true bill, assault & battery only.	- ditto.	
	Olivier Lamotte	- ditto	no bill	no deposition.	
	Albert Robinson	- ditto	- true bill, assault & battery only.	deposition.	
	Ant <sup>ne</sup> A. Raymond	- ditto	ditto	ditto.	
	Jos. Vanasse, alias Verte-feuille.	- ditto	true bill	ditto.	
Oct. -	Alexander Innes	petty larceny	no bill	ditto.	- - Cross bill on 21st antecedent indictment.  - Grounded on antecedent deposition.
	Généviève Tournelle	- ditto	ditto	ditto.	
	Theotiste Rousseau	assault on an officer, &c.	true bill	ditto.	
	François Bambeau	deceit and fraud	no bill	ditto.	
	Joseph Chartier	- - refusing to do his duty as constable, &c.	ditto	no deposition.	
	Ditto	for an escape	true bill	ditto.	
	Jacques R. Baby & al.	conspiracy	ditto	deposition.	
	Marie Delaurier & al.	- nuisance, disorderly house.	ditto	no deposition.	
	Margaret Fowle	- ditto	no bill	deposition.	
	Louis D. Caron & al.	riot and assault	true bill	ditto.	
	James Bothwell & al.	- ditto	ditto	ditto.	
	Stanislas Duphene & al.	- ditto	no bill	no deposition.	
	Antoine Delaurier & al.	- ditto	true bill	deposition.	
	William Bole & al.	- ditto	no bill	ditto.	
	Pierre Mondor & al.	- ditto	not laid.		
	William Kent & al.	- ditto	true bill	deposition.	
	Isaic Gignac & al.	affray	no bill	ditto.	
	Louis Decoteau & al.	- ditto	true bill	ditto.	
	Charles Paupule	- - assault with intent to murder.	ditto	ditto.	
	Michel Danis	- ditto	ditto	ditto.	
	Flarien Cormoer	- ditto	no bill	ditto.	
	Charles Duff	- ditto	ignoramus	ditto.	
	Firmin Babineau	- ditto	no bill	ditto.	
	Jean Biladau	assault	true bill	no deposition	
	Ferman Babineau	- - assault with intent to murder.	ditto	deposition.	
	Charles Chapman	petty larceny	ditto	ditto.	
	William Bole & al.	affray	ditto	ditto.	
	Ditto	assault	ditto	no deposition	
	Benjamin Lami & al.	riot and assault	ditto	ditto.	
	Flavien Vadeboncœur	indecenty	ditto	ditto.	
Jan. -	François Cadoret	grand larceny	ditto	deposition.	
July -	Albert Robinson & al.	affray	ditto	ditto.	
	James C. Morris	- ditto	ditto	no deposition.	
1834: Jan. -	Pierre Gerard & al.	affray and assault	ditto	deposition.	- Grounded on 3d, 4th & 5th depositions antecedent.
	Chris. Keirnan & al.	riot and assault	ditto	ditto.	
	Fras. Lacharité & al.	- ditto	ditto	ditto.	
	Pierre Mondar & al.	- ditto	ditto	no deposition.	
	James French & al.	- ditto	ditto	deposition.	
	William Brown & al.	riot	ditto	ditto.	
	Thomas Murphy & al.	affray	ditto	ditto.	
	James Lacroix & al.	- ditto	ditto	ditto.	
	Pierre Cadoret & al.	- ditto	no bill	ditto.	
	William Brown & al.	- ditto	ditto	no deposition	
	Antoine Baudette & al.	- ditto	true bill	deposition.	
	Alex. M'Givenny & al.	- ditto	no bill	ditto.	
	Benjamin Lami & al.	forcible entry, &c.	true bill	no deposition.	
	Augustin Gerard	- ditto	no bill	deposition.	
	Jos. Peterson	- ditto	true bill	ditto.	

DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
1834: Jan. -	Thomas Brewer -	grand larceny -	true bill -	deposition.	
	Josh. Peterson -	petty larceny -	ditto -	no deposition.	
	Jean B <sup>te</sup> Claumond -	ditto -	no bill -	ditto.	
	Ditto -	ditto -	ditto -	ditto.	
	François Sanschagrin & al.	ditto -	true bill -	ditto.	
	Hilaire-Ayotte -	ditto -	ditto -	deposition.	
	John O'Sullivan -	ditto -	no bill -	ditto.	
	Aug <sup>n</sup> Le Beau -	ditto -	true bill -	ditto.	
	Jos <sup>h</sup> Roe, alias Mazaretti -	ditto -	ditto -	ditto.	
	Jos <sup>h</sup> Lacourse -	ditto -	no bill -	ditto.	
	Bazele Branconnier -	grand larceny -	true bill -	ditto.	
	Thomas Graham -	petty larceny -	ditto -	ditto.	
	Ditto -	assault with intent to murder.	ditto -	ditto.	
	Joseph Vanasse -	ditto -	ditto -	no deposition -	- - conviction for assault and battery.
	John Brown -	ditto -	ditto -	deposition.	
	Francis Lami -	ditto -	ditto -	ditto.	
	William Juffs -	ditto -	ditto -	ditto.	
	Ditto -	ditto -	ditto -	ditto.	- - deposition of W. H. Vallières.
Joseph Robere & al.	assault on a stable.	ditto -	no deposition.		
Jean Lacroix -	refusing to obey order of justice of peace.	ditto -	ditto.		
April	Joseph Noel -	grand larceny -	ditto -	deposition.	
	Pascal Mongrain -	ditto -	ditto -	ditto.	
	George Millette & al.	ditto -	no bill -	ditto.	
	Andrew Brown -	ditto -	ditto -	ditto.	
	Jean B <sup>te</sup> Portugais -	ditto -	true bill -	ditto.	
	Solem Thifaut -	petty larceny -	no bill -	ditto.	
	Desange Jervais -	ditto -	ditto -	ditto.	
	Joseph Burgess -	ditto -	true bill -	ditto.	
	Joseph Brinnier -	ditto -	no bill -	ditto.	
	Thomas Graham -	assault on an officer, &c.	true bill -	ditto.	
	Roderick Neckals & al.	affray -	ditto -	ditto.	
	Antoine Lafontaine & al.	ditto -	ditto -	no deposition.	
David Henderson & al.	riot and assault	ditto -	deposition.		
Ant <sup>ne</sup> Raymond & al.	nuisance; disorderly house.	no bill -	ditto.		
Etienne Maitere -	nuisance; little-go -	true bill -	no deposition -	- - confession of judgment and fine.	
Jean Rochelau -	assault with intent to murder.	true bill; assault and battery only	deposition.		
Roderick Nickals -	ditto -	ditto -	ditto.		
Louis M. Seneschal -	ditto -	ditto -	ditto.		
July -	Jean B <sup>te</sup> Deloune -	petty larceny -	true bill -	ditto.	
	Pierre Gouin -	ditto -	no bill -	ditto.	
	Cha <sup>r</sup> Gerard & al.	nuisance; disorderly house.	true bill -	ditto.	
	William M <sup>r</sup> Kenstry & al.	nuisance; stopping up a road.	ditto -	no deposition	- - <i>invid voce</i> of a public officer, conviction.
	Henry Dunnan -	ditto -	ditto -	ditto	- - ditto; pleadsguilty to abate.
	William Kent -	ditto -	ditto -	ditto	- - conviction & fine, and to abate in eight days.
	Francis Carrier & al.	nuisance; disorderly house.	no bill -	deposition.	
	Francis Gingras -	nuisance; barring a navigable river.	true bill -	no deposition.	
	Pierre Gerard & al.	a contempt	ditto -	deposition.	
	Jacques Naud & al.	affray -	ditto -	ditto.	
	Francis Aulee & al.	ditto -	ditto -	no deposition.	
	Joseph Robere & al.	riot and assault	true bill, for assault and battery only.	deposition.	
Isidore Grammond -	assault with intent to murder.	no bill -	ditto	- - deposition of Chas. O. Baudreau.	
Antoine Hebert -	ditto -	true bill, for assault and battery only.	ditto.		

(continued)

Correspondence  
respecting  
Mr. Chisholme.

DATE.	NAME.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
1834: Oct. -	Joseph Noel	petty larceny	true bill	deposition.	
	Jean B <sup>te</sup> Lacerte	ditto	no bill	ditto.	
	Charles Wallace	ditto	true bill	ditto.	
	Etienne Guillemain	ditto	ignoramus	ditto.	
	Joseph Peterson	ditto	no bill	ditto.	
	Pierre Charbonneau	ditto	true bill	ditto.	
	Charles Vallières	ditto	ditto	ditto.	
	Ditto	deceit and fraud	ditto	ditto.	
	Marie Gagnon	breaking windows	ditto	ditto.	
	Charles Dennis	ditto	ditto	ditto.	
	John Cole	ditto	ditto	ditto.	
	Arthur Michan	ditto	ditto	ditto.	
	Hilaire Ayotte	ditto	ditto	ditto.	
	Margaret Douillette	soliciting and inciting to commit felony.	ditto	ditto.	
	Arthur Michan	indecenty	ditto	ditto.	
	Michel Giroux	assault on an officer	ditto	ditto.	
	Pierre Dehurel, alias Flammand.	ditto	no bill	ditto.	
	Benjamin Vadeboncœur	ditto	true bill	ditto.	
	Ant <sup>ne</sup> Quintal & al.	nuisance	ditto	no deposition	conviction.
	Char <sup>te</sup> Lef. Baulac	ditto	ditto	deposition.	
	Jean Fr <sup>s</sup> Belouin	ditto	ditto	no deposition	- - <i>vidu</i> voce information of road commissioner, who is also a member of the House of Assembly.
	Josephte Robere & al.	affray	ditto	ditto	conviction.
	Benj <sup>n</sup> Vadeboncœur	affray and assault	ditto	ditto.	
	John Johnston & al.	affray and assault	ditto	deposition.	
	Octave Lottinville & al.	ditto	- ditto, for assault and battery only	ditto.	
	Hilaire Ayotte & al.	ditto	- ditto, against one defendant.	ditto.	
	James Lafrance & al.	ditto	ditto	ditto.	
	Charles Gardieppi	assault with intent to murder.	- ditto, for assault and battery only	ditto.	
	David Thibaudeau	ditto	ditto	no deposition.	
	Marie Poirrier	ditto	no bill	deposition	- deposition of David Thibaudeau.
	Peter Plunket	ditto	- true bill; assault and battery only	ditto	- ditto of H. Mahon.
	Michel Boivin	ditto	ditto	ditto.	
	Généviève Bouillard	ditto	ditto	ditto.	
	Joseph Roberre	ditto	ditto	ditto.	
	Michel Mulhollan	ditto	ditto	ditto.	
	Joseph Gouin & al.	riot and assault	ditto	ditto.	
	Gabriel Proux	nuisance	true bill	no deposition.	
April	James Baudon La Rivière	assault with intent to murder.	ditto; assault and battery only	deposition	- deposition of Hilaire Richas.
1835: Jan. -	Charles Denny	petty larceny	true bill	no deposition.	
	Hubert Munier, alias Lagrassé.	ditto	ditto	deposition.	
	Pierre Jean Roy	ditto	no bill	ditto.	
	James Crawford	ditto	ditto	ditto.	
	Louis Tirie & al.	soliciting to commit felony.	ignoramus	ditto.	
	Jean Cadore & al.	assault upon an officer.	true bill	ditto.	
	Pierre Dehurel, alias Hammand.	ditto	no bill	ditto.	
	Francis Martin & al.	riot	ignoramus	no deposition.	
	Louis A. Ducheny & al.	ditto	true bill	deposition.	
	Ditto	nuisance	ditto	ditto.	
	Jean Cadoret & al.	affray	no bill	no deposition.	

CHARGES AGAINST MR. CHISHOLME.

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Correspondence  
respecting  
Mr. Chisholme.

DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether a Deposition or not.	Remarks.
1835: Jan. -	Placide Gaillarde & al.	affray and assault	- true bill, assault and battery; one defendant.	no deposition.	
	Felix Parmentier	- - assault with intent to murder.	ignoramus	deposition.	
	Elie St. Hilaire	- ditto	no bill	- ditto.	
	Antoine Normandin	- breaking a door	ditto	no deposition.	
April	Jean B. Beaudry	- soliciting and inciting to commit felony.	ditto	deposition.	
	Ditto	- receiving stolen money	ditto	- ditto.	
	James Crawford, jun. and Jean B. Beaudry, accessory before fact.	petty larceny.	ditto	- ditto.	
	Ditto - ditto, after the fact.	- ditto	ditto	- ditto.	
	Pierre Denis	- grand larceny	ditto	- ditto.	
	David Decoteau	- petty larceny	true bill	- ditto.	
	Louis Baudry	- nuisance	ditto	- ditto.	
	Ditto, second	- ditto	ditto	- ditto.	
	Abraham Tregon	- ditto	ditto	- ditto.	
	James Crawford, sen.	- ditto	no bill	- ditto.	
	Josephte Dufresne & al.	- ditto	ditto	- ditto.	
	Moses Hart	- ditto	true bill	- ditto.	
	Pierre Gauthier & al.	- ditto	no bill	-	
	Jean Terron & al.	affray	true bill	no deposition.	
	Thelesphore Leclair	- nuisance	ditto	- ditto.	
	Louis St. Antoine & al.	assault on an officer.	no bill	deposition.	
	Ditto	- riot and assault	ditto	- ditto.	
	Alexis Le Blanc	- - refusing to serve as constable.	true bill	no deposition.	
	Josephte Robere	- breaking windows	ditto	deposition.	
	Mary Cairns	- ditto	ditto	- ditto.	
	Gilbert Lemai, alias Pondner.	breaking a door, &c.	ignoramus	- ditto.	
	D. F. Sulte, alias Vadebonceur.	- ditto	ditto	- ditto.	
	Ditto	- - assault with intent to murder.	ditto	- ditto.	
	Louis Proulx	- ditto	true bill	- ditto.	
	André Boudouin	- ditto	ditto	- ditto.	
	Jean B. Negageois	- ditto	ditto	- ditto.	
	Louise Daniel	- ditto	ditto	- ditto.	
July -	Jean B. Twierge & al.	petty larceny	ditto	- ditto.	
	Thomas M'Guire	- grand larceny	no bill	- ditto.	
	Ditto	- petty larceny	true bill	- ditto.	
	John Slack & al.	- grand larceny	no bill	- ditto.	
	Ditto	- petty larceny	ditto	- ditto.	
	Gabriel Proulx	- ditto	ditto	- ditto.	
	Marianne Dumas	- - assault with intent to murder.	- true bill, simple assault.	- ditto.	
	Louis Lachance	- ditto	true bill	- ditto.	
	Francis Kelly	- ditto	ditto	- ditto.	
	François Noel	- ditto	ditto	- ditto.	
	Luc Vincent	- ditto	ignoramus	- ditto.	
	Alexis Rousseau	- ditto	true bill	- ditto.	
	Pierre Gageant, alias Lafew.	- ditto	no bill	- ditto	- deposition of Ezekiel Hart.
	François Larose	- ditto	- true bill, simple assault.	- ditto.	
	Charles Burk	- ditto	no bill	- ditto.	
	Esther Pozer & al.	- nuisance	ditto	- ditto.	
	Marie Baril	- ditto	ditto	- ditto.	
	Thomas Coghlan & al.	- ditto	ditto	- ditto.	
	Ditto	- indecency	ditto	- ditto.	
	Mary O'Connor	- breaking windows	ignoramus	- ditto.	
	Michel Gailloux	- ditto	no bill	- ditto.	
	Jehn M'Laren	- ditto	true bill	- ditto.	
	Joseph Robère	- ditto and doors	ditto	- ditto.	
	Olivier Chartier	- grand larceny	ditto	- ditto.	

Correspondence  
respecting  
Mr. Chisholme.

DATE.	NAMES.	OFFENCES.	Finding of the Grand Jury.	Whether " Deposition or not.	Remarks.
1835: July -	Augustin Houle & al. -	grand larceny -	true bill -	deposition.	
	Thomas Coghlan -	- ditto -	- ditto -	- ditto.	
	Abraham Boucher -	- ditto -	- ditto -	- ditto.	
	Ditto, second -	- ditto -	- ditto -	- ditto.	
	André Decaraffe -	- ditto -	- ditto -	- ditto.	
	Amable Cadoret -	petty larceny -	ditto -	- ditto.	
	Richard Clarke & al. -	- ditto -	- ditto -	- ditto.	
	Marie Bernard -	- ditto -	- ditto -	- ditto.	
	Helen Coié -	- ditto -	ignoramus -	ditto.	
	Elie St. Hilaire -	- ditto -	true bill -	- ditto.	
	Fras. Cloutier -	- ditto -	ditto -	- ditto.	
	Michel Gailloux -	- ditto -	ignoramus -	ditto.	
	Jos. M. Janvier -	- ditto -	ditto -	- ditto.	
	Hypolite Simard -	- ditto -	no bill -	ditto.	
	Joseph Turcot -	grand larceny -	true bill -	- ditto.	
	Ditto -	extortion -	ditto -	- ditto.	
	Ditto -	- ditto -	- ditto -	- ditto.	
	Ditto -	- ditto -	- ditto -	- ditto.	
	Thomas Graham -	indecenty -	ditto -	- ditto.	
	Olivier Mailloux & al. -	nuisance -	ditto -	- ditto.	
	François Lacroix & al. -	riot and assault -	no bill -	- ditto.	
	Pierre Tessier & al. -	- ditto -	true bill -	- ditto.	
	Charles Lallemant -	assault -	ditto -	- ditto.	
	Joseph Parant -	breaking windows -	no bill -	- ditto.	
Oct.	Edward Rancour -	- - assault with intent to murder.	true bill -	- ditto.	
	Benjamin Blanchette & al. -	- ditto -	ditto -	- ditto.	
	Jos. Craig -	- - assault on a justice of pence.	ditto -	- ditto.	
	Louis Bauluc & al. -	affray -	ditto -	- ditto.	
	Jacques R. Baby & al. -	riot, &c. -	ditto -	- ditto.	
	Marie Racine & al. -	affray and assault -	no bill -	- ditto.	
	Charles Aubry -	- - assault with intent to murder.	ditto -	- ditto.	

*John Campbell Fearon*, of the town of Three Rivers, being duly sworn upon the Holy Evangelists, deposeth and saith, that the foregoing was compiled by him from the documents existing in the office of the clerk of the peace, from the district of Three Rivers, at his, the deponent's, own home; that the said documents were sent and confided to him for that purpose by David Chisholme, esq., clerk of the peace, without giving him, the said deponent, any instructions or dictation whatsoever as to the said compilation, further than the form ruled blank in which to draw it; and that the said compilation was made solely by this deponent without any assistance from any other person whatsoever, and without any further communication on the subject from the said David Chisholme, from the time of its commencement until the whole was finally completed, except some additions in the column of remarks, all at his own home as aforesaid; and further, that the same is a just and true statement of the aforesaid documents, as here classed and distributed, in the above enumeration or recital of them, as will most clearly appear by reference thereto, or to any part of them whatsoever; and further this deponent saith not, and he signed.

(signed) *John C. Fearon.*

Sworn before me at Three Rivers this Saturday, the 26th day of March 1836.

(signed) *James Dickson, J. P.*

(B.)

District of Three Rivers.

*John Campbell Fearon*, of the town of Three Rivers, interpreter to His Majesty's courts holding criminal pleas in the said district, after being duly sworn upon the Holy Evangelists, deposeth and saith, that he quitted the service of David Chisholme, esq., clerk of the peace in and for the said district, on the 27th day of July 1830, up to which period he, the deponent, had served under the said David Chisholme, esq., as clerk in the peace office in the town of Three Rivers, from the time of Mr. Chisholme having assumed the duties of clerk of the peace; that subsequent to the said 27th day of July this deponent hath been sometimes.



Correspondence  
respecting  
Mr. Chisholme.

times, though very rarely, employed by the said David Chisholme, esq., to write for him, but never, to the best of the deponent's recollection, in the police or peace office, except twice; on one of the occasions to take a deposition concerning an alleged nuisance; and on the other, to translate a fiat for a prosecution in the weekly court from French into English; that on every other occasion that he, the deponent, hath been employed since then, the said 27th day of July, by the said David Chisholme, esq., the same was either in translating or in copying documents existing and of record previous to their being placed in the deponent's hands for that purpose, with the exception of two lists compiled by the deponent for him the said David Chisholme, esq.; one being a "list of the indictments laid before the grand jury at the court of general quarter sessions of the peace holden at Three Rivers during the years 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834 and 1835, distinguishing the offences;" and the other, a list of indictments laid before the grand jury from 1827 to 1835 inclusive, in which is specified the several findings of the said grand jury, and whether the said indictment were laid on deposition or not: further the deponent saith, that the said David Chisholme, esq., never did exercise any control or influence over this deponent in his, the deponent's, capacity of interpreter of His Majesty's said courts, either before the said courts, or when sent by them before the grand jury of the said district; but that this deponent hath always, under the orders of the said courts, endeavoured, to the best of his, the deponent's, understanding, to discharge his duties as said interpreter conscientiously and independently of any person or persons, or circumstances; and further this deponent saith not; and he signed.

(signed) John C. Fearon.

Sworn before me at Three Rivers this 11th day of March 1836.

(signed) James Dickson, J. P.

(C.)

LIST of DEPOSITIONS for Assault and Battery in the Peace-office at Three Rivers, whereon no Proceedings have been had during the Years 1831 to 1835, both inclusively.

DATE.	NAMES.	OFFENCE.	DATE.	NAMES.	OFFENCE.		
1831:			1832:				
Jan. -	Jean Bap <sup>te</sup> Gauthier -	assault and battery.	July -	Adolphus Steir -	assault and battery.		
	Pierre Paradis -		August -	Augustin Bellegarde -			
	Alexis Latreille -			Thomas Dickson -			
	Marie Paradis -			Bonaventure Bijot -			
Feb. -	Pierre Marie Paradis -		Sept. -	Joseph Paterson -			
	Pierre Roi -		Dec. -	Alexander Dunnan -			
	Iaie Bernard -			François Genery -			
March -	Isidore Bernard -			François Blanchette -			
	Hubert Heroux -			Alexis Latreille -			
	Etienne Duval -						
May -	Jean Bap <sup>te</sup> Boisvert dal		1833:	Feb. -		Alexis Latreille -	assault and battery.
	Gamelin Gaucher -		March -	John M'Kay -			
	Hubart Duplessis -		April -	Jean Ferron -			
June -	Pontiff Lafontaine -		May -	Louis E. Dubord -			
July -	Francis St. Cyr -			George Boisvert -			
	Michel Gailloux -	July -	Margaret Burns -				
	Louis Nolin -	August -	Honoré Verboncœur -				
	Gabriel Proulx; -		Marguerite Lauzière -				
	William Rogin -	Sept. -	Joseph Golin -				
August -	Savotte Rouillard -		François Lamotte -				
	Flavien Vadeboncœur -		Benjamin Turner -				
	Thomas Barrow -		John, alias William Jones -				
	Denis Labarre -		Louis Peccotten -	- - assault to murder.			
	Antoine Deselets -						
Sept. -	Lubin Rosseau -						
Oct. -	Joseph Gouin -		Oct. -	Maurice Montour -	assault and battery.		
Nov. -	Jean Richard Cook -			Pierre Lamotte -			
Dec. -	Antoine Pelleau -			James Crawford -			
	Alexis Lemoine -			Charles Pepin -			
	Louis Decoteau -		1834:				
1832:			Jan. -	Raphae! Faucault -			
Feb. -	Joseph Brock -		May -	Joseph Labarre -			
March -	Charles Gobeille -		June -	François Gingras -			
	David Liroux -			Charles A. Breneque -			
	Pierre Piette -		July -	Hubert Lickman -			
April -	John R. Cook -			Marie Lemire -			
	Jean B <sup>te</sup> Hamel -			Joseph Robere -			
May -	Louis Lefebvre -			Charles Chapman -			
June -	William Jones -			Joseph Lacroix -			
				Jean Boudreau -			
				Michel Lambert -			

(continued)

00 LOWER CANADA:—CORRESPONDENCE RESPECTING

Correspondence  
respecting  
Mr. Chisholme.

DATE.	NAMES.	OFFENCE.
1835:		
January -	Leandre Loulard - Joseph Robere - Antoine Fontaine - Elie St. Hilaire -	assault & battery.
February -	François Fancault -	
April -	Pierre Bellan - Louise Lamerande -	
May -	Marie O'Connor - Antoine Dedorier -	
June -	John Harkins -	
July -	Olivier Rouillard -	
August -	Adol. Wolpan - Ignace Pinard -	
September -	Will. Muir - Zepherin Dewal - Joseph L. Pinard -	

*John Campbell Fearon*, of the town of Three Rivers, after being duly sworn on the Holy Evangelists, deposeth and saith, that the foregoing list or enumeration was compiled by him at his own house, without the assistance of any other person, from documents existing in the office of the clerk of the peace in the said town, which were confided to him by David Chisholme, esq., clerk of the peace for the district of Three Rivers, for that purpose; and that the same is a just and true statement of the same to the best of his, the deponent's, knowledge and belief; it being, however, premised, that there is not included therein an equal or greater number of depositions for single assault or breach of the peace, and other misdemeanors of a minor nature than assault and battery; and further deponent saith not; and he signed.

(signed) *John C. Fearon.*

Sworn before me at Three Rivers this 26th day of March 1836.

(signed) *James Dickson, J. P.*

(D.)

Sir,

Three Rivers, 8 March 1836.

WE, the undersigned magistrates for the district and town of Three Rivers, having understood that certain charges have been made against you, as clerk of the peace for this district, by the honourable the House of Assembly, we feel ourselves called upon at this moment to testify, that we have been acquainted with you, as clerk of the peace for this district, nearly 10 years, and that we never knew or heard of any complaint against you; but, on the contrary, that your conduct as a gentleman and as clerk of the peace has always appeared to us as deserving of the highest praise; and we beg, therefore, that you will accept of this tribute of our approbation and respect, as coming from the magistrates who have had every opportunity of knowing and appreciating your talents and integrity as clerk of the peace for the district of Three Rivers. You will, therefore, make such use of this in your defence as you may think proper.

We are, &c.

(signed) *René Kimber, J. P.*  
*S. Grant, J. P.*  
*James Dickson, J. P.*  
*Henry F. Hughes, J. P.*  
*E. Mayrand, J. P.*

David Chisholme, Esq.

— No. 2. —

COPY of a DESPATCH from Lord Glenelg to the Earl of Gosford.

My Lord,

Downing-street, 29 November 1836.

I HAVE had the honour to receive your despatch of the 12th August last, No. 92, enclosing the report of a committee of the House of Assembly of Lower Canada, on the conduct of Mr. Chisholme, the clerk of the peace for the district of Three Rivers, together with the resolutions of the Assembly adopting that report, and the answer of Mr. Chisholme to the charges brought against him. I need not assure your Lordship that these documents have commanded my attentive consideration.

The

Correspondence  
respecting  
Mr. Chisholme.

The principal charges brought against Mr. Chisholme by the report of the committee are two: First, that he has been in the habit of framing indictments on verbal information not given under the sanction of an oath; and, secondly, that with the corrupt motive of increasing his fees he has during the last five years continually inserted in indictments for assault a count charging the offence to have been committed "with intent to murder." There are other minor allegations in the report, but the two which I have stated appear to constitute the basis of the address presented to your Lordship by the Assembly, praying for Mr. Chisholme's removal from all offices under the Crown. I proceed to inform you of the views which, after an attentive perusal of your despatch and its enclosures, I have been led to adopt respecting Mr. Chisholme's conduct.

With respect to the first charge, it is to be observed, that Mr. Chisholme does not deny, but, on the contrary, distinctly admits that since November 1826, when he was appointed clerk of the peace, he has been in the habit of occasionally framing indictments on verbal information alone without any written deposition, and that the number of indictments so framed has been 83. He endeavours, however, to justify the practice, on the ground that it is not prohibited by law; that of the indictments sent up to the grand jury, 70 were found by them to be "true bills," while the remaining 13 were preferred at the suit of constables or other public officers of credibility; that in most instances those officers were themselves the parties aggrieved, and that it has been only during the hurry and confusion of the sessions that verbal informations have been received and laid before the grand jury, in the form of indictments, without the previous formality of a written deposition. Mr. Chisholme further states that by this course a sum of 20s. was in each case saved to the province, a large proportion of which would otherwise have been payable to himself as clerk of the peace.

On referring to the documents which accompany your despatch, I do not find any contradiction of this defence. It is nowhere asserted that the framing of indictments on verbal information only is contrary to law, although it appears to be considered that as a practice it is undoubtedly irregular. The Attorney-general indeed, while stating that, except in particular circumstances, he should not feel justified in adopting such a course, specially excludes from this exception all minor cases, such as those for assault. He does not, however, allege that even in those cases the proceeding would be actually illegal.

Adverting, therefore, to all the circumstances, and having especial reference to the fact that Mr. Chisholme had not received a legal education, and might therefore be probably unacquainted with the general practice in such matters, I feel bound to express my opinion that, as far as this charge is concerned, there is not sufficient ground for imputing to him an improper design; and assuming (as in the absence of any contradiction from your Lordship or the law officers, I am bound to do,) the correctness of his statement in regard to the consequent diminution of his fees, I cannot hesitate to acquit him of any corrupt or sordid motive for his conduct. At the same time it is impossible to deny that the practice of framing indictments on verbal information, not attested by an oath, must lead to inconvenience, and may probably involve much injustice. The vague and often exaggerated terms in which complaints are made, more especially in cases of personal violence, where the complainant is smarting under the irritation of the moment, will often cause the exhibition of charges far more serious than the facts will warrant. The necessity of reducing those charges to writing, and of deposing on oath to their truth, naturally induces a greater caution and accuracy in the complainant. That a power should exist of occasionally dispensing with this practice may perhaps be necessary to the speedy execution of the law in extreme cases, but it is for those extreme cases alone that it ought to be reserved. You will therefore convey to Mr. Chisholme a strict injunction as to his future conduct in the preparation of indictments; and if you should see any reason to believe that, contrary to the opinion expressed in the report of the committee, any irregularity on this point exists in other parts of the province, you will take the necessary steps for causing it to be discontinued.

I now proceed to the second charge brought against Mr. Chisholme. This charge is in substance, that during the last five years Mr. Chisholme, in preparing indictments for common assaults, has been in the habit of adding a count, stating the assault to have been "with intent to murder," for the purpose of increasing his fees, and at the same time of making them chargeable not on the private prosecutor, but on the public. I need scarcely observe that this statement, as involving

Correspondence  
respecting  
Mr. Chisholme.

an accusation of pecuniary corruption against Mr. Chisholme, is of a much more serious character than that to which I have above alluded. I proceed to advert to the facts by which it is supported.

It appears from the evidence and returns delivered to the committee of the Assembly, that although during the four years from 1827 to 1831, only five indictments had been preferred for assault with intent to murder, no less than 84 such indictments were sent up during the five succeeding years; that of the persons brought to trial on such indictments during the latter period only six were found guilty of assault with intent to murder, while 27 were convicted of simple assault; that in several of the depositions produced to the committee there was nothing to justify the second count; and that Mr. Chisholme, while vindicating the insertion of that count on the ground of verbal information given to him at the time, was unable to specify any particular instance in which he had received such information, or any party by whom it had been given.

Such are the circumstances on which the charge is founded. The principal fact, viz., the insertion of the second count in cases where the deposition did not justify its allegations, is not denied by Mr. Chisholme. In his evidence before the committee he endeavours, as has been already stated, to justify it on the plea of verbal information received at the time. In his memorial to your Lordship, he dismisses it without any comment, "referring for his exculpation to the preceding pages, in which he asserts that he has already made his defence" with respect to this particular subject. I am compelled to state that this appears to me an unsatisfactory way of meeting the charge. The preceding part of Mr. Chisholme's voluminous defence had, with the exception of a single sentence, referred exclusively to the charge of framing indictments without any deposition at all, not to that of aggravating in the indictment the offence laid in the deposition. Now, of the 84 indictments for assault with intent to murder, preferred between 1831 and 1835, only five appear to have been framed without a previous deposition on oath. Mr. Chisholme, however, may perhaps mean to assert that in vindication of the practice of framing indictments without depositions, is included his exculpation for inserting in an indictment, partly framed from regular depositions, counts grounded on verbal information. But if this be his meaning, it is evident that the most important points of his defence on the former charge are inapplicable to the latter, inasmuch as he can neither assert that it had been in consequence of the hurry and confusion of the sessions that such counts have been irregularly inserted, nor can he show that his pecuniary interests were not benefited by the practice. On this point, therefore, Mr. Chisholme's defence is imperfect. It remains to be considered whether that portion of the report of the committee which directly imputes to him a sordid motive for his conduct is sufficiently established by the facts stated.

To this charge Mr. Chisholme has opposed his unqualified and most emphatic denial, and has appealed to the whole course of his life in disproof of it. He has also transmitted a letter addressed to him by five of the magistrates for the district of Three Rivers, expressing their approbation of his conduct since he has held the office of clerk of the peace. It is impossible to deny the weight of this testimony, or altogether to disregard the earnestness of Mr. Chisholme's asseveration. Nor can the fact be overlooked, that although but few convictions for the whole charge ensued on trial, yet out of the 84 indictments sent up to the grand jury, 47 appear to have been found by them to be "true bills." Considering, therefore, the smallness of the pecuniary advantage which it would have been possible in any case for Mr. Chisholme to derive from such a source, and adverting to the disinterested although erroneous practice which he appears to have pursued in regard to other indictments, I do not feel justified in assuming that his conduct in this matter, however ill-judged, was actuated by the sordid and corrupt motive attributed to him by the Assembly. The extraordinary increase in the number of indictments for assault with intent to murder may perhaps be in some measure attributable to a fact alluded to in the examination before the committee, viz., that by a decision of the legal tribunals in 1831, the costs in all cases of simple assault had been devolved on the complainants. It is probable that in order to avoid these costs, complainants, when not required to depose on oath, may have purposely exaggerated the nature of their complaints. This explanation indeed, while it would relieve Mr. Chisholme from the more disgraceful part of the charge, would but evince more clearly the inconvenience of the irregular practice which he has followed. That his conduct as a public officer has been in this respect deficient in due caution and discretion

seems

seems to me undeniable; but after weighing with the utmost deliberation the facts laid before me, I am compelled to state that they are not in my opinion sufficient to justify me in affixing on him the stigma of having abused his authority from mercenary motives. As your Lordship had not suspended Mr. Chisholme from his office pending the reference of his case to His Majesty's Government; I presume that in this opinion you concur. Under these circumstances, the House of Assembly of Lower Canada will, I trust, acquiesce in the reasons which have prevented me from advising His Majesty to accede to the prayer of their address for Mr. Chisholme's removal.

Correspondence  
respecting  
Mr. Chisholme.

Having thus noticed the charges brought forward against Mr. Chisholme, I should have been anxious here to conclude my despatch; but I cannot pass over without notice the tone and substance of his defence. I need not remind you that it has ever been His Majesty's anxious wish, not only in his own communications to the Assembly of Lower Canada, to evince towards them a courteous and respectful attention, but to enforce a similar line of conduct on all his servants in the province, of whatever degree. His Majesty's commands to this effect have been repeatedly expressed, and must have been well known to Mr. Chisholme. I have, therefore, seen with sincere regret that in his memorial to your Lordship Mr. Chisholme has entirely lost sight of his duty in this respect. After making every allowance for the irritation under which he might probably be labouring, it is impossible to deny that there are many portions of that memorial which are quite indefensible. It contains passages altogether irrelevant to the matters in question, and introduced apparently for the single purpose of giving occasion to arguments and opinions disrespectful to the House of Assembly, and offensive to all classes of His Majesty's Canadian subjects of French origin; while denying the authority of the Assembly to inquire into his conduct, he has permitted himself to indulge in sarcasms ill-suited to the occasion, and in imputations on the members of the committee not warranted by the facts. You will convey to Mr. Chisholme the expression of His Majesty's strong disapprobation of his conduct in this respect, and you will apprise him that if hereafter any repetition of such conduct should be brought to my notice, I shall feel it my duty to recommend His Majesty forthwith to remove him from the public service. If I have not taken that step on the present occasion, it is because I am unwilling to visit with extreme severity an offence attributable perhaps to momentary irritation, and because I feel confident that Mr. Chisholme will not hesitate to make the fullest acknowledgment of the error into which he has fallen, and on which I have felt it my duty so strongly to animadvert.

Should he deliberately adhere to the sentiments expressed in the memorial of the nature to which I have adverted, I could not fail to consider such conduct as evidence of an habitual spirit and temper wholly incompatible with the tenure of any office of trust and responsibility under the Crown.

I have, &c.  
(signed) *Glenelg.*

— No. 3. —

COPY of a DESPATCH from the Earl of Gosford to Lord *Glenelg.*

My Lord,

Castle of St. Lewis, Quebec, 31 October 1836.

It will be in your recollection that Mr. Chisholme, the clerk of the peace and coroner for the district of Three Rivers, stands accused by the House of Assembly of malversation in the discharge of the duties connected with the first mentioned of those offices; and that in my despatch of the 12th of August last, I transmitted the whole of his case for the decision of His Majesty. Circumstances have recently transpired respecting this gentleman, which made it incumbent on me at once to remove him from all offices that he held under Government; and thus, should the step I have taken be approved, the consideration of the former accusations against him may become unnecessary.

Mr. Daly, the provincial secretary, is charged by law with the annual issue of shop and tavern licences, and the fee of 4*l.*, payable upon each, forms part of the public revenue. For the greater convenience of traders, Mr. Daly appoints, in different parts of the province, agents, to whom he entrusts a certain quantity of licences for distribution within their neighbourhood, and they are required to make periodical returns of the number they may issue, and to account to him for all monies

Correspondence  
respecting  
Mr. Chisholme.

received in return. Mr. Chisholme was the person selected to act in this capacity for the district of Three Rivers, and was allowed as a remuneration for his trouble a fee of 2s. 6d. upon each licence he issued. In the month of January 1836, Mr. Daly, for reasons not within my knowledge, ceased to employ Mr. Chisholme, and their accounts were balanced and closed up to that period, without anything appearing to raise suspicion against the integrity of Mr. Chisholme's conduct as agent. In the course of the last month, however, Mr. Daly received information which led him to believe that Mr. Chisholme had in several instances received money from individuals for licences which were never issued, and that he had omitted to include the purchasers in his periodical lists of persons licensed, and to account for the price of such licences.

No. 11.

On this being officially reported to me by the provincial secretary, I lost no time in directing him to proceed immediately to Three Rivers, and with Mr. Vezina, His Majesty's senior counsel there, to inquire on the spot whether there was any foundation for this grave charge against the character of a public officer; and they were instructed to afford to Mr. Chisholme an opportunity of making any explanations in his power, and to allow him access to the evidence they might obtain. Mr. Chisholme was at the same time informed of the allegation against him, and of the course that had been decided on, and was directed to offer to the investigation every facility in his power. The result of this proceeding is contained in Enclosure, No. 11, from which your Lordship will perceive that many cases were disclosed, in which Mr. Chisholme appears to have acted in a manner that, unless satisfactorily cleared up, would render it impossible that he should be retained in the public service. As, however, he stated that he was too ill to attend during the inquiry, I forwarded to him all the information that had been collected by Messrs. Daly and Vezina, in order that he might vindicate himself if possible, and adduce such counter-evidence as he might think fit.

Enclosure, No. 11, also contains the certificates and observations that he has submitted in explanation of the several cases brought under my consideration; but so far from establishing his innocence, they confirm, in my opinion, the charge made against him of having defrauded the public revenue. Under this impression, I have dismissed Mr. Chisholme from his situations of clerk of the peace and coroner for the district; and now transmit all the documents (12 in number) relating to this case, that your Lordship may be in possession of the information necessary for judging whether I have arrived at a just conclusion in this matter. I should not omit to mention that Mr. Chisholme, although he had consented to appear before Messrs. Daly and Vezina, and even made an excuse for his non-attendance on account of illness, yet towards the close of the inquiry sent in a written protest against the whole of the proceedings. He subsequently, however, requested permission to withdraw this document.

12 Enclosures.

See No. 6; 22 September 1836.

See No. 8; 28 September 1836.

I have, &c.  
(signed) Gosford.

Enclosures in No. 3.

Enclosure 1, in No. 3.

Sir,

Three Rivers, 9th September 1836.

A REPRESENTATION having been recently made to me that persons have been in the habit of paying for licences to my late agent for this district, which licences were never delivered to them, although repeatedly demanded, I feel myself under the necessity of applying to you, and requesting you will have the goodness to afford me such information on the subject as you may have acquired in the discharge of your duty since the period of your appointment as my agent.

René Kimber, Esq.

I have, &c.  
(signed) D. Daly.

Monsieur,

Trois Rivières, 11 Septembre 1836.

EN réponse à votre lettre du 9 du courant, j'ai l'honneur de vous transmettre les noms des personnes qui en prenant chez moi des licences de marchand ou d'aubergiste, m'ont déclaré qu'ils n'avaient pas toujours eu de licences, et qu'ils n'avaient même pas pu en avoir quoiqu'ils les eussent demandées et payées. Ils payent le montant à Mr. Chisholme et obtenaient seulement un certificat du paiement. Quelques uns m'ont dit qu'ils avaient insisté pour avoir leur licences, mais que Mr. Chisholme leur disoit qu'il n'avait plus de licences, et qu'il les enverroit lorsqu'il en auroit reçu de Quebec. Je suis avec considération,

D. Daly, Ecuyer, &c. &c.

Monsieur, votre très humble, etc.  
(signed) René Kimber.

Marchand :

Narcisse Davaille - Pointe du Sac.  
 Charles Giroux - Nicolet.  
 Lutin Rousseau - St. Pierre.  
 Pierre Deveant - Trois Rivières.  
 Joseph Prena - St. Gregoire.  
 Aug. St. Louis - Machiete.  
 Guill. Crepeaud - Sablée.  
 Pierre Beleau - Trois Rivières.  
 — Rouelle - St. François.  
 John Boutisten - Trois Rivières.

Auberge :

J. B. Martel - Becancour.  
 Veuve Maurissette - Trois Rivières.  
 Veuve Ritter - ditto.  
 Michel Girard - ditto.

Auberge :

M. L. Gauselin - ditto.  
 Jean Terreau - ditto.  
 Bazile Lupin - Becancour.  
 Louis Diselet - ditto.  
 J. B. Lauranger - Rivière du Loup.  
 Elie Dumaril - ditto.  
 Jos. Rocheleau - Cap la Magdeleine.  
 Jos. Rivard, dit Lavigne - Gentilly.  
 J. B. Gaultier - Pointe du Sac.  
 Fr. Bellerive - Champlain.  
 Michel Gerend - Gentilly.  
 Joseph Gin - Trois Rivières.  
 Pierre Ayotte - ditto.  
 Ant. Hamel - ditto.  
 Agatti Fortin - ditto.  
 Jos. Girouard - Gentilly.

Correspondence  
 respecting  
 Mr. Chisholme.

Sir,

Three Rivers, 9 September 1836.

MR. DUBORD, of Champlain, having recently called at my office, and having exhibited to me your receipt for the sum of 4*l.* 7*s.* 6*d.* which he paid to you for a shop licence to be afterwards delivered to him, and which he has not since received, although he demanded it, and not finding his name included in the list of licences furnished to me by you last winter, I am under the necessity of requesting some explanation on the subject. It is also necessary I should add, that it has been alleged that several other individuals have received similar receipts from you, without at any subsequent date having been able to obtain their licences; an allegation the truth of which, I need not assure you, I trust it will be in your power to deny, but upon which I am also compelled to demand explanation, and hope to be favoured with your reply at your earliest convenience.

D. Chisholme, Esq., Three Rivers.

I have, &c.  
 (signed) D. Daly.

Sir,

Three Rivers, 10 September 1836.

I HAVE received your letter of yesterday, and, in reply, beg leave to state to you, that agreeable to your written permission, I have frequently given receipts for monies deposited with me for licences, before the receipt of them from Quebec, as well as when I ran out of them. I am prepared to show that the same practice was pursued by my predecessor, your present agent here, Mr. Kimber. By this means it is very probable that when licences were called for, I did not take the precaution of exchanging the licences for the receipts, and that in some few instances the licences themselves may not have been called for. But permit me to deny in the most positive and unequivocal terms, that I have ever declined or refused to deliver a licence when demanded, either to Mr. Dubord or to any other person. For some years Mr. Dubord was in the habit of informing me that Mr. James Bell would take up his licence as a shopkeeper; but this was never done, though this gentleman, as I believe, stated to me that he would do so, or become answerable for Mr. Dubord's licence.

D. Daly, Esq., &c.

I have, &c.  
 (signed) D. Chisholme.

Enclosure 2, in No. 3.

Sir,

Secretary's-office, Quebec, 14 September 1836.

CIRCUMSTANCES having recently come to my knowledge tending to excite a belief that the conduct of my late agent for the issue of licences in the district of Three Rivers, Mr. David Chisholme, has not been correct, and that the public revenue has suffered in consequence, I find myself under the necessity of requesting the permission of his Excellency the Governor-in-chief to proceed to Three Rivers, for the purpose of investigation on the spot. As, however, the public revenue is concerned, as well as the character of an officer of the Government, I have the honour to suggest, for his Excellency's approval, that some competent person, possessing his Excellency's confidence, at Three Rivers, may be associated with me in the investigation, the result of which may be reported to his Excellency.

The Civil Secretary.

I have, &c.  
 (signed) D. Daly.

Enclosure 3, in No. 3.

Sir,

Castle of St. Lewis, Quebec, 15 September 1836.

I HAVE the honour to enclose herewith a copy of a letter addressed to Mr. Vezina, the King's counsel at Three Rivers, with reference to your letter of this day's date; and as you are already

Correspondence  
respecting  
Mr. Chisholme.

already in possession of the information which led you to make the representation contained in your communication, I have only to convey to you his Excellency's desire that you should proceed to Three Rivers with as little delay as possible, and there jointly with Mr. Vezina enter upon the investigation into the conduct of Mr. Chisholme, your late agent for issuing shop and tavern licences, as it affects the matter brought by you under his Excellency's consideration. You will be pleased to take with you such documents from your office as may facilitate your proceedings; and you will also afford Mr. Chisholme the opportunity of making any explanation he may desire, and access to the evidence you may take.

It has been notified to Mr. Chisholme that, as a Government officer, his Excellency expects him to afford you every facility in your inquiry, and to attend before you when required. I need hardly add, that it is his Excellency's wish that your report should be made with as little delay as possible, and accompanied with such evidence as you may collect.

The Secretary of the Province,  
&c. &c. &c.

I have, &c.  
(signed) S. Walcott, Civil Secretary.

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Enclosure 4, in No. 3.

Sir,

Castle St. Lewis, Quebec, 15 September 1836.

IN consequence of an official communication, addressed to the Governor-in-chief, touching the conduct of Mr. Chisholme while employed by the provincial secretary as his agent for the issue of shop and tavern licences in the district of Three Rivers, from which it would appear that the public revenue is supposed to have suffered, I have received his Excellency's commands to take immediate measures for the purpose of having this matter thoroughly investigated; and for this purpose I have now to request, that you will, with Mr. Daly, the provincial secretary, undertake the inquiry. Mr. Daly has received instructions to repair to Three Rivers with as little delay as possible, and to put himself in communication with you on this subject; and after affording Mr. Chisholme an opportunity of making any explanation he may desire, and access to the evidence you may take, you will be good enough to make a report of the circumstances of the case for his Excellency's information with as little delay as may be.

It has been notified to Mr. Chisholme, that, as a Government officer, his Excellency expects him to give you every assistance in your inquiry, and to attend before you when required.

P. Vezina, Esq., Three Rivers.

I have, &c.  
(signed) S. Walcott, Civil Secretary.

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Enclosure 5, in No. 3.

Sir,

Castle St. Lewis, Quebec, 15 September 1836.

I AM directed by the Governor-in-chief to apprise you, that in consequence of an official communication addressed to him with regard to your conduct while employed by the provincial secretary as his agent for the issue of shop and tavern licences for the district of Three Rivers, by which the public revenue is supposed to have suffered, he has commanded Mr. Vezina, one of His Majesty's counsel, and Mr. Daly, the provincial secretary, thoroughly to investigate this matter, and report the evidence for his Excellency's information.

His Excellency expects you, as a Government officer, to afford those gentlemen every facility in your power in their inquiries, and to attend before them when required.

D. Chisholme, Esq., Three Rivers.

I have, &c.  
(signed) S. Walcott, Civil Secretary.

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Enclosure 6, in No. 3.

— 1. —  
Mon cher Monsieur,

Trois Rivières, 17 Sept. 1836.

JE crois devoir vous prévenir que M. le Secrétaire Provincial Daly, écuyer, est arrivé en cette ville, pour procéder avec moi, par ordre de son Excellence le Gouverneur-en-Chef, à une certaine investigation dans certaines affaires qui vous concernent, ainsi que vous devez en avoir été prévenu par le secrétaire civil de son Excellence le Gouverneur-en-Chef; et que nous avons fixé pour y procéder Lundi prochain à huit heures du matin, à l'hôtel d'Ostrom en cette ville, où nous vous notifions et prions de vous trouver, avec tous les papiers, livres et documents qui ont rapport à ces affaires, ou de nous faire réponse de vos intentions à cet égard.

D. Chisholme, Ecuyer, Trois Rivières.

Monsieur, votre tres humble, &c.  
(signé) P. Vezina, Cr



Correspondence  
respecting  
Mr. Chisholme.

— 2. —

My dear Sir,  
I HAVE this moment received your letter, and write this note in bed, and am so ill that the doctor attends me; it would, therefore, much oblige if you could favour me with a visit in the course of the day.

Sunday.

P. Vezina, Esq., &c.

Your's, &c.  
(signed) *David Chisholme.*

— 3. —

Three Rivers, 18 Sept. 1836.

MR. CHISHOLME having mentioned to me that he was engaged to keep an appointment to-morrow morning, at eight o'clock, I do hereby certify that he is confined to his bed from illness, and will be incapable of fulfilling this appointment.

(signed) *Christopher Carter, Surgeon.*

— 4. —

Trois Rivières, 19 Sept. 1836.

Monsieur,  
LES commissaires sur l'enquête et investigation concernant les licences pour détailler des liqueurs fortes dans ce district, vous requièrent de leur procurer la communication, sans délai, des livres concernant les noms des personnes licenciées depuis 1828; ainsi que les certificats des qualifications des aubergistes, ou de leur en permettre l'inspection, soit à votre bureau ou à votre maison.

À M. D. Chisholme, Ecuyer, présent.

Votre serviteur,  
(signé) *P. Vezina.*

— 5. —

Trois Rivières, 19 Sept. 1836.

Mon cher Monsieur,  
IL a été envoyé des livres et un panier de papiers de votre part, mais nous ne croyons pas devoir regarder, sans que vous le permettiez, par une réponse par écrit, et nous informer si comme agent pour délivrer les licences vous n'avez pas d'autres documents et papiers, et si ce sont tous les papiers concernant les certifications des aubergistes, comme *clerk* de la paix; une réponse par écrit est requise.

M. D. Chisholme, Ecuyer, présent.

Votre serviteur,  
(signé) *P. Vezina.*

— 6. —

Three Rivers, 19 Sept. 1836.

Gentlemen,  
I WRITE this in bed, in reply to yours, just received.  
The books and papers transmitted to you this morning are all in my possession, as clerk of the peace; and I have no books, papers or any other documents in my possession, as agent for licences, except part of my correspondence with the provincial secretary.

I have, &c.  
(signed) *David Chisholme.*

— 7. —

Trois Rivières, 19 Sept. 1836.

Mon cher Monsieur,  
SUIVANT votre réponse de ce jour à la nôtre sur l'enquête, &c., que vous n'avez pas d'autres documents que ceux produits (comme clerk of the peace), excepté partie de vos correspondances avec le secrétaire provincial, &c., nous vous requérons de nous transmettre et communiquer toutes et chacune des correspondances que vous avez eû avec le dit secrétaire provincial, comme agent pour délivrer les licences.

M. D. Chisholme, Ecuyer, présent.

Votre serviteur,  
(signé) *P. Vezina.*

— 8. —

In bed, 19 Sept. 1836.

Gentlemen,  
As my correspondence with the provincial secretary, on the subject of licences, forms no part of documents in my possession, "as an officer of Government," I beg leave to decline to comply with your request in respect to that correspondence.

Messrs. Daly & Vezina.

I have, &c.  
(signed) *David Chisholme.*

Correspondence  
respecting  
Mr. Chisholme.

— 9. —

Gentlemen,

Three Rivers, 21 Sept. 1836.

I AM now so far well as to be able to sit up and write this.

As neither the communication which I have had from the civil secretary, on the subject of my conduct while agent for licences in this district, nor my late correspondence with you, has enabled me to form any conjecture of the charges brought against me, of the nature of your present inquiries, of the evidence adduced, nor of my right to be present by myself or counsel at the examination of witnesses, I have to request that you will be so good as to instruct me with respect to these matters; and, in particular, furnish me forthwith with a copy of such evidence as may have been taken against me, that I may have an early opportunity of rebutting and explaining anything that may appear to my prejudice.

It will oblige me to have your answer to this in English.

D. Daly and P. Vezina, Esqs.

I have, &c.  
(signed) David Chisholme.

— 10. —

Sir,

Three Rivers, Ostram's Hotel, 21 Sept. 1836.

IN reply to your letter of this date, we have to refer you to Mr. Daly's letter to you of the 9th instant, for information as to the nature of our present inquiry. We would not have had any objection to your being present at all our proceedings in regard to it, had you expressed a wish to that effect: With regard to the evidence we have taken, we consider it our duty to transmit it to his Excellency the Governor-in-Chief, with your letter of this date, when his Excellency will communicate it to you, or not, as he sees fit; but the communication of it, if refused, will not be at our instance.

D. Chisholme, Esq., &amp;c.

We have, &c.  
(signed) D. Daly.  
P. Vezina.

— 11. —

Gentlemen,

Three Rivers, 22 September 1836.

I HAD yesterday the honour of being favoured with your letter of that date, referring me for information as to the nature of your present inquiries to Mr. Daly's letter of the 9th instant; but upon doing so, and considering the reports which have this day reached me from some witnesses examined before you, I do but bare justice to myself in earnestly and firmly protesting against both the substance and scope of the evidence adduced, as totally inapplicable and irrelevant to the charges in question.

As endowed with all the rights and privileges of a British subject, I also beg leave to protest against the commission of inquiry under which you are said to act, as being both illegal and unconstitutional. It may be founded on an "official communication;" but against that official communication itself I likewise protest, as being the result of a deep-laid plot and conspiracy to ruin and destroy my character as a man, as well as my integrity as a public officer.

Being the party accused, I ought from the beginning to have been enjoined and invited to be present at every step of the proceedings adopted against me. I protest against the infringement of my right in this behalf. I should otherwise have been afforded an opportunity of more fully ascertaining the precise nature of the authority by which you act; against which I again beg leave to protest, as at variance with every principle of justice and right.

I deny the truth of the allegations charged against me, and protest against any evidence that may have been taken by you in support of them, without permitting me to be present to elucidate the truth by cross-examination, should I deem it necessary.

In fine, I beg leave to protest against the whole of your proceedings, as illegal and inquisitorial; as defamatory of and ruinous to my reputation, in every respect; as pernicious to the ends of justice; as an innovation upon the due course of law; as inconsistent with the proper administration of justice; as at variance with the law of the land, and my just rights and liberties as a British subject. I disown the whole of your authority, and do now and hereby solemnly protest against it.

I disclaim all personal reflections, and have the honour to be, &c.

D. Daly and P. Vezina, Esquires,  
&c. &c. &c.

(signed) David Chisholme.

Enclosure 7, in No. 3.

Sir,

Castle of St. Lewis, Quebec, 26 September 1836.

IT having been represented to the Governor-in-chief that while you were employed by the provincial secretary as his agent for the distribution of shop and tavern licences in the district of Three Rivers, you received money from several individuals, either by yourself or by your agent, the late Antoine Hamel, for licences which you never issued, and that you omitted to account for these monies and to return to the provincial secretary the names of those

those individuals in the list, periodically furnished by you, of persons licensed, his Excellency felt it his duty at once to take measures for ascertaining whether there existed any foundation for allegations which, if true, would show that a fraud had been practised on the public revenue, and would exhibit a want of moral integrity in a Government officer which would render him quite unfit to be retained in the public service. With this view, an immediate investigation was determined upon, and the conduct of it confided to Mr. Vezina and the provincial secretary, you being at the same time informed of the course that had been decided on, and commanded to afford every facility to the inquiry in your power. This command, his Excellency regrets to observe, does not appear, from your own correspondence, to have been obeyed in the spirit which he expected, although at the time it was given it seemed to be merely superfluous, as his Excellency conceived that any one labouring under so grave a suspicion would be more than anxious to court investigation and to set his innocence in a pure light. I may here remark, that you must have been fully aware of the object and nature of the proposed inquiry, from the letter addressed to you on the 9th instant by the provincial secretary. The investigation has now terminated, and the gentlemen who conducted it, having taken down in writing the statements of the several individuals who chose to come forward, have laid the same before his Excellency without any comments of their own, save only a few marginal remarks, stating whether the names of the individuals appear or not in your periodical returns, and whether they produced or not any receipts for the payments made to you or your agent.

As you were not present when these statements were taken, and have not been heard in your own vindication, and as it was not nor is his Excellency's intention to proceed upon *ex parte* evidence, nor upon a *prima facie* case, strong as that case appears, I am commanded to enclose to you a copy of the statements and marginal remarks in question, with a request that you will, without any avoidable delay, furnish for his Excellency's information such explanation as you may wish to make, accompanied by such proofs as you may deem it advisable to adduce. With respect to the protest, which at the last moment and after you had consented to appear before Messrs. Vezina and Daly, and had excused your attendance on the ground of illness, you delivered in to them against the legality of the inquiry, I am directed to observe, that upon the slightest reconsideration, you must at once see how uncalled for as well as how ill-timed was such a proceeding on your part. It is quite clear that the Government has, and must of necessity have, the right to dismiss any of its servants holding office during pleasure, without assigning any reason or calling for any explanation, whenever it shall be satisfied that they are no longer worthy of its confidence. If, however, before exercising this discretionary power, and in order to satisfy itself as to the truth or falsity of the alleged facts upon which it intends to proceed, the executive should take measures for gathering the desired information through the medium of persons appointed expressly for the purpose, and should give the suspected officer an opportunity of being present and assisting at the inquiries, and of being heard in explanation or opposition to what was adduced; so far from acting illegally or oppressively, it, on the contrary, shows the utmost tenderness for the rights of the individual, and the most marked respect for the principles of justice. The executive could not force you to attend before Messrs. Vezina and Daly, but it directed them to afford you the opportunity of making any explanation you might desire, and access to the evidence to be adduced before them.

David Chisholme, Esq.,  
Clerk of the Peace, Three Rivers.

I have, &c.  
(signed) S. Walcott, Civil Secretary.

Enclosure 8, in No. 3.

Sir,

Three Rivers, 28 September 1836.

I HAD yesterday the honour of receiving your letter of the 26th instant, inclosing a copy of the evidence taken by Messrs. Vezina and Daly, regarding the issue of licences in this district, with a request that I would furnish, for the information of his Excellency the Governor-in-chief, such explanation as I would wish to make with respect to this evidence; and I have to beg of you to be so good as to convey to his Excellency my most grateful acknowledgments for the communication, and to assure his Lordship that as soon as my present very bad state of health will admit of it, I shall proceed to obey the commands imposed upon me.

In the mean time, I hope to be permitted to make a few preliminary observations with respect to the circumstances attending the investigation in question, in the humble expectation of being able to efface from the mind of his Excellency some unfavourable impressions which I fear may have been engendered more by the equivocal situation in which I stand, than by any real or premeditated intention on my part to give offence, which far be it from me.

Late in the day of Saturday, the 16th instant, I was called to the parish of Nicolet to hold a coroner's inquest, and returned home during the night, chilled, and rather unwell. On Sunday, though rather worse, I got up; but soon became so extremely unwell as to be obliged to return to bed again, suffering the most excruciating pains, and a relapse of the effects of a severe fall from a carriage some two months since on my way from River du Loup, whither I had been on duty. It was in this situation that I received the first intimation from Messrs. Vezina & Daly of their intention to meet on Monday, and their desire that I should appear before them with such papers, books and documents as I might be in possession of with respect to the proposed inquiry. Being so ill as to be unable to reply to this notice, I sent to Mr. Vezina, the writer of it, to request the favour of a call; and having kindly complied with my request, I verbally stated to him, that if I could move I should

Correspondence  
respecting  
Mr. Chisholme.

next morning attend before him and Mr. Daly. In the mean time a much respected and valued friend called to see me, and strenuously urged the necessity of sending for medical advice; but this I resisted; fearing, and stating, that a treatment would be resorted to which would prevent me from keeping my appointment on the ensuing day. However, my friend and Mrs. Chisholme having consulted together, the doctor was sent for without my knowledge; and the consequence was, that although I refused to comply with some of his prescriptions, in the hope of being thereby enabled to meet Messrs. Vezina and Daly, he found me so much worse the next day that he would not permit me to get out of bed; and, indeed, I was little able; of which circumstance a certificate was furnished. Upon this I received a note from Messrs. Vezina and Daly, desiring communication of all papers, books and documents in my possession having relation to the inquiry going on; with which I immediately complied, by sending to them, under care of the high constable, everything in my custody with respect to licences. Some little correspondence then took place with Messrs. Vezina and Daly, which I was but ill calculated to conduct in my then state of health.

The distraction of mind which the complicated effects of extreme bad health, and an investigation of so delicate a nature must have occasioned, may be easily conceived. It was while labouring under them that on the 21st I addressed Messrs. Vezina and Daly for information as to the true situation in which I then stood, and as to my right to be present during their inquiries; for it appeared to me from your letter of the 15th, that although I was commanded to appear before Messrs. Vezina and Daly, "as a Government officer, to afford these gentlemen every facility in your power in their inquiries, and to attend before them when required;" yet the right and privilege of being present during every stage of the proceeding, and of cross-examining the witnesses, were denied to me. It was stated to me that the investigation, as it proceeded, had deviated widely from the tenor of the provincial secretary's letter to me of the 9th; but if I was misinformed, and had adopted an erroneous view of the privileges intended to be conferred upon me as an accused party, I have now only to trust to the indulgence of his Excellency for the most favourable construction of my conduct, as his Lordship will be aware that, however innocent, it is my right to be fairly and duly tried.

It was under similar feelings, and perhaps erroneous impressions, that I conceived it to be necessary to transmit my protest against the proceedings of Messrs. Vezina and Daly; carried on, as they were, in my absence, while lying on a bed of sickness, and amidst the gaze of the public eye.

Information had reached me that the inquiry had created such a popular outcry and clamour against me throughout this town and district, that, should any future legal question arise with regard to it, I could never obtain that fair and impartial investigation of my case and conduct which the laws of the land entitled me to. I was thus, in a manner, compelled, in self vindication, to do an act which, upon mature reflection, I sincerely regret and repent of; and I accordingly trust that I may be permitted to withdraw the document in question from the proceedings.

It is not for me either to question or discuss the right of the Crown to dismiss any of its servants without assigning the grounds of such dismissal, and I beg to assure you that on the present occasion the subject was never mooted in my mind; but I have too much confidence in the justice and humanity of his Excellency the Governor-in-chief for a moment to suppose that his Lordship would ever exercise the high powers with which he is invested than upon good and sufficient cause, and in conformity with the strictest principles of right and justice.

I have, &c.

(signed) *David Chisholme.*

S. Walcott, Esq.  
&c. &c. &c.

Enclosure 9, in No. 3.

Sir,

Castle of St. Lewis, Quebec, 30th of September 1836.

I HAVE the honour to acknowledge the receipt of your letter of the 28th instant, and to acquaint you that I laid it before the Governor-in-chief; and his Excellency trusts that you will lose no time in preparing and transmitting for his consideration such explanation as you may wish to furnish in the matter mentioned in my letter to you of the 26th instant.

I have, &c.

(signed) *S. Walcott, Civil Secretary.*

David Chisholme, Esq.,  
&c. &c. &c.

Enclosure 10, in No. 3.

Sir,

Three Rivers, 18 October 1836.

I HAVE at last been enabled to complete, and have now the honour of transmitting to you, without comment, for the favourable consideration of his Excellency the Governor-in-chief, certain certificates and observations with respect to the complaint made against me as to my conduct while the agent of the provincial secretary for the issue of licences in this district.

I shall only beg leave to add, that should it appear to his Excellency I may have committed some of those minute and trivial errors which so frequently occur in the transaction of public business, yet I do most conscientiously acquit myself of any design either to defraud the revenue, or perpetrate any legal or moral violation of my duty.

I have, &c.

(signed) *David Chisholme.*

S. Walcott, Esq.  
&c. &c. &c.

Enclosure 11, in No. 3.

Three Rivers, 17 Sept. 1836.  
Evidence taken by Messrs. Vezina and Daly, regarding the issue of Licences by Mr. David Chisholme, in the district of Three Rivers, as Agent to the Provincial Secretary.

Certificates and Observations furnished by Mr. Chisholme, in reply to the several cases.

No. 1.—L. E. Dubord, Champlain, shopkeeper.

States that he has been a shopkeeper for the last three years. That he paid the sum of 4 l. 7 s. 6 d. each year to Mr. Chisholme, but that he never received one, nor did he know the form of a licence until he received one this year from Mr. Kimber. He produces receipts, of which the following are copies:

“Mr. L. E. Dubord has deposited in my hands money for a merchant's licence.

(signed) “David Chisholme,  
“Agent.”

“Reçu de sieur L. Dubord, marchand, la somme de 4 l. 7 s. 6 d. pour valeur de sa licence pour l'année 1835, jusqu'à l'an 1836, par ordre de David Chisholme, ecuyer.

(signé) Antoine Hamel, Fils.

“Champlain, 19 June 1835.”

N.B.—Mr. Dubord's name is not returned in the lists furnished by Mr. Chisholme of shopkeepers' licences issued by him in 1834, 1835.

(signed) D. D.  
P. V.

No. 1.

Champlain, 24 Sept. 1836.

Tel que je vous ai déjà dit je n'ai jamais fait une plainte formelle contre M. Chisholme, par rapport aux licences.

Votre humble serviteur,  
(signé) L. E. Dubord.

James Bell, Ecuyer.

Champlain Mills, 15 Oct. 1836.

My dear Sir,

Yours of yesterday I have received, and in reply I beg to say that I recollect perfectly Dubord and Bellerive, both inhabitants of the seigneurie, having spoken to me about their licences in the years 1833 and 1834. I may have promised to take them up. This however I certainly did not do, nor did they ever pay me for the same.

I have, &c.

(signed) James Bell.

David Chisholme, Esq.

L. E. Dubord, Shopkeeper, Champlain.

I do hereby certify that although I got a receipt from Mr. Chisholme for money paid for my licence, I did not call back upon him to exchange the receipt for my licence. That for 1834, I understood Mr. James Bell would take up my licence; and that for 1835, when I paid money to Hamel, he showed me no order from Mr. Chisholme to receive it.

(signed) L. E. Dubord.

Champlain, 17 Oct. 1836.

Observations:

Mr. Dubord has this day seen his name on my list of licences for 1832, and he agrees with me in thinking that it was placed there by mistake for 1833; his name being the last on the list for 1832 instead of the first for 1833.

In 1834, Mr. Dubord was returned as a tavern-keeper, but did not qualify himself as such.

As to the late Antoine Hamel, I shall here, once for all, beg leave respectfully but decidedly to decline taking issue upon any of his transactions respecting licences. He was never “my agent, my servant, nor my clerk,” but the servant of the public, by whom he was paid, having been appointed crier and police messenger by the Court of Quarter Sessions. It will thus be seen that Mr. Dubord could not have paid the sum of 4 l. 7 s. 6 d. each year to Mr. Chisholme, and that contrary to the charge of Mr. Daly's letter to me of the 9th September last, he never demanded the shop licence in question.

(signed) David Chisholme.

17 Oct. 1836.

Correspondence  
respecting  
Mr. Chisholme.

No. 2.—*Adolphus Steen*, of Gentilly,  
Shopkeeper.

Has kept a shop for four years, and has never received a licence from Mr. Chisholme, although he has always paid for them, except one which he will produce, and one receipt from Mr. Chisholme, which he will also produce, being the amount of a licence which he never received. He also states that Mr. Gers paid for two licences which he never got.

*N. B.* Mr. Steen's name appears in Mr. Chisholme's list of licensed shopkeepers for 1835, but not in 1834.

(signed) *D. D.*  
*P. V.*

19 Sept.

No. 3.—*Marie L. Ganzelin*, Tavern-keeper,  
Three Rivers.

Paid her licence to Mr. Chisholme, and does not exactly recollect whether or not she got a licence or a receipt, but she will produce either.

*N. B.* Did not produce either.

(signed) *D. D.*  
*P. V.*

22 Sept.

No. 4.—*Veuve Maurissette*, Tavern-keeper,  
Three Rivers.

Paid her money to Mr. Chisholme himself last year, who told her that he had no licences then, but that she had nothing to fear, and might sell, as he had entered her name; or something to that effect.

*N. B.* Her name does not appear in Mr. Chisholme's list of licences issued in 1835.

(signed) *D. D.*  
*P. V.*

No. 5.—*Veuve Ritter*, Tavern-keeper,  
Three Rivers.

Paid Mr. Chisholme for her licence last year, but never received it, having been assured that she might sell without danger by Mr. Chisholme, as he had enregistered her name. She got no receipt.

*N. B.* Her name is not returned as licensed in 1835 by Mr. Chisholme.

No. 6.—*Mrs. M. T. Perrault*, or *Boudreau*,  
Shopkeeper.

Paid her money for a licence in 1835, which she never got. Hands in a certificate, marked A, which she received from Mr. C., in lieu of a licence.

*N. B.* Her name does not appear in Mr. Chisholme's return of licensed shopkeepers for 1835.

(A.)

Province of Lower Canada, District of  
Three Rivers.

I, David Chisholme, clerk of the peace in and for the district of Three Rivers, do hereby certify that the bearer hereof, Mrs. M. T. Perrault, has been duly qualified as a shopkeeper in and for the parish of Three Rivers, in the district aforesaid, according to law.

Given under my hand at the town of Three Rivers, this 5th day of July in the year 1835.

(signed) *David Chisholme*,  
Clerk of the Peace.

No. 2.—*Adolphus Steen*, of Gentilly,  
Shopkeeper.

I do hereby certify that for the years 1833, 1834 and 1835, I took up from Mr. Chisholme shop licences for Mr. Steen of Gentilly.

(signed) *Gustavus Gers.*

St. Anne, 4 Oct. 1836.

No. 3.—*Marie L. Ganzelin*, Tavern-keeper,  
Three Rivers.

This woman's statement contains no charge against me.

(signed) *David Chisholme.*

11 October 1835.

No. 4.—*Mrs. Maurissette*, Tavern-keeper,  
Three Rivers.

I hereby certify that for the years preceding 1835, I have regularly received my licences; and that for that year I deposited money by two several instalments for my licence, but did not call for it; being told by the late Antoine Hamel that he would bring it to me.

her

*Marie x Lepage.*  
Mark.

In presence of *Honore Godin.*

No. 5.—*Mrs. Ritter*, Tavern-keeper,  
Three Rivers.

I do hereby certify that I did not pay for nor call for my licence for 1834; and as to that for 1835, being told that the licences did not arrive from Quebec, I did not call for mine for that year, nor at all see Mr. Chisholme on the subject.

Three Rivers,

her

4 Oct. 1836.

*Margaret x Ritter.*  
Mark.

Witness, *Honore Godin.*

No. 6.—*M. T. Perrault*, or *Boudreau*,  
Shopkeeper, Three Rivers.

I hereby certify that it was not I, but my husband, that went to Mr. Chisholme, regarding a licence; and that I did not at any time call upon Mr. Chisholme for my licence in exchange for money or certificate.

(signed) *Marie Therese Perrault.*

Three Rivers, 7 Oct. 1836.

Notes:

(1) This woman's husband is a pilot, and cannot now be seen.

*D. C.*

(2) Upon referring more particularly to my lists, I find that this woman's name is entered on my lists for both the years 1834 and 1835, thus:

1834. May 24. No. 27. *M. T. Boudreau*,  
Three Rivers.

1835. May 19. No. 14. *M. T. Boudreau*,  
Three Rivers.

(signed) *David Chisholme.*

13 Oct. 1836.

No. 7.—*Joseph Rocheleau*, Tavern-keeper,  
Cap la Madelaine.

Has kept a tavern for three years, for one year of which time he only got a receipt for his money from Mr. Chisholme's bailiff, Antoine Hamel, which he produces, marked (B.)

(B.)

"Reçu du Sieur Joseph Rocheleau la somme de douze chelins pour balance de sa licence due jusqu'à l'année 1836.

"Par ordre de David Chisholme.  
(signé) *Antoine Hamel.*"

N.B.—He does not appear in Mr. Chisholme's lists for 1834 and 1835 as licensed.

No. 8.—*Agathe Fortin*, Tavern-keeper,  
Three Rivers.

Paid her licence for three years to Mr. Chisholme, by the hands of her husband or son-in-law, but never got anything but receipts, which she will produce if she can find.

N.B.—Did not again appear or send in receipts; is not returned licensed in 1834 or 1835.

No. 9.—*Jean Terreau*, Tavern-keeper,  
Three Rivers.

Has been a tavern-keeper for three years; in 1834 paid his money, and hands in the receipt for it, marked (C.); did not receive a licence. In 1835 also paid his money to Mr. Chisholme, who assured him nothing more was necessary; got neither licence nor receipt, and Mr. Chisholme said he might sell without danger. He first received a licence this year from Mr. Kimber. He is willing to attest the above facts on oath, if necessary.

(C.)

Three Rivers, 4 November 1834.

I have received from Jean Terreau the amount of his tavern licence.

(signed) *David Chisholme*, Agent.

N.B.—He is not returned by Mr. Chisholme as licensed in 1834 or 1835.

No. 10.—*Widow Hamel*, Tavern-keeper,  
Three Rivers.

Says her husband always took out licences, but she never saw them. Her husband might have had them in the office of Mr. Chisholme, in which he was engaged every day as bailiff. She has a licence this year from Mr. Kimber.

N.B.—Antoine Hamel, her late husband, is returned by Mr. Chisholme as licensed in 1834, but not in 1835.

(signed) *D. D.*  
*P. V.*

No. 7.—*Joseph Rocheleau*, Tavern-keeper,  
Cap la Madelaine.

Observations:

This man did not qualify himself as a tavern-keeper for the years 1834 or 1835; and if he paid money to Antoine Hamel, I know nothing of the fact.

(signed) *David Chisholme.*

6 October 1836.

No. 8.—*Agathe Fortin*, Tavern-keeper,  
Three Rivers.

Observations:

I have not seen this woman's husband for at least six years, and I never remember him to be in a condition to pay any sum of money. Certainly he never paid any to me on his own or his wife's account. Who her son-in-law is I cannot tell.

(signed) *David Chisholme.*

6 October 1836.

Note.—I have made every effort to see *Agathe Fortin*, but she has declined an interview.

11 Oct. 1836. (signed) *D. C.*

No. 9.—*Jean Terreau*, Tavern-keeper,  
Three Rivers.

I do hereby certify, that for the years 1834 and for 1835 I did not call upon Mr. Chisholme for my licences, having been told by the late Antoine Hamel that it was not necessary for me to do so.

his  
*Jean x Terreau,*  
Mark.

In presence of  
*John C. Fearon.*

No. 10.—*Widow Hamel*, Tavern-keeper,  
Three Rivers.

Observations:

It was in 1834 that the husband of this woman first qualified as a tavern-keeper, and his licence was delivered to him. In 1835 he did not take out his licence, assigning as a reason that he could not do so until his salary as crier of the quarter sessions, &c. should be paid by government.

(signed) *David Chisholme.*

7 October 1836.

Note.—Antoine Hamel, on his own showing, died in my debt to a considerable amount, for cash advanced to him.

11 October 1836.

*Widow Hamel* has left Three Rivers.

17 Oct. 1836. (signed) *D. C.*

Correspondence  
respecting  
Mr. Chisholme.

No. 11.—*Michel Gerard*, Tavern-keeper,  
Three Rivers.

Paid his licence money to Mr. Chisholme, who gave him neither licence nor receipt, but told him to sell without fear, as he would settle the matter if he was threatened with prosecution. Will attest these facts on oath, if required.

*N. B.*—He is not returned as licensed in Mr. C.'s lists for 1834 or 1835.

No. 12.—*Pierre Bebeau*, Shopkeeper,  
Three Rivers.

Paid for licences in 1834 and 1835 to Antoine Hamel, Mr. Chisholme's bailiff; got his receipts for each year, but never got a licence; has lost or mislaid the receipt for 1834, but produces the receipt for 1835, marked (D.)

(D.)

Reçu de Mr. Belloe, marchand, la somme de quatre livres sept chelins et demi courant pour valeur de sa licence pour l'an 1835, par ordre de David Chisholme, ecuyer.

(signed) *Antoine Hamel, fils.*

Trois Rivières, 26 Juin 1835.

*N. B.*—He is not returned as licensed by Mr. Chisholme in 1834 or 1835.

No. 13.—*Beaulieu*, Three Rivers.

Hands in Mr. Chisholme's receipt for the amount of a shop licence for his son F. H. Beaulieu, of St. Leon, shopkeeper, marked (E.), which he declares he never could get, although he more than once applied for it, being always told either that there were no licences, or that they were exhausted, and would be given when received. Will attest the facts on oath, if required.

(E.)

Thomas H. Beaulieu, of St. Leon, has paid me for a shop licence, which will be delivered to him on Saturday.

(signed) *D. Chisholme, Agent.*

Three Rivers, 8 October 1832.

No. 14.—*Ignace Caron*, Shopkeeper, River  
du Loup.

Hands in Mr. Chisholme's receipt, marked (F.), for money for a licence which he never got. He further states, that Amable Gagnon, of Masquonge, got a certificate of payment of his licence the same day from Mr. Chisholme, in his presence. Will swear to the facts, if required.

(F.)

Three Rivers, 31 July 1832.

Ignace Caron, of River du Loup, has this day deposited with me money for a shop licence.

(signed) *David Chisholme.*

No. 11.—*Michel Gerard*, Tavern-keeper,  
Three Rivers.

*Observations:*

This individual was returned as a tavern-keeper for the first time in 1835, and he never called upon me, nor paid me for his licence.

(signed) *D. Chisholme.*

10 Oct. 1836.

*Note.*—He has gone to Quebec.

No. 12.—*Pierre Bebeau*, Shopkeeper, Three  
Rivers.

I hereby certify, that for the year 1834 I paid for and received my licence as a shopkeeper from Mr. Chisholme or Mr. Bohin.

(signed) *Pierre Bebeau.*

Three Rivers, 7 Oct. 1836.

*Observations:*

I was never called upon to furnish a list of the licences issued by me until after I had ceased to be agent; and it is probable that in one or two instances I may have omitted a name; indeed I know that I have, through inadvertency.

(signed) *David Chisholme.*

*Beaulieu*, Three Rivers.

*Observations:*

Mr. Beaulieu declines to state to me the date of the receipt he alludes to, but it will be satisfactory to know that his son's name is on the list of shop licences for 1833, 1834, 1835.

(signed) *David Chisholme.*

6 October 1836.

No. 14.—*Ignace Caron*, Shopkeeper, River  
du Loup.

*Observations:*

I have had as yet no opportunity of seeing this individual, nor the means of sending for him; but I find his name on my list of shopkeepers whose licences have been delivered to them, as follows:

1833, Aug. 18, No. 15, Ignace Caron,  
River du Loup.

1834, May 17, No. 16, Ignace Caron,  
River du Loup.

1835, May 19, No. 12, Ignace Caron,  
River du Loup.

(signed) *David Chisholme.*

Three Rivers, 8 Oct. 1836.

*Note:*

1833, May 22, No. 29, Amable Gagnon,  
Masquonge.  
*D. C.*



No. 15.—*Pierre Panneton*, Shopkeeper,  
Three Rivers.

Paid his money for a licence in 1835, which he did not get, but was told he was safe when the last instalment was paid, having paid the amount in different sums, as appears from the receipts marked (C.) of Antoine Hamel, Mr. Chisholme's bailiff, and a letter from the same person, which he hands in. He got neither receipt nor licence for the last payment, which he will swear to if required.

(C.)

Monsieur,

Je suis chargé de la part de Sieur David Chisholme de vous dire, que passé demain à dix heures du matin, si vous ne venez point lui payer la balance de votre licence il cessera de vous attendre davantage, et attendez vous de recevoir la poursuite sans faute.

Je suis votre ami,  
(signé) *Antoine Hamel*.

Trois Rivières, 16 Oct. 1835.

Reçu du Sieur Philip Panneton la somme de huit piastres courant en acompte de sa licence marchande pour l'an 1835, par ordre de David Chisholme, écuyer.

(signé) *Antoine Hamel*, fils.

Trois Rivières, 17 Oct. 1835.

Reçu du Sieur Pierre Panneton, marchand, la somme de vingt-cinq chelins courant pour valeur reçue en acompte de sa licence de l'an 1835.

Par ordre de David Chisholme, écuyer.

(signé) *Antoine Hamel*.

Trois Rivières, 17 Nov. 1835.

*N. B.*—He is not returned as licensed by Mr. Chisholme for 1835.

20 September 1836.

No. 16.—*J. Bte. Martel*, Tavern-keeper,  
Becancour.

Has been tavern-keeper for eight years, during which time he has invariably paid for his licences to Mr. Chisholme himself. For the last five years he never received a licence, although he always got receipts from Mr. Chisholme, similar to that which he now hands in, marked (I.) For four years he paid his licence by Mr. Sheriff Ogden's son, which Mr. Chisholme received as cash. For 1835 Mr. Chisholme himself owed the amount to him, and gave him a receipt as usual. Will furnish the remainder of the receipts if he can find them, and will attest the above facts on oath, if required.

*N. B.*—Is not returned by Mr. Chisholme as licensed in 1834 or 1835.

(I.)

21 May 1831.

*J. B. Martel* has deposited in my hands money for a tavern licence, which will be delivered to him when I get a supply from Quebec.

No. 15.—*Pierre Panneton*, Shopkeeper,  
Three Rivers.

I hereby certify that I have not yet paid my licence for 1835, and never called upon Mr. Chisholme for the same.

(signed) *Philippe Panneton*.

Three Rivers, 7 Oct. 1836.

Correspondence  
respecting  
Mr. Chisholme.

No. 16.—*J. B. Martel*, Tavern-keeper,  
Becancour.

I do hereby certify that for the years 1834 and 1835 I did not pay for nor take up my licences from Mr. Chisholme.

11 Oct. 1836.

his  
*J. B. x Martel*  
mark.

Witness,

*Honore Godin*.

*Observations:*

I do not find that for the years 1832 and 1833, Mr. Martel, though returned, ever qualified himself as a tavern-keeper.

(signed) *David Chisholme*.

11 October 1836.

Correspondence  
respecting  
Mr. Chisholme.

No. 17.—*John Houlston*, Shopkeeper,  
Three Rivers.

Has been for four years a shopkeeper. When he commenced business, was told by Mr. Chisholme to begin selling whenever he pleased, and he did so, and continued to sell for the following three years, under the impression that his licences are charged against him by Mr. Chisholme, with whom he had and still has an unsettled account. He has now a licence from Mr. Kimber for this year, and for the first time.

N. B.—He is not returned as licensed by Mr. Chisholme for 1834 or 1835.

(signed) *D. D.*  
*P. V.*

No. 18.—*Michel Gerard*, Shopkeeper,  
Gentilly.

Has been a shopkeeper for seven years, and in the years 1833 and 1834 did not receive his licences, although he paid his money each year, and will produce receipts for it. In 1833 he was prosecuted for selling without licence and fined, although he had a receipt for about half the amount of his licence, and an assurance from Mr. Chisholme that he could sell without danger. Will swear to the facts if required, and will furnish the receipts if he can find them. He now produces and hands in a receipt, marked (K.) from A. Hamel, in part payment of his licence for 1835.

(K.)

Reçu de Michel Gerard la somme de six piastres courant en acompte de sa licence pour l'année 1835 et 1836, par ordre de David Chisholme, Ecuyer.

(signé) *Antoine Hamel*.

Trois Rivières, 20 Octobre 1835.

Michel Gerard paid 15s. and 11s.

*D. C.*

N. B.—He is not returned as licensed by Mr. Chisholme in 1834 or 1835.

(signed) *D. D.*  
*P. V.*

No. 19.—*John O'Connor*, Tavern-keeper,  
Three Rivers.

Has been a tavern-keeper for three years: in 1834 and 1835, he paid 6l. 11s. at different times on account of his licences, to Mr. Chisholme, and never got either licence or receipt. Mr. Chisholme told him to sell, and he was satisfied. He still owes Mr. Chisholme the balance on his second year's licence, and can swear to the above facts. Has a licence this year from Mr. Kimber which is the first he has seen.

N. B.—He is not returned as licensed by Mr. Chisholme in 1834-35.

No. 17.—*John Houlston*, Shopkeeper,  
Three Rivers.

I do hereby certify that I have never called upon Mr. Chisholme for a shop licence, or paid him for one.

(signed) *John Houlston*.

Three Rivers, 10 Oct. 1836.

No. 18.—*Michel Gerard*, Shopkeeper,  
Gentilly.

*Observations:*

In 1833 he was a shopkeeper, and his licence was delivered to him, his name being No. 48 on the list of shopkeepers. In 1834 he did not take out or pay for any licence. In 1835 he was qualified as a tavern-keeper, and his licence was delivered to him; his name being No. 3 on my list of tavern-keepers.

(signed) *David Chisholme*.

Three Rivers, 6 Oct. 1836.

*Note.*—Gerard was returned as a tavern-keeper for 1836; but he has not yet (6 October 1836) qualified himself, or taken out a licence, which shows the irregularity of his conduct.

*D. C.*

No. 19.—*John O'Connor*, Tavern-keeper,  
Three Rivers.

I do hereby certify that not having paid for my licences for the years 1834 and 1835, except as mentioned by me before Messrs. Vezina and Daly, I did not call for my licences.

(signed) *John O'Connor*.

Three Rivers, 4 Oct. 1836.

No. 20.—*François Bellerive*, Tavern-keeper,  
Champlain.

21 Sept. 1836.

Has been a tavern-keeper for seven or eight years, and has had only one licence from Mr. Chisholme, which was, for the first year. For all the others he paid regularly, and had so much confidence in Mr. Chisholme that he did not ask even for receipts; particularly as he was not threatened with prosecution at any time. He has a licence this year from Mr. Kimber, and is ready to swear to the above facts, and, in some instances, to prove through others that he has paid Mr. Chisholme for his licences.

*N. B.*—He is not returned as licensed by Mr. Chisholme for 1834 or 1835.

(signed) *D. D.*  
*P. V.*

No. 21.—*Henry J. Hughes*, Shopkeeper,  
Three Rivers.

Has a running account with Mr. Chisholme; has not received his licence for the last three years; has however always given Mr. Chisholme credit for the amount of his licences in account, copies of which accounts have been received and approved by Mr. Chisholme. Produced his books and a letter from Mr. Chisholme, confirming his statement, and is ready to attest the facts on oath, if required. Does not remember to have been without his licence until the last three years.

*N. B.*—Mr. Hughes's name is not returned as licensed for 1834 or 1835.

No. 22.—*Lubin Rousseau*, Shopkeeper,  
St. Pierre.

Was three years a shopkeeper, viz. 1829, 1830 and 1831, and only got a licence for 1830, although he always paid, and got receipts from Mr. Chisholme himself. In 1829, after having had his receipt for some months in his hands, he again asked for his licence, and was informed by Mr. Chisholme that he had none, and that he might continue to sell until May following as he was. He will attest these facts on oath, if required, and will enclose the receipts either to Mr. Vezina or Mr. Daly, at Quebec, if he can find them.

No. 20.—*François Bellerive*, Tavern-keeper,  
Champlain.

I hereby certify that for the years 1832, 1833, 1834 and 1835, I did not pay Mr. Chisholme for my licences, nor take up the same.

(signed) *François* <sup>his</sup> *x Bellerive.*  
Mark.

Champlain, 17 Oct. 1836.

Witness,  
*Honore Godin.*

*Observations:*

*Vide* Mr. James Bell's letter appended to Mr. Dubord's certificate of this date.

17 Oct. 1836. *D. C.*

No. 21.—*Henry J. Hughes*, Esq.,  
Shopkeeper, Three Rivers.

*Observations:*

I have it in writing from Mr. Hughes on the 4th October instant, that for the year 1834 and 1835 he did not call for his licences. The account he refers to was opened in 1835, after his licences became due, and if in July 1836, the date of the letter alluded to, I expressed an approbation of his statement, it was without adverting to the credit given by him for one licence, and when no mistake of the kind could be rectified by me. This licence ought to have been taken up on the 20th May 1835; but his account was not furnished till July 1836.

(signed) *David Chisholme.*

6 Oct. 1836.

*Lubin Rousseau*, Shopkeeper, St. Pierre.

*Observations:*

This man admits that he got his licence for 1830. In 1831 his name is No. 22 on the list for licences paid for and delivered. In 1832 he became and was returned as a tavern-keeper; and his name regularly appears on the list of licensed tavern-keepers from that period to 1835 inclusive.

(signed) *David Chisholme.*

6 Oct. 1836.

*Note:*

1831, April 14, No. 22, *Lubin Rousseau*,  
shopkeeper.  
1832, May 15, No. 9, *Lubin Rousseau*,  
tavern-keeper.  
1833, May 11, No. 2, *Lubin Rousseau*,  
tavern-keeper.  
1834, May 14, No. 9, *Lubin Rousseau*,  
tavern-keeper.  
1835, May 16, No. 8, *Lubin Rousseau*,  
tavern-keeper.  
*D. C.*

2d *Note*:—It was not until 1831 that I was instructed to keep the names of those furnished with licences.

Correspondence  
respecting  
Mr. Chisholme.

No. 23.—*Antoine Bureau*, Shopkeeper,  
Three Rivers.

Paid for a licence in 1835, to Mr. Chisholme's bailiff, A. Hamel, Mr. Chisholme having previously told him he might sell, and that he would send said Hamel for the money; handed in Hamel's receipt, marked (H.), and will attest his statement on oath, if required.

(H.)

Reçu de Sieur Antoine Bureau la somme de dix sept piastres et demi courant, pour valeur de sa licence marchande, pour l'an 1835, par ordre de Sieur David Chisholme.

(signé) *Antoine Hamel*, fils.

Trois Rivières, 17 Oct. 1835.

N. B.—He is not returned as licensed in Mr. Chisholme's lists for 1834 or 1835.

Three Rivers, 22 Sept. 1836.

No. 23.—*Antoine Bureau*, Shopkeeper,  
Three Rivers.

I hereby certify that, although I paid my licence to Mr. Hamel, I did not call for the same on Mr. Chisholme.

(signed) *Antoine Bureau*,

Three Rivers, 7 Oct. 1836.

(signed) *D. Daly*  
*P. Vezina*.

Enclosure 12, in No. 3.

Sir,

Castle of St. Lewis, Quebec, 28 October 1836.

IN acknowledging the receipt of your letter of the 18th instant, with the accompanying certificates and observations, in answer to the complaint made against your conduct while acting as agent to the provincial secretary for the issue of shop and tavern licences in the district of Three Rivers, I am directed by the Governor-in-chief, in the following communication, to convey to you his decision in this matter.

It appears to his Excellency that it was your duty, as such agent, to make a periodical return to the provincial secretary of the number of licences issued, and to account to that officer for all monies received by you, either in payment or on account of licences, such monies, after a small deduction for the fees of the secretary and of yourself, forming a part of the public revenue. It further appears to his Excellency, that if any individual deposited money with you for a licence at a time when you had none in your possession, it was your duty immediately to have taken measures for obtaining and supplying the licence; as you must have been aware that the omission exposed the party (who perhaps, from having paid his money to you, may have considered himself secure) to the risk of a prosecution for illegal trading.

The charge which these documents raise against you is, that in many instances you have received money from individuals as the price of a shop or a tavern licence which you did not issue, and which money you never accounted for to the provincial secretary.

His Excellency, after an attentive perusal of all the documents within his reach bearing on this matter, including those transmitted by you, and after a careful consideration of the whole case, regrets that he is unable to come to any other conclusion than that you have failed to rebut this grave charge, which must now, therefore, be considered as established. Without entering into the consideration of each of the 23 instances that have been brought under his Excellency's notice, I am desired to mention one or two only of those which have assisted in producing this conviction on his mind, and respecting which the facts seem to be simple and undisputed. It is stated by the Widow Maurissette, a tavern-keeper at Three Rivers, in the statement made by her on the 17th ultimo before the provincial secretary and Pierre Vezina, esq. (the gentlemen whom his Excellency had appointed to investigate in the first instance this matter), that she paid her money to you last year, and that you told her you had no licences then, but that she had nothing to fear, and might sell, as you had entered her name; or to that effect. Now, on reference to the list forwarded by you to the provincial secretary of persons licensed for the year 1835, the name of Mrs. Maurissette does not appear; and Mr. Daly affirms that you have never accounted to him for the money; nor, indeed, do you deny having received it; on the contrary, the certificate of Marie Josh. Pagé, which you have transmitted as an explanation, it is presumed, of this case, distinctly shows that you did receive it in two instalments; and the additional fact therein stated, that the licence was not called for, does not in any manner affect the charge that you omitted to account for the money. Again, Jean Terreau, also a tavern-keeper at Three Rivers, stated to Messrs. Daly and Vezina, for the information of his Excellency, that in 1834, he paid his money (for which he produced your own receipt, dated 4th November 1834, now in my possession), but did not receive a licence; that in 1835 he also paid his money to you without obtaining either licence or receipt, and that you assured him nothing more was necessary, as he might sell without danger. With reference to this case you transmit a certificate, which you have subsequently procured from Mr. Terreau, dated the 5th instant, in which he states, that for the years 1834 and 1835 he did not call upon you for his licences, having been told by the late Antoine Hamel that it was not necessary; but

his

his Excellency does not see what explanation this is of the charge. The lists you furnished to the provincial secretary for 1834 and 1835 do not contain the name of Jean Terreau, nor have you accounted, as appears from your quarterly accounts and returns to Mr. Daly, for the money which for one of those years at least you acknowledged under your own hand to have received. The third case to be noticed is that of Adolphus Stein, a shopkeeper at Gentilly, whose statement to Messrs. Daly and Vezina is, that he has kept a shop for four years, and has never received a licence from you, although he always paid for them, except one, which he promised to produce. He also stated, that a Mr. Gers paid for two licences for him, which he never got. To meet this case you procure and transmit a certificate from Mr. Gers, dated the 4th instant, that for the years 1833, 1834 and 1835, he took up from you shop licences for Mr. Stein. It is clear, therefore, that you issued a licence to Mr. Stein for each of those years; but his name is not to be found in the list of persons licensed in 1834 which was forwarded by you to the provincial secretary; nor have you, as Mr. Daly states, accounted for the money you received for that licence.

If it were necessary to go into further details, I might particularize the cases of Mr. L. E. Dubord, shopkeeper at Champlain; Pierre Belean, shopkeeper at Three Rivers; Mr. Henry F. Hughes, of the same place, and others, equally clear and strong as those already mentioned, and all of which add confirmation to the charge made against you.

In conclusion, I am commanded to acquaint you, that in the discharge of a painful duty, his Excellency feels himself compelled at once to remove you from all the offices which you hold under Government. You will, therefore, deliver over to your successor in each office, all public documents, &c. that may be in your custody or power, and warrants will thereupon be issued for what may be due to you in respect of your services.

I have, &c.

D. Chisholme, Esq., Three Rivers.

(signed) S. Walcott, Civil Secretary.

— No. 4. —

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Gosford*.

My Lord,

Downing-street, 8 December 1836.

SINCE I addressed to your Lordship my despatch of the 29th ultimo, I have had the honour to receive your further despatch of the 31st October, explaining the grounds on which you have felt called upon to remove Mr. Chisholme from his situation of clerk of the peace of Three Rivers, and from all other offices under the Crown. After an attentive perusal of your despatch and its enclosures, it only remains for me to convey to your Lordship my approval of the course which you adopted in this case. The evidence taken before Messrs. Daly and Vezina, and the explanations attempted to be given by Mr. Chisholme, leave no doubt that Mr. Chisholme had in several instances received money for the public, of which he had afterwards rendered no account. This fact being established, it became impossible any longer to retain him in the public service. Your Lordship will of course ere this have taken the necessary steps to compel Mr. Chisholme to refund any sums, the receipt of which can be proved, but which he had not paid over to the provincial secretary.

It is not mentioned in your Lordship's despatch whether any successor has been appointed to Mr. Chisholme, but as I presume that some provision will have been necessary for the execution of the duties of clerk of the peace and coroner, I have to desire that it may intimated to the gentleman on whom those duties have been devolved, that the nature and duration of his tenure of office, and the amount of the emoluments to be attached to it, are points which must be reserved for future consideration.

I have, &c.

(signed) *Glenelg*.

## CHARGES AGAINST JUDGE FLETCHER.

COPY of a REPORT of a Select Committee of the House of Assembly of *Lower Canada* respecting Judge *Fletcher*; and of any Correspondence between the Earl of *Gosford* and Lord *Glenelg*, on the subject of the Charges preferred against that Judge.

## SCHEDULE.

- No. 1.—Copy of a Despatch from the Earl of Gosford to Lord Glenelg, dated Government-House, Montreal, 9 July 1836.—(Six Enclosures) - - - - - p. 80  
 No. 2.—Copy of a Despatch from Lord Glenelg to the Earl of Gosford, dated Downing-street, 22 August 1836 - - - - - p. 102  
 No. 3.—Copy of a Letter from Lord Glenelg to the Lord President of the Council, dated Downing-street, 27 August 1836 - - - - - p. 102

## — No. 1. —

COPY of a DESPATCH from the Earl of *Gosford* to Lord *Glenelg*.

My Lord,

Government House, Montreal, 9 July 1836.

Correspondence  
respecting  
Judge Fletcher.

Enclosure, No. 1.  
Enclosure, No. 3.  
Numbered from  
1 to 8.

THE House of Assembly having in their late Session again taken up the complaints against the public character and conduct of Mr. Fletcher, as judge of the inferior district of St. Francis, which had formed the subject of their inquiries during the Sessions of 1829, 1830, 1831 and 1832, I have the honour to transmit herewith, for your Lordship's information, copies of an Address presented to me by that body, praying for Mr. Fletcher's removal from office, of the Report and Evidence on which it was founded, being the 7th Report of the Standing Committee of Grievances, and of the several other documents in my possession, which may be required to assist your Lordship in arriving at a decision on this case.

It will be seen from these documents that the charges against Mr. Fletcher have their origin in transactions which occurred in the years 1826, 1827 and 1828; the judge having punished, as for a contempt of court, certain individuals for inserting articles in a provincial newspaper which he considered to be libels on his judicial character and proceedings.

The committee of the House of Assembly, to whom the matter was referred in 1829, in their Report, charged Mr. Fletcher with exercising at the same time the functions of accuser and judge in his own cause, and expressed an opinion that the provincial judge of the inferior district of St. Francis having no criminal jurisdiction, and possessing but a very limited jurisdiction in civil matters, is indeed invested with the power of punishing contempts committed in the face of the court, but has no powers similar to those of the superior courts at Westminster to punish for contempts committed out of court. In these charges and opinions the present House of Assembly concur, and declare Mr. Fletcher to have been, during a series of years, guilty of illegal, violent and vindictive conduct, and of the deliberate abuse of power and oppression laid to his charge, to an intolerable and almost incredible extent; and they addressed me for his immediate removal.

As Mr. Justice Fletcher was not present at any of the investigations into his conduct, my reply to the Address of the House was, that I could come to no decision in the matter until I had heard what the accused had to say in his vindication. The explanations which this gentleman has submitted to me are contained in Enclosures No. 4 and 5; and as I conceived that the principal charge against him depended on the fact whether or not he possessed the same power as the judges of the superior courts in the province and in Westminster-hall, to punish individuals for contempts committed out of court, I referred this question to the law officers of the Crown, who reported that the judge of the provincial court of St. Francis has power to punish by fine or imprisonment, or by both, contempts committed out of court; and that the court being one of record, possesses, in matters of contempt, powers similar to those exercised by the superior courts of Westminster-hall and of this province. The only question therefore that remains to be decided on

this

Enclosure, No. 1.

Enclosure, No. 2.

Enclosure, No. 4.  
Enclosure, No. 5.

Enclosure, No. 6.  
Enclosure, No. 7.

this branch of the charges is, whether Mr. Fletcher exercised his judicial authority in a vindictive or improper manner. His explanation is opposed to this supposition, and contradicts in a general way all the other charges of the Assembly; but on this point I have no other means of arriving at a satisfactory decision than your Lordship now possesses in the documents which accompany or are referred to in this despatch.

On the whole, considering how long ago the transactions took place out of which these charges spring, that the charges themselves have more than once been brought under the notice of my predecessor when the circumstances were comparatively fresh, and their accuracy could be more easily tested, and that they were not then thought sufficiently established to warrant the suspension of the judge, I determined not to disturb Mr. Fletcher in the discharge of his judicial functions, but to submit the whole case to His Majesty's Government, from whom alone a final decision can be obtained; and I accordingly notified to Mr. Fletcher that this was the course I intended to adopt.

Your Lordship will perceive that the 7th Report of the Committee of Grievances, now transmitted, is but a condensed compilation of the former proceedings of the Assembly in this matter, taken from their journals; I would therefore beg to refer your Lordship, in addition to the accompanying documents, to those sources of information, which I believe are within your Lordship's reach, viz.:

Journals of Session 1828-29, pp. 332, 334, and 2d vol. of Appendix (M. m.)  
 " 1831, pp. 192, 482, 488, and Appendix (C. c.)  
 " 1831-32, pp. 131, 235, 434, and Appendix (W.)

The only additional matter now brought forward against Mr. Fletcher consists of the evidence, at the end of the Report, of Messrs. Short and Kimball, who appear to have been practising barristers and attorneys, the one since 1831 and the other since 1834; and of Mr. Silas Horton Dickerson, one of the individuals said to be aggrieved by the conduct of the judge, and who petitioned the Assembly against him. Part of this evidence accuses Mr. Fletcher of gross ignorance of the laws which he is called upon to administer. On the validity of this charge, I, of course, am unable to pronounce any opinion, and can only observe that his judgments, if illegal or erroneous, are subject to correction in a superior court.

The other part of the evidence of Messrs. Short, Kimball and Dickerson, accuses the judge of being actuated in all his proceedings by motives of fear, revenge and prejudice; that he is arbitrary and partial in his decisions, vacillating and insolent in his conduct towards the attorneys and suitors in his court, and in all respects unqualified for the office of judge.

With these charges, independently of their vague and general nature, I find myself incompetent to deal. Nor indeed, if the executive possessed, which it does not, the necessary machinery for enabling it satisfactorily to investigate conflicting assertions and disputed statements, do I conceive that it is a proper tribunal for deciding on such cases as the present. From the peculiarly mixed composition of society in this province, and the excited state of party feelings and prejudices, any decision of the Governor in such matters as the present would be little likely to give satisfaction, for it would be received by those to whom it might be unacceptable, as tinged with political or national partiality, and by others as a cause for triumph and exultation, instead of a mere act of unbiassed justice. Under these impressions, I saw no better course than to transmit the whole case for the signification of His Majesty's pleasure.

I have, &c.

Gosford.

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Enclosures in No. 1.

Enclosure 1, in No. 1.

To his Excellency the Right Honourable Archibald, Earl of Gosford, Baron Worlingham of Beccles, in the County of Suffolk, Captain-General and Governor-in-Chief in and over the Provinces of Lower Canada and Upper Canada, Vice-Admiral of the same, and one of His Majesty's most honourable Privy Council, &c. &c. &c.

May it please your Excellency,

We, His Majesty's dutiful and loyal subjects the Commons of Lower Canada in Provincial Parliament assembled, humbly approach your Excellency for the purpose of representing;

Correspondence  
respecting  
Judge Fletcher.

That since the appointment of Mr. Justice Fletcher to the bench of the district of St. Francis, he has abused the power confided to him, to the injury of His Majesty's subjects, and in manifest violation of his duty to the King.

That he has unjustly and arbitrarily fined and imprisoned divers of the King's subjects for various pretended contempts of his court, and during a series of years, on various pretexts, has vexed and harassed them.

That he has repeatedly sat in judgment in cases originating with himself, and in which he took a personal interest, and pronounced illegal and iniquitous decisions therein.

That he has repeated and aggravated the punishment when the parties on whom his displeasure had fallen applied to a superior court for redress, and that he also extended the punishment to the attornies of the parties whom he so fined and imprisoned.

That he so vexatiously, oppressively and monstrously demeaned himself, as to bring the King's name and Government into contempt, and to excite disaffection and disloyalty among the parties subjected to his influence.

That these facts are proved by matter of record, explained indeed by parol testimony, but of itself so conclusive, that we cannot doubt that your Excellency, readily admitting their force and sufficiency, will conclude that Mr. Justice Fletcher is guilty to the extent set forth herein, as well as in the reports of the several committees which have from time to time been engaged in the investigation of the conduct of Mr. Justice Fletcher. With this view we lay before your Excellency the said report, and the evidence on which the same is founded; and we respectfully submit, that if such conduct receive the countenance of His Majesty's Government, if it were not punished in an exemplary manner, the ties which bind that portion of the King's subjects to His Majesty's person and Government must be injuriously weakened, and the most fatal consequences must ensue.

Wherefore we humbly pray that your Excellency will be pleased forthwith to dismiss Mr. Justice Fletcher from office.

House of Assembly, Quebec, }  
4 March 1836.

(signed) *L. J. Papineau*,  
Speaker of the House of Assembly.

Ordered, that Mr. Gogy, Mr. Child, Mr. Grannis and Mr. Wells do present the said address to his Excellency the Governor-in-chief.

Attest,  
(signed) *Wm. B. Lindsey*, Clerk of Assembly.

Enclosure 2, in No. 1.

Gentlemen,

THE charges against the conduct of Mr. Fletcher, as a judge, which are brought under my notice by this address, merit, and shall not fail to receive from me the most attentive consideration. But, as it does not appear that Mr. Fletcher has yet had an opportunity of meeting the evidence adduced against him, or of making his defence, I cannot come to any decision in this matter, until after I shall have heard what Mr. Fletcher may have to say in his vindication, and the whole case shall have thus been brought under my judgment.

Castle of St. Lewis, Quebec, }  
11 March 1836.

(signed) *Gosford*.

Enclosure 3, in No. 1.

#### SEVENTH REPORT of the Standing Committee of Grievances.

ON the entries in the journals of the House of Assembly relating to divers complaints of Silas Horton Dickerson, Francis Armstrong Evans, and Philip Flanders against John Fletcher, esq., provincial judge of the district of St. Francis, being several reports made to the House by special committees thereof on said complaints, on the 12th March 1829, 19th March 1830, 22d March 1831, and resolutions thereon on the 24th March 1831; also another Report made to the House on the 13th February 1832.

The attention of your honourable House was called to the present subject of reference in the year 1829, from which period divers measures relative thereto were from time to time brought under your consideration until the 13th February 1832; on that day a report was presented to your honourable House by a special committee, of which Mr. Gogy was chairman, in which, among other matters, it was respectfully stated to your honourable House that the said committee "considered the investigation in this branch of the legislature as at an end." Your committee infer from this expression, that the said committee considered the evidence then adduced sufficient and conclusive, and the inferences drawn therefrom just and natural. In this opinion your committee fully concur, and they have therefore confined themselves to the work of compiling and bringing under the notice of your honourable House, in a condensed shape, the several proceedings on your journals in relation to Mr. Justice Fletcher.

With this view your committee submit in chronological order the several reports of previous committees, and the resolutions by them offered, together with a list of the witnesses examined, and of all the documentary testimony, referring in each case to the volume and page of the journal or appendix in which the same may be recorded. For the evidence itself your honourable House are respectfully referred to the parts of the journals indicated herein.



On the 13th January 1829 Silas Horton Dickerson and Francis Armstrong Evans presented to your honourable House two several petitions against the Hon. Mr. Justice Fletcher, charging him with oppression and other wrongs done by him, not only to the petitioners but to divers of His Majesty's subjects in the district of St. Francis. On the same day these petitions were referred to the same special committee, of which Mr. Vallières de St. Réal was chairman, and Messrs. Louis, Lagueux, Neilson, Solicitor-general (Ogden) and Bourdages, members. During that session the committee examined the following witnesses: Silas Horton Dickerson (one of the petitioners), Henry James Martin, Guy Carleton Colclough, Andrew Lovejoy, Stephen Barnard, Rufus Miner, Samuel Brooks, Charles Henry Frederick Goodhue and Pierre Joseph Cressé. Divers certified extracts from the records of the court in which Mr. Justice Fletcher presides were also laid before the committee. The report (*see Journals, 1828-29, vol. 2 of Appendix, M.M.*) which they submitted to your honourable House, is in the following terms:

"Your committee have heard many witnesses, whose evidence they have now the honour to lay before your honourable House, annexed to this report; but having been unable, for want of time, to complete the examination of all the witnesses whose evidence they think essential upon the different subjects which have been referred to them, your committee think it their duty to refrain at present from giving any opinion founded on this evidence. But as authentic copies of various judicial proceedings, having immediate reference to the complaints of the petitioner, Silas Horton Dickerson, have been laid before your committee, and as these documents prove themselves, without its being necessary to adduce any verbal evidence to support them, your committee would not think themselves justified if they were to refrain from making them the subject of a first report to your honourable House.

"These judicial proceedings are those which were adopted by Mr. Justice Fletcher against the petitioner, Silas Horton Dickerson, against Mr. Evans, Mr. Cressé, Mr. Peck and Mr. Lovejoy, before the provincial court of the district of St. Francis, for contempt of court. They will be found in the appendix hereunto annexed.

"Your committee remark as a circumstance of great importance, that no one of the pretended contempts of court on which these proceedings were founded was committed in the presence of the court.

"Among the acts considered by Mr. Justice Fletcher as contempts of court, some are alleged, in the documents in which they are recorded, as having been committed at a considerable distance from the place or seat of the provincial court of the said inferior district; some are set forth as having been committed in the village of Sherbrooke, or seat of this court; but it has not been pretended that any one of these acts was committed in the face of the court.

"Another observation which appears to your committee to be of importance is, that the provincial court of the inferior district of St. Francis is merely an inferior court of circumscribed powers, and which having only been in existence since the year 1823, under the authority of a local and particular law, cannot exercise other powers than those which have been expressly given, or which necessarily result from its constitution. Thus, your committee do not believe that the provincial court of the inferior district of St. Francis can claim the transcendent powers exercised in matters of contempt by the superior courts at Westminster-hall; for, besides that these courts are superior courts, whose jurisdiction extends throughout the whole kingdom, they exercise those powers by virtue of an immemorial usage, the origin of which is lost in the darkness of ages; while the provincial court of the inferior district of St. Francis possesses merely a local jurisdiction, and has been in existence during the space of six years only.

"The petitioner Silas Horton Dickerson is the editor of a weekly paper published at Stanstead, in the inferior district of St. Francis; and having happened to insert in his said paper two certain articles relative to the judge and to the court of the inferior district of St. Francis, Mr. Justice Fletcher, considering these articles as an attack upon the provincial court, and upon himself as judge of the said court, made an official order on the 20th March 1826, that Mr. Dickerson should show cause, on the 25th of the same month, why an attachment of contempt should not issue against him. Mr. Dickerson appeared and showed cause, but the attachment issued, and was executed on the same day by the arrest of Mr. Dickerson, who was brought into court and compelled to give bail for his future appearance.

"In the meantime, Mr. Dickerson having expressly acknowledged the act of which he was accused, and having declared that Mr. Francis Armstrong Evans was the author of the articles complained of by the court, Mr. Justice Fletcher, after many deferrals, pronounced him guilty of a contempt of the court of our lord the King, and of his laws, and sentenced him to pay a fine of 5*l.* sterling, and to be imprisoned until the said fine should be paid.

"Mr. Francis Armstrong Evans had been pointed out by Mr. Dickerson as the author of two articles inserted in his weekly paper; and upon this information, supported by two affidavits, Mr. Justice Fletcher issued an attachment for contempt against Mr. Evans on the 27th March 1826; and the sheriff having returned that he could not find Mr. Evans, a new writ was issued, under which he was arrested, and, on the 29th April following, gave bail for his appearance; he was afterwards interrogated on oath, committed to gaol on the 21st of June 1826, and the sheriff was ordered to bring him before the court to receive sentence on the 26th of the same month. After many proceedings and deferrals, Mr. Justice Fletcher, by his judgment given on the 21st September 1827, discharged Mr. Evans on his personal security in the sum of 200*l.*, and ordered the suspension of all proceedings until further order should be made in the case. In the meantime Mr. Dickerson having consulted Mr. Pierre Joseph Cressé, an advocate at Sherbrooke, upon the proceed-

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ings adopted against him by Mr. Justice Fletcher, Mr. Cressé drew up a notice, by which Mr. Dickerson advised Mr. Justice Fletcher of his intention to institute an action against him in the Court of King's Bench at Three Rivers, for having imprisoned him under pretext of a pretended contempt of court; and this notice having been served on Mr. Justice Fletcher, the judge looked upon it as a fresh contempt, and made a rule in consequence, on the 20th September 1826, ordering Messrs. Dickerson and Cressé to show cause why an attachment for contempt should not issue against them; the rule was subsequently made absolute, and the attachment having issued on the 24th of November 1826, was executed by the arrest of Mr. Dickerson and his advocate, Mr. Cressé, who were compelled to find bail for their appearance and good behaviour. These gentlemen were afterwards examined on oath upon interrogatories; and after many proceedings and deferrals Mr. Justice Fletcher, by his order of the 21st of June 1827, discharged their bail, permitted them to go at large upon their personal security, and suspended all proceedings until a new order should be made in the case.

" Mr. Dickerson having afterwards published in his newspaper an article signed 'Observer,' in which the author gave an account of the proceedings for contempt before Mr. Justice Fletcher against Mr. Dickerson and Mr. Evans, and complained thereof as of acts in which the judge had exceeded his powers, Mr. Justice Fletcher thought it right to consider this publication as a fresh contempt, and on the 20th November 1826, made a rule for the issuing of an attachment for contempt against Mr. Dickerson, *nisi causa*, on the 29th of the same month; and this rule having been made absolute, a new attachment issued against Mr. Dickerson on the 28th January 1827, under which Mr. Dickerson was arrested, and compelled to find bail. He was afterwards examined on oath upon interrogatories. At length, on the 29th March following, Mr. Justice Fletcher pronounced him convicted of a contempt, and sentenced him to pay a fine of 10*l.* sterling, to give bail (himself in 200*l.*, and two sureties in 100*l.* each) for his good behaviour during three years, and to be imprisoned until the judgment should be executed; nor was it till the 10th of April following, that Mr. Dickerson procured the acceptance of the bail which he was by the judgment obliged to furnish.

" Another article signed 'Vindex,' published in Mr. Dickerson's newspaper on the 23d November 1826, in which the author professed to give an account of certain judicial decisions of Mr. Justice Fletcher, gave rise to another prosecution for contempt against Mr. Dickerson on the part of that magistrate. The attachment for contempt on this new charge was ordered on the 30th November 1826, but was not, in fact, acted upon before the 20th March following; and Mr. Dickerson having been arrested in execution of this attachment, was compelled to find bail for his appearance, and for other objects. Being questioned on oath upon interrogatories, and acknowledging the fact, Mr. Dickerson was condemned by Mr. Justice Fletcher upon this new contempt, on the 21st June 1827, to pay a fine of 10*l.* sterling, to find bail (himself to the amount of 200*l.* sterling, and two sureties in 100*l.* each) for his good behaviour during three years, and to be imprisoned until the said judgment should be executed.

" In the meantime Mr. Dickerson was advised to serve Mr. Justice Fletcher with a fresh notice, dated the 1st November 1827, informing him that he intended to institute an action in the Court of King's Bench at Three Rivers, for having caused him to be arrested on or about the 20th January preceding, by virtue of an attachment; and it appears that Mr. Justice Fletcher looked upon this step as a fresh contempt, for on the 28th January 1828, he made a rule for the issuing of an attachment for contempt against Mr. Dickerson, in consequence of this notice; and this rule, after having been renewed several times on different occasions, was made absolute on the 20th June last. Your committee, however, do not perceive that this proceeding was carried any further.

" At length, Mr. Dickerson having instituted an action against Mr. Justice Fletcher, in the Court of King's Bench for the district of Three Rivers, for having arrested him by an attachment for contempt, on or about the 25th March 1827, and that court having maintained the plea to the jurisdiction filed by the defendant, and having declared itself incompetent to take cognizance of the cause, it appears to your committee that Mr. Justice Fletcher conceived himself authorized to punish, as a contempt of his authority, the recourse of which Mr. Dickerson had endeavoured to avail himself in the superior court; for they see with pain, that for having served Mr. Justice Fletcher with a previous notice of action, and for having afterwards instituted and prosecuted the same in the Court of King's Bench at Three Rivers, Mr. Justice Fletcher issued another attachment for contempt against Mr. Dickerson on the 27th March 1828, by virtue of which he was arrested, obliged to find bail, examined on oath upon interrogatories, and finally condemned by Mr. Justice Fletcher on the 21st June last to 14 days' imprisonment, to pay a fine of 10*l.*, sterling, and to be imprisoned until the said fine should be paid.

" In the course of the first proceeding for contempt against Mr. Dickerson, he had stated that Mr. Ebenezer Peck, of the city of Montreal, was the author of the article signed 'Vindex,' inserted in the British Colonist. Upon this information Mr. Justice Fletcher made a rule on the 23d January 1828, requiring Mr. Peck to show cause why, on the 20th March following, an attachment for contempt should not issue against him. This rule was renewed on the 20th March 1828, and Mr. Peck was required to show cause on the 20th June following. At length, on the 20th June last, Mr. Justice Fletcher, upon proof that the rule of the 20th March had been served upon Mr. Peck at Montreal, ordered that an attachment for contempt should be then issued; but your committee do not perceive that this business was any further pursued.

" Lastly, a Mr. Lovejoy having been accused before Mr. Justice Fletcher of having uttered

uttered certain words reflecting on Mr. Justice Fletcher, when speaking in a distillery at Shipton in the inferior district of St. Francis, of a cause which had been then recently determined; your committee find that Mr. Justice Fletcher made those words the subject of a prosecution for contempt before himself, against Mr. Lovejoy; and that, after being obliged to find bail for his personal appearance in court, and undergoing interrogation, Mr. Lovejoy was not freed from this prosecution until he had denied on oath the expressions imputed to him.

“ Your committee observe that on all these occasions the persons accused were deprived of the benefit of a grand jury; of the means of bringing forward their witnesses, and of the sacred right of being tried only by their peers; that they were forced to give evidence against themselves, and were tried by a judge who believed himself personally injured by them.

“ Your committee remark that throughout all these prosecutions Mr. Justice Fletcher, acting as accuser, without the intervention of any law-officer of the Crown, or even of any prosecution whatever, and being the sole judge in his tribunal, exercised at once the functions of party and of judge, that is, he acted as judge in his own cause.

“ Your committee are of opinion, that the provincial judge of the inferior district of St. Francis, having no criminal jurisdiction, and possessing only a very limited jurisdiction in civil matters, is indeed invested with the power of punishing contempts committed in the face of the court, and the resistance or abuse of its authority: this power is founded on necessity, since without it an inferior court might be constantly subjected to insult, or impeded in the exercise of its jurisdiction.

“ But the case is not the same with respect to a writing published out of the presence of the court and of the judge, or with respect to offensive words uttered in the absence of the judge, and at a distance from the seat of justice; for such offences are not of a nature to interrupt or directly prevent the exercise of the judicial functions: the judge's interference by summary process, contrary to the general rules of the law, cannot be justified by necessity, and the inferior court to which this power has not been expressly granted, cannot exercise it without a dangerous and very blameable excess of jurisdiction. It is true the superior courts at Westminster exercise this power of punishing summarily, and as contempts of court, offences of this kind committed beyond their precincts; but these courts exercise the plenitude of judicial power throughout the whole realm; they have from time to time immemorial exercised this power of summary correction for contempts committed out of court, and as the origin of this power is nowhere to be found, the most ingenious and best informed lawyers are under the necessity of ascribing it to the prerogative of the Monarch, who used formerly to sit in person in the Aula Regis, from whence the superior courts have been derived; and moreover the number, the distinguished rank and profound learning of the judges who preside in these superior courts, offer a safeguard to the King's subjects, and form the corrective of a power so extraordinary, while the judicious and moderate use made of it by the judges is well calculated to allay any on the part of the people of England, with regard to an authority which, in hands less sure, and without this safeguard, might well become the subject of alarm.

“ But a similar power in the hands of an inferior judge, sitting alone in judgment upon the man whom he accuses of having injured him, would be as dangerous as it would be contrary to the rules of justice, and could not fail to excite the most serious alarm.

“ Since Mr. Justice Fletcher laid claim to powers equal to those of the superior courts at Westminster, he ought, like them, to have refrained from acting the part of an accuser; he ought, like them, to have acted only in case of public prosecution, and to have left it to the King, by whom the public is represented, to decide whether the case was deserving of inquiry and of public animadversion; but, instead of adopting this conduct, he himself received his own complaint, and did not hesitate afterwards to judge between himself and the persons he had accused.

“ No man can be judge in his own cause, said a Lord Chief Justice equally celebrated for his learning and his patriotism, for it is a manifest contradiction that a man should be the author of an act by which he is himself to be the sufferer; and what was said by Lord Coke, in Dr. Benham's case, is far from being extravagant, for it is a very reasonable and just opinion, that if it should be enacted by an Act of Parliament that the same person should be party and judge, or which comes to the same thing, should be judge in his own cause, this Act of Parliament would be null.

“ Your committee are of opinion, that John Fletcher, esq., provincial judge of the inferior district of St. Francis, is guilty:

“ 1st. Of having usurped a criminal jurisdiction, having exceeded his powers by taking judicial cognizance of pretended contempts of court alleged to have been committed by Silas Horton Dickerson, Francis Armstrong Evans, Pierre Joseph Cressé, Ebenezer Peck, and Andrew Lovejoy.

“ 2dly. Of having harassed and oppressed several persons by causing them to be imprisoned under colour and pretext of these pretended contempts of court.

“ 3dly. Of having himself unlawfully acted as accuser and as judge, and given judgment upon his own complaints against the said persons for the said pretended contempts.

“ 4thly. Of having arbitrarily and unlawfully punished the said Silas Horton Dickerson, by fine and imprisonment, because he had instituted an action of damages against the said John Fletcher in the Court of King's Bench at Three Rivers, for having inflicted upon him the pain of imprisonment for a pretended contempt of court.

“ 5thly. Of having arbitrarily and illegally condemned the said Silas Horton Dickerson to pay several fines for these pretended contempts, and of having compelled him to pay the said fines by the imprisonment of his person.

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" 6thly. Of having, by these excesses of power, illegal acts, and arbitrary encroachments, upon the authority of the King and of his superior courts, perverted and abused His Majesty's authority and justice, and exposed his government and laws to the reproach and contempt of the inhabitants of this province.

" 7thly. That Mr. Justice Fletcher ought to be deprived of his office of provincial judge of the inferior district of St. Francis.

" 8thly. That steps should be taken by His Majesty's Government for repairing the wrongs committed by the said John Fletcher towards the said Silas Horton Dickerson, Francis Armstrong Evans, Pierre Joseph Cressé, Ebenezer Peck and Andrew Lovejoy."

On the 19th day of March 1830 the following report (*see Journal 1830, p. 357*) was submitted to your honourable House:

" Your committee have examined the evidence adduced before them in support of the petition of Silas Horton Dickerson, and likewise the documents submitted to the committee named by the House in last session; but from the advanced state of the session, your committee do not deem it expedient to recommend that any steps be now taken by the House, but consider that the interests of His Majesty's subjects, particularly those residing in the inferior district of St. Francis, imperiously demand that the accusations brought against Mr. Justice Fletcher should be thoroughly investigated at the opening of the ensuing session, and such proceedings thereon had as the nature of the accusations and the evidence offered will call for."

On the 22d day of March 1831, the following report (*see Journal 1831, p. 432*) was submitted to your honourable House:

" Your committee, deeming it essential that the long existing difficulties and complaints of the inhabitants of the inferior district of St. Francis, connected with the proceedings of Mr. Justice Fletcher in the provincial court of that district, should be determined, have thought fit, without entering into the examination of any further testimony, to report, to the end that tranquillity and confidence may be restored to the inhabitants of that important part of the province.

" Upon reference to the proof adduced, your committee find that the complaints made out against Mr. Justice Fletcher are of a very grave character, and demand, in the opinion of your committee, a speedy redress.

" The language of threats and alarm of Mr. Justice Fletcher directed to the individuals brought before him to answer to pretended complaints, and to such persons as were disposed to enter into bail on their behalf, evince that he was actuated by feelings of revenge, and was desirous that the individuals whom he was pursuing should suffer in an extreme degree, and should be denied that protection afforded them by the law of the land, which it should be the first duty and desire of a judge to hold out to every individual.

" Your committee regret to find that this fact is clearly established by the testimony of several individuals, and in a manner which leaves but little doubt upon the minds of your committee, that Mr. Justice Fletcher was on those occasions under the influence of feelings derogatory to his character as a judge, and dangerous to the repose and safety of the community.

" Your committee find that on several occasions, in open court, Mr. Justice Fletcher has applied the most abusive epithets to the inhabitants of the district of St. Francis, calling them "brute men of the forest," and has used other most insulting and indecorous language in relation to the said inhabitants, tending to increase discontent and dissatisfaction among the people, and destroying their respect for and confidence in the said court.

" The testimony goes far to show that Mr. Justice Fletcher has on several occasions swerved from that direct line of justice and impartiality in the proceedings of his court which on all occasions ought to regulate the conduct of a judge; and one occasion, upon the decision of a suit between one Nathan Parker and Mr. Witcher, sheriff of the district, the judge went so far as to take the word of Mr. Witcher (while he had examined the adverse party on oath), and proceeded to render his judgment upon the simple declaration of Mr. Witcher; at the same time asking the plaintiff (Parker) how he dare bring an action against an officer of his court, and threatened to commit him to gaol.

" Among the several punishments for pretended contempts inflicted upon different individuals by Judge Fletcher, your committee find one, if possible, more extraordinary and unheard of than any others; it was in the case of an individual of the name of James Molton, who was fined by the judge in the sum of 5s. sterling, assigning as a reason, that he did not like his countenance.

" Your committee are of opinion, that John Fletcher, esq., provincial judge of the inferior district of St. Francis, is guilty of being partial and arbitrary in his decisions as a judge of the said court, and has acted in open violation of the laws he was bound to administer and respect.

" That the proceedings of the said John Fletcher, esq., and the judgments and orders by him made and rendered against Andrew Lovejoy and James Molton, are arbitrary, illegal and unprecedented, and are subversive of the rights and liberties of His Majesty's subjects.

" That the facts alleged in the petitions presented by Silas Horton Dickerson and Francis Armstrong Evans, if true, are sufficient to require that the said John Fletcher, esq., be deprived of the office he now holds.

" That an humble address be presented to his Excellency the Governor-in-chief, praying that his Excellency will take the matters of complaint brought against the said John Fletcher, esq., into his most serious consideration, and adopt such proceedings as will afford immediate relief and protection to that portion of His Majesty's subjects who reside within the jurisdiction of the court over which the said John Fletcher, esq., now presides."

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The last report (*see Journal 1831-32, p. 434*) was submitted to your honourable House on the 13th February 1832, and is in the following terms:

"Your committee have perused the petitions against the Hon. John Fletcher, and the evidence on your journals, as well as the several reports founded thereupon made to your honourable House; your committee have also considered the addresses presented to the Governor-in-chief during the last and present sessions, together with his Excellency's answers, and the documents transmitted therewith. Although at an earlier stage of the subject of this reference, and previous to its being so often and fully canvassed as it has since been, it might have been incumbent on your committee to have submitted to your honourable House, in detail and at length, the ground and reasons of their opinion, your committee will refrain from making many observations on the present occasion.

"Your honourable House having received a mass of evidence now on your journals, and concurred in the reports of previous committees thereon, your committee have considered the investigation in this branch of the Legislature to be at an end. The attention of your committee has also been particularly directed to the opinion pronounced by your honourable House, and embodied in a series of resolutions founded on the evidence.

"Referring to these resolutions, and more especially to those upon which the address to his Excellency the Governor-in-chief has been predicated, your committee have conceived it to be their duty in the first place to ascertain whether the measures adopted by your honourable House have been attended by any results.

"Your committee are bound to report that an opportunity has been offered to the said honourable judge of disproving or explaining the facts in evidence against him, of which the said honourable judge has not availed himself; nor do your committee perceive that the rights of the King's subjects have been vindicated in relation to the said judge. Your committee, guided by the testimony and resolutions on your journals, have therefore considered it to fall within their province to suggest a mode of giving effect to the latter.

"Your committee deem it incumbent on them to report, as their deliberate opinion, founded on the evidence of record, that it is inconsistent with the interests, and incompatible with the security, of the King's subjects in the inferior district of St. Francis, that the said judge should continue to preside in the courts of that district.

"Your committee have therefore prepared, and now submit, the following resolution:

"Resolved, that it is the opinion of this committee, that an humble address be presented to his Excellency the Governor-in-chief, praying him to be pleased immediately to suspend the said Hon. Judge Fletcher from the exercise of his judicial functions as provincial judge of the inferior district of St. Francis, until such time as it may please His Majesty to sanction the Bill passed by the two Houses of the Legislature during the present session, for assuring the independence of the judges, and for constituting a tribunal for the trial of impeachments, and thence until the close of the next session of the Provincial Parliament, and that during the said next session of the Provincial Parliament this House will demand the concurrence of the Legislative Council in an address for the removal of the said judge from office, and that in case such concurrence should be refused, this House will bring and prosecute to judgment before the said tribunal articles of impeachment against the said Hon. Judge Fletcher, in the manner by law provided."

Your committee fully concur in the said several reports made to your honourable House, and in the resolutions founded thereon; but your committee is bound to add, that in their opinion there was no sufficient ground for the doubt which may be inferred from the words "if true," in that part of the report submitted to your honourable House on the 22d day of March 1831, relating to the conduct pursued by Mr. Justice Fletcher to the petitioners Dickerson and Evans. Your committee admit that the evidence was taken in the absence of Mr. Justice Fletcher; but they must remark that the petitions were presented to your honourable House nearly seven years ago, and that it was competent to Mr. Justice Fletcher to have appeared, had he seen fit. Upon the whole, your committee are of opinion that the Hon. John Fletcher has been, during a series of years, and is guilty of illegal, violent and vindictive conduct, and of the deliberate abuse of power and oppression laid to his charge, to an intolerable and almost incredible extent.

Your committee would further remark, that the evidence taken during this session, which they submit in an appendix, has made it more imperatively their duty to call on your honourable House to afford to His Majesty's subjects in the district of St. Francis that protection to which they are entitled.

On these grounds your committee respectfully recommend that an humble address be presented to his Excellency the Governor-in-chief, accompanied by this report and all the evidence, praying that his Excellency will be pleased forthwith to remove Mr. Justice Fletcher from office.

The whole, nevertheless, humbly submitted.

29 February 1836.

(signed) A. Gogy, Chairman.

#### MINUTES OF EVIDENCE.

Tuesday, 16 February 1836.—MARCUS CHILD, Esq., in the Chair.

Edward Short, Esq., called in; and Examined.

Do you practise as a barrister and attorney before the provincial court of the district of St. Francis?—I do.

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Since when? and is your practice extensive?—I have done so ever since the summer of the year 1831, and I believe my practice to be as extensive as that of any member of the bar in the district of St. Francis.

Having had frequent opportunities of witnessing the proceedings and the conduct of the provincial judge of that district, Mr. Fletcher, will you inform the committee of your opinion of those proceedings of the said judge?—I have; and from what I have seen of him, I consider that he is either grossly ignorant of the laws which it is his duty to administer, or that he feels a sovereign contempt for them; that he is arbitrary and vacillating in his decisions; and insolent in his conduct towards the attorneys and suitors who appear before him, and that he is in all respects unqualified for the office of judge.

What facts can you cite in support of that opinion?—On one occasion a petition was presented, in 1831 or 1832, by Samuel T. Gilman, praying that a curator might be appointed to manage an estate, to which he declared himself the sole and only heir; and the judge, notwithstanding the declaration of the said Samuel T. Gilman, that he was the sole heir to the said estate, proceeded to the appointment of a curator, as prayed for in the said petition, as if the said estate were vacant. On another occasion the said judge refused to pronounce judgment in a cause which was ripe for judgment, because the plaintiff was dead, stating, "that the judgment of courts of justice could not extend beyond the grave," and obliged the executor of the plaintiff to resume the instance, and make probate of the will of the plaintiff, although the said will was a notarial act, and already authenticated. On another occasion, in vacation, when by law the judges had no right to decide on the merits of any cause, the said judge refused to take an affidavit in support of an opposition, and to grant an order for the suspension of proceedings on the execution against which the said opposition was offered, which affidavit and order are prescribed by a rule of practice made by him, on the ground that the matters complained of in the said opposition ought not to be the subject of an opposition, but of a special action; and afterwards, in term, dismissed the said opposition, for want of said affidavit and order. On several other occasions the said judge has refused to admit oppositions *afin de conserver* to be filed, stating, as his reason for such refusal, that if he should admit an opposition *afin de conserver* for 5*l.*, he might be required to allow one for 500*l.*, which would exceed the jurisdiction of the court, and therefore had come to the resolution not to admit them at all. On several occasions the said judge has dismissed actions brought before him for a balance under 10*l.* sterling, on the ground that the original amount of the debt exceeded the jurisdiction of the court; and in other cases, of the same nature, the said judge has pronounced judgment in favour of the plaintiff on several occasions. In cases not of a commercial nature the said judge has refused to adhere to the rules of evidence laid down by the French laws; has insisted upon applying the English rules of evidence. The said judge has frequently refused to hear or look at legal authorities which were offered by the members of the bar; and on one occasion he said to me, in open court, that I might save myself the trouble of citing authorities, as he should decide that those authorities were either not law, or not applicable to the case in hand. The said judge refuses to record defaults against parties called in to answer to interrogatories *sur faits et articles*, unless the rule and interrogatories have been personally served on the said parties, by means of which dishonest parties are induced to avoid personal service, and long and injurious delays are occasioned in the recovery of debts. The said judge also refuses to allow execution to issue on judgments which have been rendered more than a year, until after a rule to revive the said judgment has been served on the parties condemned, by which means dishonest parties are enabled to secrete the property they may have, and creditors are deprived of their debts. The said judge also refuses to allow attorneys employed to superintend the execution of commissions *rogatoires* directed to him, to be present at the execution of the same. The said judge also refuses to tax witnesses subpoenaed or summoned to give their evidence before the provincial court, in cases where the amount claimed is under 10*l.* sterling, stating, as his reason, that the Act of the Provincial Parliament, by which the tariff of the provincial court of the said district is established, has taken the power to do so out of his hands, by which means creditors are often induced to forego the prosecution of their claims, rather than make themselves liable for the expenses of the witnesses whom it would be necessary to adduce to prove those claims. The said judge also persists in issuing writs of *capias* and attachment returnable in the provincial court, contrary to the terms of the statutes establishing the said court, and in hearing and determining the same. That frequently when appeals have been instituted from judgments of the provincial court, and security has been offered to the said judge, the said judge has endeavoured to dissuade the persons offered as such security from becoming bail. That formerly the said judge refused to take cognizance in the said provincial court of actions upon notes, accounts or contracts which had been made, contracted or incurred, at any place without the limits of the district of St. Francis, although the said provincial court had, by law, jurisdiction over all matters of a personal nature, where the amount claimed did not exceed 20*l.* sterling; and now, that he is obliged, by a declaratory Act of the Provincial Parliament, to take cognizance of such matters, he still refuses to entertain actions on claims arising without the limits of the said district, which do not fall clearly within the letter of the said declaratory Act, although clearly within its spirit. The said judge refuses to conform to judgments of the Court of King's Bench for the district of St. Francis, rendered in appeals from judgments of the said provincial court, and reversing the same in cases where the same questions came again under the consideration of the said provincial court, saying, that he is bound, by his oath, to judge according to his own opinions, and not according to the opinions of the judges of the Court of King's Bench, of whom, on these occasions, he speaks with ridicule and contempt. The said judge is in the habit of grossly insulting the  
bar,

bar, by sneering at some of them, ridiculing others, and paying compliments to others, whilst he dismisses the actions which they bring before him. The judge is in the habit of insulting the people of the district, by accusing them in open court of fraud, and every species of villainy. The said judge persists in reducing to writing the evidence of witnesses in causes of all classes in the provincial court, and thereby consumes so much time, that with difficulty can 10 or 12 causes, for the most part, be concluded in each of the terms of that court. The said judge holds, that an act passed before notaries by one person for another, without a power of attorney from that other, is an absolute nullity, and cannot be made good by any subsequent ratification, and on that ground has dismissed actions. The said judge holds that a defendant who appears on the *tertius dies* after the return of the action against him, and takes off the first default, is obliged to plead to the merits on the day of his appearance. The said judge has frequently refused to allow causes set down for proof on a certain day, to be continued on the roll *des enquêtes* on account of the absence of material witnesses, who had been regularly subpoenaed, and has dismissed said causes, stating that there was no injustice done thereby to the plaintiffs, inasmuch as they still had that recourse against the witnesses who had not attended. There is a tariff of fees in the provincial court, framed by the said judge, which, as it appears to me, and as is generally believed, the said judge has converted into an instrument to control the conduct of the members of the bar, and the officers of the court, as is clearly shown by the variations which have taken place in the taxation of costs, in like cases under the said tariff. The said judge refuses altogether to tax costs in causes under 10 l. sterling, and yet holds the parties responsible for the charges made by the different officers, and has set aside executions on account of overcharges. For the reason above stated, and numerous others which might be stated, the said judge is almost universally disliked by the people of the district, who have withdrawn from him their confidence, and has become suspected to such a degree by some of the members of the bar, that they hesitate to bring before him actions of the plainest and most simple kind, fearful that, how just soever the right of action may be, some pretext will be sought by the judge to dismiss them.

What is the judge's temper and character?—The judge is of a suspicious petulant temper; and I have a bad opinion of his judicial character.

In consequence of the reasons which you have assigned for not bringing many actions, are not many persons in that district thereby prevented from recourse to the law for the collection of debts?—Yes, I have found it to be the case frequently.

On what law or authorities does the judge ground his decisions?—It is very hard to say; but almost all the authorities cited by him are English.

Does Mr. Fletcher show any respect for the laws he is sworn to administer?—I have already said that I think the judge is either grossly ignorant of those laws, or feels no respect for them.

Do you consider that the English law, or the English authorities which Mr. Fletcher cites, are and ought to be the rule of decision in the district of St. Francis?—Cases do occur in the district of St. Francis which ought to be governed by English law; many cases occur there also in which English law ought not to be the rule of the decision; such, for example, as all personal actions not of a commercial character.

What cases occur which ought to be governed by the English law?—I am of opinion that the laws of England, with some alterations, govern cases relating to land held in free and common soccage, and that the English rules of evidence apply to matters of a commercial nature.

Do you think that commercial cases ought to be governed also by the English law?—I think not, except as to evidence.

In what cases do you consider that the French laws ought to be the standard of decisions in your district?—In all personal actions, and actions relating to moveable property (except those of a commercial character, to which the English rules of evidence apply), in cases relating to titles to free and common soccage, lands acquired antecedent to the passing of the Act of the Provincial Parliament for the granting of titles; and there are some cases also over which, in my opinion, the French and English laws have a sort of *dixisum imperium* given by the said provincial Act; but these are matters involved in uncertainty, and about which doubts are entertained.

Can you furnish the committee with the tariff which you alluded to in your fourth answer, as used by the judge to oppress the bar and officers of the court?—I cannot, not having a copy of it.

Have you anything to add to the evidence you have already given on the character and conduct of Mr. Justice Fletcher?—I do not think it necessary to add anything to what I have already stated, as all I could state would only serve to illustrate the opinion which I have already expressed in reference to the judge.

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Thursday, 18th February 1836.

Edward Short, Esq., again called in; and Examined.

CAN you give the titles of some of the cases which you have mentioned, in which, in your opinion, the judge has set aside the laws he is bound to expound and administer?—The will referred to in my fourth answer is the will of Alpheus Smith, late of Shipton; the opposition referred to in the fourth answer was an opposition of William Fling, in the cause

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of Fling and Whitcomb *versus* one Eastman. When I return I shall furnish the committee with the particulars of cases referred to in my answers. Two of the cases mentioned I will now furnish: one is the case of Goodhue *versus* Symmes, the other Samuel Marcy *versus* Tristram Vincent; another case of Gogy and Dickerson *versus* George Kimball and Wife. In this last case the judgment was rendered contradictory to the two former cases.

In your evidence on the 16th instant, you stated that the said judge did not respect the opinions of the Court of King's Bench in cases appealed from the provincial court, saying that he is bound by his oath to judge according to his own opinion, and not according to the opinions of the judges of the Court of King's Bench, of whom on those occasions he speaks with ridicule and contempt; will you state the words he has used on any such occasions?—I do not know that I can state the precise words, but I will do so as nearly as my recollection will serve me. The judge of this court, it must be remembered, is the judge of an inferior court, and no doubt it is to be presumed that he is inferior in point of talent and learning to the judges of the Court of King's Bench, although he has now been sitting in courts of justice for nearly half a century; but most probably the judges who reversed the judgment then alluded to have received their education at seminaries of learning far superior to those in which the judge of this district received his education. There can be no doubt that they have had better advantages and opportunities than the judge of this district. These remarks were made in an ironical tone and manner, which would not be misunderstood by any one that heard him.

Was it not considered by the audience in court on such occasions, that such ironical language was highly indecent, spoken as it was by a judge on the bench; and did it not produce a general sensation of disgust upon the hearers?—Such language coming from the bench could not fail to produce a disgust in the candid and well-judging part of the audience, and did so; and in the other part it produced mirth and laughter.

You have stated that the said judge is in the habit of insulting the people of the district, by accusing them in open court of fraud and every species of villainy; will you state the words which the said judge has used on any such occasions?—I cannot remember precisely the words the judge has made use of on such occasions, but they were of an offensive nature, and such as no judge ought to make use of, as I think. For instance, in cases where fraud was alleged in defence, and afterwards no attempt had been made to prove it, the said judge is in the habit of saying, "Fraud has not been proved, but it is very likely that the grossest fraud has been committed, which occurs in nine cases out of ten; for things take place in this district which do not occur in any other part of the world."

Is it to special cases brought before him that the judge applies this accusation of fraud, or, on the contrary, is it not rather to the general transactions of the people in this part of the country, and in the view to hurt the feelings of the people at large?—I understand the judge applies these remarks to the common business transactions of the people of the district; and I cannot suppose them to be made with any other view than that of injuring and offending the feelings of the people.

Does the judge respect, when on the bench and in his court, the constituted authorities of this province?—I heard him speak on the bench of the House of Assembly in an ironical way, calling them "that body of wise men you have sent to legislate for you;" and saying on other occasions, when some difficulty has arisen as to the interpretation of some Act of Parliament, "I do not know that the judge of the district of St. Francis can help you, but it would be the business of the judge to alleviate as much as possible the mischiefs inflicted on you by your legislators;" and I have frequently heard the judge express himself in the same disrespectful manner of the House of Assembly. And I will add, that in my opinion the judge does all in his power to defeat the intentions of the Legislature, as expressed in the laws passed by it for the district of St. Francis.

Saturday, 20th February 1836.

George Kimball, of Sherbrooke, Esq., Barrister at Law, called in; and Examined.

Do you practise as a barrister and attorney at the court in the district of St. Francis?—  
I do.

How long?—Since 1824, with the exception of two summers in 1826 and 1827.

Have you had frequent opportunities of witnessing the proceedings and conduct of the provincial judge of that district, Mr. Fletcher?—I have.

Will you state to the committee what you know of the proceedings and conduct of the said John Fletcher, esq., provincial judge of St. Francis?—I think his conduct has been bad; and there appears to be three predominant principles which govern all his proceedings as a judge; namely, fear, revenge and prejudice.

In what cases has he decided under the influence of fear; please state at full length the particulars connected with any case or cases within your knowledge?—In the case No. 11 of the provincial court, Hamilton *versus* Martin. This action was instituted to recover 3/4 for the price of 2,000 bricks, which was stated in the account annexed to the declaration, but the same were delivered by Jos. Deman. By the evidence adduced in the cause it appeared that the defendant agreed to take 2,000 bricks of the plaintiff, and that the plaintiff was to get them of a person of the name of Hanlin, and Hanlin was to get the bricks of one Deman; and it also appeared by the evidence of the said Deman that he never delivered any bricks to the defendant, but he delivered the bricks in question to Mr. C. B. Felton  
upon



upon the order of the said Hanlin, and it also appeared that Mr. Felton purchased the bricks of Hanlin. Judge Fletcher stated, that as the defendant never got the bricks the action must be dismissed. Immediately after the judge thus expressed himself, the plaintiff and his attorney expressed great dissatisfaction by words and gestures; so much so, that the judge was induced to take the cause *en délibéré* until the next day, when he gave judgment against the defendant, saying that the defendant inquired of the said Deman (when on the bridge at Sherbrooke) if he had any bricks belonging to Mr. Hamilton or Mr. Hanlin. Mr. Deman's answer being in the affirmative, he thought it amounted to a delivery of the bricks. Mr. James Hallowell, the attorney for the plaintiff, was then on very intimate and friendly terms with the judge and his family.

What could the judge be afraid of from the plaintiff and his attorney?—He was afraid of losing the friendship of the attorney, and of an assault from William Hamilton, the plaintiff, as I have reason to believe from a letter menacing the judge, which I saw in Hamilton's possession. Hamilton was then custom-house officer at Sherbrooke. I could state many other cases of a similar character to the committee, if required.

In what case has the said judge appeared to decide under the influence of revenge, also, as before, stating the particulars?—In the cases No. 705, Hollis Smith *versus* Lovejoy; No. 706, Smith *versus* Lebbe; No. 672, Smith *versus* Adams; and No. 671, Smith *versus* Lord. Each of these four cases were instituted in the provincial court in September 1833, upon a promissory note under the statute made and signed by the defendant in each cause, and payable to one John Foster Dresser, who endorsed the several notes in blank. Afterwards they became the property of the plaintiff in those several actions. Before the institution thereof I filled the blank endorsement, writing over the name of the endorser, "pay the within to H. Smith, or order, for value received." I also added the date and place. In the case 671, Smith *versus* Lord, the judge dismissed it with costs, declaring that he dismissed this action in consequence of the blank endorsement being filled by me, and ordered the note to be impounded, and stated that I had been guilty of forgery; but it was not for him to punish this offence; it was for another court of a different jurisdiction to take cognizance of such offence. There were a great many persons at court at the time the judge made these remarks. It was with a great difficulty that I obtained permission to discontinue the other three cases; the judge ordered the prothonotary to keep the notes, and prevent their being withdrawn from the records. In one of these cases, No. 705, Smith *versus* Lovejoy, which had been discontinued (the action was brought for 10 *l.* currency) on the 14th August 1835, the interest added to the principal amounted to 11 *l.* 2 *s.* 3 *d.* currency. I instituted an action in the King's Bench on the same note, and obtained a judgment. I know many other similar cases that I could state if the committee required; among the number I will cite only one more, where it will appear that the judge went to a great length to revenge himself on me; in the case No. 402, Goodhue *versus* Symmes, in the provincial court. This action was for the balance of an account less than 10 *l.* sterling. The plaintiff's account, before the balance was struck, exceeded 20 *l.* sterling. To this action the defendant pleaded the general issue. The judge perceived that the original amount of the plaintiff's account exceeded 20 *l.* sterling; he *ex officio* dismissed the action with costs, saying that he could not, nor would not, investigate an account while the original amount exceeded the jurisdiction of the court. Messrs. Peck and Short were for the plaintiff, and I was for the defendant. In the same court, cause No. 35, Marcy *versus* Vincent. This action was instituted upon an award of arbitrators for a sum less than 10 *l.* sterling; the defendant pleaded payment. The judge *ex officio* dismissed this action with costs, declaring that the amount referred to the arbitrators was above the jurisdiction of the court; that he could not investigate the decision of the arbitrators, where the amount of the party's claims respectively exceeded the jurisdiction of the court. Mr. Short was for the plaintiff, and I was for the defendant. In the case of Gagy *versus* Kimball: this action was instituted for a balance of a bill of costs (for a sum less than 10 *l.* currency), which had been taxed in the court of appeals at a sum exceeding 30 *l.* currency. The defendant filed an exception to the jurisdiction of the court, and cited the above cases, Goodhue *versus* Symmes and Marcy *versus* Vincent, as precedents for the court to decide in this cause. The judge saw there were persons concerned in this cause very different from those in the other two cases, and declared that this case was fully within his jurisdiction, and maintained the action in its fullest extent. The judge expressed great satisfaction that this action had accrued in defending my property against a secret mortgage of third persons, arising out of the French law in force in this province; and he said I had frequently expressed a very high opinion of the French law, and that I was the first to suffer in that district by a secret mortgage. I do not wish it to be understood that I considered the two first decisions to be correct.

In what case has the said judge appeared to decide under the influence of prejudice also, as before, stating the particulars?—In the case of Griffith *versus* C. B. Felton, and Felton opposant. The bailiff to whom the execution was directed in this cause made a special return, viz. that Mr. Felton, the prothonotary of the provincial court and opposant in this cause, was a great friend of the judge, requested the bailiff to seize his cow, and went with him for that purpose to the barnyard of Mr. Willard, where Mr. Felton pointed out the cow which was seized. Afterwards Mr. Felton filed an opposition to the sale, stating that the cow seized was the only cow of which he was possessed, and as such was exempt from seizure. The judge maintained the opposition, and refused to allow the bailiff to be examined in proof of the fact that the opposant had directed him to take the cow in execution, and holding that the return which the bailiff had made could not be taken as evidence of that fact. I could cite many other cases, if the committee desire it.

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respecting  
Judge Fletcher.

Does the judge of St. Francis merit and possess the confidence of the people of that district?—He does not.

Do the people at large in that district partake of opinions and impressions similar to those you have expressed to the committee?—I think they do more or less, according to the opportunity they have had of observing the judge's acts and character.

Is not the said John Fletcher, esq., reputed by the people at large in his district as unfit for his situation as a judge?—Yes, I think he is.

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Wednesday, 24th February 1836.

George Kimball, Esq., again called in; and Examined.

Has the general conduct of the judge since he has been accused for the first time been the same, and such as to give room to complaints against his official conduct?—Yes.

Are there any written rules of practice in the courts of St. Francis? if so, by whom made, and by what authority?—In the provincial court the judge stated they should follow the rules of practice as established at the courts of Quebec, except such as have been altered and established by the judge himself; but in fact the judge follows no rule, except such as dictated by his caprice.

Was not the said judge in the habit of insulting people in open court, and in what manner?—Yes; he is in the habit of insulting the inhabitants of the country generally. He is almost daily in the habit of making use of expressions conveying the idea that the inhabitants of the district of St. Francis are very immoral, and are capable of committing almost any crime. He has frequently stated that they were like "brute men of the forest," that there is nothing too bad for them to be guilty of, that such conduct would be found nowhere else; and he has been in the daily habit of insulting the advocates in court, and at other places where they had occasion to transact business with him.

Has not the said judge frequently spoken with contempt, and in an ironical way, of the other tribunals in the province, and superior to that of St. Francis?—Yes, and has stated frequently that he is not bound by any proceedings or judgments of any superior court in this province, and that he should judge for himself in all cases. I have in some cases wished to proceed according to the decisions and proceedings in the King's Bench of the district of St. Francis; the judge has prevented it by ridiculing the decisions and proceedings of that court.

Does not the said judge speak with contempt of the laws which he is called to administer as a judge?—Yes; the judge says, that the French laws in force in this country were the laws of France at the time of Louis the Fourteenth, at which time there was the greatest debauchery and immorality in France that ever was in the world, and makes use of many other expressions of the same import, characterising the French laws in force in this province to be bad.

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Monday, 29th February 1836.

Mr. Silas Horton Dickerson, called in; and Examined.

ARE you the person that petitioned the House of Assembly in 1829, complaining of the conduct of Mr. Justice Fletcher?—I am.

What further evidence can you give on the character and conduct of the said judge?—I have not had occasion to observe the conduct personally of Mr. Justice Fletcher very frequently since I first brought the subject under the consideration of the House of Assembly, as he has not since that time proceeded in the cases of contempt previously commenced against me, and left undecided; I could, however, mention one case as exhibiting his feelings and conduct towards myself in the year 1834. An action for debt on account was instituted against me in the provincial court; a great part of the account was for house-rent, charged at more than the actual value: there was no agreement as to the price to have been paid, nor did the plaintiff attempt to prove the value; in fact, he had no proof, and called upon me to answer upon *faits et articles*. In my answers, which were not rejected by the plaintiff, I stated the rent to be worth one-half that was claimed. I also adduced other testimony, which corroborated mine as to the value of the rent. I also stated in my answers that I paid certain sums to the plaintiff, the admission of which, with the rent it was proved to be worth, would have left a balance in my favour. My account was not allowed, except so far as was credited by plaintiff; the rate claimed for rent was allowed, and judgment rendered against me accordingly. I do not think that the conduct of the judge is better calculated to give satisfaction than it was previous to the bringing of the complaints before the House of Assembly.

What is the opinion among the great body of the people of that district at the present time of the character and conduct of the said judge?—I have frequent communication with the people in almost every part of the district; the opinion which generally prevails is, that Judge Fletcher is influenced in his decisions by partiality and prejudice, consequently, does not possess the confidence of the people of the district in his administration of justice. I have reason to know that a very great proportion of the people of the district wish on that account the removal of Judge Fletcher from the bench.

Was

Was the judgment to which you allude considered by those persons who heard it, and knew the facts of the case, partial and vindictive?—It was so considered.

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Enclosure 4, in No. 1.

Sir,

Sherbrooke, 20 April 1836.

I HAVE to acknowledge the receipt of your letter of the 12th inst., inclosing a copy of a most extraordinary document, purporting to be an address of the Provincial Assembly to his Excellency the Governor-in-chief, impugning my character and conduct as the judge of this district, in the most unmeasured terms, and concluding with praying for my dismissal from that office, which I have now holden for 13 years last past. This communication is accompanied by a printed pamphlet of near 20 folio pages, containing a copy of a previous report, on which the address is stated to have been founded, together with the evidence (as that illustrious body is pleased to call it) which was adduced before the committee on that occasion.

It may be right, perhaps, to apprise you that these papers only came to hand yesterday, it appearing, from the post mark at Quebec, that they were too late for the mail of the 12th; the post for this part of the province sets out from Quebec twice a week only, on Tuesdays and Saturdays, and arrives here generally on the third day following; that is to say, on the succeeding Friday or Tuesday, unless delayed by an unusually bad state of the roads.

The only witnesses who appear to have been examined during the last session are Edward Short, George Kimball, and Silas Horton Dickerson, and, if it were possible to lay aside the disgust which such gross falsehood and misrepresentation must of necessity excite, I should say that any person in my station who was thus accused, ought rather to feel gratified at the intrinsic refutation of their own calumnies which is contained in the testimony of these men.

With regard to the statement of Mr. Edward Short, the dogmatism and effrontery with which he advances the most absurd positions, and the scurrility and abuse which he vomits forth against any who may have too much knowledge of the subject to admit them, are so highly characteristic, that, if the name of the author was omitted, no one who is acquainted with the man could hesitate with regard to the person to whom it was to be attributed. It must, evidently, have been impossible for me, in the very few hours which have elapsed since the receipt of these documents, to enter minutely or largely into the enormous mass of foul slander which they contain; but it requires only a single glance to detect some of the fallacies which occur in every line. Mr. Short says, for example, that the judge refused, for some years, to entertain suits in the provincial court where the causes of action arose out of the district; most undoubtedly he did. Can any man who reads the statute by which the district was created and the court established, entertain a doubt that it was a court of local jurisdiction, or that any judgment founded on a cause of action arising out of that jurisdiction would have been erroneous and void? This gentleman also complains that the judge declined to receive a notarial copy of a will as of equal authenticity with the probate; assuredly the judge would so act if he was in any degree competent for the execution of his duty; a man might make 20 wills in a month before different notaries, and the one produced might have been the first of the series; whereas it is essential, in order to the obtaining of a probate, that the testament offered for that purpose should be proved to have been the last testament which was made by the testator. Mr. Short may, perhaps, never have been in any court in Doctors' Commons, but he can scarcely be so ignorant as not to know this; but these are merely specimens taken at random; every part of his statement is of the same description; he everywhere evinces the same reliance on the utter ignorance of those who may peruse it; and, upon the whole, I am disposed to think the developement of character which has here taken place may be useful to such as may not have had the same opportunities of personal observation which we have possessed in this district. This man's late partner Mr. Peck, who was one of my former assailants, (but who found it convenient to emigrate to the state of Illinois last year) was exactly such another person; each of them possesses some talent; their veracity and their principle are precisely equal, and they were, in all respects, most fitly associated.

Mr. Kimball's statement, though, upon the whole, most grossly false and calumnious, still contains some truth. It is true that the judge of this district has always holden that the provincial statute of 34 Geo. 3, c. 2, which regulates the negotiability of promissory notes, is actually in force here; and, if so, there can be no doubt with regard to the cases in which a blank endorsement on a note does or does not convey an interest in Lower Canada, whatever may be the case in England.

The judge is sufficiently aware of the provisions of the British statutes 3 & 4 Ann. c. 9, and 7 Ann. c. 25; and as he had, for more than 20 years, as many cases before him, relative to negotiable instruments, as most men in London, and was fully acquainted with the practice there, it is not very likely that he should be ignorant of the difference in the statute law of the two countries in this respect. With regard to Mr. Kimball's curious analysis of the phrenological character of the judge, it may be fairly left to speak for itself without any commentary. The witness is sufficiently known to render his opinions very harmless.

There is one circumstance which must have struck his Excellency forcibly, if he has taken the trouble of perusing this paper, which is, that the witnesses have generally avoided mentioning dates. The majority of the cases which they speak of (or such of them as actually existed, for there are some mentioned of which I have now no recollection) occurred, as

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I believe, several years ago. This, however, is one of the choice secrets of the party; it is far safer to allege a falsehood respecting matters which took place at a period long past; than with regard to more recent transactions; and a judge who has more than a thousand causes before him every year can scarcely be expected to remember every circumstance of each of them.

It must not be understood that I am answering, at the present moment, any of the charges which it appears to be the intention of the Assembly to make against me; it would be premature to attempt it; I must first know what they are. I am searching for something like a distinct accusation, some tangible charge, and I can find nothing in the evidence before me, but that the judge has, on certain occasions, differed in opinion from both Mr. Short and Mr. Kimball. All that I can say at present is, that the whole of the charges stated in the address constitute a mass of the foulest calumny which has ever disgraced the human character.

His Excellency will probably hear with astonishment that the first attack which was made on me by the Assembly took place more than seven years ago, at the instigation of one of their members, who was employed by Silas Horton Dickerson as his attorney in an appeal brought by him against a judgment in my favour by the Court of King's Bench for the district of Three Rivers, in an action brought by Dickerson against me; that this attorney was appointed chairman of the committee for the investigation of the complaint of his own client, with regard to the very matters to which the suit in appeal related; and that it is in consequence of that proceeding that I have been harassed and persecuted by this body every session from that day to this. It is the report of the committee of which this attorney was the chairman, which is the first of those mentioned in that now before us, and which has, as his Excellency will perceive, constituted the basis of all the proceedings which have since taken place; of no part of which have I ever received any notice whatsoever, except through the medium of the public papers.

Finding that my character was thus insulted and calumniated year after year, by resolutions and addresses without end, containing always the grossest falsehoods which the human mind can conceive, I determined, at last, to intreat his Excellency Lord Aylmer to direct that I might be furnished with such intelligence as the secretary's office could afford respecting the causes, whether real or imaginary, of this outrageous vituperation. I accordingly wrote a letter to Lieutenant-colonel Glegg, the then secretary, in March 1831, for the purpose of obtaining some information respecting the matter, but without effect, as there was, I believe, nothing to be found in the office but a copy of a string of resolutions as calumnious and abusive as the address now before us, which the Assembly had recently transmitted to his Lordship, and of which he had the goodness to send me a copy. I obtained, however, no further intelligence with regard to the facts on which they were pretended to have been founded. My letter to Colonel Glegg constituted the first communication which I had had with the government on this subject; the original is, as I suppose, still in your office, but I have, to save you the trouble of a search, enclosed you a copy of it from my letter-book of that day.

See p. 95.

A retrospect of the affairs of this unfortunate colony during the last 25 years furnishes many instances of calumnies and conspiracies of very extraordinary descriptions, and some of which are almost incredible; but I really know of no single case in the history of man which is any degree comparable to that now before us. It presents a most instructive lesson to the statesman and the philanthropist, as evincing, in a very remarkable manner, the progress which may be made by an association possessed of unlimited funds, great activity, and a certain degree of talent, in the propagation of truth or falsehood, and the cultivation of the virtues or the vices of their fellow men. It is mainly to this cause that the greater part of the depravity which human nature so frequently exhibits in this country is attributable. Things were far otherwise previous to the year 1790: the Canadians themselves were at that period a loyal, religious and moral people, and they are still so wherever they are unexposed to the influence of the Assembly.

With regard to the case immediately before us, my allegation is, that Mr. Justice Fletcher, a great part of whose long life has been spent in the service of his sovereign and the public, has always demeaned himself, not only blamelessly, but with exemplary zeal, fidelity and industry in the execution of every duty with which he has been charged; and I challenge my calumniators to produce evidence of any single fact which can cast a shade of doubt on the truth of this assertion. My conduct as a judge in the cases of Dickerson and Evans has already undergone the ordeal of discussion before other courts, whose decisions have been in my favour. If my persecutors, however, conceive that they have any other subjects of accusation against me, let them bring forward their charges in any intelligible and tangible shape, and I can assure his Excellency that I shall be ready to meet them and their hireling witnesses, on any reasonable notice, on either side of the Atlantic. The experience which I have had in the conduct of His Majesty's Government and the tribunals of the British empire will not permit me to entertain a doubt that, whatever prejudices may have been created by the superhuman malignity and artifice of the terrific band by which I am assailed, justice will eventually be done.

I have thought it necessary to acknowledge the receipt of your packet without an hour's delay; and you will accordingly perceive that what I have written has been too hastily composed: any adequate idea of the ineffable wickedness which has been practised against me could only be conveyed by a much longer communication, with the assistance of numerous documents. I shall, however, in the course of the present month endeavour to discover, by reference to the records of the courts here, and my own minutes, what were the real circumstances of the particular cases alluded to in these papers, so far as they can now be traced,

and

and shall, in the mean time, await his Excellency's commands with regard to any ulterior measures.

Should it occur to his Excellency that there is anything further to be done on my part which may tend to the elucidation of the subject before us, you will only have to signify his pleasure, and it shall be respectfully attended to.

Stephen Walcott, Esq.  
Principal Secretary, &c. &c. &c.

I have, &c.  
(signed) J. Fletcher.

Correspondence  
respecting  
Judge Fletcher.

COPY of a LETTER from Mr. Justice *Fletcher* to Lieutenant-colonel *Glegg*, Principal Secretary to His Excellency Lord *Aylmer*, respecting certain Resolutions which were stated in the public Journals to have been passed by the Colonial Assembly of *Lower Canada*, impugning the judicial conduct of the Judge.

Sir,

Sherbrooke, 31 March 1831.

You will probably consider it as a very remarkable circumstance to receive an application to His Majesty's representative from a public functionary in my station, founded merely on statements in the newspapers; but his Excellency will, as I hope, regard it as one of the necessary consequences of a state of things in this province, which appears to me to be almost without a parallel in the history of the world; and if there be any error in the information which has given occasion to it, attribute the trouble which I am now giving you to that source.

I have received by the post of this day, as I generally do every Thursday, the majority of the public papers printed at Quebec during the last week; and I find in one of the latest of them, the *Quebec Mercury* of Saturday last, a copy of a string of resolutions which are said to have been adopted by the Assembly of this province on the 24th instant, relating to myself and some supposed judicial decisions of mine which took place several years ago, and which paper is of the most vituperative and violent description. The last of these resolutions indicates an intention of addressing his Excellency on the subject, and it is currently reported by some persons who have just arrived from Quebec, that this body, or some of the members of it, have actually done so.

I was enabled, when I was last at Quebec, to procure some sheets of printed paper, which appear to contain a copy of a report of some committee of the Assembly, which is stated to have been made in March 1829, and which seems to relate to the same subject, together with some minutes of evidence, as it is called, antecedently taken before that committee on the occasion; but which papers have, as I understand, been only committed to the press since the commencement of the present year. The whole of these are full of the grossest calumnies and misrepresentations, and I suppose the resolutions which are now circulated throughout the province are founded on the same basis.

I do not know whether his Excellency is aware that throughout the whole of these proceedings, which appear to have been long and voluminous, I have had no opportunity whatsoever of exculpating myself or entering into any explanation of my conduct, if it had required any; and I think, if he be not, that he will be astonished at this information; but such is the fact. The whole business before those committees has been carried on with the most profound secrecy, and no kind of notice whatever has ever been given to me by the Assembly or any of its officers that they had anything before them tending in the slightest degree to inculpate me with regard to the execution of my judicial functions, or relating in any manner to my public or private conduct.

His Excellency will perceive that it is impossible for me to hold any communication with such men as these; it would not only be derogatory to the station which I hold, but would probably lead to some personal insult to myself, or perhaps a still more aggravated one to the authority of my Sovereign, under which I have been called upon to execute the duties with which I am charged.

It is of course necessary for me, if there be any truth in the statements in the journals of the day, to endeavour to obtain some authentic intelligence respecting these very extraordinary transactions, and my object, therefore, in addressing you at present is, to beg that you will have the goodness respectfully to submit this letter to his Excellency the Governor-in-chief, and to request that he will be pleased to direct that I may be furnished with such information relative to this incredible affair as can be supplied from the documents in your office, and as he may in his wisdom think it proper to communicate.

Lieutenant-Colonel *Glegg*,  
Principal Secretary.

I have, &c.  
(signed) J. Fletcher.

Enclosure 5, in No. 1.

My Lord,

Quebec, 18 May 1836.

Your Excellency was pleased to suggest, towards the close of the last interview with which you honoured me, on the subject of the complaints which have been made against me by the Provincial Assembly, that I should furnish you with some minutes, in writing, of the leading circumstances to which I then alluded, as tending to elucidate the nature of the case before us; to serve as memoranda by which your recollection might be aided, on a subsequent consideration of it, in order to your decision of the question now before you,

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as to the propriety of putting an end to the persecution under which I have laboured for so many years, or adopting measures for the further investigation of the matter before some legitimate tribunal; so as to afford me those means of defence which belong, by the laws and constitution of the country, to accused persons in general. The object of my present journey was, as I told you, to obtain an ultimate decision on the very point which I have mentioned; so that if your Excellency should see the matter in the same light as that in which it has been hitherto regarded by your predecessors, the long martyrdom which I have suffered may finally cease, or that I may, on the other hand, be enabled, with the assistance of my professional friends, to prepare for such a defence as the law may require; and the measure proposed by your Excellency is obviously necessary to enable you to make up your mind with regard to the expediency or in expediency of such further proceedings.

It will scarcely be expected that I should, on this occasion, enter into the whole or even into any very considerable portion of the points on which my defence will be founded, or bind myself in any degree with regard to the particular course which either myself or my counsel may think proper to adopt, in case of a legitimate forensic proceeding. All this will of necessity depend on the nature of the act or instrument of accusation; the statements of the witnesses for the prosecution, either on their examination in chief or cross-examination, and a variety of other circumstances which may occur in the course of the investigation, but which are neither under my control, or capable of any precontemplation at the present moment. Subject, however, to this reservation I shall now proceed to recapitulate some of the more prominent topics to which I took occasion to allude at my last audience.

The judicial proceedings which are so violently impugned by the Assembly having been the ultimate consequences of a state of society which is, in many respects, different from any other which is to be found in the British dominions, it appears to be expedient, in order to facilitate the proper understanding of the subject, to endeavour to convey some idea of a few of its more remarkable features.

The tract of land which at present constitutes the district of St. Francis is a part of what were formerly called "the Eastern Townships," a portion of the province which adjoins the boundary line between His Majesty's dominions and the United States, and the inhabitants of which consist, almost wholly, of emigrants from the latter country, by whom it was first settled about the commencement of the present century. Its whole extent may probably be about 3,600 square miles or two millions of acres, and its population, perhaps, 20,000 souls.

For some years after the first settlers commenced their labours the whole of this country continued nearly in a state of nature, and the control of any courts of judicature or system of jurisprudence was nearly unknown; but as the inhabitants increased in number and opulence, a body of speculative characters of no very correct principles, but many of whom possessed no inconsiderable share of natural sagacity, found their way amongst them and endeavoured to render the state of the country subservient to their own interests, by interfering in the traffic of the people, and exciting discord and litigation amongst the more industrious cultivators of the soil.

There were many circumstances which had contributed to promote litigation amongst the people, and consequently to render it an object of illicit gain to such persons as I have mentioned, and to strengthen and extend their influence. One of the principal was the want of an established currency. There was much property which had been raised by toil and industry from the bosom of the forest; but it was all produce; there was no money. A man with 100*l.* worth of stock on his farm could not pay five dollars in specie. Their bargains, their notes and obligations, were all payable in stock or produce of some description or other, and all their trade was barter. If a man owed another a sum of money, it was generally impossible for him to discharge it without the intervention of others, each of whom was to furnish some kind of property to the next in succession, and the best of whom could supply the creditor with some article which he had occasion for in satisfaction of his demand. This had given rise to a system of mutual compensation wholly incompatible with that simplicity and distinctness of arrangement which are essential to fair and successful commerce, and occasioned a degree of complexity and confusion in all their transactions which must be inconceivable to those who have been in the habit of regarding money as the usual medium of exchange.

The intricacy and difficulty thus introduced into every species of traffic in the country naturally occasioned much litigation, which was constantly fomented by the arts of those who regarded it as the means of their livelihood. Every man was accordingly engaged in some controversy, and the roads to Three Rivers and Montreal became thronged with travellers on the approach of every term.

A great additional source of oppression to the inhabitants had been derived from the provincial statute of 1821, for the summary trial of small causes; debts were now capable of being advantageously divided into a larger number of notes than before, and they became consequently better worth collecting. A man who owed 20*l.* was cajoled into the giving of a great number of promissory notes for different portions of it, which were always made the subjects of as many separate actions against him, and suits were multiplied beyond all credibility. Some of the commissioners certainly participated in the profits; others might possibly be honest, but the ultimate effect on the public welfare was nearly the same. Their executions were not returnable at any definite period; and they had no effective control over their officers, and were consequently less able to restrain speculation than superior courts of judicature. The consequence of these concurrent circumstances was, that those miscreants who devoted their lives to the excitement of these controversies, ruled with the most absolute sway, and became the lords of the whole country; and the poor inhabitants were compelled to pay 6,000*l.*

6,000 l. or 8,000 l. per annum of costs and plunder, under the pretext of collecting debts amounting, probably, in the aggregate to less than one-fifth of that sum.

Such having been the general state of things in the townships, it may be easily imagined that when it was determined, in 1823, to establish a better system of jurisprudence in that part of the province, with a resident judge, such a measure was regarded by every man who lived by speculation (and these actually constituted the most influential body in the country) as one of ill omen. These characters became alarmed, and their apprehensions were not altogether unfounded.

The judge proceeded to organize his court. He had everything to do; to dig the foundations, to lay the ground sills and erect the superstructure. But it was done; and a bar gradually assembled, which consists at present of from 10 to 12 members. No suit was instituted under the direction, or by the advice, of the judge. His conduct was like that of his colleagues; he never heard of a case till it was called on in the paper, or suffered any one to speak to him of controversial matters out of court. But the proceedings of a court of judicature, in which a certain degree of regularity was maintained, had, of necessity, some of the effects which had been anticipated, and it was no fault of the judge that this was the case. The "secrets of the prison house" were divulged, and an unpleasant glare of light thrown on transactions which had rather been calculated for obscurity. Judgments were occasionally rendered against several of these men, compelling them to restore sums of money and other property which they had regarded as fair booty; and some remarks were occasionally made, perhaps, which were injurious to that delicacy of feeling by which they were distinguished.

It was manifestly the duty of the judge to endeavour, at all events, to prevent the court in which he was to preside from being made instrumental in the furtherance of such evils as have been described, and to endeavour to emancipate the wretched inhabitants of the district from the oppressions under which they had so long groaned. The multiplication of trivial and frivolous suits was accordingly discouraged, and several precautionary measures were adopted with these views; many of which appeared to be extremely effectual, and were, consequently, highly unpalatable to these speculators.

A change like this could not, however, be suffered to take place without resistance by men of very considerable intelligence, of great influence in the country, and of indefatigable perseverance, who were thus impeded in pursuits which had constituted the business of their lives. It was clear that the whole of the illicit revenues of those persons were placed in jeopardy by the establishment of a system of local jurisprudence, the appointment of a resident judge, and the access of a bar of professional lawyers; and there could be no standing on ceremony when such interests were at stake. The judge must, at all events, be ousted if possible, and no more effectual means could be devised than to render the people at large dissatisfied with the court, by stigmatizing its proceedings through the medium of the press; nor could any person be found more fit to be employed for the accomplishment of this design than Mr. Silas Horton Dickerson, the printer of the "British Colonist," a weekly paper which was then published at Stanstead. Accordingly many libels on the provincial court and the judge who had the honour of presiding in it, composed in pursuance of such conspiracy, appeared in this paper. Almost every "Colonist" published since about July 1825, will be found to contain something or other of this kind; something to indicate that the judge and "his" court, as they called it, were such nuisances as ought not to be tolerated in a christian country.

During this state of things the following circumstances occurred:

In November term, 1825, an action of trespass *de bonis asportatis* came on to be tried in the provincial court, in which one Willey, a farmer at Shipton, was the plaintiff, and Howison, a bailiff, and Tilton, also a farmer at Shipton, were the defendants. It appeared on the trial that one Francis Armstrong Evans, a person who had been a schoolmaster, and was occasionally in the habit of preparing documents of different descriptions, had, in March 1824, been appointed a commissioner for the summary trial of small causes in the township of Kingsey.

There having been an action depending in the provincial court between Tilton and Willey, Mr. Evans had, in November 1824, prepared an instrument between them, whereby they had agreed to submit the matters in difference to the arbitration of two persons, with power to nominate a third, in case they should not agree; and the two first-named arbitrators having afterwards appointed Mr. Evans himself as the third arbitrator, an award had consequently been made, in which Mr. Evans had joined, awarding a balance of 28 dollars and 52 cents (about 7 l. 2 s. 7 d. currency), as due from Willey to Tilton.

Of this 28 dollars and 52 cents, 11 dollars had been paid or satisfied; so that there remained, in January 1825, a balance still due on the award of 17 dollars and 52 cents (about 4 l. 7 s. 7 d. currency), for which it appeared to Mr. Tilton to be desirable to commence a suit against Mr. Willey before Mr. Evans himself, in his judicial capacity as a commissioner of small causes. This balance, however, being above the amount to which Mr. Evans's jurisdiction extended (which was only 4 l. 3 s. 4 d. currency), it was necessary to give credit for some trifle more than the 11 dollars, in order to bring the matter within the jurisdiction of the commissioner, and credit was accordingly given on the account produced before him, thus, "By a good story, 85 cents;" which having reduced the claim to 16 dollars and 67 cents (4 l. 3 s. 4 d. currency), being the exact limit of Mr. Commissioner Evans's jurisdiction, he accordingly proceeded to render judgment for this balance so remaining due on his own award, after allowing for the "good story."

On this judgment of Mr. Commissioner Evans an execution was afterwards issued, under which twenty-four sheep and four head of horned cattle were seized by Howison the bailiff.

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Of these, however, the sheep only appeared to have been actually sold; six to Howison the bailiff himself, twelve to Tilton, the plaintiff in the case before Mr. Evans, and six to another person. The appraised value of the whole of the sheep in the sale was estimated at no more than 49  $\frac{1}{2}$  dollars (12 *l.* 7 *s.* 6 *d.* currency); but it was proved that the damage sustained by Willey must have been vastly greater.

There had been no justification pleaded in the provincial court. Mr. Evans's commission was for the township of Kingsey, whereas it appeared that the parties resided in Shipton; and there were other circumstances in the case which appeared to entitle Willey, the plaintiff in the before-mentioned action of trespass, to judgment. The judgment of the provincial court was therefore rendered for the plaintiff Willey, and the damages assessed at 12 *l.* 7 *s.* 6 *d.* currency, being merely the appraised value of the sheep on the sale, though incomparably less than he was proved to have sustained.

On this judgment of the provincial court a writ of appeal was afterwards brought, and upon that appeal the judgment was, in January 1826, affirmed, with costs, by the Court of King's Bench at Three Rivers.

On the 2d of March 1826, somewhat more than a month after the affirmance of the judgment at Three Rivers, two letters to the editor appeared in Mr. Dickerson's paper, "The British Colonist," one of them under the signature of "Philo-Junius," and the other under that of "Scrutator." The first consisted of various remarks tending to show that the provincial court was a great evil; that its rules and proceedings were all injurious to the public; that the government had been much to blame in the appointment of the judge, and other matters of that nature. The latter, which purported to be a report of the before-mentioned case of Willey versus Tilton and Howison, was still more full of personal obloquy against Mr. Justice Fletcher, who was openly denounced by name as being everything which a judicial character ought not to be, and, in fact, as being a most corrupt judge, and a proper object of public execration.

Affidavits having been taken and filed, which proved that Mr. Dickerson was the printer and publisher of the paper in question, a rule nisi was made, calling upon him to show cause why an attachment of contempt should not be issued against him, which rule was afterwards made absolute, and an attachment issued accordingly, on which he was immediately bailed.

Mr. Dickerson hereupon filed two affidavits, averring that he was the sole editor, printer and publisher of the paper in question, and stating that Mr. Commissioner Evans (whose original manuscripts, in his own handwriting, were annexed to one of the affidavits) was the author of the two letters signed "Philo-Junius" and "Scrutator."

Hereupon it was intended by the court to discontinue further hostile proceedings against Dickerson; but it being impossible to adjudge either that he had not committed a contempt, or that his giving up the name of the author of the libels was a legal excuse, the recognizance of himself and his bail was discharged on his entering into a new recognizance, without sureties, to appear whenever he might be afterwards called upon; a course which has been frequently adopted in the courts at Westminster, in cases where it was not intended to punish the delinquent. A copy of this rule constitutes the enclosed paper, No. 1.

See p. 100.

This lenity was probably ill judged, and accordingly, like all other injudicious measures, it had a bad effect, and one which might easily have been anticipated by any person who had only had one-half the experience in the characters of these men which the judge himself possessed. Mr. Dickerson imagined that the judge dared do nothing with him; and accordingly, with the advice of one Pierre Joseph Cressé, an advocate who was then practising at the bar at Sherbrooke, but who has since committed suicide in a fit of insanity, arising from habitual intoxication, actually served Mr. Justice Fletcher, immediately after he had been thus pardoned, with a notice charging the judge with having illegally, and without any reasonable or probable cause, issued a writ of attachment against him, and threatening to bring an action against him.

Mr. Dickerson's insolence did not stop here. He had now, as he said, got better advice than he had before. Mr. Elkins, his former advocate, had done him great injustice in not supporting his "rights" in the former cause. That gentleman had respectfully acknowledged the lenity of the court; he should have done no such thing; he should have defied the court. Mr. Dickerson had, to be sure, been present, and had entered into the recognizance required of him; but he now knew better, and he therefore peremptorily instructed Mr. Elkins to move for judgment in the dormant cause, in which it had been the intention of the judge to abandon further proceedings, in order, as he said, to finish the business and see whether the judge really dared to punish him or not. Mr. Elkins put in a motion-paper accordingly, and the court, thinking the defendant entitled to come in spontaneously and receive judgment, if he insisted on it, fined him 5 *l.* sterling, and committed him till the fine was paid, which was done in an hour or two. A copy of the last-mentioned judgment constitutes the enclosed paper, No. 2.

See p. 101.

• With regard to Mr. Evans, an attachment having issued against him on the affidavit of his accomplice Dickerson, and he having given bail thereon, he was, on the return thereof, examined on interrogatories, according to the usual practice in such cases; and having fully avowed himself the author of the papers in question, was ordered to attend to receive judgment on the last day of the term. In the interim, however, he filed a paper, in which he objected to the judge as having no jurisdiction in the case, and as being interested in his conviction, inasmuch as it was against him, as Mr. Evans thought proper to say, that the offence had been committed; and he accordingly claimed the benefit of the latter part of the seventh section of the provincial statute 3 Geo. 4, c. 17. Upon this, though it was sufficiently clear that such allegations could be founded only in the ignorance of the defendant, the court, instead



of rendering final judgment on the 30th of June, as would otherwise have been done, made a rule for transmitting the record to His Majesty's Court of King's Bench for the district of Three Rivers, for them to decide on the validity of the recusation, as directed by the statute, it appearing to the judge, that although he had no doubts with regard to his own jurisdiction, it was better thus to refer the question to his colleagues.

Mr. Evans was in custody at the time of filing his recusation, and appeared to have detained himself, by the effect of his own plea, till after the decision of the court at Three Rivers, as the statute directs an immediate stay of all proceedings. On his praying to be bailed, however, two or three days afterwards, the judge determined on accepting it, and he was liberated. It must be unnecessary to add, that on the whole record of the case being submitted to the Court of King's Bench for the district of Three Rivers, Mr. Evans's recusation was rejected by that court as utterly unfounded, and the record remitted to the provincial court of St. Francis, to be there proceeded on according to law.

This man, Evans, is since dead, many years ago, and no final judgment was ever rendered in the cause.

We will now return to Mr. Silas Horton Dickerson.

In January 1827, Mr. Dickerson sent another notice to Mr. Justice Fletcher, stating his intention of bringing an action against him for all these misdoings, which action was afterwards actually brought in His Majesty's Court of King's Bench for the district of Three Rivers, and the plaintiff's damages laid at 1,000 £, but was, of course, dismissed with costs. This judgment was rendered in January 1828.

The situation in which the judge of St. Francis was now placed was sufficiently obvious. It was clear that the court was attacked by enemies who gave no quarter; and that, however repugnant it might be to the feelings of the judge to use strong measures, it was his duty to defend it to the last extremity. The authority of the whole judiciary body was at stake. The judge of St. Francis was an officer entrusted with the command of an outpost, on which the fate of the citadel mainly depended; and no considerations of personal danger could warrant the surrender of it.

At the time of the receipt of the notice of Mr. Dickerson's action, the causes No. 66 and 60 were in a state of progress. It was probably the object of this measure to deter the judge from the execution of his duty; but, if so, it failed of its intended effect. Those causes were afterwards proceeded in to judgment, as was also another cause, No. 44; and the defendant, having been convicted in all of them, was fined 10 £ sterling in each of them; and was, in the two former cases, ordered to find sureties for his good behaviour, and in the last of them imprisoned for 14 days. These judgments appear to have been rendered on the 21st of June 1827, and the 29th of March and 21st June 1828.

The action brought against me by Dickerson having, as must necessarily have been the case, been dismissed with costs, this man was desirous of appealing against the decision, and accordingly applied to Mr. Vallières, an attorney, then residing at Quebec, for that purpose, who, in consequence, issued a writ of appeal, as the attorney for Dickerson, on the 4th of July 1828. Mr. Vallières was also, however, a very influential member of the Provincial Assembly; and finding, on further consideration of the subject, and the inspection of the record, that he was far more likely to obtain success by an application to that body than by an appeal, this gentleman prepared a petition from his client to that branch of the Colonial Legislature, impugning, in very unmeasured terms, the conduct of the judge of St. Francis, with regard to the different proceedings which had been taken against him, and praying for redress.

This petition, which was presented to the Assembly on the 13th of January 1829, constitutes the basis of all the unprecedented and disgraceful persecutions to which I have been subjected ever since. Wonderful as it may appear to such as are unacquainted with the real state of this unfortunate colony, those who recollect the general demeanour of the Assembly at that time will scarcely be surprised to hear that this composition was received with acclamation; that, without any inquiry into the truth or falsehood of the allegations which it contained, 600 copies were immediately ordered to be printed for the use of the members, who were then 50 in number; and that Mr. Vallières, the attorney for Mr. Dickerson, was appointed the chairman of a special committee of five, to inquire into and report on the merits of his client's complaint. The extraordinary proceedings of the committee of which this attorney was the chairman, and their subsequent report, which is referred to in the commencement of the 7th Report of the Standing Committee of Grievances, delivered in on the 29th February last, as constituting the basis of the present violent charges against me, were the natural consequences of such a course of procedure.

This report of the 12th of March 1829 has been successively laid before every one of His Majesty's representatives since that period, with a variety of amplifications, and a number of false and exaggerated statements, as the ground of complaints by that body against me; and these complaints have been uniformly rejected by the successive governors. The last of these applications was, as I believe, between four and five years ago; and the answer of Lord Aylmer bears date on the 5th of December 1831.

It does not appear to me to be necessary, in the present state of this business, to proceed to repel the calumnies which are contained in these papers with regard to the conduct and demeanour of the judge on various occasions, otherwise than by saying that I deny the whole of these statements, as consisting altogether of the foulest slanders; and that I believe that, notwithstanding the lapse of years which has taken place since the times at which it has been thought proper to lay the scene of these fictions, they can be completely disproved.

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respecting  
Judge Fletcher.

There are some circumstances in these transactions which speak for themselves so forcibly, as to be incapable of being misunderstood. Certain proceedings of a court of judicature are complained of as tyrannical and oppressive; but the records themselves are not produced; there is nothing respecting the evidence on which the proceedings were founded, or any other circumstances relating to them, but a vast mass of obloquy and falsehood respecting the personal conduct and demeanour of the judge at the remote periods when they took place. What can have given occasion to this omission? Are not the proceedings themselves essential to the charges which are pretended to be founded on them? A very little consideration will enable us to solve these apparent difficulties, and induce us to admit that my accusers have really acted sagaciously, whatever want of candour or fairness they may have exhibited. They recollect the trial in 1828, in which the records were produced; and they must remember that their production evinced to every one, not only the legality of the proceedings, but the extreme lenity and forbearance which had been exercised by the judge under accumulated circumstances of repeated and aggravated aggression and insult.

I have, as I fear, already tried your Lordship's patience by the great length of this communication; and yet a very considerable portion of the curious traits which distinguish this attack remain untouched upon. I shall only remark, that on every review of my own conduct since my appointment to the station which I fill; I can perceive nothing which appears to me to afford the least rational ground for crimination or blame. I have uniformly endeavoured, according to the best of my judgment, to prove myself not unworthy of the sacred trust which has been reposed in me; and I cannot now retrace any acts of my ministry in which this has been more strongly evinced than upon the occasions which have given rise to these extraordinary charges.

To court popular applause is, as I have always conceived, incompatible with the duties of a judicial station; but the spontaneous approbation of our fellow men must, of necessity, be agreeable to every one who possesses a well-constituted mind; and I have the satisfaction of believing that my unremitting endeavours to render the exercise of my public functions useful to the country are fairly appreciated by a great majority of the inhabitants of the district in which I preside, and that few of my colleagues possess the good opinion of those whose interests have constituted the objects of their ministry, in a higher degree than the judge of St. Francis. Your Excellency will find some reluctant and partial admissions of this truth, even by my greatest enemies, amongst the reports on the debates on the St. Francis Act in several of the public journals; as, for example, in the Quebec Mercury of Tuesday the 22d, and the Old Quebec Gazette of Wednesday the 23d of December last. The former of these papers contains also a statement by Mr. Child, which exhibits, in rather a disgusting point of view, the active, though latent, hostility and malignity of an individual with whom I never had the slightest difference, and whom I scarcely know personally, though he actually fills a station of the highest importance. The conduct of this man, and the consequences which have ensued from it, constituted the subject of the opinions rendered by the judges of the province, at the request of his Excellency Lord Aylmer, in 1834, and are given, as stated by himself on his examination, in the 5th Report of the Committee of Grievances; in fact, it seems highly probable, from Mr. Child's statement, and other sources of intelligence, that it is principally through his clandestine agency that your Excellency has been subjected to the trouble which you now have respecting the matter before us.

I await your Excellency's commands with regard to such ulterior measures as you may think fit to direct on the present occasion, and

Have the honour to be, &c.  
(signed) *J. Fletcher.*

— 1. —

Province of Lower Canada, Inferior District of St. Francis.

In the Provincial Court, Friday the 30th day of June 1826, the King against Silas Horton Dickerson, for a contempt.

(No. 8.)

THE defendant having appeared personally in court this day in obedience to the rule or order of the 28th day of March now last past; it is ordered, that the recognizance of the said defendant and his bail entered into on the 25th day of March now last past, for his personal appearance from day to day in this court to answer for the contempt charged against him in this cause, be discharged on his entering into a recognizance by himself personally without sureties, in the penal sum of 250*l.* sterling, for his personal appearance in this court, to receive and abide the judgment thereof in respect of the several matters and things charged against him in this case whenever he may be called upon by any further rule or order of this court so to do. And the said defendant having forthwith entered into such last mentioned recognizance, it is ordered, that the said former recognizance so entered into by him and his sureties on the said 25th day of March now last past, be forthwith discharged, and that the said defendant be permitted to depart the court. And that all further proceedings in this cause be stayed until the further order of the court in that behalf.

By the Court.

— 2. —

Province of Lower Canada, Inferior District of St. Francis.

In the Provincial Court, Tuesday the 27th day of September of 1826, the King against  
Silas Horton Dickerson, for a contempt.

(No. 8.)

THE defendant appearing personally in court this day, and having by his counsel prayed that the proceedings in this cause might be resumed, and the judgment of the court rendered therein, notwithstanding the rule made therein on the 30th day of June now last past, to the end that this case may be finally ended and determined; and the court having perused and considered the proceedings and evidence in this cause, it appears to this court that the defendant is guilty of the contempt of this court and of our Sovereign Lord the King, and his laws, charged and alleged against him in the several affidavits filed in this court, whereon the original attachment of contempt was issued against him, and admitted and acknowledged by his own subsequent affidavits filed in this cause, and he is accordingly convicted thereof. And it is considered and adjudged that the said Silas Horton Dickerson do for such contempt pay to our said Sovereign Lord the King a fine of 5*l.* of lawful sterling money of the United Kingdom of Great Britain and Ireland, current in England, and that he be committed to the common gaol of this district until such fine be paid.

By the Court.

Enclosure 6, in No. 1.

Sir,

Castle of St. Lewis, Quebec, 24 May 1836.

I AM commanded by his Excellency the Governor-in-chief to request the joint opinion of yourself and the solicitor-general on the following questions, viz:—Whether the judge of the provincial court of the inferior district of St. Francis has power, under the local Act creating that court, or under any other Acts, or under the common law, or as a privilege incident to a tribunal of justice, to punish in any, and what manner, contempts of court committed not in court, but within the district or elsewhere; and his Excellency would wish to be informed whether the provincial court of St. Francis possesses, in matters of contempt, similar powers to those exercised by the superior courts of Westminster Hall or of this province, and if not, in what respects they differ.

The Attorney-general.

(signed)

I have, &c.

S. Walcott, Civil Secretary.

Enclosure 7, in No. 1.

Sir,

Quebec, 4 June 1836.

WE have been honoured with the commands of his Excellency the Governor-in-chief, signified by your letter of 24th May last, requesting our joint opinion on the following questions, viz. whether the judge of the provincial court of the inferior district of St. Francis has power, under the local Act creating that court, or under any other Acts, or under the common law, or as a privilege incident to a tribunal of justice, to punish in any, and what manner, contempts of court committed not in court, but within the district or elsewhere, wishing also to be informed whether the provincial court of St. Francis possesses, in matters of contempt, similar powers to those exercised by the superior courts of Westminster Hall or of this province, and if not, in what respect they differ; and we have now the honour to report, that in our humble opinion the judge of the provincial court of the inferior district of St. Francis, established by 3 Geo. 4, c. 17, has power to punish, by fine or imprisonment, or by both, for contempts of court committed not in court, but within the district. That court being a court of record, possesses, as we conceive, in matters of contempt, powers similar to those exercised by the superior courts of Westminster Hall and of this province; and we consider the power of the judge of the provincial court of the district of St. Francis, in this respect, to be incident to the exercise of his judicial functions.

We have, &c.

Stephen Walcott, Esq., Secretary,  
&c. &c. &c.

(signed)

C. R. Ogden, Attorney-general.  
M. O'Sullivan, Solicitor-general.

Enclosure 8, in No. 1.

Sir,

Castle of St. Lewis, Quebec, 11 June 1836.

WITH reference to the charges which have been preferred against you by the House of Assembly in the several sessions of the provincial parliament since 1829, originating in transactions which occurred in the years 1826, 1827 and 1828, I am commanded by his Excellency the Governor-in-chief to acquaint you, that upon a perusal of the report which  
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Judge Fletcher.

accompanied the address of the Assembly of the 4th March last, praying for your immediate removal from office, he perceived that the principal charge depended on the question whether, in punishing individuals for contempts committed out of court, you had not usurped a criminal jurisdiction not appertaining to the judge of the court established in the inferior district of St. Francis, and exceeded the powers legally vested in you as such judge; and his Excellency, having taken the opinion of the law officers of the Crown on this point, and being advised by them that the judge of the provincial court of St. Francis has power to punish by fine or imprisonment, or by both, contempts of court committed out of court, and that the court, being one of record, possesses, in matters of contempt, powers similar to those exercised by the superior courts of Westminster Hall and of this province, he has arrived at the conclusion, that, under all the circumstances of the case, there is no occasion to disturb you in the discharge of your judicial functions; but as this and the other questions involved in the accusations of the House of Assembly can only be finally disposed of by His Majesty, his Excellency has determined to refer the whole case to England, with as little delay as possible, for the signification of the Royal pleasure.

I have, &c.

The Honourable  
Mr. Justice Fletcher, Sherbrooke.

(signed) S. Walcott, Civil Secretary.

— No. 2. —

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Gosford*.

My Lord,

Downing-street, 22 August 1836.

I HAVE received your Lordship's despatch, dated the 9th of July last, enclosing an Address presented to you by the House of General Assembly of Lower Canada, praying for the dismissal from office of Mr. Fletcher, one of the judges of the district court of St. Francis, with various documents relating to that subject.

Your Lordship appears to me to have acted with sound discretion in declining to comply with the request of the Assembly until you had called upon Mr. Fletcher for his defence. His Majesty's Government cannot receive a demand, even from the House of Assembly, for the removal of a public officer, in any other light than that of a charge which they are bound to investigate, unless it be made to appear that the accused party was afforded by the House an opportunity of controverting the matter alleged against him.

I further approve your Lordship's ultimate determination not to suspend Mr. Fletcher from his office pending the investigation of the subject by His Majesty's Government. The highest legal authorities to which it was in your power to apply for information having reported to you that in the proceedings laid to the charge of Mr. Fletcher, that gentleman had acted consistently with law, you could not have pronounced an official censure upon him without claiming for your own judgment, on a question exclusively legal, a weight superior to that of the Attorney and Solicitor-general of the province.

On the part of His Majesty's Executive Government I disclaim all competency to decide the question debated between the House of Assembly on the one hand and the judge and the law officers of Lower Canada on the other. It is my duty to assume that the district court of St. Francis correctly interpreted, and properly enforced, the law, until their decisions are reversed or corrected by a judicial authority superior to theirs.

I have, therefore, humbly advised the King to refer these papers to the judicial committee of the Privy Council, who, I presume, will admit the accusers and the party accused to a hearing at their bar, and to whom you will refer the Assembly of Lower Canada as the only body to which the constitution of the British empire has entrusted the ultimate decision of questions of this nature.

I have, &c.

(signed) *Glenelg*.

— No. 3. —

Correspondence  
respecting  
Judge Fletcher.COPY of a LETTER from Lord *Glenelg* to the Lord President of the Council.

My Lord,

Downing-street, 27 August 1836.

I HAVE the honour to transmit to your Lordship the copy of a despatch which I have received from the Earl of Gosford, Governor-general of His Majesty's provinces of North America, reporting that the House of General Assembly of Lower Canada have requested him to dismiss from office Mr. Fletcher, one of the judges for the district of St. Francis, in that province, and also reporting the grounds on which he had declined to comply with that request, and had determined to refer the question for the decision of His Majesty's Government.

9 July.

I also enclose copy of the enclosures in Lord Gosford's despatch.

I have to request that your Lordship would move His Majesty in Council to refer these documents to the judicial committee of the Privy Council, in order that their Lordships may adopt the necessary measures for investigating and deciding the question in debate, and may report to His Majesty in Council their opinion as to the measures which it may be proper for His Majesty to adopt on this occasion.

I have, &amp;c.

(signed) *Glenelg*.