

HOUSE OF ASSEMBLY.

Private Secretary's Fees.

MONDAY, MAY 12.

(AFTERNOON SITTING.)

(Debate continued.)

Mr. MOONEY then rose, and briefly, but with seeming warmth, replied to Mr. Palmer. He said, the bitterness of spirit with which the honorable and learned member had endeavoured to defend the late Colonial Secretary, might, with great propriety, be compared to the malignity of the Scorpion. Aware that he could not disprove the charges exhibited against Mr. Haviland, he gave vent to the bitterness of his heart, by casting the most unjust and unwarranted aspersions upon the motives of those whose duty it had been to prepare those charges, and also, of those who felt themselves bound, by paramount considerations of public duty, in spite of private feelings, to give their countenance and support to the charges set forth in the Report; sustained as they were by the evidence of undeniable facts, or as being in themselves, as they certainly were, nothing but a simple statement of clear and indisputable facts. But what is most provoking and surprising in the conduct pursued by hon. and learned member for Charlottetown, with reference to that Report was, that he should have the effrontery to endeavour to throw upon the majority of the House, the odium of seeking to procure a verdict of guilty against Mr. Haviland behind his back, and without allowing him to advance any thing to the House in his own defence. It, indeed, required no common share of effrontery to enable a gentleman thus unblushingly to disclaim his own previous judgment, and to stigmatize others with injustice, for merely adhering to what he, and they had formerly, by recording their votes in the Journal of the House, in a cool, dispassionate manner, had declared to be true; and more especially when, instead of there having been any thing since brought to light, which could either invalidate that judgment, or, in the smallest degree, militate against its justice, it was now sustained by a clear and accurate detail of undeniable facts. In the Session of 1849, the hon. and learned member (Mr. Palmer) had recorded his name in favour of a Resolution, which declaring that Mr. Haviland, had in his capacity of Colonial Secretary, taken and appropriated to his own use, Fees to which he was not legally entitled; and yet, after having assented to the verdict of guilty on that occasion, he was so inconsistent as to turn round upon those who now, on the evidence of detailed and indisputable facts, adhered to that Resolution, and were consistently prepared to adopt the Report, and to tell them they were manifesting an utter disregard of justice by pursuing such a course, and pronouncing a verdict of guilty against Mr. Haviland, without having put him upon his trial. He (Mr. Mooney), for one, could assure the hon. member, that he would scorn to act in so arbitrary a manner towards even the most degraded of men; and if he thought the proceedings against Mr. Haviland were of such a nature, he would be amongst the first to oppose and denounce them. He had never entertained any feeling inimical towards that gentleman; and from the commencement of the enquiry, he had been, and still was, desirous that it should be dispassionately conducted, and prosecuted to the end, in strict accordance with the principles of justice. And the truth was, it had hitherto been so conducted; and the immediate adoption of the Report would be no deviation from that course. From the time the question was first debated in the House, up to the present, it had been entirely optional with Mr. Haviland, either to pursue such a course as would result in his being heard in his own defence by the House, or to decline to enter upon it; and it was now most unreasonable to call upon the House, to stay proceedings, in order to afford him an opportunity to adopt a course upon which, throughout a period of two years, he had tacitly refused to enter. The question was last year, at the termination of the last Session, left as it stood at the commencement of the first; for the House,

having been suddenly cut off in their aims, had not had time to follow up their Resolution, as they had intended to do, by an Address to His Excellency; and the Snarlers and the Snarler press, delighted, almost beyond measure, by what they esteemed a frustration of the intentions of the House, with respect to the enquiry, exultingly proclaimed it as a defeat of the popular party in the Assembly, and a virtual abandonment of the charges against Mr. Haviland; and ordained and observed a long jubilee in joyful acknowledgment of the event. Since then, nearly another year had elapsed; and, should the House now agree to the Resolution, submitted by the hon. and learned member for Charlottetown, it would be a deferring of the prosecution of the enquiry for another twelve months; and an affording of another source of triumph to the Snarlers and the Snarler press; which would speedily be taken advantage of by their holding up Mr. Haviland to the public, as a martyr, and stigmatizing the majority of the House as unjust and relentless persecutors, and exclaiming against them in terms of the strongest indignation. 'Could any body of men be more evidently unjust than those Snatchers; they are unable to substantiate any one of the charges which they have preferred against Mr. Haviland; and yet, instead of either voluntarily abandoning their charges, on having found themselves unable to sustain them; or allowing Mr. Haviland publicly to disprove them, as we are convinced he is fully able to do, the charges (virtually abandoned as they are), are still allowed to remain unsuspended over his head before the public.' Now, it behoved the House to afford no opportunity to the enemies of the people and of reform, to cast any such imputations upon them; and all that they had to do, to that end, was to act consistently, in following up the Resolution of 1849, by the adoption of the Report—a Report fully sustained by the indisputable facts which were most clearly set forth in it—and then Mr. Haviland would immediately have an opportunity afforded him, by the Government, to justify himself, if he could. He (Mr. Mooney), believed, that neither the Government nor any member of the majority of the House, felt a desire to act either rigorously or in the spirit of faction, towards that gentleman; he believed, he would have fair play allowed him; and for one he (Mr. Mooney) wished, that if he entered upon his defence he might make a good job of it.

Mr. LONGWORTH said in reference to the Resolution submitted by his hon. and learned friend (Mr. Palmer), in the Session of 1849, in connexion with the Resolution to which it was submitted as an amendment, would show how unfairly the hon. member for Queen's County, who had just brought his ireful and frothy harangue to a close, had represented his (Mr. Palmer's) opinion, as therein expressed, with reference to the subject matter of the Report; and in justification of his hon. and learned friend, and of those who then voted with him, in support of his Resolution, and who, also, at present, coincided in opinion with him, touching the extremely arbitrary and unjust course which it was proposed to pursue with reference to the Report of the Committee of Enquiry, he would beg leave to read that Resolution, and the division thereon as entered in the Journal of the Session. The hon. member then read as follows:

"Mr. Montgomery reported, that the Committee had come to a Resolution; which Resolution was again read at the Clerk's Table, and is as follows:

Resolved, as the opinion of this Committee, That the overcharge of Five Shillings, Sterling, for Marriage Bonds, in the account of Fees submitted to this House by the Colonial Secretary, as 'Private Secretary's Fees,' is a charge not authorized by the Law of the Island; and that the charge of Five Shillings for Tavern, Pedlar, and Ferry Licences, and retained by him, ought to have been paid into the Treasury of this Island.

The Hon. Sol. General moved in amendment to the said Resolution, that all be left out, and the following be substituted:

Whereas by the Fee Act of this Island, under the head 'Private Secretary's Fees,' there is the following item, viz:

All Licences under the Private Seal, 5s. Stg.

And under the Head 'His Excellency the Lieut. Governor or Commander in Chief's Fees,' there is the following item viz:

For a Licence of Marriage and all other Licences, 5s. Stg.

And whereas the Marriage Act of this Island requires a Bond to be given to the Lieut. Governor before granting a Marriage Licence, for which Bond, the said Marriage Act prescribes and allows the Deputy Prothonotaries, in Prince and King's Counties, the Fee of Five Shillings and Sixpence; and, whereas, since the First of January, 1849, the Salary allowed by the Imperial Government, for a Private Secretary to the Lieut. Governor has been withdrawn, and since then the Office of Private Secretary has been filled by the Colonial Secretary of this Island; and the Fees, at present received by that Officer include the aforesaid sum of Five Shillings and Sixpence, as prescribed for the said Deputy Prothonotaries: Resolved, therefore, That the said Fee of Five Shillings and Sixpence for the said Bond, does not appear by the express words of the Act, to be payable to the said Colonial Secretary, for Marriage Licences, when issuing from his Office, and should not in future be charged.

The House divided on the Resolution: Yeas—Hon. Sol. General, Hon. Mr. Thornton; Messrs. D. McLean, Francis Longworth, H. McDonald, Haviland, A. McLean, Montgomery and J. H. Conroy—9.

Nays—Messrs. Coles, Douse, Whelan, D. McDonald, Le Lacheur, Mooney, Macintosh Fraser and Jardine—9.

And the numbers being equal, Mr. Speaker gave his casting vote in the negative.

So it passed in the negative."

Thus, resumed the hon. member, it appeared that his honorable and learned friend, so far from having proposed and supported a Resolution, the purport of which was in unison with that of the Report of the Committee of Enquiry, as the hon. member for Queen's County (Mr. Mooney), had said he had done, had by his Resolution, declared in effect, that he thought Mr. Haviland fairly and legally entitled to all the Fees which he had, up to the Resolution's being submitted, been in the receipt of, with the exception of the Fee of Five and Sixpence for the Marriage Bond, which he thought, it did not appear, by the express words of the Act, ought to be paid to the Colonial Secretary.

Mr. MOONEY. Well, that was all I said about it.

Mr. LONGWORTH. It was not all that the hon. member had said about it by any means. He had said, that his hon. and learned friend had, in 1849, agreed to, and voted for a Resolution, which bound him now, (if he did not repudiate his former judgment) to agree to the Report of the Committee of Enquiry; but his Resolution of 1849, when considered with reference to that, as an amendment to which it had been submitted, fell very far short of the comprehensive sweep of the Report; for whilst in the Resolution which it was intended to supersede, it was set forth, that other Fees, besides that in Marriage Bonds, had been taken by Mr. Haviland without the authority of Law, his amendment went no further than to say, that a Fee to the Col. Secretary, for the taking of a Marriage Bond, in his Office, did not appear to be expressly sanctioned by Law. The hon. member from Flinty Glen (Mr. Mooney) had also vainly laboured, by much circumlocution, to shew that the course, which the majority seemed determined to pursue with respect to the Report, was not at variance with the precepts of justice; for every man, capable of distinguishing between an arbitrary exercise of power, by a dominant faction, and the even and temperate course of impartial justice, either did or would perceive, that had the Committee by whom the Report had been prepared, and they who favoured it, any intention of dealing fairly by Mr. Haviland, the Report would have been brought under the notice of the House as soon as completed; and it would at once been moved and agreed to, that Mr. Haviland be furnished with a copy of it, and be notified

that the House would be prepared to give due consideration to any statement which he might think proper to send in, in answer to it. Every thing, indeed, connected with the manner in which the charges against the late Colonial Secretary had been got up and brought forward, from the assumption of facts, where they did not exist, down to the searching of, and the production of old Marriage Licences from the musty archives of Parsons, tended, very clearly to shew that the accusers of Mr. Haviland, having the power, by their possessing the command of the majority in the Assembly, were determined to procure from that body a verdict of guilty against him; and having obtained that verdict, if free course to prosecute their ulterior designs should afterwards be given to them, they would not relax their hostility, until it had been carried to the utmost extent possible against him. One of the documents produced, was a Marriage Licence, signed "George Thresher, Deputy Registrar," which the old gentleman had, no doubt, so signed in a hurry, from his having so often, in the daily discharge of his duty, to append his name as Deputy Registrar, to documents; and the object of its production was to shew that it was the duty of Mr. Haviland to grant such Licence in the capacity, for discharging the duties of which, he received a stated Salary, in lieu of Fees. That if neither did shew nor could, by any course of argumentative induction be made to shew any such thing, was a fact, which he thought required no urging upon the notice of impartial minds; but, with reference to that Licence, he would just take leave to say, one might have imagined, that Parsons, who had been found so willing to aid in establishing of the charges of official irregularities preferred against Mr. Haviland, would have been very careful in their examination of the Licences, produced by parties seeking to be united in the bonds of matrimony, lest owing to the impropriety of the signature attached to any one of them, the ceremony performed, by the virtue of its sanction, might afterwards be declared invalid.

Mr. HAVILAND said he did not rise with any intention of going into the particulars of the charges set forth in the Report; but merely to protest against the mode in which it appeared to be the intention of the majority in the house to dispose of those charges; which was, to adopt the Report, as if every part of it were fully sustained and proved by the most unquestionable and irrefragable evidence, without allowing the party implicated thereby, an opportunity to advance even one word in his own defence. Such a mode of proceeding would be most arbitrary and unjust; and would amount to nothing less than a glaring outrage upon the liberty of a British Subject; an outrage (all the circumstances of the case considered), of a nature so gross and uncalled for, as, he believed, would not be attempted, much less tolerated, in any other portion of the British dominions, in which the British Constitution and British Laws were duly established. To so great an extent, indeed, in the British practice of criminal jurisprudence, was veneration carried for the legal precept, "that every man was to be accounted innocent until he should be proved guilty" that if during the sitting of a British Court of law, a murderer, taken in the fact, should be hurried to the bar, even whilst still covered and reeking with the blood of his victim, however great might be the abhorrence of the Court for the crime with which he stood charged, he would, although with all the appalling evidence of his guilt upon him, receive as fair and impartial a trial, as would be awarded to a man, respecting whom the general presumption of the Court might be, that he was as innocent as the child unborn. And, in case of impeachments in the British Parliament, the mode of proceeding was also strictly governed by the principles of fair and impartial justice; and no man was pronounced guilty, until after he had been furnished with a copy of the impeachment, and been allowed time to reply to the accusation preferred against him. Even in the case of Warren Hastings, great as were the rancour and hostility displayed towards him, by the great and leading