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"THIS IS TRUE LIBERTY WHEN FREE-BORN MEN—HAVING TO ADVISE THE PUBLIC—MAY SPEAK FREE."—MILTON'S EURIPIDES.

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HOUSE OF ASSEMBLY.

TUESDAY, 30th April.

COLONIAL SECRETARY'S FEES.

Mr. COLES said, he rose to call the attention of the House to an enquiry, which they had proposed to prosecute in the last Session, touching the Fees of the Colonial Secretary, but from which they had been turned aside, by the refusal of His Excellency to comply with the respectful request of the House relative to those Fees. In the last Session when the subject was introduced to the notice of the House, they agreed to an Address to His Excellency, in which they requested him to cause Copies of the Blue Books for some years past, and also a Return of all Fees retained by the Colonial Secretary, as Private Secretary's Fees, as well as Copies of the said Private Secretary's Commissions from the different Governors, to be laid before the House. With the latter part of the request, His Excellency, at the time, declined to comply; and, in consequence, the House addressed the Queen, praying that Her Majesty would be pleased to cause the return for which they had respectfully, but in vain, applied to His Excellency, to be laid before them. With that request His Excellency had, however, now found it convenient to comply in part; and he (Mr. Coles) had, therefore, risen to submit a motion, which, he thought, would be found to be in accordance with the views of the House, relative to the subject, in their last Session. The Blue Books and Return of Fees, which His Excellency had now caused to be laid before the House, would enable them to ascertain the amount of Fees retained by the Colonial Secretary. The Blue Books since 1838 show that there is no such Officer as a Private Secretary in the Colony; for, were the fact otherwise, his name, like that of any other Officer, would have been entered therein. By the printed instructions in the Blue Books, it is directed, that a Copy of the Blue Book shall be annually laid before the House; and it is also further directed therein, that, in the annual Blue Book, shall be entered the name of every individual holding an Office in the Colony, together with every allowance and emolument he receives. Now, if there had been any Commission given to the Colonial Secretary to act as Private Secretary, why was there no Return made of such Office, and of the fees and emoluments derived from it? If there had been any such Officer as Private Secretary, and he had been entitled to any Fees of Office, would there not have been entries thereof in the Blue Books, according to the printed instructions contained in those Books? And yet, in the absence of all such entries, what was the fact? It was, that the Colonial Secretary had been receiving Fees, as Private Secretary, to the amount of from £70 to £90 annually. Since the time when the Salary for a Private Secretary was disallowed by the Home Government, which was when Mr. Hurdis acted in that capacity, the Office had been virtually abolished; for the late Mr. Collins, who was the Colonial Secretary, and who filled that office up to the time of his death and Mr. Haviland's appointment to it, made no Return in the Blue Books of the Office of Private Secretary; but the return of Fees received by him as Colonial Secretary and Registrar, for the year 1838, in the Blue Book, is over £680. About the time when the present Colonial Secretary was appointed to the Office, a fixed Salary was given to him, in lieu of all Fees, which were to be paid into the Colonial Treasury; it being thought, by the Legislature devising the arrangement, that the result would be favourable to the public pecuniary interests of the Colony. However, were the Colonial Secretary to be allowed to assume to himself the Office of Private Secretary—for he (Mr. Coles) believed no such appointment had ever been conferred upon him—and to be permitted, on that account, to pocket about £90 a year, in the shape of Fees, for services which he ought to perform as Colonial Secretary, and for the fixed Salary attached to that Office, the result of the arrangement with regard to the Salary, which was to be in lieu of all Fees, would be a considerable loss instead of a gain to the country; for the annual amount of Fees paid into the Treasury by the Colonial Secretary did not exceed £180. To show that Sir Donald Campbell, eighteen months after his assumption of the Government, had made no appointment to the office of Private Secretary, and that he knew nothing of his having any such Officer about him, it was only necessary to state what he said to a Committee of the last House, who presented an Address to him, asking for a return of Fees retained by the Colonial Secretary as Private Secretary's Fees. Sir Donald

told that Committee that he had no Private Secretary, but performed the duties of one himself, so far as writing was in question. He (Sir Donald), at that time, also observed, that he believed his predecessor, Sir Henry Huntley, had had none either; adding that, even if Sir Henry had had a Private Secretary, it was not likely, from the feelings entertained by himself and the Colonial Secretary towards one another, that the Colonial Secretary would have been retained by him as his Private Secretary. Further, the only plea which the Colonial Secretary could advance—even supposing that he held a Commission as Private Secretary—for the retaining of those Fees which he had appropriated to himself as such, is that, under the Fee Act, there is an allowance to the Private Secretary of 5s. for the Private Seal. Now he (Mr. Coles) thought that the Seal which, by the Law of the Island, it was necessary to affix to any document, was a Public Seal; and that, particularly in every case in which, before such a document could be obtained, as in that of a licence for the retail of Spirituous Liquors, it was necessary to pay a certain amount into the Public Treasury, such Seal ought to be affixed as a Public Seal. Again, according to the words of the Act, under which such Licences are granted, "a Bond shall be left with the Colonial Secretary, at the time of obtaining the Licence;" and further, the Seal affixed to such Licences bears Her Majesty's Coat of Arms, with the words "Secretary's Office." These facts, and the additional one, that the Commission given to the Governor, in his capacity of Administrator of the Government, authorizes the placing of the Public Seal to all documents issued under his Government, clearly show, that the Seal is a Public, and not a Private Seal; and, therefore, also that all legal Fees received for affixing it in the Colonial Secretary's Office, ought justly, in observance of the arrangement made by the Legislature, at the time of fixing the Colonial Secretary's Salary, to be paid into the Public Treasury. As respected the filling up of the Blue Books—according to the Royal Instructions—no Officer is to be granted a Warrant for his Pay until after he shall have furnished the Officer, whose duty it is to fill up the Blue Books, with full Returns of the different Offices which he holds, and of the emoluments attached to them and received by him; but, in consequence of the determination shown by the Government to withhold every necessary information, it was impossible for the Legislature to keep such a check upon the Public Officers and the transaction of Public Business generally, as a due regard to the general interests of the Colony would require to be observed. He (Mr. Coles) would therefore, in pursuance of the Resolution submitted in the last House, that the Colonial Secretary had retained certain Fees contrary to Law, and which Resolution was lost, by the Speaker's giving his casting vote against it,—now move that the amount of Fees so retained by the Colonial Secretary, (which by the Returns before the House, appeared to be upwards of £700,) be paid by him into the Public Treasury. The hon. member then read the following, as the Resolution which he meant to propose:—

"Resolved, That an Address be presented to His Excellency the Lieutenant Governor, requesting that he will be pleased to procure the return of Seven hundred and Thirty-one Pounds, Nine Shillings and Nine-pence into the Public Treasury, being Fees collected by the Colonial Secretary, and retained by him as Private Secretary's Fees since the time the Colonial Secretary's Salary was established by Law; and that the sum of Five Shillings, Sterling, exacted by the said Officer for Marriage Bonds, be refunded to the parties who have paid the same, there being no law authorizing the said charge."

The honorable member then proceeded as follows: As the sum of five shillings for Marriage Bonds had been exacted by the Colonial Secretary contrary to Law, he (Mr. Coles) was of opinion, that if the Government had been honestly disposed, after what had been asserted in the Resolution of the last House concerning that fee, and which had been acknowledged to be true, by the Secretary's ceasing to exact it, they would have caused the Secretary to advertise for all parties who had paid that unauthorized charge, to call at his office to have that money returned. But as it was with one, so it was with all; and he believed, the motto of the party at present in power had all along been, "Let us get all we can;" and that, therefore, the only remedy to which the country could have recourse, with any expectation of relief, was to root out the whole batch. But, until that could be accomplished, it was the duty of the House to insist that they should be made to act honestly: and with that view, he had, in the resolution which he had just read, pointed out the course which he

thought an honest Government ought to pursue with reference to the subject of it: and should the House be of the same opinion, and agree to address His Excellency to that effect, he thought the result would prove satisfactory. He would have moved for a Committee to report upon the return made, but as it was upon the table, and the amounts might be added up in a couple of minutes, and as the whole matter had been so fully sifted and discussed, both in the last House and in the last Session, and as the House were desirous to close the present Session as soon as possible, he thought it would be best to adopt the course intimated by the resolution. The honorable member concluded by saying, that if any of the liberal party had acted in the manner complained of, even to the five hundredth part only, the most zealous attempts would have been made to inflame the whole country against them, and all the friends of Responsible Government would have been condemned with them as a set of public robbers.

Mr. YEO said he believed the fees which had been received and retained by the Colonial Secretary, had always been perquisites of the Private Secretary; and as the Colonial Secretary had performed the duties of a Private Secretary, with respect to the Licences and Bonds for which those fees were exacted, he (Mr. Yeo) thought he was justly entitled to them. In the country those fees were paid to the Prothonotaries, Magistrates, and Ministers; why then should they not be paid to the Colonial Secretary as well.

Mr. COLES explained that a fee of five shillings was allowed to Prothonotaries and others in the country, upon every marriage Bond taken by them, in order to save parties in the country, having to enter into such Bond, from the trouble and expense which would be consequent upon their being obliged to travel to Charlottetown to procure a Licence, and give the necessary Bond; and because no other mode of compensation for their trouble to the parties taking the one and granting the other, was provided. It was otherwise, however, with the Colonial Secretary, who had a fixed salary in lieu of all fees, for the discharge of all duties legally devolving upon him in his office; and he, therefore, had no right whatever to demand or receive that fee. And as this view of the case was the only correct one, was clearly admitted by the present practice of the Colonial Secretary, who now dispensed with the exaction of the fee. If he had been satisfied that the former practice, in exacting it, had been in accordance with Law, it was by no means probable that he would have discontinued it.

Mr. YEO maintained that if the private Secretary, as was the fact, had always done the business and received the fee, it could not, he (Mr. Yeo) thought, justly be denied that the Colonial Secretary—if he did the business, for the doing of which a certain fee was by the Fee Act, payable to the Private Secretary—was legally and justly entitled to that fee, whether he had or had not a commission to act as Private Secretary.

Mr. FRASER said that, although the matter had been pretty fully investigated by the generality of the members, and although there could scarcely be any doubt entertained by any member of the House, that a large amount was due by the Colonial Secretary to the public Treasury on account of fees retained by him contrary to law; yet he would much prefer the appointing of a Committee to investigate the business, and to report thereon to the House, to the hasty and summary proceeding which would follow the adoption of the resolution which had just been submitted by the honorable member for Queen's County, (Mr. Coles.)

Mr. LORD said he had no desire that any improper practice on the part of any of the public servants should be cloaked and protected from enquiry and correction; but, in the prosecution of any such enquiry, the House ought to be especially careful to proceed with due care and deliberation; and they should, in all such cases, especially guard against being betrayed into any rash or hasty determination, so as to maintain a character for strict impartiality. If after due investigation, it should appear that the Colonial Secretary had taken and retained fees to which he was not by Law entitled, he (Mr. Lord) would insist that he should be compelled to refund every farthing of any amount so illegally exacted by him; but a full and deliberate enquiry ought to precede and justify any such proceeding as that recommended by his honorable friend, (Mr. Coles.)

Mr. COLES replied that he would lay his resolution upon the table, with the return of fees, and allow it to remain there until the afternoon sitting; that every member who thought proper to examine the return, and consider the resolution, might have sufficient time and opportunity to do so, before the question should be again taken up.