

HOUSE OF ASSEMBLY.

Private Secretary's Fees.

(Debate continued.)

WEDNESDAY, MAY 14.

MORNING SITTING.

Mr. WIGHTMAN then rose and said, if the charges set forth in the Report against Mr. Haviland, or even only a part of them could be substantiated, they would establish a most serious dereliction of official duty against that gentleman. The charges, it was said, were sustained by the evidence of facts; but that they should be so, and that the Government should either have been ignorant of the official malversations which, it was stated had on the part of the late Colonial Secretary, been systematically practised for ten or fifteen years; or that, being cognizant of them, they should have winked or connived at them for so long a time, was what he really could not easily persuade himself to believe. Of one thing, however, he was fully convinced, and that was, that it would be altogether irreconcilable to the prevailing practice of judicial enquiry, and wholly subversive of the fundamental principles of justice, for the House to adopt the Report of the Committee of Enquiry, until the accused had been supplied with a copy of it, and been allowed a full and fair opportunity to reply to the criminatory charges which it contained. He had often heard of what was, in Scotland, called "Jedburgh law;" the meaning of which was, hanging a man first, and trying him afterwards; but he had never, until the present occasion, heard it seriously proposed to carry that law into effect. He, for one, was desirous that the whole matter should be thoroughly investigated; for, after so much had been said upon the subject, both in and out of the House of Assembly, and public attention had been so immediately fixed upon the enquiry, it was certainly due, not only to the gentleman whose official character was so seriously involved in the question, but also both to the country and to the House, that it should undergo a most thorough and searching investigation, and that the official malversation with which Mr. H. was charged in the Report, should as speedily as possible, be either fully established or for ever abandoned. But, to that end, it was certainly necessary, in the first place, to give Mr. Haviland a fair opportunity to reply to the charges which were set forth against him in the Report; and he (Mr. W.) thought with the hon. and learned member for Charlottetown, that he (Mr. Haviland) should forthwith be furnished with a copy of the Report, and, in the event of the Legislature's being prorogued as soon as was expected, that he should be allowed until the next Session of the Legislature to prepare his answer. To an individual who had so long, so ably, so faithfully, and so much to the public satisfaction, discharged the various important public duties which had devolved upon him, in the course of his official career, such a postponement of judgment as that proposed by the hon. and learned member for Charlottetown, was not only imperatively due, in accordance with the most obvious principles of common justice; but it was also due, on account of the personal consideration to which that gentleman was entitled, and ought to be conceded to him on that score alone, even although no higher obligations of public duty required the House to pursue such a course as that indicated in the Resolution before the Committee.

Mr. PALMER, in reply to the hon. Mr. Coles, said that that hon. member had very erroneously represented the charges set forth in the Report, as being wholly sustained by the evidence of facts. So far, however, was his assertion from being true, that, taking all and every particular to which the hon. member had alluded as facts, to be really and truly so, they were altogether insufficient to afford any ground for the serious accusations preferred by the Report against the late Colonial Secretary; for the establishment of those accusations against that gentleman, or his exoneration from them, altogether depended upon the construction which might be put upon an Act of Parliament, which was differently interpreted by different individuals. With re-

spect, however, to some of the facts, by which the majority sought to criminate Mr. Haviland, it could easily be shown how very worthless and inconclusive they were as evidence. One of the proofs adduced by the hon. member for Queen's County, was, that some of the Marriage Licences bore the impression of a Seal, and others did not. He (Mr. Palmer) had had the curiosity to examine such Licences, and he had found that, whilst some bore the impression of the Colonial Secretary's own private Seal, others bore that of the Lieutenant Governor's coat of arms, and some were impressed with no seal at all, the impress having been made by nothing but the end of a ruler, or what ever else had happened to be nearest at hand to answer the purpose; so little importance had there evidently been attached to the character of the Seal, and so little could be established by proving that the impression on the Licences was either one thing or another; and so far were such facts from shewing, as the framers of the Report, and its supporters wish to make it appear, that it was one of the special duties of the Colonial Secretary to issue all Marriage Licences. The Committee had, indeed, it seemed, succeeded in persuading themselves, that they would be able to establish their assertion that it was a positive and recognized duty of the Colonial Secretary to issue such Licences, by referring to or producing a Licence, signed George Thresher, Deputy Registrar. That poor old Mr. Thresher had, in the hurry of business, inadvertently, and, most likely, from the force of habit, appended such a signature, as the deputy of Mr. Haviland in the Office of Registrar, was very far from being an evidence of the assertion that such Licences were to be issued by Mr. Haviland, not in his capacity of Private Secretary, but in the discharge of his duties as Col. Secretary; and such a fact could not, either honestly or reasonably, be brought forward in support of such a view of the case. The adducing of such a fact and the prominence which had been given to it, were evidence against the parties who had framed the Report, shewing how extremely anxious they were to sustain the charges against Mr. Haviland, and how very little they were influenced by the spirit of moderation or impartiality. In opposing the Resolution, which he (Mr. Palmer) had submitted, the hon. member for Queen's County had said, that Mr. Haviland had had time sufficient to reply to the charges preferred against him in the House, because it was two years since they were first brought forward. Such an argument, against the course proposed by the Resolution, was however, destitute of every value which either right reason or justice could confer. The hon. member had said that, since Mr. Haviland had not petitioned the House to be heard in his own defence, the House were not bound, by any considerations of justice to that gentleman, or regard to their own character, to supply him with a copy of the Report, and allow him time for explanation or reply. Than such an argument, nothing could be more fallacious and deceitful. The subject of the enquiry had, it was true, been before the House for that period, but would any just or reasonable person either suppose, or presume to argue, that Mr. Haviland ought to have stepped forward, and demanded to be heard in his own defence, before his accusers had been able to agree on what basis, in what form, or to what extent, the contemplated charges could be preferred against him? Surely not. It was true enough, but only time, for him to answer, when the charges against him, (having been reduced to a tangible and settled form, and in that form exhibited to the House,) could fairly be met and withstood. Although, there, indeed, seemed never to have been any intention, on the part of Mr. Haviland's accusers, to admit him to an exercise of the privileges accorded to the accused, both in Courts of Law and in the High Court of Parliament, still, they felt it necessary to offer some sort of apology for their arbitrary denial of them; and the hon. member for Queen's County had, therefore, alleged, that the pressure of business having prevented the Report's being brought before the House for discussion at an earlier period, it was be-

come necessary finally to dispose of the question without further delay.

This apology, however, would not bear examination; for, even admitting it to be true, that the needful prosecution of public questions of general moment had made it impossible to enter upon the discussion of the Report on an earlier day, it would, at any time, after its completion, have been easy for a member of the committee to present it, and to move that it should be received and read; and then to have followed up the action upon that motion, by further moving, that the Clerk should be directed to furnish Mr. Haviland, forthwith with a copy of the Report, that he might have an opportunity to send in an Answer thereto, before it should be again recurred to for discussion and determination by the House: and had the accusers of Mr. Haviland had any intention to afford him fair play, such would have been the course which, under all the circumstances of the case, and even without any relaxation of their anxious desire to terminate the enquiry—they would have determined to pursue. But, further, supposing that circumstances had actually prevented their pursuing that course, and that it was really true that the Report could not, by any means, have been brought under even the cursory notice of the House till then, was it right or fair, that all honourable considerations of justice should be annulled by that necessity, and that therefore Mr. Haviland should be condemned unheard? Certainly it was not. But, said the honorable member for Queen's County, Mr. Haviland had been wanting in proper respect for the Committee of Enquiry of which he was a member, and, as he had not been called to the Bar of the House, to beg pardon for so culpable a want of courtesy, it would be extending to him the most unmerited indulgence to furnish him with a copy of the Report, and to allow him time to send in an answer to it: he had failed to show due respect to his prosecutors, and therefore the due observance of the rules of common justice should be dispensed with in the course of the proceedings instituted against him. Such an argument was, indeed, nothing less than an open avowal of the implacable spirit in which the inquiry had hitherto been prosecuted, and of the determination of the parties who carried it on, to allow no consideration of honor or justice to prevent the accomplishment of their design—the condemnation of Mr. Haviland, unheard. By what breach of courtesy or want of respect, however, that gentleman had so grievously offended the members who composed the Committee of Enquiry, he (Mr. Palmer) could not easily imagine; knowing, as he and every one else did, who had had any intercourse with him (Mr. Haviland), that he could not easily be surpassed in urbanity of deportment; for he was invariably gentle, mild, and courteous to all; and no one in the community was held in higher respect. [Hon. Mr. Coles. That was very doubtful.] The hon. member for Queen's County had also said, that the House of Assembly were the only competent and proper tribunal to decide the question involved in the Report. He (Mr. Palmer), on the other hand, was prepared to shew, that the House were by no means competent to decide the matter; for the question, when fairly stated, was a purely legal one; and the establishment of a charge contained in the Report, or the failure, depended altogether upon the legal construction of an Act of Parliament; and even should the Report be adopted by the House, and further action upon it be referred to the Governor, it would, he (Mr. Palmer) had little doubt, appear to His Excellency, that his first duty, with respect to it, was to submit it, in connection with the Statutes to which it had reference, to his immediate legal adviser, or to the legal authorities at Home, for their opinion. The Committee of Enquiry alleged that Mr. Haviland concealed the fact of his being in the receipt of any Fees as Private Secretary; and relying upon their own allegation as an established fact, had thereon pronounced judgment against him. Should Mr. Haviland, however, be allowed to be heard he would easily be able to shew that there had been neither mystery nor concealment in any of his official proceedings. And, as to the old and often

repeated story that there had been no Private Secretary since Mr. Haviland's appointment to the Office of Colonial Secretary, had been answered and refuted again and again. It was, indeed, quite true, that, in the year 1829, when the late Mr. Huskisson was Secretary of State for the Colonies, the Salary, allowed by the Imperial Government, to the Governor's Private Secretary in the Colony, was withdrawn; but it was to be remembered, at the same time, that the withdrawal of the salary was not an abolition of the office; and so long as the services continued to be performed whether the individual performing them was appointed to the discharge of them by a parchment Commission or otherwise, he was equally as before, entitled to the Fees: for the duties remained to be performed, precisely as before; and Fees for their performance were also left upon the Statute Book. [No! from Mr. Coles.] And, whether it was a fact known to the Governors who have succeeded one another, under such a state of things, or not, that the Colonial Secretary, in discharging the duties of Private Secretary, exacted the Fees allowed by Statute for their performance, they all knew very well that he was always at their beck and call—whether for the purpose of writing a Despatch or a Circular, or for the transaction of business of even the most trivial moment,—and they could not reasonably suppose that he could be required to perform a variety of services, over and above those for which he received a Salary by Statute, without being allowed some remuneration for such services. The honorable member for Queen's County, had, indeed, told them, that the gentleman who had chiefly been concerned in preparing the Bill for the commutation of the Fees of Office of the Colonial Secretary for a certain Salary, had said, that at the time of the passing of the Bill, it was generally understood, in the House, that the Salary was to be in lieu of all Fees whatsoever. In answer to that, he (Mr. Palmer) had only to say, that that gentleman, (Mr. Thompson of Georgetown), had, voluntarily told Mr. Haviland, in his own office, that there had never been the most remote intention or idea of interfering with his Private Fees; but only with these which he received in his public capacities of Colonial Secretary and Registrar. He (Mr. T.) had stated precisely the same thing to him (Mr. P.) and as he believed him to be a gentleman who scorned a lie, he would take leave to consider as unworthy of credit, what had been advanced to the contrary by the hon. member for Queen's County. By means of the malignant and slanderous imputations which the parties who had framed and supported the Report, had cast upon the character of Mr. Haviland, in their political progresses throughout the country, and by other representations, equally false and malevolent, they had, partially succeeded in deceiving the people, in different sections of the Island, and in gaining their confidence and support; and now, conscious how very far they were from having it in their power to fulfil the promises which they made at their public meetings and on other occasions, they were determined by adopting the Report, to keep up the delusion as long as possible; and, out of doors to make triumphant references to it and to say to the people, "Look at the Report which has been found correct, and adopted by the Assembly, and you will see that we told you nothing but the truth concerning the corruption of the Government, which we have overthrown." That was the use which the majority intended to make of it, and to some extent, and for a little time, it might serve them; but neither that nor any other of their fallacious schemes and devices, would long save them from detection and contempt. They were aware that it behoved them to make good a semblance of truth in support of the malignant slanders which they had, with much industry, spread abroad, and on the maintenance of which their own popularity, in a great degree, depended. It would, indeed, be a breaking down of the credit, which some of the individuals of that party had obtained amongst the constituencies of the Colony, should not the majority of the House rally round them to sustain and give effect to the Report, by refusing to Mr. Haviland a fair opportunity to disprove the charges against