

Supplement to the Kingston Herald.

KINGSTON, JULY 13, 1841.

HOUSE OF ASSEMBLY.

Tuesday, July 6.

Mr. Christie's motion that a committee be appointed to inquire into the abuses in the administration of justice in the district of Gaspe.

Mr. Draper rose and said that he believed the hon. gentleman who made this motion had not duly considered its effect. He believed the hon. gentleman would find no precedent which would justify him in proposing that the house should take on itself an inquiry of this nature. At all events he would find that in cases where a special committee was moved for to investigate a subject of this important nature, the hon. member moving for such a committee was at least bound to state to a certain extent an acknowledgment that abuses do exist; it would be a matter prejudging the case. Although the appointment of a committee pledges the house to no particular course, yet it certainly implies for going into an inquiry; and although the more regular course for the house would be now to state to the hon. member the grounds upon which he conceives an inquiry necessary, and why it is that he is the only source of redress for any complaints which may exist, is from a committee of this house. But to ask for a committee without giving the house any information as to whether the law was in itself defective, whether individuals were guilty of maladministration in office, was, in his opinion, what was altogether unreasonable. A committee is granted the hon. gentleman should put the house in possession of the facts.

Mr. Christie would ask the hon. gentleman whether there had been any petitions presented to the house complaining of maladministration of justice in that district. If there were not, he doubted whether a committee would be justified in adopting any such proceeding.

Mr. Christie said he was anxious to avoid going into the subject at this moment, as he did not wish to state the reasons for the individual who presides over the District Court in the district of Gaspe. He had no objection to the case should not be prejudged by reason of anything which he might say previous to the production of those proofs which he was preparing to bring before the committee. But as he had been called upon to state the reasons for his belief that a committee should be appointed, he would do so. From one end of the district to the other there is one shout of approbation of the conduct of that individual who presides over the administration of justice in that district. He is pronounced to be a man who is totally unfit and incapable of filling that important station; he is one who is called the family consoiler of Upper Canada. (Hear, hear.) If the committee were appointed he would be prepared to bring before them proofs of the most flagrant nature in the execution of the important duties which devolve upon him as judge in that district. The hon. gentleman who has so far exceeded—cases of maladministration and drunkenness. By searching the journals of the House of Assembly in Lower Canada it would be found that articles of impeachment had been entered against him; how he had been absolved God knows; he came back, however, and resumed the administration, not of justice, but of injustice. Depositions in his favor were gathered with the utmost assiduity at the door, and he had understood that one gentleman had asserted that he had seen the judge drunk; however, when particulars came out, it appeared that he had been only three times in ten years!

Mr. Christie here called the hon. member's attention to the fact that he could not consent that a committee should be appointed to inquire into the facts which could take place. The character of a high public functionary at stake; he was a gentleman with honor (Mr. Aylwin) had had the honor of his profession (hear, hear); and though he (Mr. Aylwin) would not presume to say that the hon. member from Gaspe would be wrong in that house which he was presiding over, yet he did hope that at least some investigation had taken place.

Mr. Christie replied that the house would find that he had avoided alluding to the character of that individual until forced to do so. He (Mr. Christie) entertained great animosity against him, and it was with great reluctance that he felt himself compelled to take this course, that the individual which exist within that district should be redressed. He (Mr. Christie) resided at a distance of seventy-five miles from the house of the individual referred to, and had no communication or connection with the court over which he presides, and was in compliance with the positive injunctions of his constituents that he now presided over the subject under the notice of the house in order to give that house a special committee to inquire into the character of that individual, and to mention a circumstance which occurred in that district. A packed jury, the establishment of which was a clerical in a mercantile establishment, drew up a statement expressing their satisfaction with the manner in which the business of the court was conducted.

Mr. Hamilton.—It is not true. (Order.)

Mr. Rowell said he hoped that an end would be put to observations of this nature. He did not know how far the hon. member's observations could be considered in order to give the observations he had made, but he would receive the hon. member for a better notice in order. Such language had been used was disgraceful to the house.

Mr. Hamilton said he could not refrain from making one observation. It is well known that the individual alluded to is a

public functionary, acting under the appointment of the Executive; the Executive is therefore, bound to take cognizance of all complaints which may be made against him. He (Mr. Harrison) did not consider that it was a case which formed a proper subject for the investigation of a select committee of that house; it should first be shown that there were no other means of redress. He maintained that there were ample means, without bringing the matter before that house at all; he thought it quite unnecessary to appoint a committee, the effect of which would be to cast an imputation upon the character of that gentleman.

Mr. Thompson said he believed the hon. gentleman had taken an improper course in bringing the matter before the House of Assembly. If the individual alluded to behaves in an improper manner, it is the business of the grand jury for the district to make a representation of his conduct. The hon. gentleman had spoken of a grand jury the foreman of which was a person in humble station; the reason of that was notorious; he believed it was a matter of notoriety that in that part of the province the population consists of a few merchants and fishermen; as a matter of necessity, therefore, the grand jury must be composed of that class of persons who are most intelligent, and he believed that if the grand jury such as they were had acquitted the judge of all blame, he must stand exonerated until proved guilty by some higher authority. He did not think that house ought to entertain the motion; it was contrary to all precedent.

Mr. Atty. Gen. Ogden wished to be informed whether the hon. gentleman, in the application which he had made to that house, was fortified with any petitions from the inhabitants of that district.

Mr. Christie said he was of opinion that it was competent for any member to ask that house to enter into an inquiry respecting any grievance which he might allege to exist.

Mr. Atty. Gen. Ogden.—Then I am to understand there are no petitions.

Mr. Christie.—It was not until redress had been refused by the Executive government that he had determined to make application to that house.

Mr. Black.—The question now submitted to this house is one of more importance than at first may be conceived. An inquiry into the official conduct of a public functionary is by no means a matter of course, and on no occasion to be considered a trifling subject. The hon. gentleman from Gaspe has stated that he was not actuated by any vindictive motive; he has asserted that he has requested the question forward at the urgent request of the body of his constituents; the hon. gentleman has declared that no redress could be obtained from the executive government; but he has not condescended to inform the house whether there were any petitions proceeding from the great body of the people of that district, or whether the complaint proceeded from an individual. I think, from the facts within my own knowledge, I could point out the individual from whom the complaint proceeded.

Mr. Christie.—I am that individual.

Mr. Black.—I am glad that the few observations which I have made have drawn forth this confession. The house may now be able to decide how far that hon. member has proceeded in the disinterested manner which he professes. In point of fact, a complaint proceeding from him was submitted to the executive, and the answer was not so satisfactory as the hon. gentleman desired. It seemed certainly like a want of candor (to use the mildest term) on the part of that hon. gentleman not to state that the complaint had proceeded from himself, that he had not obtained the redress which he considered he was entitled to, and that therefore he now brought his complaint to that house. It would have been more manly if he had done so. But I think enough has fallen from the hon. gentleman to satisfy every person in this house that the application which he has now made ought not to be entertained. I am one of those who think that when the character not only of a public officer, but of an individual is impeached, some means should be afforded to the individual accused of answering the charges which are brought against him, and of establishing his innocence. But it will be borne in mind that the hon. gentleman has stated to us that the subject has already been investigated by a former House of Assembly. He has brought forward no new charges. If hon. members will refer to the Journals of the House of Assembly of Lower Canada, they will find that the charges referred to were then investigated. If this gentleman has been once tried, the public should not be put to the expense and inconvenience of a second trial, nor should the individual himself be subjected to the necessity of being tried a second time for the same offence. It will be competent for the hon. gentleman to move an address to the Governor praying that the proceedings which took place upon the complaint which was made by the hon. gentleman to the Executive should be laid before the House, and they would then be enabled to determine whether it was a case which required their interference.

Mr. Hamilton.—If on the present occasion I rise it is as representing the larger portion of the district of Gaspe, and I think it my duty on the present occasion to deny the statements which have been made by the hon. gentleman opposite. The hon. gentleman states that shouts of dissatisfaction have arisen from one end of the district to the other, and that the conduct of the judge of that district had been characterized as an administration, not of justice, but of injustice. I am sorry, Mr. Speaker, to be under the necessity of contradicting the statement altogether. Such is not the case. I am sorry on this occasion to be under the necessity of rising, as I stated before, as the representative of the larger portion of the district, to deny the fact. The hon. gentleman seems to forget what occurred only yesterday, that he himself when a candidate for the representation of Gaspe, in his address to the electors, dared to touch upon the subject of the administration of justice. [Cries of order, order.] I wish to shew to this House that he does not come forward as a disinterested friend of justice, but in order to gratify his own vindictive feelings. [Order, order, order.] We were told that the foreman of a grand jury had drawn up an address in favor of the judge of that district. Now I am compelled to state that that address was. A certain petition in the handwriting of the hon. member (Mr. C.) was circulated in the district of Gaspe to obtain signatures; when he found he could obtain none, he signed it himself and sent it to the head of the government. (Hear, hear, hear.) That petition, Mr. Speaker, was presented to the grand jury; what was the consequence? The foreman of the jury returned

that the individual who had drawn up the petition was guilty of a gross libel upon the character of the judge. Was this a burst of indignation from one end of the district to the other? It was a burst of indignation against that hon. gentleman himself. (Order, order.) We have been told to refer to the journals of the House of Assembly, and what do we find? Petitions for the redress of grievances in the district of Gaspe, but no complaints against the judge of that district. What further do we find? That the court over which that hon. member presided, the Quarter Sessions, was complained of; and yet we are told by that hon. gentleman that his court alone was pure—that there only could people obtain justice. The hon. member has, moreover, thought proper to state, that the judge of that district is a notorious drunkard. I have known that gentleman never once seen him intoxicated. Affidavits innumerable have been sent up to meet the ex parte statements of the disappointed individual, the unfortunate barrister who took so much pains to prefer his complaint. The hon. gentleman tells us he himself was the individual who complained. What was the result of that complaint? Immediately upon its being made, his Excellency considered he was bound to call upon the Judge for his defence. The Judge might well have said, already has my answer been submitted, already have I been exonerated; but that was not the course he followed—I am accused of certain crimes and misdemeanors; I will again prepare my answer; I will again justify my conduct, and I will show the individual who brings this accusation against me in his true colors, (hear, hear.) I do not wish to enter at large into this subject—it is not necessary; but the fact that the very individual of whom the hon. gentleman has complained from day to day, and from year to year, the very individual whom that hon. gentleman would desire to see at the bottom of the sea, that very individual has been returned as a member of this House by the largest portion of the District, (order, order, order.) It is perfectly immaterial what the result may be, whether the motion is adopted or not, but I shall say this, it seems to me that by consenting to this motion the House admits that there are grounds for entering into the investigation of the charges preferred by the hon. member. He would refrain from entering more at large into this subject at the present moment.

Mr. Small said he thought it was very much to be regretted that this debate had occurred; it would not appear very creditable to that house, which was the highest tribunal in the land. Such grave charges as the hon. member for Gaspe had made against a high functionary, were worthy of investigation certainly, but he believed the better course would be to move for an address to the Executive praying for the production of all papers relating to the matter, and the case would then come more clearly and properly before them.

Mr. Viger.—The hon. gentleman I conceive, has acted with the greatest delicacy in this matter; he says I am ready to make out a case whenever it will please the house to afford me an opportunity. We cannot at present say that the charges are untrue.—We are not to presume that a hon. member would rise in his place and be guilty of uttering a calumny upon any individual.—There is no man in the house who ought to say so. The responsibility of sustaining those charges—and they are enormous I admit—must rest with the hon. gentleman who makes them. Was it not possible that the Executive had been led into error in refusing the address which the hon. gentleman sought? If so, he deserved to be applauded rather than censured for persevering in bringing the matter under the notice of that house. He (Mr. Viger) could mention many instances where people were deterred from bringing forward their complaints—where they were afraid of coming to her Majesty's government for justice. Instead of blaming the hon. gentleman, therefore, he should be applauded for his courage; every hon. member sitting in that house knew full well that it was to men of courage and determination that they owed the liberties & the privileges which they enjoyed, of sitting and legislating in parliament.

Atty. Gen. Ogden said that with respect to what had fallen from the hon. gentleman (Mr. Viger) in asserting that it was the privilege of any member rising in his place to ruin the character of a public functionary—

Mr. Christie deprecated the expatiating upon matters which were not properly before them for discussion. The question was would there be an inquiry granted or not.

Atty. Gen. Ogden.—The question is rather, whether the hon. gentleman is fortified with any petitions to support his application. The hon. gentleman states that the responsibility of taking the step he proposes will rest with all of us. Sir, I will not take the word of any hon. member, however responsible he may be, as authority for granting an application of this kind; I require more than the mere ipse dixit of any hon. gentleman in such a case as the present, when an individual standing in the high character of a Judge is accused. The hon. gentleman from Richelieu may laugh, and no doubt he is sincere when he states that it is the right of any hon. member to move for the appointment of a committee to investigate the conduct of any individual. There is no doubt the power exists, but it is dangerous to exercise that power on all occasions. What will be the consequence of such a proceeding, the committee will be a appointed—witnesses will be examined—a report will be made—the house as a matter of course will concur in it, and resolutions will follow for an address to the crown for his removal; and all this without affording the individual accused the opportunity of exculpating himself. It is a course of proceeding which I can never consent to; its inconvenience has been felt in England; and I should be very glad that the day should arrive, and I trust it is not far distant, when we shall have an act similar to the one in England, that when a party is arraigned for trial before the House of Commons, he shall appear at the bar, and have an opportunity of cross-examining the witnesses who are brought against him. I allude to the case of Sir Jonah Barrington. A list of witnesses, as in the case of a contested election, was given to him, and he was permitted to enter into his defence in the same manner as in a court of law. This is what I call justice. If an opposite course from this has hitherto been pursued from necessity, for God's sake let us discontinue it. Although the house has the power of proceeding in this arbitrary manner, the expediency of the thing has not been made man-