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SPEECHES

OF THE

MANAGERS AND COUNSEL

IN THE

TRIAL OF WARREN HASTINGS.

EDITED BY

E. A. BOND,

ASSISTANT KEEPER OF THE MANUSCRIPTS IN THE BRITISH MUSEUM.

VOL. III.

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CONTINUATION OF SUMMARY

OF

PROCEEDINGS ON THE TRIAL.

IN the present volume are printed the remainder of the Speeches of Mr. Hastings' Counsel, in answer to the several Charges maintained against him by the Managers for the House of Commons: and we resume our Summary of Proceedings at the point of the production of evidence in Defence on the first Article of the impeachment.

On the 1st of May, 1792, the eighty-first day of the trial, 1792. Mr. Law proceeded to adduce written evidence to show that Cheyt Sing had no claim to the favour of the Company from the conduct of his father, Bulwant Sing; and to prove, from the circumstances of his investiture with the Rajaship of Benares, that the sovereignty over his territory had been reserved to the Company. He then called Viscount Stormont, to prove that, when he was Ambassador at the Court of France, in the year 1777, he had sent to Mr. Hastings privately such information of the designs of the French Government against the British power in India, as fully justified him in the measures he at that time took for putting the Company's provinces in a state of defence. The proceedings of the day terminated with the production of written evidence on the subject of the demands made on

Evidence in
Defence on
the first
Charge.

Examina-
tion of Vis-
count
Stormont.

1792. Cheyt Sing for contributions in money and troops in aid of the Company.

Exactions on Cheyt Sing.

On the 3rd of May, the case for the Defence was conducted by Mr. Plumer, who gave in further papers on the subject of the exactions made on Cheyt Sing; and, afterwards, produced evidence to show by precedents the legality of the delegation of their power by the Council of Bengal to Mr. Hastings. Resistance was made by Mr. Burke to the admission of much of the evidence, on the grounds of its being inapplicable, and that the precedents cited were not parallel to the case; but he declined to make an argument of his objections, and the Court allowed the papers to be read.

Delegation of power. Objection to evidence.

Distress of Major Camac's detachment.

The succeeding subject of the Counsel's evidence was the distress of Major Camac's detachment, occasioned by Cheyt Sing's unpunctuality in his payments. Mr. Plumer produced a letter of Major Camac, with an enclosure of extracts from two letters referred to in it. Exception was immediately taken by the Managers to the extracts, on the ground of absence of proof of their being the identical papers mentioned in the letter. After some altercation, it was ruled by the Lord Chancellor—Earl Stanhope supporting him—that it was a case of probable evidence, and that “where the body of the letter so refers to the enclosure, and the enclosure so far corresponds, as to raise a probability [of its identity], the Court will read this letter, subject to have that probability refuted by any evidence that may be given on the other side.” Mr. Burke protested against this decision, as contrary to a previous ruling of his Lordship, but was stopped by Earl Stanhope reminding him that he was arguing a point not now before the Court.

Objection to enclosures in letters.

The Company distressed by Cheyt Sing's contumacy.

After the close of the discussion, Mr. Plumer and Mr. Law brought forward documentary evidence to prove “the distress sustained by the Company at the period when Cheyt

Sing was withholding his assistance." The question recurred 1792.
of the admissibility of an enclosure in a letter, without proof
of its identity; but Mr. Burke waived further objection,
under a protest conveyed in these words: "The same objec-
tion lies to this that lies to the other; but, your Lordships
having decided that, we have made it a rule with ourselves
to give as little delay as possible; therefore we make no
objection, leaving it to your Lordships to judge how far,
on future trials, a great deal of evidence produced this day
may be considered as precedents."*

Mr. Burke's
protest
against
evidence.

On the 9th of May, various letters were produced by the
Counsel to prove the necessities of the Company, occasioning
the exactions from Cheyt Sing. And these were followed
by evidence of the communication of the demands made on
Cheyt Sing to the court of Directors and to the Secretary
of State. Mr. Dallas then opened a new head of evidence,
viz., that Cheyt Sing failed in observing one of the conditions
upon which he held his zamindary, by neglecting to maintain
a regular police. Occasional objections were raised by
Mr. Burke; the principal of them being against the admis-
sion as evidence in favour of Mr. Hastings of the affidavits
sworn before Sir Elijah Impey, and which the Managers
themselves had put in evidence against him. Mr. Burke's
argument was, that "the Managers produced these affidavits
against Mr. Hastings, not as being found upon the Com-
pany's records, but as being transmitted, authenticated by
himself, and sent here as papers in his own justification;"—
but that, when brought forward for the purpose of defending
him by criminating a third person, they became inad-
missible. On the Lord Chancellor's overruling the objec-
tion, Mr. Burke, although supported by Earl Fitzwilliam,

Evidence of
necessitous
state of the
Company.

Neglect of
police in
Benares.

Objections
to admission
of the affi-
davits sworn
before Sir
E. Impey.

* Gurney's Report, MS., p. 58.

1792. declined the Chancellor's offer to refer the point to the decision of the House.

Precedents
for treat-
ment of
Cheyt Sing.

On the 10th of May, the earlier part of the sitting was occupied in reading evidence on the part of the Defence, to establish precedents for the treatment of Cheyt Sing on his failing in the payment of the sums exacted from him; to prove acts of rebellion on his part against the Company; and to justify the measures taken by Mr. Hastings for the government of the province of Benares after Cheyt Sing's expulsion. The documents were handed in by Mr. Dallas.

Examina-
tion of
Major
Osborne.

Major Osborne was then examined by Mr. Law on the subject of the disaffection of Cheyt Sing, and the general success and popularity of Mr. Hastings' administration. Objection was made by Mr. Burke to much of the witness's evidence, as grounded on mere hearsay reports; and in some instances he was supported by the Court. He then entered upon a cross-examination of Major Osborne, which occupied the remainder of the sitting. An interruption occurred during an attempt to elicit that the Nawab had been induced, by complaints against the witness, to decline his services. Lord Stanhope objected to the inquiry as irrelevant, and was angrily replied to by Mr. Burke, who, in the course of his observations, said, "I come here well knowing the subject matter and well knowing what it is fit for me to ask upon it; and therefore those persons who do not know the subject matter, or pretend to know my duty better than I do, are upon no account to control me in the exercise of it."* After observations by Mr. Law and Mr. Wyndham, one of the Managers, the Lord Chancellor directed the witness to answer the question put by Mr. Burke.

Interrup-
tion by Earl
Stanhope.

The cross-examination of Major Osborne was continued on the following court-day, the 15th of May. After its

* Gurney's Report of the Proceedings, MS., p. 116.

conclusion, Mr. Markham, who had been Assistant Resident 1792 at Benares in the year 1778, and subsequently Resident, was called by the Defendant's Counsel and examined for the remainder of the day, and on the following court-day, the 16th of May, on the whole subject of transactions connected with Cheyt Sing. His evidence was considered of much value on behalf of Mr. Hastings.

Examination of Mr. Markham.

The three ensuing court-days, the 22nd, 23rd and 30th, of May, were devoted to the cross-examination of Mr. Markham, conducted by Mr. Anstruther and Mr. Burke. At the opening of proceedings on the last day, Mr. Markham stated to the Court that, a few minutes before, he had received a note from Mr. Burke enclosing a letter written by Mr. Markham to his father, the Archbishop of York, from Benares, in January, 1782, immediately after the disturbance there; and that Mr. Burke, in his note, had desired him to correct his evidence in some instances, where, he said, it had been rather inaccurate. He desired that the whole of the letter might be read in Court.

Mr. Markham's letter to his father.

Mr. Burke explained that he had accidentally found the letter three days before, and had sent it to Mr. Markham under the idea that it would help his recollection of the events he was giving evidence concerning. His note to Mr. Markham accounted for the letter being in his possession, by stating that it had been given to him, as a member of the Select Committee on India, by the Archbishop, immediately after his receiving it; and it went on to say, "I send it as I received it, and I keep no copy. I have marked some parts with a pencil. As the transaction was so many years ago, and your memory may easily not have served you perfectly, perhaps you might wish to render some parts of your evidence more exact. It is for that reason I now send it to you, wishing you to make such use of it as you think proper; but this I leave wholly to your own discretion. The letter

.1792. is in your sole possession. Perhaps you may think the matters marked of no moment. I shall make no use of it; and it is, I think, more proper that you should have it than I." The letter, which gave a general account of Mr. Hastings' proceedings with Cheyt Sing, was read in Court. In the "History of the Trial," it is stated that the letter, "in every point of any importance, agreed exactly with the evidence that Mr. Markham had given." The History further throws out an insinuation of disingenuousness on the part of Mr. Burke, asserting that he had "cross-examined Mr. Markham for two days, just as a man would have done who had studied the letter to the Archbishop, which letter Mr. Burke had never seen, as he assured the Court, from July, 1782, until he found it, in May, 1792, by accident."*

Difficulty in forming the Court,

On the day appointed for the resumption of the proceedings, there was a difficulty in making a House. Mr. Burke, unwearied in his prosecution of the great cause he had undertaken the direction of, and ever intent on attaining his object of a conviction, was the only one of the Managers present at the proper hour for assembling; and it was only by the particular and earnest application of Mr. Hastings himself to individual gentlemen that the Court was formed. It was now, indeed, apparent to him that his hope of seeing the termination of his trial in the present session of Parliament could not possibly be realised. The ardour with which the proceedings had been taken up at their commencement by the body of the Managers for the House of Commons, and

* In reference to this incident Mr. Adolphus remarks, that "the effect of the transaction was to dissolve entirely, or rather to convert into hostility, the sentiments of friendship which for so many years had subsisted between two men so worthy of each other's esteem as the archbishop and the senator." He adds, in a note, "I have been informed, by a learned and most intimate friend of Mr. Burke, that a correspondence respecting the authorship of Junius's Letters contributed to, if it did not produce, this alienation; but I am not informed of the date of such correspondence. An open declaration of dislike had not taken place till this period."—History of England; Vol. vi., p. 184.

the interest in them exhibited by the general public, were in 1792. great measure extinct. The historian of the trial, in reference to the increasing slowness of its progress, points out, that whereas, "in the first year, 1788, the Managers, twenty in number, attended in a body; a House was always formed by twelve o'clock, generally earlier; and the Court sat from that time until five, and sometimes later, and sat thirty-five days in that year; at present, in the year 1792, it is with the utmost difficulty a House can be made before two; and, though we are now in the last day of May, the Court has only sat in this year sixteen days, but, in fact, not a third the number of hours that it sat in the first year. Two, three, or four, dressed Managers are all that attend—very few of the Commons—and, of the Lords, originally one hundred and eighty-six, there are not now more than from thirty to forty."*

General
indifference
to the pro-
ceedings.

Mr. Hastings had already, on previous occasions, urged the Court to more continuous sittings, to greater expedition in its proceedings, and to the retrenchment of whatever could be considered superfluous in them. He now took the course of a direct appeal to the Crown, petitioning that Parliament might not be prorogued until his trial was finished. Probably a hope of stimulating still further in his favour the growing sympathy of the public mingled with more apparent motives for urging such a request; for he could have had no expectation of its being acceded to. The petition to the King was presented on the 30th of May; and, at the close of proceedings on the following court-day, the 6th of June—during which Lieut. Birrell, Col. Blair, Mr. Charles Græme and Capt. Wade, were examined by the Counsel, in order to elicit evidence that Cheyt Sing had deliberately planned his

Petition of
Mr. Hast-
ings to the
Crown.

* "History of the Trial;" Part v., p. 26.

1792. insurrection against the Company—Mr. Hastings read the following written address to the Court:—

Mr. Hastings's address to the Court, 6th June 1792.

“ Before your Lordships retire to your chamber, I request that you will have the goodness to permit me to make a short representation. It will not take up five minutes of your time.

“ My Lords, what I have to offer is, in my conception of it, of so much consequence, that I would not venture to trust it to my own recollection: what I have to say I have, therefore, taken down in notes. Will your Lordships have the goodness to permit me to read it?

“ I have already, my Lords, upon former occasions, ventured to state to your Lordships the hardships which I sustained by the unexampled length of this trial, even in the more early periods of it. I mean not now to repeat them; nor will it be necessary to show to your Lordships how much they must be all aggravated by their subsequent extension. I merely allude to them for the purpose, and for that only, of bespeaking your pardon for the liberty I now take in praying your Lordships to allow me as much time as you can afford during this session to hear the remainder of my Defence.

“ I should not so anxiously press this upon your Lordships, were I not assured that your Lordships have no longer any call for your attention to matters of greater consequence;—if any matter can exceed in its importance the course of a criminal trial protracted to so many years as mine has been.

“ For my Defence to the Article now in evidence before your Lordships, my Counsel will desire only to call two or perhaps three more witnesses—certainly no more—selected from the survivors of a much larger number, whom we forbear to call from respect to your Lordships' time, and from a consideration of the uncertainty of my life or of theirs enduring to the end of a more complete refutation of the charge which the Commons have preferred against me. The examination in chief of those witnesses—for I cannot limit the time of the cross-examination, or answer for that which may be lost by interruptions—will not take up the compass of two, or at the most three, hours.

“ Two more Articles will then remain. On one only will it be necessary to call any parol evidence; and for that only three witnesses—one a gentleman of very infirm health, who was settled with his family in the south of France, but came to England in the first year of this long trial, and has remained here till this time, in yearly expectation of giving his evidence at your Lordships' bar. Among the gentlemen whom I claim to be allowed to produce in evidence to the Article now under examination, there is one who, having given his attendance through a considerable part of the first year, when it became evident that he could not be called till the next, informed me that his means of subsistence, though not his patience, was exhausted, and requested me to dispense

with his evidence, that he might return to his service in India. I, without hesitation, cheerfully consented. That gentleman accordingly went to India; served with credit two campaigns under Lord Cornwallis; is again returned to England, and again in attendance to give his evidence in my Defence. Your Lordships will not be surprised if I should feel a more than common anxiety not to lose a witness whom I have recovered in so singular a manner from so many obstacles which threatened to deprive me of the benefit of his testimony, nor to lose so impressive a memorial of the extraordinary character of this impeachment.

1792.

Mr Haast-
ing's ad-
dress, 6th
June 1792.

“ It is hard, with so near a prospect of a close, to see it vanish into darkness, and another year, or perhaps other years, if I should live to see them, destined for the continuation of this trial.

“ Let me beseech your Lordships to recollect that more than five years are already past since I first appeared at your Lordships' bar: and I am sure that, if any one of the noble Lords who were then living and saw me there had been told—if human wisdom, which is the result of human experience, could have suggested such a conclusion—that more than five years would have passed before I could have obtained a judgment, he would have pronounced it against the course of nature to expect it, and have resented the supposition as an unmerited reflection on the justice and dignity of this great kingdom.

“ In the first year, which was the year 1788, the Court which your Lordships now compose sat 35 days; generally assembling at 12 o'clock, sometimes earlier, and sitting till five, and occasionally later. This year your Lordships have sat, within a week of the same period of time, only 16 days, and have seldom been able to open the Court much earlier than 2 o'clock. I should be as ungrateful as unreasonable were I to insinuate that these delays were imputable in the least to your Lordships; neither is it my design to impute blame to any; it is the effect, not the cause, that I lament. Yet, my Lords, if I might be allowed to expostulate with those whose zeal, animating them to exertions and to a perseverance of which, even in that body, there are few examples, brought me to the situation in which I now stand, I might plead, and surely without offence, that the rights and interests of the people of this kingdom, and the honour of its Crown—which were the great inducements stated by the Commons of Great Britain for calling together its highest court of judicature, to sit in trial upon me—are at least as much concerned in their using the same exertions to promote the course of that trial, and to bring it to an issue.

“ My respect forbids me to say more upon the subject; nor should I have said so much, but to make it evident to your Lordships that, whatever causes of delay have occurred, or may in future occur, in the course of this trial—if it can be supposed that I would willingly be instrumental to my own wrong—neither have been nor shall be in any wise imputable to me. In proof of this, I may allude to, but I will not specify, the

1792.
 Mr. Hastings's address, 6th June 1792.

many constitutional and even personal means to which I have had recourse to accelerate the progress of the trial and remove every obstruction to it.

"That I might not again urge a request to your Lordships which it might not be in your Lordships' power to grant, I have profited by the error which, I have been told, I committed in the petition which I last year addressed to your Lordships, and have addressed an humble petition to His Majesty, praying that he would be graciously pleased to permit your Lordships to continue to sit till the close of the trial. I rely with perfect confidence on His Majesty's gracious disposition to grant my prayer; and, in that case, I do assure your Lordships that every possible means shall be used by me, and by the gentlemen whom you have given me for my Counsel, to bring my Defence to a speedy conclusion.

"If, which I reluctantly suppose, it shall be deemed unreasonable, or, for causes which cannot fall within the scope of my limited comprehension, improper, I do most humbly and most earnestly entreat your Lordships, in that case, that you will afford me as many days as may be necessary to bring the present Article to a close, and to allow my Counsel to sum up the evidence on this Article, while it is recent in your Lordships' recollection."*

The request conveyed in the concluding passage of this address was considerably regarded by their Lordships, and exertions were made to advance the proceedings by more frequent sittings during the short residue of the session.

Close of evidence in Defence on the first Charge.

On the 7th of June, the evidence for the Defendant on the first Charge was closed, by the examination of Lieut. Grey, an officer originally in the Company's and afterwards in the King's service; Col. Popham, who was employed in principal command against Cheyt Sing; and Capt. Simes, an officer in the King's service, who had acted against Cheyt Sing, and who had also been employed in India since the commencement of the trial. The latter witness testified to the high estimation in which Mr. Hastings was still held by all classes in India, and to the attachment of the people to him. The cross-examinations were conducted by Mr. Burke, with some few interruptions from the Counsel for

* Gurney's Report, MS.: and "History of the Trial," Part v., p. 27.

Mr. Hastings, Lord Stanhope taking part in the discussions arising from them. 1792.

On the 9th of June, the ninety-second day of the trial, Mr. Dallas commenced his summing up of the evidence for the Defence on the first Article of the Charge, continuing it on the 11th, and concluding it on the 12th of the same month. His speech throughout was characterised by remarkable clearness in the argument, and by fluency of delivery. On its conclusion, the Court adjourned to the second Tuesday in the next session.

Mr. Dallas' summing up of the evidence.

Adjournment.

The Parliament assembled on Thursday the 13th of December in the same year, but the trial was not resumed till the 15th of February, 1793; although, on the 11th of the month, on the motion of Major Maitland, a committee had been appointed by the House of Commons to consider of the best means for expediting the proceedings. During the recess, Lord Thurlow, who had personally a high regard for Mr. Hastings, had resigned the Seals, and was succeeded by Lord Loughborough, who presided at the opening of the Court. The effect of the duration of the proceedings, now entering the sixth year, is strikingly pointed out by an observation of the historian of the trial. He says,—“ It was impossible to view the Court without strong sentiments of regret for the havoc which time had made amongst the members of it since the Begum Article was opened in 1788. At that time, one hundred and eighty-six Peers were present; on this day, from twenty-two to twenty-eight: one hundred and twenty-one changes in the Peerage, since the year 1788, having taken place.”*

Committee of the House of Commons to expedite the Trial.

Retirement of Lord Thurlow.

Changes in the Peerage.

The first and second days of the proceedings in the year 1793. 1793—the ninety-fifth and ninety-sixth of the trial—were occupied by Mr. Law's opening of the Defence on the

Mr. Law's opening of the Defence on the second Charge.

* “History of the Trial;” Part vi., p. 39, note.

1793. second Article of the Charge, relating to the treatment of the Begums of Oude.

Documentary evidence.

On the 20th of February, the ninety-seventh day of the trial, documentary evidence was handed in by Mr. Hastings' Counsel, to show the amount of treasure in the possession of the Bow Begum, at the time of Suja-ud-Dowla's death, and to prove that it was the Nawab's property, entrusted to her custody in his lifetime; that the succeeding Nawab was intitled to all personal property of his father, save only an eighth part of what remained after paying his debts; and that he was in great pecuniary distress on account of a heavy debt to the Company, inherited from his predecessor. They then read a portion of the voluminous correspondence of Mr. Bristow, the Company's Resident at the court of Oude, with the Governor General and Council, on the subject of the Nawab's treaty with the Bow Begum, in 1775, and his situation in consequence of her non-observance of it.

Mr. Bristow's correspondence.

Objection to reading extracts from documents.

During the proceedings, a long discussion took place on an objection raised by the Managers to the practice by the Counsel of reading extracts only from the documents produced; unless the Appendix, in which the remainder of the papers would appear, might be considered as evidence of itself. The Managers were told that it had already been laid down that a document inserted in the Appendix was not of itself evidence, simply because it was there inserted; but that they were at liberty to have the remainder of the several papers read if they chose it; and that, if they would, at the next sitting of the Court, point out such parts of the documents as they wished to have read, they would be entered as of the Minutes of the day. Mr. Sheridan took part in the discussion; the practice of reading extracts from papers and printing the entire documents in an Appendix having been adopted, early in the trial, at his suggestion.

On the 26th of February, the ninety-eighth day of the 1793. trial, Capt. John Gordon, who had been employed in the Nawab of Oude's service in the year 1781, gave evidence of acts of resistance by the Begum's troops to the force under his command. He was cross-examined by Mr. Burke; who wished to have reserved the right of calling the witness on the following court-day for further examination. Mr. Law insisted on the duty of the Managers to finish their cross-examination of one witness before another was called. The Lord Chancellor supported the Counsel, but pointed out that the Managers had the power of filling up the remainder of the day's sitting by frivolous questions, thus obtaining the privilege of pursuing the cross-examination on the following day—a course of proceeding which was immediately denounced by Lord Stanhope as scandalous and unworthy of the Managers.

Evidence of
Capt.
Gordon.

Attempt to
suspend
cross-ex-
amination.

On the 27th of February, Capt. Williams gave evidence of hostile acts of the Begums directed against the Company. The examination was frequently interrupted by objections of the Managers—principally of Mr. Sheridan—to the witness's statements of hearsay reports being admitted as evidence. At the end of the examination, Mr. Hastings made the following address to the Court:—

Evidence of
Capt.
Williams.

Objection to
hearsay
reports.

“ My Lords, I fear to lose the short time that remains, and therefore I request that you will have the goodness to afford me a few moments of that time. I am not prepared for what I wish to say to your Lordships. I have just received an intimation, which I hope I may mention without any disrespect to the Court, because it respects a thing which may be done, and which is in your Lordships' discretion, and which it is impossible for me to know; and it would be very disrespectful for me even to inquire whether it is likely to happen; but I may express my own apprehensions upon the subject, supposing that it may happen.

Mr. Hast-
ings's ad-
dress, 27th
Feb. 1793.

“ It has been intimated to me that this is probably the last day that I shall have the honour of seeing your Lordships in this place before the adjournment which will be necessary when the judges go on the circuit. My Lords, I receive this intimation with very great alarm and great un-

1793.

Mr. Hastings's address, 27th Feb. 1793.

easiness. The gentleman who is now under examination, I suppose, will be called again to your bar, and must undergo a counter-examination on the part of the Managers. I do not know that my own Counsel have yet done with him. There are other witnesses.

“My Lords, it is to me painful, whether it is so to any one else or not, that I have been under the necessity of keeping gentlemen—many of whom I respect—many of whom I have a very great affection for—that I have kept them from year to year. I have brought them from their families, many from a very great distance, to attend here. They have attended from year to year, from day to day, and have been obliged to go back again.

“My Lords, while I was sitting here yesterday I received a note that Mr. John Scott, of Tanda, one whose name your Lordships have frequently heard, and who was summoned to attend upon your Lordships as a witness in my defence upon this Article, is dead—that he died as he was preparing to set out. My Lords, in a trial like this, how can I depend upon justice being fully done to me, when I am to run such hazards even of the evidence that I am about to produce? The life of man is scarcely to be estimated beyond a twelvemonth. One gentleman, I have been told, has been called from his family at Exeter. Another has attended from the north of Scotland—Major Lumsden. Another gentleman, is lately returned from India, having obtained leave of absence, because it was a time of peace, when his services were not much wanted, and is now impatient to return to his service there—Colonel Duff: and, my Lords, if I know his character, even for the sake of doing me justice, he will not remain after the time when it will be necessary for his honour and for his duty that he should return. But, if an adjournment is to take place for five or six weeks and he is not examined, my Lords, I must lose him—I may lose the other witnesses, as I have many. Therefore, my Lords, I hope I am justified in the request that I make by the example of one of the honourable Managers at my left hand. I heard him affirm that he had a right to request—I beg that what I say may not be deemed disrespectful—that he had a right to request your Lordships to adjourn. I pray your Lordships not to adjourn. If he had a right, I have an equal right. I have an equal right with the Managers, or with the whole House of Commons, were they here. In this place, I stand upon an equal footing with them.

“My present request is that you will have the goodness to meet as often as it is possible to meet, between this and the necessary time for adjournment, to enable the judges to go the circuit; that my Defence upon this Article may be closed, or at least—my Counsel seem to be satisfied with that, and I cannot possibly be satisfied with less—that the parole evidence may be closed. It will be hard, my Lords, to wait with half the business done—with your Lordships' attention broken, and your recollections to be refreshed, when you come again, by the repetition perhaps

of all that you have heard. I pray, therefore, that you will have the goodness to meet, if I may ask it, from day to day, until as many days shall be given, or as much time shall be given, as shall be necessary for the evidence to be closed upon this Article.

1793.

—
Mr. Haast-
ing's ad-
dress, 27th
Feb. 1793.

“My Lords, having asked so much, may I be permitted to occupy—I hope not to waste—a few more minutes of your attention? My Lords, when the near approach of the time which was appointed, or expected, to put an end to the sitting of Parliament, in the year 1788, made it necessary for your Lordships to adjourn my trial to another year, I felt the suspension as an intolerable grievance, of which there was no example in the annals of this kingdom, if of any other. But, my Lords, I am now in the sixth year of my prosecution—nay more, in the eighth, if the inquest of the House of Commons which preceded this impeachment be added to it, as it ought, since its effect upon me is the same. And through how many more this scourge is to be hung over my head I know not: there may be no end.

“But, my Lords, I do most solemnly conjure your Lordships that, if by any means which you can devise I may be freed from the dread of more annual adjournments of this trial, and assured that this session shall end it, you will have the goodness to afford me that grace. My Lords, I do not—I hope I shall not be understood to—express a wish for any other end than the judgment of this Court. Any other I shall consider, from whatever quarter it comes—and I know that it cannot come from your Lordships—as a direct denial of justice. No, my Lords, I require no more than judgment, and to be allowed a chance of it, while I have a chance of living to receive it.

“My Lords, I hope also that I shall not be misunderstood to intend the smallest reflection upon your Lordships for the delays of which I complain. It would be unbecoming in me to ascribe them to any personal agency; but I may, without a breach of decorum, say that, in the causes which I have in my own mind and in the fullest conviction assigned for them, this Court has no concern. Nor have I ever, in secret, felt a tendency to repine at any resolutions of your Lordships, without reproaching myself with injustice and ingratitude, remembering the long, painful and assiduous, attention you have bestowed upon the proceedings of this trial. Nor, in praying your Lordships for redress, do I know that I pray for that which it is in your own immediate power to grant—though it may be to facilitate, or by mediation to bring to pass eventually, that which you may not be called to command. To your wisdom I appeal for the means, to your justice for their application. I solicit only their effect.

“My Lords, I have said that I solicit from your Lordships and request that which it may not be in your power to command. I ought to explain myself. The last year, my Lords, I did make trial of another channel—other means of obtaining that which I now so earnestly desire—but it

1793.

Mr. Hastings's address, 27th Feb. 1793.

was without effect. I believe I may attribute my want of success to my own delicacy, which withheld me from making the trial until it was too late to expect, on reasonable grounds, a successful issue of it. My Lords, I ventured to present a petition to His Majesty himself. I am sure that, if it could have been granted, it would have been granted. I am now sure, my Lords, that nothing but that which is in his power to grant will give me the prospect, which I so earnestly desire, of seeing this trial brought to an end during the present session of Parliament.

"I was made to expect, some time ago, that means would have been taken in another quarter. I had heard that the honourable the House of Commons had come to a unanimous resolution to devise some means for accelerating the issue of this trial: and, from the universal opinion that I have heard entertained of the length of it, and from my knowledge that there never was an example in this kingdom of a trial even of one year's duration, I did believe and hope still that this year would have been the last. But I have no reason now to believe that the end is nearer than it was; and therefore it is that I make this my last request. I cannot request of your Lordships that you will resolve to sit this year until the trial shall be closed. My request to your Lordships is, that you will be so good as to endeavour to obtain that which you cannot grant me—that is, a continuation of the present session of Parliament, until this trial shall be closed and your judgment pronounced upon it.

"I have said that I was too late, the last year, in making the application in what I conceive to be the regular way. I now make that application to your Lordships; and I hope that, through your Lordships, I may obtain that which I so earnestly desire. In the meantime, my present request is that you will have the goodness to sit for so many days and so long as to allow the evidence upon this Article to be closed."*

Mr. Burke's answer.

Mr. Burke, in answer, offered on the part of the Commons to do every thing their Lordships might propose to expedite the trial; but reminded Mr. Hastings that the Court was at present occupied with his Defence, which it was only in his own power to shorten; while the frequency of sittings of the Court depended on their Lordships' pleasure. Mr. Sheridan rose to speak, but the adjournment was moved.

Delay by non-attendance of the Managers.

On the 28th of February, the Lords assembled at twelve o'clock, but proceedings were delayed by the non-attendance of the Managers for the Commons.† When the Court was

* Gurney's Report, MS.

† "Mr. Burke, afterwards, in the House of Commons, mentioned this circumstance to have arisen from the Lords having assembled earlier than

formed, Mr. Burke went through his cross-examination of 1793. Capt. Williams. After which, Mr. Sheridan addressed the Court, stating that he wished to put certain questions to the witness. He professed his anxiety to shorten proceedings, and proposed that, as all the evidence given by the witness was of reports which he had not proved had reached Mr. Hastings, and, therefore, was worthless, and as the Counsel professed they were able to prove the communication of the reports to Mr. Hastings, they should at once produce this link which was wanting to give validity to the evidence. The discussion which ensued was stopped by the Lord Chancellor as irregular; and the Court adjourned.

Cross-examination of Capt. Williams.

On the 1st of March, the 101st day of the trial, the attention of the Court was engaged in the cross-examination of Capt. Williams by Mr. Burke and Mr. Sheridan, principally on two points; first, his authority for putting to death a certain Raja Mustafa Khan, which he showed to have been done by command of his superior officer, Col. Hannay, and that the Raja had been condemned to death by the Nawab of Oude as a freebooter and notorious rebel; secondly, respecting a Persian letter, supposed to be from an agent of the Begums, and conveying orders to prevent the Rajas from lending assistance to the Company's officers, and which had been produced to the Court by the Counsel of Mr. Hastings; the object of the Managers being to throw discredit on the letter.

The proceedings on the following day, the 2nd of March, commenced with an address from the Lord Chancellor to the Managers and the Counsel, enjoining them to observe more

Remonstrance of the Court against interruptions in the examination of witnesses.

usual, and without having sent word to the Commons. The consequence of which was that there was no House at the proper time; and that the Managers, under these circumstances, had felt it necessary to go into the Hall without a House having been previously formed. Mr. Pitt moved that the House approved their conduct; which was agreed to *nem. con.*—"History of the Trial;" Part vi., p. 43.

1793. strictly the rule of not interrupting the examinations of witnesses; reminding them that, while the examination in chief was being conducted by one party, the duty of the other party was to wait till it should be closed, before commencing their cross-examination; and that, during the examination of a witness by one party, no question whatever should be interposed by the other. Mr. Burke expressed, on the part of the Managers, their willingness to adhere to the regulation, and at the same time stated that he was authorised by the Commons, with a view to expedite the trial, to consent to proceed with it during the circuit of the judges, should the Court desire to do so. The Counsel for Mr. Hastings then examined witnesses to prove the disaffection of the Begums to the Company's government. Lieut. Shuldham, Col. Duff and Major Lumsden, were called. They each of them spoke also to the high estimation in which Mr. Hastings was held in India for ability in his government and for personal amiability. The examinations were conducted by Mr. Dallas, and the cross-examinations by Mr. Burke and Mr. Sheridan.

Disaffection
of the
Begums.

High esti-
mation
of Mr.
Hastings in
India.

Major
Lumsden's
evidence.

Mr. Womb-
well's evi-
dence.

The Court was then adjourned to the 12th of April; on which day Major Lumsden was further examined with respect to the insurrection in Oude; and Mr. John Wombwell, formerly paymaster, treasurer and auditor of accounts in Lucknow, gave evidence respecting the disaffection of the Begums. He was minutely cross-examined by Mr. Burke respecting the salaries and pensions paid to English gentlemen in Oude from the Nawab's treasury.*

* The observations in the "History of the Trial,"—in which, it must be admitted, a very decided partiality towards Mr. Hastings' cause, is shown at this period of the proceedings—on the subject of Mr. Burke's cross-examination of Mr. Wombwell, are as follows: "Question succeeded question, until the patience of every human being present appeared to be entirely exhausted; many of the Lords showed strong signs of impatience, and the Archbishop of York declared with a very strong and pointed emphasis, that the conduct of Mr. Burke was *illiberal*."—Part v., p. 47. According to Gurney's Report, the

On the 18th of April, Mr. Auriol, who had been secretary 1793. to the Council of Calcutta, was examined respecting the distresses of the Company's Government in India, which occasioned the demands of assistance made by Mr. Hastings on Cheyt Sing and the Begums of Oude. Capt. Syme and Mr. Paxton were called to prove—the one, the death of Mr. Scott, of Tanda, in Oude, who could have spoken to the hostile intentions of the Begums; the other, the return of Major Macdonald to India, who had been ready to give evidence on the same subject. Mr. Wright, accountant of the India House, and Mr. Hudson, of the India House, were shortly questioned on special points of the evidence. Various documents were then handed in by the Counsel and read.

Examina-
tion of Mr.
Auriol.

On the 20th of April, the 105th day of the trial, Mr. Plumer put in numerous letters relating to the Begum Charge, extracts from many of which had been read by the Managers.

Documen-
tary evi-
dence.

On the tender of a report of Sir John Shore—then a member of the Council of Calcutta, and at this time successor to Lord Cornwallis as Governor General—the object of which was to prove that, by the constitution of the Mogul empire, a jagir is in its nature resumable, Mr. Burke objected to the admission of the paper, as the production of “one of the persons concerned in fabricating the Defence of Mr. Hastings”; and further, because he might and ought to have been examined on the subject in person before he left the country for his government. Mr. Plumer answered the objection. The Lord Chancellor decided that the evidence was admissible. Earl Stanhope observed that, though the Managers objected to the evidence of Sir John Shore, on the ground of his being an accomplice of Mr. Hastings, they

Objection to
Sir J.
Shore's
report.

observation of the Archbishop was occasioned by a question put by Mr. Burke to Mr. Wombwell, of which he said:—“I cannot help thinking that the question tends to lead the witness to impeach himself. The question is illiberal.”—MS. Report; *sub die*, p. 82. The question had reference to pensions supposed to be received by Englishmen in Oude.

1793. had themselves called him as a witness. Mr. Burke, in replying, denied that "any witness in India must be considered in any other light than what the lawyers call witnesses taken from the enemy's camp." The last head of evidence was brought forward to meet an objection by the Managers to the admission of the affidavits accompanying Mr. Hastings' Narrative of the Insurrection in Benares, as evidence, on the ground that statements in them implicated Saadat Ali, the treasurer to the Begums. After some resistance from Mr. Burke, the reading of the papers was proceeded with, when Mr. Wyndham, one of the Managers, protested against their reception as evidence, as being directed to the question of the guilt or innocence of Saadat Ali. A discussion ensued, in which Sir Gilbert Elliot took a leading part. In the end, the Lord Chancellor stated that the Judges, who had heard the debate upon the evidence, agreed with him that it was not admissible. Accordingly, the whole of the evidence which had been adduced on this head was ordered to be struck out.

Admission of the affidavits accompanying Mr. Hastings' narrative.

Mr. Plumer's summing in defence on the second Charge.

On the 25th of April, the 106th day of the trial, Mr. Plumer commenced his summing of the evidence given in on the part of the Defendant on the second Article of the Charge, relating to the Begums of Oude. His speech was continued through the 30th of the same month, and the 2d and 6th of May. It is the third of the series included in the present volume.

Mr. Dallas' opening of defence on the 6th, 7th, and 14th Articles.

On the 9th of May, the 110th day of the trial, Mr. Dallas opened the evidence in defence on the sixth, a part of the seventh and the fourteenth, Articles of the Charge, imputing bribery and corruption, and occupied that and the three following court-days—viz., the 16th, 17th, and 24th of May—in the delivery of his speech.* On the

* This Speech of Mr. Dallas is highly praised by Mr. Adolphus. He characterises it as "a speech of animated eloquence and powerful argumentation, not unmixed with polished irony and cutting sarcasm;" and adds that,

second day, the 16th of May, after the Peers had ~~been~~ Westminster Hall and returned to their Chamber, the following petition from Mr. Hastings was presented to them by Lord Walsingham:—

“That your Petitioner once more makes his appeal, in the hope that it will be his last, to the justice of your Lordships; that he forbears to state the too well-known hardships of his case, or the grounds on which he most solemnly asserts his belief, that, unless your Lordships, feeling as he feels the enormity of the delays which have attended his long-protracted trial, shall resolve it to be brought to a conclusion during this Session of Parliament, it will not, in the ordinary and permitted course, be ended, until the judgment of another year shall have added to the chances of its being concluded by other causes than the legal verdict of your Lordships, which, your Lordships have been told by one of the Managers of the prosecution, must inevitably fall with infamy either on the head of your Petitioner, or on those who have consumed so many years of your Lordships’ attendance in labouring to prove their allegations against him. That, although it may not be possible for your Petitioner to know the time which may be destined to the duration of the present session of Parliament, yet he cannot be insensible to the reports which he has heard of the short term which is assigned to it; and even its uncertainty is to him a source of continual alarm. That, as an humble individual, impressed with the firmest conviction of your Lordships’ justice and humanity, he implores your Lordships to grant him that grace, which, as a British subject, he might demand as his undoubted birth-right, the benefit of undenied and undelayed justice; and that your Lordships will not leave him a single exception to the rest of his fellow-subjects of this kingdom, whose hearts attest the wisdom of its constitution, and who boast of the blessings which they enjoy under it; blessings in which he cannot be said to participate, who, having been the subject of a criminal prosecution during six years, is yet doomed to linger out his life in the same unmerited state of depression, suspense, and (but for the breath of public opinion, and the hopes of life sustaining him) of universal and perpetual ignominy.

“Your Petitioner, therefore, most humbly and fervently prays your Lordships, on whose justice and honour he places his firmest reliance, to adopt such means as to your Lordships’ wisdom may seem best calculated to accomplish the end which your Petitioner so anxiously solicits, namely, a close of this long-depending trial during the present session of Parliament.

(Signed)

“WARREN HASTINGS.”*

Mr. Hastings’ petition to the House of Lords, 16th May, 1783.

“no moment was wasted on useless dissertation or rhetorical embellishment, but all was close, well defined reasoning, strongly combined and judiciously applied.”—History of England; Vol. vi., p. 191.

* Printed in the “History of the Trial;” Part vi., p. 60.

1793. Immediately on the close of Mr. Dallas' speech Mr. Hastings rose to beg of the Court that the length of their sittings might be extended; offering so to contract the evidence to be produced in his Defence on the Articles of Presents opened by Mr. Dallas, and on the remaining Article of Contracts, that, by foregoing the advantage of his Counsel's observations on them, the rest of his Defence might be concluded within a period of three days. The following are the terms of his address:—

Mr. Hastings' address to the Court, offering to contract his Defence, 24th May, 1793.

“ My Lords, I venture to solicit the attention of your Lordships to the situation in which this trial at present stands.

“ I hope for your Lordships' indulgence, in requesting to be allowed such further time in the course of each day's sitting as may enable me to bring the remainder of my Defence, if no interruptions intervene, within the probable period of three days more.

“ I hope, by the means of such indulgence, to conclude my evidence on the Article now under consideration within the compass of one day. I am informed that the observations of my Counsel upon it will only occupy another, and the gentleman upon my right hand (Mr. Law) is willing to waive any observations, that the Defence may be the sooner closed. In that case, one day will be sufficient for this Article. The abridged evidence with which I mean to trouble your Lordships on the only remaining Article, that of Contracts, may be comprised within the space of one day more. I am willing to forego the benefit of a more detailed Defence, in order to enable the Managers for the Commons fully to conclude their reply within the course of the present session; an expectation which, I trust, I do not unreasonably entertain, in this advanced period of a trial that has been so many years depending.

“ I am well aware of the disadvantage to which I subject my Defence on this Article, by leaving the evidence unstated and unapplied, to make out its own effect; and it is with reluctance that I deprive myself of the benefit of those talents which have been so ably displayed on the former parts of my Defence; for it is to those talents, aided by the zeal and cordial affection which have animated them to their best exertions, that I am now indebted for the hope and assurance, which I confidently entertain, that, though I should not live to receive the sanction of your Lordships' acquittal, my name at least shall not descend blasted with infamy to posterity, but be recorded with those of the many other victims of false opinion, some of higher worth, none of better intentions, who have done service to the States which employed them, and been requited with unthankfulness and persecution.

“ My Lords, I consider the resolution which I have taken as a sacrifice;

and I make it with the greater cheerfulness, as it may, and must in some degree, prove no less an accommodation to your Lordships' time than the means—if your Lordships shall so permit it—of obtaining my own deliverance from a state of suspense which is become almost insupportable.”* 1793.

Mr. Burke, in his observations on this proposal, cautioned Mr. Hastings not to omit to make his Defence complete. He left it to the Court to consider the propriety of the terms Mr. Hastings had used, implying ingratitude in the Commons for services he had rendered to his country. Mr. Hastings was at liberty to narrow the bounds of his Defence to any limit it might please him; but a suspicion might arise whether, in doing so, he had it not in view, in case of being found guilty on the charges, to insinuate that the testimony he had withheld might, if produced, have cleared his character. Mr. Fox, in a short address, justified his colleague in these remarks. Mr. Burke's answer.

On the 25th of May, the 114th day of the trial, numerous documents were handed in by Mr. Law as evidence in support of Mr. Dallas' opening of the Charge relating to Presents. Mr. Auriol, the late Secretary to the Council of Calcutta, was called in and examined by the Counsel; and was afterwards cross-examined at great length by Mr. Burke. The pertinacity with which the Manager plied this witness with question after question, to elicit facts on which he appeared unable to give evidence, occasioned an unusual interruption to the proceedings by an outbreak of indignation from his Grace the Archbishop of York. Mr. Burke had asked Mr. Auriol whether, while he was in India, he had heard a rumour of a present having been made to Mr. Hastings from Raja Kelloram; to which the witness had answered that he did not recollect to have heard such a rumour. Mr. Burke was endeavouring by further questions to obtain a more satisfactory answer, but was stopped by Documentary evidence, relating to Charge of Presents. Examination of Mr. Auriol. Interruption by the Archbishop of York of the cross-examination.

* Gurney's Report, MS.; and "History of the Trial," Part vi., p. 63.

1793.

an observation from the Lord Chancellor, that the witness had already stated that he knew nothing of the report. Mr. Burke replied that he wanted "to refresh his memory whether he does not know something of it; and it appears there are several circumstances concerning it which he does know." The Archbishop, sympathising with the witness, exclaimed "Upon my word, my Lords, this proceeding is intolerable! The gentleman is treated at your bar as a pick-pocket; and no gentleman has been treated there as a gentleman. If Robespierre and Marat were in the Managers' box, they could not say anything more inhuman and more against all sentiments of honour and morality than what we have been often used to since this trial commenced." Mr. Burke rightly declined to notice the interruption, saying, "I hope your Lordships do not think I am bound so much as to know or suppose that I have heard one word of what was uttered. I forget it, and pass by immediately to the business."* The continuance of the cross-examination, however, on the subject of the rumour referred to, was objected to by both Earl Stanhope and Lord Somers.

Evidence of
Mr. Wood-
man relative
to Mr.
Hastings's
fortune.

After Mr. Auriol had been allowed to retire, Mr. Woodman, a relative by marriage of Mr. Hastings, and who, in conjunction with Mr. Francis Sykes and Mr. Waller, was his attorney in England, was called by Mr. Law to disprove a statement of the Managers, that Mr. Hastings had amassed a fortune of 238,000*l.* whilst in India. He stated, that, though remittances to that amount had been made by Mr. Hastings, the greater part of them were for other persons, and that the total sum of Mr. Hastings' own money held by them in June, 1785, at the time of his return from India, was 72,463*l.*, and in January, 1786, it was 65,322*l.*†

* Gurney's Report, MS., p. 109.

† *Ibid.*, p. 128.

Mr. Halded and Mr. Wright were shortly examined re- 1793.
 specting an account of payment for salaries of pundits employed in composing the code of Hindu laws, and a statement of expenses of Mr. Hastings in the office of Governor General. The evidence for the Defence was then declared to be closed on the Charge of Presents.

Close of evidence in Defence on Charge of Presents.

Mr. Plumer then informed the Court that Mr. Hastings waived his right of commenting by his Counsel on the evidence which had been produced on that Charge, and that he would immediately proceed to bring forward the abridged evidence in defence upon the last-remaining Charge—the fourth Article—relating to Contracts. Mr. Plumer occupied the remainder of the day in handing in documents in reference to the opium contract.

Abridgement of evidence in Defence on the fourth Article.

On the 27th of May, Mr. Plumer completed the documentary evidence on the opium contract. He then called Mr. Wright to give evidence on the same part of the Charge. Mr. Burke was interrupted by Earl Stanhope in his cross-examination of the witness whilst questioning him on the contents of the Company's books and correspondence. His Lordship declared—"It was perfectly impossible to permit, day after day, parol evidence to be given of matters of fact that are in the books: the books themselves ought to be produced." Mr. Burke, before answering the objection to his examination, commented with warmth on the informality of an individual member of the Court reproving the Managers for their conduct—"On the part of the Managers and on the part of the Commons of Great Britain, we demand in this place of your Lordships, that any remarks that shall be made, tending to censure and admonish the Managers at this bar, shall be the acts of this House; to which Court, and not to any of the individuals of it, we imagine ourselves, while we stand here as suitors, to be subject:—not subject to animadversion or reproof, but subject

Opium contract.

Evidence of Mr. Wright. Interruption by Earl Stanhope of the cross-examination.

Mr. Burke's remonstrance.

1793. to the orders and directions of the Court for the conduct of the proceedings; reproof we are subjected to by none, but by our own constituents only. And I must beg leave, once for all, to observe to your Lordships that nothing can tend to lead more to unpleasantness and disagreeable altercations with individual members of this House—which I am sure your Lordships would wish to avoid as much as we do—than noble Lords making the kind of observation that is made by the noble Lord, and some other late observations made with regard to the Managers in this place. I must, after having heard this, and wishing never to hear such in future, desire, according to the orderly proceedings of Parliament, that, if any remarks are made, they shall be suggested to your Lordships, who preside in this Court, or, if debate is required, that you adjourn to the chamber of Parliament and take the sense of this Court; because, by this Court alone we are to be guided.” Earl Stanhope immediately moved to adjourn to the chamber of Parliament. On the return of the Court, the Lord Chancellor announced the decision of the House that it was not competent for the Managers to put the question proposed by Mr. Burke.

Decision of
the Court.

Observa-
tions by
Mr. Fox.

Mr. Fox, in reference to this judgment, desired that the principle of examination it enforced should be applied impartially; for that it had been neglected in the examination in chief that day. Mr. Burke, in his remarks upon the decision of the House, stated that the Managers submitted to it as such without acquiescing in it as a principle.*

The bullock
contract,
Mr. Auriol's
agency.

Mr. Plumer resumed with the documentary evidence relating to the bullock contract. Mr. Dallas followed with that relating to the appointment of Mr. Auriol as agent

* MS. Report, *sub die*, p. 48. In the “History of the Trial,” this incident is erroneously referred to the proceedings at a later period of the day. See Part vi., p. 66.

for supplying provisions to the Presidency of Madras. He 1793.
 then called Mr. Auriol, to give personal evidence on the same subject. In justification of the closeness of his cross-examination of this witness—who held also the appointment of secretary to the Council at Calcutta—Mr. Burke stated that he had been called by the Defendant; that he was more-over an interested party, and on that account it was necessary to examine him with more than usual care and attention.

Cross-examination of Mr. Auriol.

On the 28th of May, the 116th day of the trial, Mr. Dallas gave in documentary evidence relative to Mr. Belli's agency for the supply of stores and provisions for the garrison of Fort William. Mr. Hudson was examined to prove documents produced to show the propriety of certain appointments made by Mr. Hastings; and Major Scott was called to prove that Mr. Belli was now in India. In reference to this latter evidence, Mr. Burke observed that he thought it singular, if Mr. Belli had been in England since the commencement of the trial, that he had not been examined; adding that their Lordships would make their own inference upon it. Mr. Wright, auditor of accounts in the India House, was called to explain the difference between sicca and current rupees, in reference to an account of Mr. Auriol.

Mr. Belli's agency.

Mr. Law then stated that, the Managers having given in evidence documents to show the opinion entertained by the natives of India of Mr. Hastings' government, and another setting forth certain consequences that were supposed to have ensued from the mal-administration of the country of the Nawab of Oude, he proposed to give in evidence other documents—the representations of natives of India—expressing a very different sense of the character of Mr. Hastings' government. Mr. Burke questioned whether testimonials to character were admissible in a court of justice. Mr. Law claimed their admission on the ground of consent

Testimonials of natives of India in favour of Mr. Hastings.

1793. already given by Mr. Burke*, as well as from consideration of their having been frequently commented on by him, and that he had himself promised to produce them. Mr. Burke answered, that the Managers had no objection to the admission of the testimonials; although he had considered it his duty to notice the difficulty the Court might feel in receiving them. The papers were accordingly read; and Mr. Burke questioned Mr. Hudson as to the manner in which the testimonials had been procured. This terminated the evidence for the Defence; and, as Mr. Hastings had waived the advantage of his Counsel's summing of the Articles on Presents, and of both the opening and summing on the Article of Contracts, his case was now completely closed. But, before the adjournment, Mr. Hastings addressed the Court, making a solemn protestation of his innocence, and praying for the prosecution of the trial to its close during the present session. The address appears to have been read from a written paper. It was in the following terms:—

Close of the
Defence.

Mr. Hastings's address, 28th
May, 1793.

“ My Lords, my evidence is now brought to its close.

“ Sufficient has, I trust, been already done for every immediate purpose of necessary justification. And it is not, my Lords, from any apprehension which I entertain lest any defects of this kind should exist, or from a vain opinion that they could be supplied by me, that I present myself once more to your Lordships' attention. No, my Lords; I leave the proof which I have offered to its just and effectual operation, without any degree of doubtful anxiety for the issue. But, my Lords, I rise for a purpose which no external testimony can adequately supply—to convey to your Lordships' minds a satisfaction which honourable minds may possibly expect, and which the solemn asseverations of a man impressed with a due sense of the sacred obligations of religion and honour can alone adequately convey.

“ I know that the actual motives of human conduct are often dark and mysterious, and sometimes inscrutable. As far as the subject is capable of farther ascertainment, and the truth can be sealed by a still more solemn attestation, it is a duty which innocence owes to itself to afford it.

* See Mr. Burke's Speech of the 21st of April, 1789; Vol. ii., p. 5.

“ In the presence, therefore, of that Being from whom no secrets are hid, I do, upon a full review and scrutiny of my past life, unequivocally and conscientiously declare that, in the administration of that trust of government which was during so many years confided to me, I did in no instance intentionally sacrifice the interests of my country to any private views of my own personal advantage; that, according to my best skill and judgment, I invariably promoted the essential interests of my employers, the happiness and prosperity of the people committed to my charge, and the welfare and honour of my country; and at no time with more entire devotion of mind and purpose to these objects than during that period in which my accusers have endeavoured to represent me as occupied and engrossed by the base pursuit of low, sordid and interdicted, emolument.

1793.

Mr. Haast-
ing's ad-
dress, 23th
May, 1793.

“ It may be expected of me to say something in addition to what you have heard from Mr. Woodman respecting the actual state and extent of my fortune.

“ He has proved the total amount of my remittances from India during the period of my government, and that the balance of my fortune when last adjusted, shortly after my return to England in 1785, amounted to little more than 65,000*l.*

“ I protest, in the name of Almighty God, that I made no remittances to England during that period which were not made to him and my other attorneys joined in trust with him; that I had no other persons in England or Europe in trust of my pecuniary concerns; and that his account of those remittances is accurately true, according to my best means of knowledge and belief upon the subject; and that, including those remittances, I at no time possessed a fortune which exceeded at its most extended amount the sum of 100,000*l.*; and in this calculation I would be understood to comprehend every kind and description of property whatsoever; that, at the period of my return to England, my fortune did not exceed the balance already mentioned to have been then in the hands of my attorneys by more than the sum of 25,000*l.*, amounting, on the largest calculation, to an aggregate sum of between 80,000*l.* and 90,000*l.*; and all the property which I possess stands pledged, at the present moment, for the discharge of such debts as I have contracted since the commencement of this long depending trial. These are the enormous fruits of thirteen years of imputed rapacity and speculation, and of upwards of thirty years of active and important service!

“ My Lords, I know not how I can more fully and explicitly disavow every purpose of appropriating to my own benefit any of the various sums received and applied by me to the Company's service, in moments of extreme peril and exigency, than in the very terms in which I expressed such disavowal at your Lordships' bar, in the month of June, 1791. I again repeat that 'I solemnly, and with a pure

1793. conscience, affirm that I never did harbour such a thought for a single instant.'

—
Mr. Hast-
ing's ad-
dress, 28th
May, 1793.

" If, in addition to the proof upon your Lordships' table of the justice and necessity of the measures which are the subjects of the two first Articles of the Charge, it can be required of me by an act of solemn and sacred attestation, on my part, to vouch the truth of my Defence in these particulars, and to vindicate my character from the unfounded charge of malice, alleged to have been entertained by me against the immediate objects of those measures, I once more call God to witness that no motive of personal enmity, no views of personal advantage to myself or others, induced the adoption on my part of any of those measures for which I am at this day criminally questioned; but that, in every instance, I acted under the immediate and urgent sense of public duty, in obedience to the irresistible demands of public safety, and to vindicate the just rights of the empire committed to my care against those who, in a moment of its greatest peril, were engaged in hostile confederacy to destroy it.

" I have no doubts but that, upon a fair review of all the existing circumstances, and the means of information then before me, no lavish or improper expenditure of public money will be found to have taken place, in respect to the contracts formed during my administration.

" For the prudence and success of the regulations adopted and pursued, in respect to the control and management of the public revenue, I trust I may be allowed to appeal to the flourishing condition which the Company's provinces enjoyed during the period of my government, and which has been, from the continued operation of the same cause, in a course of progressive improvement to the present hour.

" I know that your Lordships will, in your own enlightened and impartial wisdom, justly estimate the difficulties by which I was surrounded during a long and arduous period of public service—that you will allow for all the embarrassments arising from the long counteraction of my associates in the government, for errors resulting from the honest imperfection of my own judgment, from occasional deference to the counsels of others, and from the varying sense of expediency which at different periods governed my own.

" Your Lordships well know that the imperious exigencies of public affairs often present to the servants of the state no alternative but the painful choice of contending evils.

" The transcendant and peremptory duty of my situation was to devise and to procure the necessary means of public safety. Feeling, as I did, the exigencies of the Government as my own, and every pressure upon them resting with equal weight upon my mind; besieged, as at some times I was, by the hourly and clamorous importunities of every department of the military service, goaded at others with the cries of our then famished settlements on the coast of Coromandel; should I have,

deserved well, I do not say of my country, but of the common cause of suffering humanity, if I had punctiliously stood aloof from those means of supply which gratitude or expectation enabled me to appropriate to the instant relief of such distresses?

1793.
Mr. Hastings's address, 28th May, 1793.

“The whole tenor and conduct of my public life is now, my Lords, before you. It has undergone a scrutiny of such extent and severity as can find no parallel in former times, and I trust will, in many of the peculiar circumstances which have characterised and distinguished this trial, leave no example to the future.

“My Lords, I have now performed the most solemn duty of my life, and with this I close my Defence.

“I may now, I trust, assuredly consider myself as arrived at the threshold of my deliverance—at that period when no delay and procrastination can prevent the speedy and final termination of the proceedings now depending before your Lordships.

“After such recent and acceptable proof, on the part of your Lordships, of your earnest disposition to accelerate the conclusion of this trial, it would betray an unwarranted and unbecoming distrust of your justice to offer any request to your Lordships on this subject, had I not other causes of apprehension. At this momentous and awful crisis, ignorant of what may be in the minds of others, I am compelled to obviate every possible, even though improbable, danger.

“In the short address which I made to your Lordships on Friday last, I stated that I should waive the observations of my Counsel on the evidence of the Article then before the Court, and both the opening and application of the evidence on the next; and that I made these sacrifices, well aware of their importance, for the express purpose of affording ample time to my prosecutors, during what remained of the probable term of this session, to make their reply.

“If the Managers for the Commons had been equally desirous of accelerating the close of this trial—and I had a right to suppose that they were so, from their repeated declarations to that effect—what I had said might have been construed as an offer of mutual accommodation; but, my Lords, it was received with resentment, and answered with reproach, and worse, insinuation.

“What other conclusion can I put upon this conduct but that which is conveyed to my ears from every quarter—that they mean to endeavour to prevail on your Lordships to adjourn over this trial to its seventh year, that one more may be given them to prepare their replies? I do not know that this is their intention, but I may be allowed to suppose it; and, though impressed with the firmest confidence of the just and favourable disposition of your Lordships, I cannot but dread the event of a question in which my rights may be at issue with such opponents as the Managers of this prosecution, speaking in the name of the House of Commons, and of all the Commons of Great Britain.

1793.

—
Mr. Hast-
ing's ad-
dress, 28th
May, 1793.

"To meet such an attempt, if made, I humbly offer to your Lordships the following arguments, most anxiously recommending them to your consideration.

"In an address to a court of British Peers, I cannot offend by pleading the rights which I possess as a British subject—rights which are assured to me, in common with all my fellow subjects of this realm, by the pledges of ancient charters, and the sanction of an oath the most solemn that can be tendered or taken by man. My Lords, I claim the performance of that sacred promise, in all its implied obligations that justice be administered to me, and that it be administered now.

"In the long period of another year, I may be numbered with those of my noble judges whom I have, with sorrow, seen drop off, year after year; and, in the aggravation of the loss which I have sustained by their deaths, I may thus lose the judgment of their survivors by my own.*

"To the precepts and sanctions of the law I join the rights which are derived from the practice of it.

"In the other courts of this kingdom, their criminal process is limited in its duration by express and positive regulations. On this high court, charged with other various and important duties, the wisdom of our ancestors has imposed no restraint but the rule of honour, and to that honour I make this my last appeal, humbly praying that, if, in the course of this hard and long extended trial, I have conducted myself with the most patient and respectful submission, and borne all the aggravating circumstances of it with a tranquillity of mind which nothing but a consciousness of integrity and an equal reliance on your ultimate justice could have supported, I may obtain from your Lordships this only grace—that your Lordships will order the trial, now past its legal process, to continue to its final conclusion during the present session."†

Observa-
tions of
Mr. Burke
and Mr.
Fox.

Both Mr. Burke and Mr. Fox remarked on the reflections on the conduct of the Managers contained in this address; and solemnly denied that the protraction of the trial could be justly attributed to them, or that they at all desired any further delay in the proceedings. Their Lordships then adjourned to their chamber.

Efforts of
the Ma-
nagers to
defer their
reply.

The further prosecution of the trial was adjourned by the Peers to the following Wednesday, the 6th of June;

* From a scheme, printed in the "History of the Trial," of the changes which had taken place in the Peerage since the commencement of the impeachment, it appears that as many as 58 had died; 8 of the Scottish Peers were changed; and 15 new Peers had been created.—Part V., p. 69.

† Gurney's Report, MS.—"History of the Trial," Part vi., p. 66.

but, on their message to this effect being communicated to the House of Commons, Mr. Burke rose and objected to the day fixed, as being too early to enable the Managers to prepare their reply to the Defence. He proceeded to complain of the efforts of Mr. Hastings to excite by addresses to the Lords an indignation against the House of Commons. He then referred to the expressions used by the Archbishop of York, during the proceedings on the 25th of May, and, challenging an inquiry into the conduct of the Managers during the trial, he proposed an investigation by a committee of the whole House. Mr. Pitt recommended the substitution of a select committee for the proposed committee of the whole House; and, after observations by Mr. Fox, in support of Mr. Burke's complaint of the unjust insinuations thrown upon the Managers, a select committee was agreed to and at once nominated.

1793.
Motion of Mr. Burke in the House of Commons for inquiry into the conduct of the Managers.

Nomination of a select committee.

Mr. Baker then drew the attention of the House to what he termed a gross libel, published in the "World" of the preceding day, and in which a charge of the most scandalous nature against the Managers had been inserted. He alluded to the publication of the observations of the Archbishop of York, published by the periodical referred to. On representation being made by a member of the House that the Archbishop was at that time in severe affliction from the death of his daughter, Mr. Baker waived his motion for the present; although Mr. Burke pressed the prosecution of the publisher of the paper.

Libel in the "World."

On the following day, the 29th of May, a deputation from the Commons appeared at the bar of the House of Lords, to state that, as the evidence on the trial of Mr. Hastings was very voluminous, the Managers were compelled to demand a later adjournment of the proceedings, in order to prepare their reply. On the motion of Earl Stanhope, the Lords appointed the 10th of June for resuming the trial.

Deputation from the House of Commons to request the Lords to postpone the trial.

1793.

Report of
Committee
on the state
of the im-
peachment.

Vote for
requiring
further
postpone-
ment of the
trial.

Motion of
Mr. Burke
for a report
from the
Managers
on the state
of the im-
peachment.

On the following day, the 30th of May, Mr. Townsend brought up the report of the committee appointed by the House of Commons to examine into the state of the impeachment. The report having been read, a motion was made to desire the Lords to allow the Managers a further delay in making their reply. After a statement by Mr. Fox, in justification of the conduct of the impeachment by the Managers, and in explanation of the causes of the protraction of the trial, the motion was agreed to by a vote of 87 against 42.

But a simple resolution on the part of the House of Commons to request the Lords to postpone the proceedings was not alone satisfactory to Mr. Burke. He was still intent on inducing the House to identify itself with the character of the Managers, and to vindicate them from reflections made both in Westminster Hall and elsewhere on their conduct of the prosecution. He moved therefore "that the Managers be required to prepare and lay before the House the state of the proceedings in the trial of Warren Hastings, Esq., to relate the circumstances attending it, and to give their opinion and make observations on the same, in explanation of those circumstances." Although urged by both Mr. Dundas and Mr. Pitt to withdraw his motion, as calculated to embroil the House with the Lords, but who at the same time promised their support if he persisted in a division, Mr. Burke declined to follow their recommendation, and his motion was overruled by a vote of 71 against 67.

Vote for
desiring the
Lords to
postpone
the trial.

On the 6th of June, Mr. Grey declared in the House his inability to execute the duty of replying to the Defence on the first Charge, on the day appointed by the Lords, and moved that they be desired to postpone further proceedings in the trial until the next session. Notwithstanding that the motion was supported by Mr. Dundas, it was defeated by a majority of five. On the following day, however, Mr. Grey again protested his want of readiness to

undertake the reply on the first Charge. He offered his resignation as a Manager; and desired to be guided by instructions from the House. On the motion of Mr. Dundas, it was agreed by a considerable majority to request the Lords to put off the proceedings till a further day. 1793.

On the 10th of June, a petition in the following terms was presented by Lord Rawdon to the House of Lords, on the part of Mr. Hastings:—

“That your Petitioner has been informed, with equal surprise and concern, that a message has been presented to your Lordships’ House, desiring further time beyond the day already appointed for the reply to the Defence made by your Petitioner to the impeachment now depending against him. Petition of Mr. Hastings to the House of Lords, 10th June, 1793.

“That your Petitioner cannot but regard the further adjournment, now required on the part of his prosecutors, as derogatory to those rights which belong to him, in common with every subject of this realm; peculiarly injurious in this late stage of his long-depending trial; as warranted by no one precedent or example to be found in the records of Parliament, by no analogy to be drawn from the proceedings in other courts of criminal judicature, nor by any grounds of reason or justice applicable to the case now before your Lordships.

“That your Petitioner humbly conceives that the time first allotted by your Lordships was fully adequate to every purpose of just and reasonable preparation, supposing, what your Petitioner is bound to believe, a due and proper attention to have been given by the Managers appointed by the House of Commons to the conduct of their own prosecution, and fit and becoming diligence to have been employed, in order to have been in a condition to reply at the time appointed.

“Eight years have now elapsed since the accusation was first preferred against your Petitioner, and it is now the sixth year since the commencement of the present trial; your Petitioner therefore apprehends he may be permitted to observe, that, in a case where so much of his life has been already consumed in a court of criminal justice, and so little remains, according to every reasonable probability, each unnecessary moment of delay produces to him a deep and perhaps an irremediable injury, which, instead of receiving any palliation from the peculiar circumstances of the case, is, on the contrary, aggravated by them in the highest degree.

“After eight years of depending accusation and six years of continued trial, your Petitioner humbly apprehends that, on a general view of the subject, it can scarcely be supposed that those who originally framed the Articles of accusation, and have since conducted the trial, can be otherwise than intimately acquainted with all the transactions which form the

1793.

Petition of
Mr. Hastings to the
House of
Lords, 10th
June, 1793.

substance of it; and, however much the slow progress of the inquiry may have operated to the prejudice of your Petitioner, it must at least have contributed, by a gradual development of the case, to render every part of it more distinctly and thoroughly understood, and consequently the Prosecutors better prepared to reply, than could have happened under different circumstances.

“But your Petitioner further begs leave to represent that, besides these reasons which operate against further delay in the present stage of a trial of such unparalleled duration, the nature of the evidence furnishes additional objections, the great bulk of the written testimony being drawn from sources equally accessible to both parties, namely, the records of the East India Company; and, consequently, those parts on which your Petitioner relies for his Defence having been equally known to the Honourable Managers, before they were produced in evidence by your Petitioner, with those parts on which the Managers have relied in support of the prosecution.

“Your Petitioner ventures to affirm, and for the truth of the assertion he appeals to your Lordships’ proceedings, that the written evidence produced from his own exclusive custody is confined within a very small compass, and occupies but a very few pages of your Lordships’ printed Minutes; that the evidence of many, if not of most, of the witnesses called on the part of your Petitioner, was in a great measure known to the honourable Managers several years ago, some of them having been examined at the bar of the House of Commons before the Articles of impeachment were exhibited against your Petitioner; many by their own committee; and the depositions of others of them, relative to the matters concerning which they have been since orally examined at your Lordships’ bar, having been long since printed and given in evidence by the Managers themselves, in the course of the trial.

“That your Petitioner begs leave to state, that the evidence given in support of the Defence, however extensive it may be at the present moment, was not brought forward nor delivered at one time and in one mass, but in distinct and different parts, and increased by gradual accumulation to its present state; and your Petitioner, therefore, submits that the Managers, in this respect, have had a very considerable portion of time to examine such evidence. That, in particular, the evidence relating to the first Article of Charge adduced by your Petitioner, was printed and delivered on the 11th of June, in the year 1792; that given on the second Article was in like manner printed and delivered, part on the 12th of April, part on the 18th of the same month, and part on the 6th of May in the present year; and, all the testimony on the remaining Charges having been delivered by the 7th of June last, your Petitioner feels himself utterly at a loss to comprehend with what colour of right the prosecutors, who have been for so long a time in possession of so great a part of the evidence, particularly

after a lapse of twelve days of allowed preparation for reply, since the final close of your Petitioner's Defence, can yet claim further time for the purpose of such preparation; since it appears from the preceding statement, that the evidence on the Defence of the first Article has been in their hands a complete twelvemonth, and the next will have been in their possession, according to the most probable computation, when they shall come to reply to it, upwards of twenty days, which is a term exceeding the duration of any one criminal trial of this kingdom, of allowed legality, even in its whole process.

"That your Petitioner further begs leave to represent, that he has himself been constantly ready and attendant upon the trial during the whole of its progress, nor has he ever, in a single instance, solicited a moment's delay; that he has, on the contrary, alone and without the aid of any co-operating application on the part of his prosecutors, presented his humble but repeated petition for its acceleration; and, under these circumstances, he has taught himself confidently to expect that an address of an opposite nature could not possibly have been prepared on the part of the prosecution.

"That your Petitioner feels this application the more peculiarly injurious to him, as, in order to expedite the close of the trial, he has waived his right to the observations of his Counsel in summing up the evidence on the 6th, part of the 7th and 14th, Articles of the impeachment, and both the opening and the summing up on the Charge of Contracts; and this under the declared expectation, which he trusts was not unreasonable, that the reply would be thereby closed in the course of the present session.

"If, however, contrary to the usage and practice which has obtained in every former instance of Parliamentary impeachment, and in repugnance to what your Petitioner conceives to be the established principle of criminal jurisprudence, the Managers of the present Charges shall continue to require further time for the purpose of their reply, and shall persist in deeming the several long and unexampled intervals of preparation which your Petitioner has stated still insufficient to enable them fitly to execute the remainder of that duty which may be expected at their hands, and your Lordships, in deference to the urgency of such representations, shall, contrary to the earnest solicitations of your Petitioner, incline to grant them a further portion of time for this purpose, your Petitioner hopes that, in any event, such indulgence may be limited to a very early day, and that the Managers may then be required to proceed with uninterrupted dispatch during a course of daily and continued sittings, till the reply upon all the subjects of this impeachment shall be fully and finally concluded in the course of the present session of Parliament."

After the reading of this petition, a debate ensued on the request for further delay sent up from the Commons, in pur-

1793.

Petition of
Mr. Hastings to the
House of
Lords, 10th
June, 1793.

1793. suance of their vote of the 7th of June. Earl Stanhope moved that the trial be resumed on the following Wednesday, the 12th of the month ; and Lord Abingdon moved to postpone it to the first day of the meeting of Parliament after the prorogation, and that it then be prosecuted to a close within the session. But, on his Lordship agreeing to withdraw his motion, an amendment proposed by Lord Grenville to Earl Stanhope's motion, that the trial be resumed on the second Tuesday in the next session of Parliament, was carried by a vote of 48 to 21. The reply of the Managers, therefore, was thus deferred to the year 1794.

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Adjourn-
ment of pro-
ceedings to
the follow-
ing Session.

The speeches in the present volume have been printed from copies of Gurney's Reports in the hands of the Editor, collated with those preserved in the library of Lincoln's Inn. The following statement will show to what Reports in any other form he has had access.

I. *Dallas' Opening of the Evidence in Defence on the First Article of the Charge, on the 9th, 11th and 12th, of June, 1792.* Gurney's Report. A copy, made for the use of Mr. Hastings' solicitor, is in the British Museum, Additional MS., 1,73.

II. *Law's Opening of the Defence on the Second Article of the Charge, on the 15th and 19th of February, 1793.* 1. Gurney's Report. 2. An independent Report, made for Mr. Hastings' solicitor, and preserved in the British Museum, Additional MS., 17,080.

III. *Plumer's Summing of the Evidence in Defence on the Second Article of the Charge, on the 25th and 30th of April, and the 2nd and 6th of May, 1793.* Gurney's Report. A copy, made for the use of Mr. Hastings' solicitor, is in the British Museum, Additional MS., 17,081.

IV. *Dallas' Opening of the Evidence in Defence on the Sixth, Seventh and Fourteenth, Articles of the Charge, on the 9th, 16th, 17th and 24th, of May, 1793.* Gurney's Report. A copy of the same, with a few corrections apparently by Mr. Dallas himself, and with occasional corrections and more numerous notes by another hand*, is in the British Museum, Additional MS., 17,082.

* The writer of the notes appears to identify himself with the author of an anonymous pamphlet, intitled "Remarks on Mr. Fox's Speech in Reply on the Article of Presents, on the Trial of Warren Hastings," London, Owen, 8vo., 1794. See Add. MS. 17,082, 17th May, f. 45 b.

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ON THE SIXTH, SEVENTH AND FOURTEENTH, ARTICLES
OF THE CHARGE, RELATING TO PRESENTS; 17TH MAY,
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