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. II.

PUBLISHED BY THE AUTHORITY OF THE LORDS COMMISSIONERS
OF HER MAJESTY'S TREASURY.

LONDON:
PRINTED BY GEORGE E. EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

PUBLISHED BY
LONGMAN, GREEN, LONGMAN, & ROBERTS.

1860.

CONTENTS.

A

SUMMARY

OF

PROCEEDINGS ON THE TRIAL.

Plan of the Summary.

It has been suggested as desirable to connect the several speeches contained in the present publication by notices of the intervening proceedings on the trial; and it has been judged that such notices would be most conveniently introduced by being brought together, in a narrative form, at the commencement of each volume. In entering on the plan at the present point, it will be necessary to supply here what should properly have been prefixed to the first volume—to join with the account of the proceedings connected with this portion of the work a view of the course of the trial from its commencement. Any indication of opinion in favour of either the prosecution or defence will be avoided; and nothing further will be attempted than to narrate the occurrences of each day's sitting of the Court, and briefly to refer to public incidents directly influencing or growing out of the impeachment, in order that the progress of the trial may be present to the reader's mind as he takes up each succeeding speech.

Little objection raised to evidence offered for the two first charges.

Little occurred that requires mention during the period embraced in the first volume: the speeches themselves are the engrossing objects of the earlier part of the trial. The evidence which they introduced or commented on was received with little opposition from the Defendant's Counsel; and it is not our object to detail the evi-

dence itself, which was published at the time by authority of the Court. Although exception was sometimes taken to evidence, and angry discussions occasionally arose between the Managers and Counsel, the course of the proceedings during the prosecution on the two first Articles of the impeachment was comparatively smooth. But in supporting the sixth Charge, relating to presents alleged to have been received from corrupt motives, the Managers were again and again opposed by the Counsel for the defence, in their endeavours to introduce particular matters of evidence. The contests arising from these differences were carried on in arguments which sometimes extended over the entire day's sitting of the Court; and the questions proposed were of so nice a character that the proceedings were more than once suspended, while they were referred to the Judges for solution. In some instances, the disputes between the Managers and Counsel were determined by the mere expression of the Lord Chancellor's opinion; but more commonly they were formally discussed by the Lords, who, on such occasions, retired from the Hall to their own chamber, for the purpose of considering their judgment, and, on their return, announced it through the Chancellor. The duration of the trial was much affected by the frequency of these discussions. Although the number of sittings of the Court occupied by the prosecution on the two first and the two second charges was nearly the same, the time over which they were spread was very unequal. In the former case, the sittings were included in one session of Parliament, from the beginning of February to the 13th of June, 1788; in the latter, they were spread over three sessions; partly, it is true, owing to interruptions of a special character, but in a considerable degree in consequence of the numerous adjournments of the Court for lengthened periods, to allow opportunity to the Lords for debating on, or to the Judges for considering, the questions disputed between the parties. The struggles were occasioned by the difference of view taken by the Managers and Mr. Hastings' Counsel of the rule proper to be followed

Opposition to evidence on the other charges.

regarding the admission of evidence. The former chafed at the restraints imposed on them by the forms of Common Law Courts, and asserted the right of adducing such evidence as bore upon their case without regard to technical limitations. The latter used all their skill as lawyers in baffling these pretensions of their opponents, and were ever on the watch to resist the slightest informality; and each imputed to the other the design of defeating justice by endlessly protracting the proceedings. The altercations between the contending parties, principally conducted by Mr. Burke and Mr. Fox, on the part of the Managers, and by Mr. Law on the side of the Defendant, were often of an angry tone. They were reported in full by Mr. Gurney, who was employed by the Managers as their short-hand reporter, and who, not by deputy, as implied in our previous mention of this subject,* but, as we have the authority of his grandson, Mr. Joseph Gurney, for stating, with his own hand, took notes, still extant, of the whole proceedings.

The preparations for the trial in Westminster Hall, and the ceremony of opening the Court, have already been described;† and we shall now endeavour to give a short connected narrative of the proceedings from day to day; not, as we have said, attempting to dissect the evidence brought forward, but simply stating the subject which occupied the attention of the Court at each of its sittings, and noticing the numerous disputes which arose on the admissibility of evidence, and other incidents illustrating the history of the prosecution. 1788.

The Court was formed on the 13th of February, 1788, and, simultaneously with the first exercise of their functions as prosecutors, the Managers were obliged to protect themselves from attempts to discredit the honesty of their motives. On the 14th of the month, Mr. Fox called the attention of Opening of proceedings, 13 Feb. 1788.

* See Vol I., Introduction, p. xli.
† See Ibid., p. xxxix.

1788. the House of Commons to a pamphlet, of a libellous character, published by Mr. Stockdale, and read passages from it, in which the charges against Mr. Hastings were asserted to be groundless, and his impeachment ascribed to party feelings. The motion for a prosecution by the Attorney General was supported by the Ministers, after a slight amendment of the terms of it; and the trial of Mr. Stockdale in the Court of King's Bench, on the 9th of December following, when he was defended by Mr. Erskine, resulted in a verdict of acquittal.

Prosecution of libellous pamphlet.

The two first days, the 13th and 14th of February, were occupied in reading the Articles of impeachment, and Mr. Hastings' answers to them.

Burke's opening of the Impeachment.

On the 15th of February, Mr. Burke commenced his General Opening of the charge, and continued his speech through the two following court days, the 16th and 18th of February, terminating it on the following day.*

Opposition to wish of Managers to try each Article separately.

After the conclusion of Mr. Burke's speech, the Managers of the prosecution and the Counsel for the Defendant immediately found themselves at issue as to the order of the future proceedings. On the part of the prosecution, it was urged by Mr. Fox that ea Article ought to be taken separately, the evidence produced and the defence made to it, as a distinct charge; and he referred to precedents in the conduct of the impeachment of the Earl of Macclesfield and Lord Strafford. This course was objected

* It is stated by the author of the contemporary "History of the Trial" that —"In the course of the first day's speech he worked up the passions of the Court in so powerful a manner, when he described the sufferings of the native Hindoos under the government of Mr. Hastings, that the Court repeatedly called out 'Hear! hear!'" And, in reference to the description of the cruelties practised by Deby Sing on the inhabitants of the province of Rungpore, on the third day of his speech, the same author states that—"In this part of his speech Mr. Burke's descriptions were more vivid, more harrowing and more horrible, than human utterance, on either fact or fancy, perhaps ever formed before. The agitation of most people was very apparent, and Mrs. Sheridan was so overpowered that she fainted." Mr. Burke is described as "dropping his head upon his hands a few minutes," overcome by his own emotions. He was shortly afterwards taken ill, and obliged to discontinue his address for that day.

to by Mr. Hastings' Counsel, who insisted, on grounds as well of convenience to the Court as of justice to their client, that the evidence on all the Articles should be brought forward before the Defence was opened. The Lords withdrew to their chamber to consider their judgm . 1788.

The question was regarded as of considerable importance to the success of the prosecution, and much difference of opinion was shown in the discussion of it in the House of Lords. Although the House eventually adopted the opinion of Lord Chancellor Thurlow, who, at great length, argued in favour of the course proposed by Mr. Hastings' Counsel, as many as thirteen peers, including the Dukes of Devonshire, Bedford and Portland, with Lord Loughborough, entered a protest against the decision of the majority. Importance of the question.

On the next court day, the 22nd of February, addressing the Managers, the Chancellor said, "I have, in charge, to inform you that you are to produce your evidence in support of the prosecution before Mr. Hastings is called upon for his defence."

Immediately after the announcement of their Lordships' judgment, Mr. Fox proceeded to open the first Article of the impeachment, relating to the treatment of Cheyt Sing, Raja of Benares, and concluded his speech on the same day. His auditory is stated to have been more numerous than that of any previous day of the trial. Opening of the First Charge by Fox and Grey.

On the 25th of February, Mr. Grey opened the remainder of the first Article of the charge;* and, on the conclusion

* The following is the criticism of the author of the "History of the Trial" on the character of Mr. Grey's speech, and his manner of delivery:—"Mr. Grey was nearly two hours in delivering his speech. His manner was suited to the occasion; he was fervid, graceful and impressive. He was collected, without arrogance; free in his expression, without any rattle of volubility; firm in his sentiments, with scarcely any disgusting obduracy to the defendant. Mr. Grey spoke like a man in earnest. He did not philosophise, agitate and edify, so powerfully as Mr. Burke; but he showed some reading and some abstract reflection. He not only declaimed, but his speech had, what is less attainable by so young a man, much good arrangement and lucid order."—History of the Trial, &c., Part I., p. 20.

1788. of his speech, the Managers proceeded to adduce evidence in support of the charge.

Evidence on the First Charge. After the examination of witnesses to prove the terms of the royal charter granted to the East India Company, in 1696, the appointment of Mr. Hastings as Governor General, and the Act of Parliament of 1774, the Managers were proceeding to read Mr. Hastings' Defence to the first Article, delivered before the House of Commons, as entered in the journals of the House, but were stopped by the Counsel, who insisted on the original minutes of the Defence being produced, with which demand the Managers complied.

Reading of Mr. Hastings' Defence before the House of Commons.

Question of reading extracts from documents. On the 26th of February, the ninth day of the trial, various papers were read as evidence on the first Charge; and, in reference to an objection made by the Managers to the unnecessary reading of an entire document by the Counsel, when a portion only was cited, the Lord Chancellor decided that "if a paper is produced it must be read entire, if required by either party, and that the House, for the present, must put a confidence in the party who shall insist upon its being so read entire that they will not do it frivolously."* An objection was made by the Counsel, at the end of the day, to the reading of a letter from the court of Directors to the Governor General and Council, offered as proving a breach of orders by Mr. Hastings, there being no allegation of the offence in the Article, and the Court adjourned.

Objections to evidence of offences not in the charge.

Decision in favour of Managers. On the 28th of February, the Lord Chancellor announced that the Managers were at liberty to read the letter objected to by the Counsel. Further documentary evidence was then read, without opposition, together with several extracts from Mr. Hastings' Narrative of the Insurrection in Benares, in 1781.†

Question of reading extracts. On the 29th of February, other extracts were read from Mr. Hastings' Narrative, and further documentary evidence

* "Minutes of the Evidence," p. 46.

† The entire Narrative is printed in the "Minutes of the Evidence," pp. 109–270.

adduced. A discussion arose on a proposal by Mr. Adam for printing the extracts from Mr. Hastings' Narrative in the "Minutes of the Evidence," without reading them in Court; the proposal was rejected, at the suggestion of Earl Stanhope, and the extracts were read at length. Oral testimony was taken during the latter part of the sitting; and Mr. John Stables, Mr. Fox Calcraft, both of whom had served in a military capacity in Benares, and Mr. John Benn, who had been the assistant to the Company's Resident at Benares, were examined. A question being put by the Managers to the latter witness, to show he had given contrary evidence before the House of Commons, objection was raised by the Counsel for Mr. Hastings, on the ground that it was "perfectly new in judicature that any person producing a witness should himself undertake to impeach his credit." Arguments were heard on either side; it being explained on the part of the Managers that their object was to show "that the witness had not said clearly that which we can prove, from a former examination, it was in his power to say." It being late in the afternoon, the Lords adjourned to their own chamber, and the question in dispute was referred to the Judges.

1788.

Examination of Stables, Calcraft, and Benn.

Objection to impeaching their own witness.

Question referred to the Judges.

After an interval of six weeks, occasioned by the absence of the Judges on circuit, the Lords again assembled in the Hall on the 10th of April; when the Lord Chancellor announced their decision that "it was not competent for the Managers to put the question proposed by them to the witness." On the announcement of this resolution the Managers asked leave to withdraw. They shortly returned, and Mr. Fox, addressing the Court, stated it was impossible the Managers could, in their minds, acquiesce in the decision. That it was so important to the whole proceedings that only their feeling it a superior duty to proceed with despatch in the trial withheld them from appealing to the House of Commons for instructions. That they were thoroughly convinced they had a right to put the question. That, in cases of impeachment, which are usually directed

Decision against Managers.

Protest of Mr. Fox.

1788. against persons of influence, the witnesses are likely to give unwilling testimony. That they the more regretted the decision because it was at variance with a previous one, in which their Lordships asserted their adherence to the practice of the lower courts. That they acquiesced, "not acknowledging the principle which is held out to us, but upon the principle of convenience—that we would not delay this trial; always protesting in favour of the rights of the Commons of England, which we do not mean to admit it to be a precedent for superseding and for destroying."*

Mr. Benn and Colonel Gardiner examined.

Mr. Benn and Colonel Gardiner were then examined, principally with respect to the arrest of Cheyt Sing, and his treatment during confinement.†

Anstruther's summing of evidence on the First Charge.

Observations by Mr. Burke.

On the 11th of April, the thirteenth day of the trial, Mr. Anstruther, on the part of the Managers, summed up the evidence produced in support of the first Article of the impeachment. And, on the conclusion of his speech, Mr. Burke made a few observations on the subject of the insults offered to Cheyt Sing during his arrest, and on the treatment shown to Durbejey Sing during his imprisonment.‡ And thus the case for the prosecution was closed on the Benares charge.

Adam's opening of the Second Charge.

Interruption by Mr. Hastings.

On the 15th of April, the fourteenth day of the trial, Mr. Adam opened the second Article of the impeachment, relating to alleged acts of injustice towards the Begums of Oude, the mother and widow of the deceased Nawab of Oude. An incident which occurred during the delivery of his speech requires notice. In the course of his argument, he charged Mr. Hastings with having falsified dates in his Narrative of

* Gurney's Report, MS.

† It is stated, in the "History of the Trial," that "the Prince of Wales, the Duke of York, and the Dukes of Gloucester and Cumberland, were present during the day's proceedings. The Commons were few in number; and the audience lessened so continually, from time to time, that at last scarcely any hearers but those who were obliged to hear were left in the Court."—Part I., p. 27.

‡ Printed in Volume I. of the present work, p. 362.

the insurrection in Benares. Galled by the imputation, Mr. Hastings whispered to a gentleman in his box that the assertion was false. The words were caught by Mr. Adam, who, in violent terms, protested against the interruption and repeated his charge.* 1788.

Support of the Second Charge by Mr. Pelham.

On the 16th of April, Mr. Pelham supported the second Article of the charge. On the close of his speech, Mr. Sheridan rose to conduct the evidence to be brought forward on the Article now opened; having first, with the concurrence of the Defendant's Counsel, proposed that, in future, not the whole of any voluminous paper exhibited in evidence should be printed, but only the part specially applying to the subject. He then proceeded to prove a printed paper circulated in the lobby of the House of Commons, and purporting to be a second Defence of Mr. Hastings upon the second Article of the Charge.† Major Scott, who, when Mr. Hastings was in India, had acted as his confidential agent in England, and from the commencement of the present proceedings had been his staunch supporter, both in the House of Commons and in the public press, was examined by Mr. Sheridan on the subject of this second Defence, and stated that he had distributed a few copies of it among members of the House. He was then questioned as to the composition of Mr. Hastings' first Defence at the bar of the House of Commons, and informed the Court that it was written within the space of six days, but that the only portions of it composed by Mr. Hastings himself were the general introduction and the answers to the Articles concerning the Rohilla war and the King's tribute. He specified the authors of the other parts of the Defence, viz., the witness himself, Mr. Halhed, Mr. Shore,

Evidence.

Arrangement for printing extracts of papers.

Examination of Major Scott, respecting Mr. Hastings' second Defence.

The first Defence composed by friends of Mr. Hastings.

* The observation of the historian of the trial upon Mr. Adam's speech is as follows—"Mr. Adam was up three hours and an half, and was heard with great attention. In many parts he deserved it. In parts there was a violence liberal men do not love. The Commons were more numerous than usual. The female part of the audience were in greater numbers than have lately been seen."—History of the Trial, Part I., p. 33.

† It is headed "The real State of the Facts contained in the Fourth Article of Mr. Burke's Charge, divested of all extraneous matter in which they are enveloped;" and is printed in the "Minutes of Evidence," p. 362.

1788. a member of the Supreme Council, Mr. Middleton, Mr. Markham, Mr. Baber, Major Gilpin and Mr. Benn; and he stated that many passages were introduced into the paper, by the different contributors to it, which Mr. Hastings himself had never read when it was presented to the House.

Examination of Mr. Holt.

On the 17th of April, the sixteenth day of the trial, Mr. Holt, who had been assistant to the Resident at Lucknow, in 1779 and 1780, was examined for five consecutive hours, principally with the object of proving Mr. Hastings' influence over the Nawab of Oude; and his examination was resumed on the 22nd of April. It was followed by various written evidence, and subsequently by the examination of Major Brown, Mr. Goring and Mr. Stables.

Major Brown, Mr. Goring, and Mr. Stables.

Examination of Mr. Middleton.

The principal witness examined on the 23rd, the 24th and 29th, of April was Mr. Middleton, formerly political Resident at the court of Lucknow. He is stated to have shown much confusion in giving his evidence, and to have resorted to the plea of forgetfulness when pressed on subjects which it was hard to believe had escaped his memory.

Examination of Major Scott and Mr. Middleton.

On the 30th of April, Major Scott was again examined at great length, and again on the 1st of May. After which, various letters were produced and read, and Mr. Middleton was once more examined.

Of Sir Elijah Impey.

On the 6th of May, a great deal of written evidence was given in and read, and Sir Elijah Impey, formerly Chief Justice of Bengal, was examined on the subject of the affidavits sworn before him relative to the insurrection in Benares.

Of Mr. Middleton.

On the 7th and 8th of May, after the reading of much written evidence, Mr. Middleton was examined on the subject of the seizure of the Begums' jagirs.

Of Capt. Edwards and Colonel Achmutty.

After an adjournment for the Whitsun holidays, the Court resumed on the 20th of May, when various written evidence was adduced, and Captain Edwards and Colonel Achmutty were examined, mainly in relation to the alleged rebellion of the Begums.

Garbling of letters.

On the 21st of May, extracts were read from the Persian correspondence, during Mr. Hastings' administration, to show

that the letters had been garbled and mutilated, and that forged papers had been introduced among them. Other written evidence was read, to show that the resumption of the jagirs was against the wish of the Nawab. In the course of the day, Major Scott presented himself for the purpose of correcting a statement made by him at a previous examination, and in which he had denied that he had made any other communication respecting presents received by Mr. Hastings than what he had already mentioned. He now acknowledged a letter to the Chairman of the Directors, detailing every instance of such receipt of presents by Mr. Hastings. Sir Elijah Impey also was called in, to authenticate certain letters which he had delivered to the House of Commons; and an interruption to the proceedings was occasioned by his hesitating to answer the questions put to him—first, on the ground that he was afraid of exposing himself to censure, as he had been already charged, in the House of Commons, with arrogance and contumaciousness in his mode of conducting himself on a previous examination; and, secondly, from apprehension of his evidence being turned against himself in a prosecution he was threatened with by the Commons. He subsequently complained that snares were laid for him in his examination—an expression which, Mr. Fox insisted, deserved the reprimand of the Court.

1788.

Correction of evidence by Major Scott.

Objection by Sir E. Impey to answer questions.

On the 22nd of May, Mr. Purling, who had acted as the Company's Resident at Lucknow, was examined by the Earl of Suffolk respecting the state of the province of Oude. Written evidence was presented, and Sir Elijah Impey corrected a discrepancy between evidence given by him before the House of Commons and his statements in a recent examination. He was further questioned, chiefly on the circumstances of taking the affidavits respecting the Begums' concern in the Benares insurrection. Capt. Jaques, the officer who had held the ministers of the Begums in his custody, during part of the time of their confinement, was called in, and gave evidence respecting the harshness of their treatment.

Examination of Mr. Purling.

Correction of evidence by Sir E. Impey.

Capt. Jaques.

Mr. Sheridan was stopped by Mr. Hastings' Counsel in an

1788. endeavour to elicit from the witness the contents of certain letters which he had received from the Resident at Lucknow, on the ground that he was putting leading questions to his own witness. Mr. Sheridan retorted that the witness could not be considered as the evidence of the Managers, as he was known to have been in close communication with the Counsel themselves.

Objection to leading questions.

On the 27th of May, Mr. Jaques was again examined. Subsequently, the Managers proposed to read from Mr. Middleton's letter-book his correspondence with Major Gilpin, by whom Capt. Jaques had been relieved at Fyzabad, but were opposed by Mr. Hasting's Counsel, who insisted that Major Gilpin ought to be called to prove the receipt of the letters. To this the Managers objected, as in that case Major Gilpin would be regarded as their witness, and they would thereby be debarred, by a former resolution of the Court, from putting what might be called leading questions to him. Eventually they submitted to the objection of the Counsel, and called in Major Gilpin to prove the letters in question. The Major was then examined by the Counsel, to prove the reality of the Begums' preparations to assist Cheyt Sing, and the respectful treatment they had subsequently received, when in confinement.

Insistance of Counsel on calling witness to prove letters.

Major Gilpin.

On the 28th of May, after observations by Mr. Sheridan on incorrectnesses in the printed Evidence, Major Gilpin was again cross-examined by the Counsel. Mr. Middleton also was questioned as to the origin of the design of resuming the Begums' jagirs, and gave very material evidence on this subject.

Examination of Major Gilpin and Mr. Middleton.

On the 30th of May, the thirty-first day of the trial, Mr. Sheridan again brought forward the subject of inaccuracies in the printed Evidence, and proposed a plan for preparing a list of errata, which was accepted by the Counsel. Mr. Middleton was then subjected to an examination, principally concerning the treatment of the eunuchs, the ministers of the Begums, and alleged instructions from Mr. Hastings to induce the Nawab to give a present, after the treaty of Chunar. To many of the questions put

Inaccuracies in printed Evidence.

Examination of Mr. Middleton.

to him he refused answers, lest he might be drawn into criminating himself. On the conclusion of his examination, Mr. Sheridan informed the Court that the Managers had closed their evidence on the second charge.

Summing of evidence on the Second Charge by Mr. Sheridan.

On the 3rd of June, the thirty-second day of the trial, Mr. Sheridan proceeded to sum up the evidence on the charge relating to the Begums of Oude. His speech was continued through the 6th and 10th, and brought to conclusion on the 13th, of the same month. Excitement amongst the public was at its highest pitch on the first day of his great speech. Although the Court was not formed till twelve o'clock, it is stated that "by eight o'clock in the morning the avenues leading to the hall, through New and Old Palace Yards, were filled with ladies and gentlemen of the most respectable appearance, many of them peeresses in full dress, who stood in the streets for upwards of an hour before the gates were opened." * He is stated to have been much exhausted at the end of the second day, and on the afternoon of the third day was suddenly interrupted by illness.†

---

* "History of the Trial of Warren Hastings," Part I., p. 74.

† The general opinion of those who heard Mr. Sheridan's speech was, that, however splendid, it scarcely equalled his famous oration in the House of Commons, in bringing forward the same charge, on the 7th of February, 1787. If Mr. Burke, however, spoke his honest sentiments when he gave his opinion on the merits of the later speech, in a debate in the House of Commons, on the 6th of June—when only half of it had been delivered—it is not easy to conceive how it could have been surpassed by any effort even of the same wonderful genius. He said in reference to it,—"Every member had been struck dumb with astonishment and admiration at the wonderful eloquence of his honourable friend (Mr. Sheridan), who had that day again surprised the thousands who hung with rapture on his accents by such a display of talents as were unparalleled in the annals of oratory, and as did the highest honour to himself, to that house, and to his country." . . . "Of all species of oratory, of every kind of eloquence that had been heard, either in ancient or in modern times, whatever the acuteness of the bar, the dignity of the senate, or the morality of the pulpit, could furnish, had not been equal to what that house had that day heard in Westminster Hall. No holy religionist, no man of any distinction as a literary character, could have come up, in the one instance, to the pure sentiments of morality, or, in the other, to the variety of knowledge, force of imagination, propriety and vivacity of allusion, beauty and elegance of diction, and strength of expression, to which they had all that day listened. From poetry up to eloquence, there was not a species of composition of which

1788.

Close of the session of 1788.

Mr. Sheridan's summing up of the evidence on the charge relating to the Begums closed the proceedings for that session of the Parliament. The trial had already occupied thirty-five days, extended over an entire session, and expressions of impatience were heard in the public press. The expense incurred by the prosecution was a subject of complaint; and, on the 9th of May, a direct motion was made by Mr. Burges, in the House of Commons, for a particular account from the solicitors to the Managers of the whole expenses of the prosecution. The debate which ensued gave rise to a very angry altercation between Mr. Burke and Mr. Pitt. In reference to an explanation offered by Mr. Pitt of certain communications between the Treasury and the Managers, Mr. Burke stated that his assertion was not true. Mr. Pitt replied, that, "perhaps, from being accustomed to use an extraordinary licence of speech elsewhere, Mr. Burke showed himself so much the slave of habit and practice that he forgot the place where he was, and seemed desirous of introducing that habit and practice within these walls." Mr. Burke retorted, that Mr. Pitt "had alluded to what he supposed to have passed in a place where he seldom or never made his appearance; but it was the curse of his situation to be surrounded with whisperers and tale-bearers, and to take up matters as they were conveyed to his ears by such reporters."*

Motion in the House of Commons for account of expenses.

Altercation between Mr. Burke and Mr. Pitt.

Further motions for accounts.

On the 20th of May, the accounts which had been called for were laid on the table of the House, and a second motion by Mr. Burges for a more particular account was carried, against the wish of the Managers, by a majority of sixty to seventeen. An effort was made on the 6th of June, by the same member, to induce the House to require a monthly account of expenses; but this was successfully resisted by the Managers.

---

a complete and perfect specimen might not have been culled from one part or the other of the speech to which he alluded."—Parliamentary History, vol xxvii. col. 544.

* See Parliamentary History, vol. xxvii., col. 493; and Adolphus' History of England, vol. vi. p. 149.

1789.

In the interval between the prorogation and the day appointed for the re-assembly of the Parliament, the exercise of the functions of royalty was interrupted by the King's illness. Shortly after the opening of the session, by commission, on the 3rd of February, 1789, a petition was presented to the House of Lords by Mr. Hastings, complaining of the great hardships to which the extraordinary duration of the trial was subjecting him. Amongst these, he mentioned the change of his judges by the decease of many members of the House; the detention of witnesses necessary for his defence, and the probability of his being deprived of many of them by various accidents; injury to his health, and waste of his fortune; that his expenses had already exceeded 30,000*l.*, and, consequently, that, should his life be continued to the close of the prosecution, he might find himself destitute of the means of defence and even of subsistence, and "run the dreadful chance of having his character transmitted on their records, blasted with unrefuted criminations;" and he prayed them to proceed on his trial without delay.* Circumstances, however, prevented the immediate resumption of proceedings. The attention of the Legislature was for some time engrossed by the consideration of a Regency Bill. On the 19th of February, a notification was made to the House of Lords of the King's recovery, and the debates on the Regency were of course suspended. Adjournments from time to time succeeded, till proceedings were formally opened by the delivery of a speech in the King's name by the Lords Commissioners, on the 10th of March. The absence of the Judges on circuit still further delayed the resumption of the trial; and it was not till the 21st of April that the Court was again formed in Westminster Hall.

Session of 1789.

Petition of Mr. Hastings to the House of Lords.

Delay in proceedings.

On that day, the thirty-sixth of the trial, Mr. Burke opened a portion of the sixth Article of the impeachment. The substance of the accusation contained in the Article

Mr. Burke's opening of part of the Sixth Charge.

* Parliamentary History, vol. xxvii, col. 1344.

1789. was, that, contrary to his covenants with the court of Directors, as Governor General, and to terms of a special Act of Parliament, he had received various presents, from corrupt motives. That, in the year 1783, he took a present from Raja Nobkissen, under colour of a loan, to the amount of 34,000*l.*—That, in the year 1780, he accepted as a present, from Sadanund, the treasurer of Cheyt Sing, the sum of two lacs of rupees, equal to 20,000*l.*—That, in the same year, he took from a person called Kelleram a sum of four lacs of rupees, or 40,000*l.*, and, in consideration of it, granted to him and to Cullian Sing, in perpetuity, the farm of the revenue of the province of Behar.—That, in the year 1781, he accepted from Asoff-ud-Dowla, Nawab of Oude, being then in a state of great pecuniary embarrassment, the sum of ten lacs of rupees, equal to 100,000*l.*—That, in the same year, he took from a person called Nundulol, 58,000 rupees, equal to 5,000*l.*—That, in 1772 and the two following years, he extorted, by means of his banya, Cantoo Baboo, from the zamindar of Rajeshaye, divers sums, amounting to 4 lacs 40,000 rupees, equal to 40,000*l.*; and that, being charged with the same before the Supreme Council, he refused to clear himself from the accusation.—That, in 1773, he took from Raja Nundcomar and other persons divers sums, amounting in value to 40,000*l.*, as bribes for appointments; particularly for appointing Raja Goordass, son of Nundcomar, to the head of the finances of Bengal, and making Munny Begum, widow of Mir Jaffier, formerly Nawab of Bengal, superior of the family of Mobaric-ud-Dowla, the then Nawab, and constituting her minister of the government and guardian of the Nawab's minority, the said Munny Begum being wholly unqualified for the appointment.—That, in the year 1773, he took the sum of 36,000 rupees for himself, and 4,000 rupees for his banya, Cantoo Baboo, from one Khan Jehan Khan, out of his salary as faujdar of Hoogly, to which office he had appointed him; and that, when charged therewith by the majority of the Council, he refused to answer, and, moreover, prohibited the said

Substance of the charge.

Corrupt presents.

Khan Jehan Khan from giving testimony respecting the transaction. 1789.

Mr. Burke selected for his opening the portion of the charge relating to the presents received from Munny Begum, in consideration, as was alleged, for the appointments of superior of the Nawab's household and guardian of his person; and introduced the circumstances of Nundcomar's accusation of Mr. Hastings, presented to the Supreme Council, in relation to these and other corrupt presents. He dwelt on the general corruption of the service by Mr. Hastings' example, and on the measures taken by him, in connection with the public accounts, for concealing his illegal practices. He prefaced his address with a notice of complaints, spread about by Mr. Hastings and his friends, of the length of the trial; in justification of which he cited, in comparison, the proceedings during the session of the Committee on the Colchester election, which had lasted as many days as the present trial. And he answered other complaints of the expenses to which Mr. Hastings had been driven by the nature of the proceedings, by asserting that they were more than covered by the amount of one of the bribes he should prove him to have accepted. Mr. Burke's speech.

Mr. Burke's speech extended through the 25th of April and the 5th of May, and was concluded on the 7th of that month. The 22nd of April had been appointed for the second hearing of his address, but, after the Lords had met in the Hall as usual, Mr. Burke was seized with sudden indisposition, and the Court adjourned to the 25th. The speech bears the impress of the marvellous power and richness of the great orator's mind; and, while abounding in passages of the loftiest eloquence, never loses sight of its object of setting the circumstances of the charge distinctly before the Court, and heightening to the utmost every feature in the transaction to which guilt could be ascribed. But, in the course of the first day of its delivery, his earnestness of feeling led Mr. Burke into expressions not justified by the terms of the impeachment, and which brought upon Charges Mr. Hastings with the murder of Nundcomar.

1789. him a serious mortification. In reference to the prosecution of Maharaja Nundcomar for forgery, and his eventual execution, at the very time when he was urging charges of bribery against Mr. Hastings before the Supreme Council of Calcutta, Mr. Burke said of Mr. Hastings, "Yet there is an action which is more odious than the crimes he attempts to cover; for he has murdered this man, by the hands of Sir Elijah Impey."* On the 30th of April, when the Lords had met for a further hearing of the opening of the sixth Charge, a message was presented from the Commons desiring that the trial might be deferred to a future day. This interruption was occasioned by a petition of Mr. Hastings, which had been presented in the House of Commons on the 27th of April, by Major Scott, complaining of extraneous accusations, not included in the Articles of impeachment, and wholly false and unfounded, having been introduced by Mr. Burke into his speeches, and especially of his having charged him with the murder of Nundcomar; and praying that he might have an opportunity of answering these charges, or that the House would grant him redress. †

Proceedings interrupted by House of Commons.

Petition of Mr. Hastings to the House against unauthorised charges of Mr. Burke.

* See page 47 of the present volume.

† The following are the terms of the petition:—"That the petitioner was impeached by this House, before the Lords Spiritual and Temporal in Parliament assembled, on a charge of high crimes and misdemeanors, contained in certain Articles exhibited according to the just and proper usage of Parliament, and was required by the Lords to give in his answer to the same, a competent time being allowed him to prepare it, and which answer he delivered in accordingly; and that the Managers appointed by the House to carry on the prosecution, not confining themselves to the Articles of charge, which were especially exhibited against the petitioner, and to which he was required to deliver his answer, and had so answered as aforesaid, did, in the last year, introduce certain allegations in the course of their proceedings, which not only were not contained in, nor bore any immediate relation to, the said Articles of charge, but were wholly extraneous and foreign from them; although they were of such a nature as, if true, would have rendered the petitioner infinitely more criminal than anything contained in those which had been formerly exhibited against him; and that the allegations to which the petitioner more particularly alludes were as follows:—that he was concerned as an accomplice in a plot, alleged to have been formed for the purpose of assassinating the Shahzada, or Prince of Hindostan;—that he was concerned as an accomplice in procuring the death of Meeran, the son of the Nabob Jaffier Ally Cawn;—that he was the author and instigator of various acts of oppression and savage cruelty alleged to have been committed by a man named Deby Sing, under the appointment of the petitioner;—and that the trial, after an adjournment of upwards of ten months, was recommenced on the 21st instant, and the Article, intituled 'Presents,' opened by the Right. Hon.

The question of hearing the petition was supported by Mr. Pitt, and the subject of it was debated on in the House at several successive sittings. After it had been resolved that the petition should be received, Mr. Burke withdrew from the discussion; and a letter from him was read in the House, pledging himself to persist in the prosecution until he should be removed from the management by direct vote. A Committee was appointed to search for precedents as to the steps proper to be taken upon the petition, and Mr. Gurney, the short-hand writer, was examined in respect to the actual words uttered by Mr. Burke. It was eventually voted, on the motion of the Marquess of Graham, "That no direction or authority was given by this House to bring as a charge against Mr. Hastings, or to impute to him, the condemnation and execution of Nundcomar; and that the words spoken by Mr. Burke,—'he (meaning Mr. Hastings) murdered him (meaning Nundcomar) by the hands of Sir Elijah Impey,' ought not to have been spoken."* 1789. Vote of the House against the propriety of the charges.

In continuing his opening of the sixth Charge, on the 5th of May, Mr. Burke alluded at some length to these Reference by Mr. Burke to

Edmund Burke, in the name of the Commons of Great Britain; and the said Right Hon. Manager, in like manner as in the preceding year, introducing many allegations foreign from the express charge, did, in direct terms, charge the petitioner with the horrid crime of murder, using the following words, 'He'—meaning the petitioner—'murdered that man'—alluding to Nundcomar—'by the hands of Sir Elijah Impey;'—that the said Right Hon. Manager, and the other members appointed by the House with him to be joint Managers of the prosecution, have at various times declared that they spoke by instruction from this House, whose representatives they were, and that they should allege nothing that they were not prepared and willing to prove;—that it would not become the petitioner to suppose that such allegations, so made, in the name and by the representatives of this House, were not made by the command of the House, although no charge containing them has been yet preferred against him. The petitioner, therefore, declaring that the above-recited accusations are all untrue and utterly unfounded, most humbly appeals to the justice of the House, and prays that such of them as properly fall within the immediate cognizance of the House may be brought forward, and prosecuted in specific Articles; and that, in respect of the rest of them, such other mode of prosecution may be directed, or other means adopted by the House, as may enable the petitioner to make the refutation of the several matters of grievous crimination as public as the charges themselves have been; or that the House will afford him such other redress in the premises as to the House shall seem meet."—Parliamentary History, vol. xxvii., col. 1364.

* The numbers in the division were, Ayes, 135; Noes, 66; Majority 69.—Parliamentary History, vol. xxvii. col. 1422.

1789. proceedings, and with much dignity of language avowed the check he had received from the House of Commons, expressing entire submission to their resolution, yet reflecting on the readiness they had shown to overrule his judgment. He declared that, on the part of the Commons, he withdrew the imputation on Mr. Hastings of being concerned in the death of Nundcomar, but he reasserted it in his private character, and that in terms such as these:—"It was by the poverty of the language I was led to express my private feelings under the name of a murder; for if the language had furnished me, under the impression of those feelings, with a word sufficient to convey the complicated atrocity of that act, as I felt it in my mind, I would not have made use of the word murder." *

proceedings in the House of Commons.

Re-assertion of the charge.

On the 7th of May and on the following court day, after the conclusion by Mr. Burke of his speech, various documentary evidence was read, on the part of the Managers, by Mr. Grey. Exception was taken by the Counsel for Mr. Hastings to the admission of a copy of a letter from their client to the Directors, the Managers having failed to find the original in the East India House; and the Counsel carried their point. An objection was subsequently raised by them to the reading of certain orders transmitted by the court of Directors to Mr. Hastings, requiring regular accounts to be kept of the expenditure of the Nawab of Oude's allowance; but they gave way, on the understanding that the evidence was to be hereafter expunged, if the Managers failed to prove its relevancy to the charge.

Production of evidence.

Objection to the copy of a letter.

Objection to orders of Directors.

On the 14th of May, the forty-second day of the trial, various papers were given in evidence, to show the character and position of Nundcomar; but the greater part of the day was consumed in a discussion on the admissibility in evidence of Nundcomar's examination on a paper of charges against Mr. Hastings, presented before the Supreme Council of

Objection to Nundcomar's paper of charges

* Speech of Mr. Burke on opening the Sixth Charge.—Printed in the present volume, p. 116.

Calcutta in 1775; it being objected by the Counsel that the examination was not taken upon oath, that it was taken in the absence of Mr. Hastings, that it was a proceeding before an incompetent jurisdiction, and that Nundcomar was afterwards convicted of a forgery, committed by him prior to the said examination being taken. The Lords adjourned to the chamber of Parliament to discuss the question. 1789. against Mr. Hastings.

At the opening of the Court on the 20th of May, the Lord Chancellor rose and announced the decision of the House of Lords that "it was not competent for the Managers to produce the examination of Nundcomar which they tendered in evidence, the Managers not having proved, nor even stated, anything as a ground for admitting such evidence, which, if proved, would render the same admissible." Decision against Managers.

After a protest by Mr. Burke against this resolution, the question was almost immediately re-opened, by a claim put forth by the Managers to produce the minutes of a consultation of the Council of Calcutta of the 20th of March, 1775, when Mr. Hastings was present, in which were rehearsed the minutes of the previous Board, held on the 13th of March, including the examination of Nundcomar. The question re-opened.

The judgment of the Court was, "That the circumstance of the consultation of the 13th of March, 1775, being read at a consultation of the 20th of March, 1775, at which Mr. Hastings was present, does not of itself make the matter of such consultation of the 13th of March admissible evidence."

The Managers remonstrated against this judgment, and, in the discussion which ensued, the Lord Chancellor interpreted the opinion of the Court in the following terms:—

"The examination of Nundcomar by itself is clearly no evidence at all. To admit evidence which is incompetent, and which contains in it criminal imputation against the Defendant, would be to admit unwarranted slander." . . . "There is no way (as the argument alleges) of making the paper competent evidence, but by proving that Mr. Hast-

1789. ings had done or said something, in reference to that paper, by which he had, in that act, made it competent evidence; and the Lords are of opinion that the circumstance of sitting by to hear it read is not such an act." *

The argument was continued by Mr. Fox and Mr. Burke at great length. The Lord Chancellor again explained that, if the Managers could show that the evidence offered could apply, by connecting it with some criminal act done by the Defendant, they would be allowed to make use of it. After further arguments, delivered by Mr. Burke and Mr. Fox, the Court adjourned.

Decision against Managers.

On the following day, the 21st, the Lord Chancellor announced the decision of the Court "that the consultation of the 13th of March cannot now be read." After some remarks by Mr. Burke, the minutes of the 20th of March were read. From these it appeared that Cantoo Baboo had been ordered to attend the Council of the 13th of March, but had not obeyed; and had afterwards assigned, as his reason for not attending, an order from Mr. Hastings not to obey the summons. Mr. Burke then again demanded that the minutes of the 13th of March might be read, as connected with this act of Mr. Hastings in interfering with the orders of the Council. A long discussion ensued, and the Court adjourned without having decided the question. In the interval between the adjournment and the next meeting, the Lords referred the question to the twelve Judges, whose answer was,—"That it is not competent for the Managers to produce an examination without oath, by the rest of the Councillors, in the absence of Mr. Hastings, the Governor, charging him with corruptly receiving 3,54,105 rupees," etc. Accordingly, on the 27th of May, the Lord Chancellor announced the decision of the Lords,—"That the examination of Nundcomar and the proceedings of the rest of the Council, on the 13th of March, after Mr. Hastings had left the Council, ought not to be read."

Objection to other evidence bearing on the same subject.

Question referred to the Judges.

Decision against Managers.

* Gurney's Report, MS.

Mr. Burke remarked upon the resolution of the Court in the following terms:— 1789.

"My Lords, after hearing this determination of your Lordships, the ground and reasons of which we do not understand, nor can in the smallest degree conjecture, I must say that one great political purpose will be answered by that decision. Not only no Governor General of Bengal can be hereafter convicted of the offence of bribery, from the very nature and circumstances of the affair, but it will teach him to throw off all those guards of prudence which men use upon such an occasion: and that crime, which has hitherto been considered as essentially secret, will become public, notorious, and walk in the face of day. That greatest of all and basest of all guilt will appear with the face and mask of innocence. My Lords, I am only to say that a Governor General of Bengal cannot be betrayed, not only by his own guilt, but by the greatest imprudence added to guilt. For, though he shall suffer the proofs of his guilt to be recorded upon the consultations and most solemn records of the Company, signed by his own hand, transmitted and authenticated by himself, and argued upon in his own defence, your Lordships are to know nothing of what the world knows but too much and feels but too well."*

Objection to a letter of Munny Begum.

After further observations of the same character, he asked permission to give in evidence a letter of Munny Begum, mentioned in the minutes, and charging Mr. Hastings with the receipt of money for the grant to her of the office of guardian to the Nawab of Oude, then a minor, arguing at great length on the propriety of its admission. The decision was referred by the Managers to the Lord Chancellor, who rejected the evidence. They then called Mr. Francis, as a witness to prove the delivery of the letter to the Council, but their questions were objected to and they suffered him to withdraw. Various papers were read in evidence, and the Court adjourned.

Objections to evidence overruled.

On the following day, the 28th of May, an objection by the Counsel of Mr. Hastings to admit as evidence a commission from the Council of Calcutta to Mr. Goring, to inquire respecting alleged embezzlements of the Nawab's revenue, under the administration of Munny Begum, was overruled. A long discussion ensued on the admission of the Begum's answers to queries drawn up by Mr. Hastings and

* Gurney's Report, MS.

1789. proposed to her by the Council. The decision of the Court was again in favour of the Managers.

Various matters of evidence rejected.

June the 10th, the forty-sixth day of the trial, was occupied by unsuccessful efforts on the part of the Managers to obtain the admission of various matters of evidence, viz., a letter of Mr. Goring relating to the money received by Mr. Hastings from Munny Begum, under pretence of an entertainment; objected to as irrelevant:—the Persian original of the Begum's letter to the Council of Calcutta relative to the same transaction; opposed by the Counsel and rejected by the Court:—evidence by Mr. Goring of the delivery to him by the Begum of the same letter, with her acknowledgment of the presentation of the money to Mr. Hastings for his entertainment; similarly opposed and rejected:—lastly, a charge of bribery against Mr. Hastings by Raja Goordass, which Mr. Burke endeavoured to have read, by stating that the object was to infer from the demeanour of Mr. Hastings, when he was made acquainted with that charge, a proof of his guilt. The Lord Chancellor objected that the demeanour ought to be first proved. Mr. Burke termed the decision preposterous. Lord Kenyon remarked upon the expression as disrespectful to the house. Earl Stanhope vindicated Mr. Burke; who pacified the Court by explaining that he used the word as meaning "putting the cart before the horse."

On the 11th of June, every effort was made by the Managers to procure the admission in evidence of the translation of a letter from the Begum to Mr. Hastings, which had been delivered to the Select Committee of the House of Commons by Major Scott, and in which she affirmed the presentation to him of a lac and a half of rupees. At the close of the day the Lords adjourned to their chamber to consider their judgment, which was not delivered till the 17th of the month. It was in the simple terms that the letter ought not to be read.

An incident in the proceedings of the 11th of June deserves notice, as characteristic of the tone and temper

exhibited in the conduct of the trial. In the course of 1789.
the altercations between the Managers and the Defendant's Disrespectful expressions used by Mr. Law.
Counsel, Mr. Law asserted the principle, that, unless a prosecutor could establish his charges by evidence, they ought to pass for slander and calumny; and, having subsequently stated that he had the authority of the House of Commons for declaring that Mr. Burke had used slanderous and calumnious expressions, not warranted by his instructions from them, he explained that he was aware of their opinion by what had fallen from Mr. Burke himself, in his account in that Court of late proceedings in the House. This reflection on the conduct of the prosecution was caught up by Mr. Fox, who indignantly declared his determination not to proceed in the trial until the Court had expressed its opinion respecting Mr. Law's language; and the Managers were only at length quieted by a declaration of the Lord Chancellor that it was indecent to apply the terms slander or calumny to any thing that was said by authority of the House of Commons.

The remainder of the 17th of June, after the admission Question referred to the Judges.
of a single paper, was occupied in an endeavour by the Managers to induce the Court to receive in evidence official accounts of sums given by Raja Goordass and Munny Begum to Mr. Hastings, as bearing on the fact of Mr. Hastings having reappointed them to their respective offices. The Lords withdrew to their own chamber at half-past two o'clock, and, after debating the point, drew up a question upon it, which they referred to the Judges, who, on account of its importance, desired time to consider their decision.

On the next day of the trial, the 24th of June, the Lord Chancellor announced the resolution of the House, that the accounts "ought not be read." Before proceedings were resumed, Lord Porchester proposed that two other questions, which he wished to read, should be referred to the Judges; but, as it was not according to form for the Lords to discuss such proceedings out of their own chamber, they immediately withdrew, and the trial was adjourned for six days.

1788. On the 29th of June, the Lords went into Committee to "inquire into the usual method of putting questions to the Judges and receiving their answers in judicial proceedings." After the reading of precedents and much debate, it was resolved, "That the proceedings on the trial of Warren Hastings, Esq., had been regular, and conformable to precedent in all trials of a similar nature."

Efforts to put in evidence a statement of the Begum's of presents made to Mr. Hastings.

The 30th of June was consumed in efforts made by the Managers to obtain the admission in evidence of a letter of Mr. Goring, containing accounts given by Munny Begum of presents made by her to Mr. Hastings. The first claim for its admission was grounded on the fact of its having been received and entered as read, and printed at length in the Appendix to the "Minutes of the Evidence," though an extract only had been actually read in Court and printed in the Minutes themselves. The decision of the Lords was, that "the papers printed in the Appendix, over and above what were actually read, have never been read, nor received by the House as read." The admission of the letter was subsequently urged by the Managers, because it formed part of a consultation which had already been read, and also because it had been rendered evidence by the demeanour of Mr. Hastings, who had requested the court of Directors to read and consider it. The Lords adjourned to their own chamber to consider their decision.

Decision against its admission.

On the next day of the trial, the 2nd of July, the Lord Chancellor informed the Managers that "the letter of Mr. Goring, of the 29th of June, 1775, ought not to be read."

Objection to evidence disproving the Nawab of Oude's sovereignty.

Other documentary evidence was then put in by the Managers; but they were opposed in an attempt to read a paper, offered to disprove the Nawab of Oude's claim to be considered a sovereign prince, Mr. Hastings having justified his re-appointment of Munny Begum to the regency of that country by alleging the will of the Nawab, who had the right of appointing. The Lords, as usual, withdrew to their own chamber to discuss the arguments of either side.

On the next day of the trial, the 7th of July, the

decision of the Lords was announced, that the paper above referred to ought to be read. The remaining written evidence was tendered by the Managers in support of the first portion of the sixth charge, and admitted. 1789. Mr. Burke then stated that, as Mr. Hastings had asserted that the Begum's answers to queries transmitted to her by Mr. Hastings had been obtained by Mr. Goring in an unjustifiable manner, he desired to call Mr. Goring to prove that he had used no improper influence to procure the answers in question. Mr. Law objected that, as the Managers had produced the minutes entered by Mr. Hastings as evidence against him, these minutes ought to be considered as the witnesses for the prosecution, and therefore the Managers ought not to be allowed to disparage them by afterwards endeavouring to prove they were false. After hearing the arguments at length between the Managers and Counsel for the Defendant, the Lords withdrew for consideration of the question.

Objection against disparaging their own evidence.

On the following day the Court again met, and the Lord Chancellor announced the decision of the Lords in the terms "that the question proposed to be asked of the witness by the Managers ought not to be put." Mr. Burke expressed the disappointment of the Managers at this resolution of their Lordships. He protested against it as tending to the utter subversion of all justice—

Supported by the Lords.

Protest of Mr. Burke.

"We proposed to your Lordships to prove Mr. Hastings guilty by showing the falsehood of the pretext which he made to cover his actions. Your Lordships permitted us to read the pretext, and we would have produced the evidence to prove the falsehood of this pretext. Your Lordships have refused us that: by which we stand in this unlucky circumstance, that we seem, *primâ fronte*, to have produced evidence against ourselves, whereas we produced only the pretext, in order afterwards to ground upon it the falsehood of that pretext. We are intercepted between the one and the other."

He concluded his observations by stating that it was not the intention of the Managers to adduce any further evidence, at present, upon the branch of the sixth Article he had opened.

After a short address from Mr. Law, complaining of the

licence taken by Mr. Burke in protesting against the decision of the Court, and of its injurious effect upon his client, from its possible influence upon public opinion, as well as from its obstruction to the proceedings, Mr. Anstruther offered to begin his opening of the remainder of the Article. But the Parliamentary session was drawing to a close, and the Lord Chancellor proclaimed the adjournment of the trial to the first Tuesday in the next session. Before his Lordship had left the woolsack, Mr. Hastings claimed to be heard, and addressed the Court in the following words :—

Close of the session of 1789.

Mr. Hastings's address, 8th July, 1789.

"My Lords, I feel myself unfit for the occasion which calls upon me to state to your Lordships what I feel of the unexampled hardships of this trial. I came here not prepared for such an event as I see is now impending. I beg that your Lordships will indulge me but for a few minutes while I recollect myself. I beg you will consider the situation in which I stand, as well as the awe which I must feel before such an assembly.

"My Lords, I have already, in an humble petition, presented to your Lordships at the beginning of this year, stated the hardships and grievances, and but a part of the hardships and grievances, which I thought I should sustain when only one year of this impeachment had passed. Those, my Lords, have accumulated; many of them proportionably accumulated by the time which has since passed; but, in my sense of them, have been infinitely aggravated when I have seen so little done and so much time consumed; and yet not one tenth part of one single Article, out of twenty which compose the charge, has occupied your Lordships' time the last five months. And what period shall I estimate for the remainder of an impeachment, where so little has been done and so much time already consumed? My life is not sufficient, in any estimation of it, for a Parliamentary inquiry; and I do beseech your Lordships—I know not what to make the prayer of my petition; but I do beseech your Lordships to consider what my health—what my life—what my fortune—must sustain, if it should be your determination that I shall wait until it shall please the justice or the candour of the honourable House of Commons, which has impeached me before your Lordships, to carry on this prosecution.

"My Lords, I hope I shall not be thought to deviate from the respect which I feel, I am sure, equally with any man living, for this very august assembly, if I say that, had a precedent been presented to me of a man impeached, as I have been, whose trial had been protracted to such a length, and to such a length as mine probably is to be protracted—if this had been put before my eyes, and I had seen the consequences to which I should have been exposed by such an impeachment—I pray

your Lordships will pardon me if I say I would have pleaded guilty. I would not have sustained the trial. I would rather have rested my cause and my character, dearer to me than life, upon that truth which sooner or later will show itself for the clearing my integrity, than have submitted to a trial which of itself would have proved a hundred times severer than any your Lordships could have inflicted upon me, had you tried me and found me guilty. Had I pleaded guilty, you could not have inflicted a punishment upon me more severe than that I experience by a life of impeachment. 1789.

"I only beg to submit my case to your Lordships, that, if it is in your power to apply a remedy to the hardships I sustain and am sustaining, you will do it. I cannot propose anything so ungracious as that your Lordships should waste more of your time in the continuation of this trial, when so much of the year has passed, and when, by the custom of this country and the custom of Parliament, I believe, it has been always usual for the Lords to retire from the business of the session; and I do wish to submit myself to your Lordships' justice and to your Lordships' clemency. Yet, if the honourable Managers could propose a short time —a period such as your Lordships could give for the remainder of this impeachment, which, I have been told, perhaps falsely, was to end with the present Article of charge—I would rather waive my defence—I would rather pray your Lordships to proceed to judgment, even upon the evidence which they have adduced on the part of the prosecution only—than wait longer, to I know not what time, for the regular conclusion of it.

"I hope I have said nothing which can be deemed disrespectful to the Court—I am sure I have felt nothing like it—and I submit myself."*

Whatever disposition might be felt by the House to meet the wishes of Mr. Hastings by continuing the proceedings over the usual period, the approaching absence of the Judges, on circuit, rendered this impracticable. Yet a paragraph appeared in a newspaper called "The World," complaining of want of spirit in the Lords, to put an end to the proceed- Libel against the House of Lords.

* To this address of Mr. Hastings the following answer was made by the *Lord Chancellor*.—"Mr. Hastings, the Lords will certainly take into consideration everything of the sort that has been alleged on your part, and which can possibly be conducive to the justice of the case. You will recollect that this is not at the instance of the Managers at all, but merely with a view to see how the best justice can possibly be done; and, in any rule which the Lords can come to, they will undoubtedly entertain a full consideration of all those matters upon which the justice of the case ought to turn."

Mr. Hastings—"I rely with perfect deference upon your Lordship's justice."

1790. ings. This was brought to the notice of the House of Commons by Mr. Marsham, and, on his motion, supported by Mr. Burke, it was voted a scandalous libel on the House, and a prosecution was instituted.

Resumption of the trial, 16 Feb. 1790.

On the 16th of February, 1790, the fifty-fourth day of the trial, the Lords again entered Westminster Hall in formal procession, and prepared to resume the proceedings. Mr. Hastings having, as usual, been brought to the bar, on his knees, was permitted to rise; and Mr. Anstruther immediately commenced his Opening of the remainder of the sixth charge, on the subject of presents alleged to have been illegally received by Mr. Hastings. His speech, in which the facts of the case were very simply and effectively stated, occupied the day's sitting.

Mr. Anstruther's opening of the remainder of the sixth Charge concerning presents.

Objections of irrelevant evidence overruled.

On the 18th and 23d of February, the Court was engaged in receiving written evidence, adduced by Mr. Anstruther, on the subject of that part of the charge he had opened. On each day, prolonged discussions arose between the learned Manager and Mr. Law, on objections made by the latter that the evidence referred to matters not charged in the impeachment. The judgment of the Lord Chancellor was in Mr. Anstruther's favour.

Examination of Mr. Wright.

On the 25th of February, the fifty-seventh day of the trial, Mr. Wright, of the East India Company's Accountant's office, was examined on the comparative expenses of the old revenue establishment and that instituted by Mr. Hastings. After which, Mr. Anstruther was proceeding to put in evidence to show the corrupt character of Kelleram, whom Mr. Hastings had appointed collector of Behar, and from whom he was charged with having received four lacs of rupees, equal to 40,000*l.*, but he was stopped by Mr. Law, on the ground that Kelleram's character and fitness for his office formed no part of the charge against Mr. Hastings. After a discussion, supported by Mr. Anstruther and, at great length, by Mr. Burke, on the one side, and by Mr. Law on the other, the Lords withdrew to their own chamber. In

Objection to evidence of the corrupt character of Kelleram.

about half an hour's time they returned, and the Lord Chancellor informed the Managers that they were restricted from giving evidence of the unfitness of Kelleram for his appointment, "the fact of such unfitness not being charged in the impeachment." Mr. Burke reflected with severity on their Lordships' judgment. He complained that the case determined on was not the case the Managers would have proposed. He asserted that "the Commons of Great Britain are not bound by any rules of pleading;" that, as laymen, they were ignorant of the doctrine of pleading, and could only be guided by rules of equity; that the proposed evidence was to prove aggravation of an offence charged, and that Mr. Hastings had a perfect knowledge that such aggravations would be charged against him. After the reading of further evidence the Court adjourned. 1790. Objection allowed. Mr. Burke's reflections on the Lords' decision.

The next sitting of the Court, which was not till the 22nd of April, was entirely occupied in arguments between the Managers and Counsel on the admissibility of evidence, to show that the lease granted to Kelleram by Mr. Hastings of the collectorship of Behar was injurious to the interests of the Company. The acceptance from Kelleram of the sum of four lacs of rupees had been admitted by Mr. Hastings; and it remained to show that he had received it from a corrupt motive. It was, therefore, important to the case to prove primarily that the lease was not a beneficial one for the Company; and they were prepared to show that Kelleram was in great arrears in his payments. The objection made to the evidence was, that what it was offered to prove was not made a matter of charge in the Article. The point was argued for a long time between the parties; and, at length, the Court was adjourned to the 27th, in order to give time to the Lords to consider their decision. Question of admission of evidence of injury to the Company by Kelleram's lease.

On the Court reassembling, late in the day on the 27th, the Lord Chancellor announced that it "was not competent to the Managers to produce evidence to prove that Kelleram's rent was in arrear." Mr. Fox complained that the Court was peculiar in delivering its judgments without communi- Decided against the admission. Complaint by Mr. Fox of the Lords'

1790.

cating the grounds on which they were formed; but was unable to elicit explanations from the Lord Chancellor, beyond the statement, "that the order of the House rejects the evidence as inapplicable to this charge." The examinations of witnesses was then proceeded with, and Mr. Hudson, of the India House, and Mr. Young, formerly a member of the Provincial Board of Revenue at Patna, were called. Several attempts were made by the Managers to elicit the fact of Kelleram's unfitness for the collectorship, which were with equal tenacity resisted by the Counsel; and, at length, a question put to Mr. Young by Mr. Anstruther, and leading in the same direction, having been objected to by Mr. Law, the Lords withdrew to consider their decision.

silence on the grounds of their decision.

Examination of Mr. Hudson and Mr. Young.

Attempts to elicit Kelleram's unfitness for his office.

On the 29th of April, the sixtieth day of the trial, the Court again assembled, and the Lord Chancellor announced the judgment of the Lords, that it was not competent to the Managers to put the question, "What impression the letting of the lands to Kelleram and Cullian Sing made upon the minds of the inhabitants of Behar." Again the system acted on by the Court, in announcing its decisions without explanation of the grounds they were formed on, was attacked by Mr. Fox, Mr. Windham and Mr. Burke, who professed themselves quite in the dark as to the principles on which their Lordships' judgment was founded. A statement was offered by Earl Stanhope, which only served to provoke further remonstrances. The examination of Mr. Young was continued, but was again interrupted by the objection of Mr. Law to a question, whether the country had been oppressed by Gunga Govind Sing, diwan to the Committee of Revenue in Calcutta. He urged that, although, at the end of the charge, the Commons had said—"to the great oppression and injury of the said people"—these words must be considered as inferences of law, and not substantive charges. A long argument ensued, and the Court adjourned without a decision.

Decision against a question proposed by Managers.

Remonstrance of Managers.

Objection to evidence as referring to matters not in the charge.

On the 4th of May, the Lords resumed the proceedings, and their judgment on the question raised at their last

Objection allowed.

sitting was adverse to the Managers. After considerable consumption of time in altercations on the manner of putting a question to Mr. Young, this witness was ordered to retire, and Mr. Anderson, who had been the President of the new Revenue Board established by Mr. Hastings, was examined. 1790.

Examination of Mr. Anderson.

On the 11th of May, the examination of Mr. Anderson was continued.* Both this witness and the gentleman next called, Mr. Moore, were examined respecting the character of Gunga Govind Sing. An attempt was made by Mr. Hastings' Counsel to injure Mr. Moore's credit, by making him state that he had been dismissed from his office; and much time was occupied, on this and the next court day, the 18th of May, in explanations on this subject.

Of Mr. Moore.

Attempt to discredit the witness.

The remainder of the sitting on the 18th of May was occupied in the examination of Mr. William Harwood, a gentleman who had held office in the revenue department. An effort was made by the Managers to go into evidence respecting the cruelties alleged to have been exercised by Deby Sing on the inhabitants of Dinagepore, and which had been detailed with terrible force by Mr. Burke in his General Opening of the prosecution. Their object was opposed by Mr. Hastings' Counsel. The Lords withdrew to consider the question raised; and, on their return, the Lord Chancellor informed the Managers "that it was not competent for them to give evidence of the enormities actually committed by Deby Sing, the same not being charged in the impeachment." On the announcement of their Lordships' decision, Mr. Burke remarked on the injury done to the cause by this exclusion of a charge in which Mr. Hastings' character was deeply concerned.

Examination of Mr. Harwood.

Objection to evidence of Deby Sing's cruelties.

Objection allowed.

* Much merriment was occasioned by the answer of this witness to the question in reference to an opinion expressed by him relative to a movement of troops, whether he was a military man: his reply being, "that he most certainly was not, though he had been two years in the militia." It is stated in the "History of the Trial," that "this high compliment to the military character of the militia raised a loud laugh in every part of the hall. Many of the peeresses joined heartily in it, looking at the noble Judges in the body of the Court, many of whom wore militia cockades."—Part III., p. 22.

1790. Much violent altercation ensued. Mr. Burke insisted on his ability to prove the atrocities he had described, and complained of being thwarted in his intention of bringing forward evidence upon them, adding that, "when the accusation was first made, the prisoner's Counsel called for proofs, and now when these are offered, they shrink from them and will not hear them." Mr. Law, with great warmth, retorted that the honourable Manager was bold only because he knew the proof which he spoke of could not be received, and exclaimed with violence, "I call upon your Lordships, for the honour of your Lordships and the justice of Great Britain, that the honourable Manager may couch all he has said in a charge, that Mr. Hastings may have an opportunity of meeting it; and, if he does not falsify every matter of cruelty that the Managers have repeated over and over again, may the hand of this House and may the vengeance of Almighty God fall heavy upon him!"*

Remarks of Mr. Burke.

Mr. Law's challenge to the Managers to put Deby Sing's cruelties in the charge.

Objection to evidence falsifying a letter of Mr. Hastings.

On the 20th of May, the sixty-fourth day of the trial, after examination of an oral witness, the Court was engaged in hearing arguments, chiefly of Mr. Anstruther, on the admissibility in evidence of a letter of Mr. Hastings to the Directors, dated the 13th of April, 1781, and offered by the Managers as falsifying the contents of another letter from Mr. Hastings to the Directors, dated the 5th of May, 1781, and as showing that he had imposed upon them with respect to the appointment of the new Committee of Revenue, and that he had let the lands of the zamindars to men of unfit character. The Lords withdrew to consider their decision.

Objection allowed.

On the 2d of June, the Lord Chancellor announced their Lordships' judgment,—"that it is not competent for the Managers to give any evidence upon the seventh Article of impeachment, to prove that the letter of the 5th of May, 1781, is false, in any other particular than that wherein it is expressly charged to be false." The remainder of the sitting

* Gurney's Report of the Evidence, MS.; and "History of the Trial."

was occupied in examining witnesses and receiving written evidence submitted by the Managers. 1790.

Mr. Fox's summing of the evidence on the charge relating to presents.

On the two following court days, the 7th and 9th of June, Mr. Fox summed up the whole of the evidence; which had not been limited to the sixth Article, opened by Mr. Burke, but had been extended to a part of the seventh and the whole of the fourteenth Articles, bearing upon the same subject of illegal presents.

It is stated in the "History of the Trial," that "the hall was as much crowded this day as it had been through the whole of this important trial. Public curiosity was wound up to a higher pitch than on any former day, and every part of the hall was crowded to overflowing." On the conclusion of his speech the Court adjourned, and a message was subsequently sent from the Lords to the House of Commons that the trial was put off to the first Tuesday in the next session of Parliament.

Application by Managers to the House of Commons to drop parts of the charge.

The trial had now lasted sixty-seven days, and had extended through three sessions of Parliament. In this period, four only and part of a fifth, out of the twenty Articles of the impeachment, had been brought forward Mr. Hastings' friends were loud in their complaints of the tediousness of the proceedings, and the heavy expenses he incurred in sustaining so prolonged a prosecution. Convinced of the impracticability of dealing with all the Articles with the same amount of care, and supporting them with the same fulness of evidence, the Managers had already resolved to apply to the House of Commons for authority to shorten future proceedings by abandoning such of the charges as they should see fit. On the 11th of May, Mr. Burke brought forward a motion in the House to this effect. He entered at large into a justification of the measure of impeachment. He spoke of the duration of the trial—that it had occupied sixty-three days, and, allowing an average of three hours to each day's sitting, they had spent one hundred and eighty-nine hours in Westminster Hall. He referred to

Speech of Mr. Burke.

1790. two petitions of Mr. Hastings complaining of the injuries he suffered from the length of the proceedings; and charged him with attempting to evade justice by impeding the proceedings in the trial, in order to gain time. To the resolution authorising the Managers "to insist only upon such and so many of the charges as shall appear to them the most conducive to the obtaining speedy and effectual justice against the said Warren Hastings," was added a second, pledging the House to persist in the impeachment until justice could be obtained. The latter resolution was objected to, but not opposed, by Mr. Pitt, and they both passed.

Letter of Major Scott reflecting on the Managers.

But the debates did not terminate with the passing of these resolutions. In reference to Mr. Burke's speech, in introducing them, a letter appeared in Woodfall's "Diary," of the 20th of May, signed by Major Scott, and in which he contradicted Mr. Burke's statement that Mr. Hastings' complained of having been put to an expense of three thousand pounds in procuring copies of papers at the India House, and charged Mr. Burke with reviving a calumny refuted a year ago. The letter further endeavoured to show that the length of the trial was owing to intentional efforts of the Managers to protract proceedings.

Voted libellous.

On the following day, the 21st of May, General Burgoyne brought this letter to the notice of the House. Major Scott was called upon to make his defence, which he immediately delivered at great length. Mr. Sheridan moved that the letter was a scandalous and libellous writing; but Mr. Pitt moved an adjournment, to allow time to consider the character of the letter.

On the 27th of May, the House resumed the debate, and Major Scott was allowed to add further remarks to his defence. Mr. Burke, Mr. Fox and Mr. Dundas, delivered their opinions, and the motion was carried without a division. It was further moved and carried that Major Scott had violated his duty as a member, and had been guilty of a breach of the

Major Scott reprimanded.

privileges of the House. It was then moved, that he "be reprimanded at the bar of the House by Mr. Speaker." An amendment to the terms of the motion was proposed by Mr. Pitt, by substituting "in his place" for "at the bar of the House," and, after a long debate, was assented to; and, on the 28th of May, Major Scott received the reprimand of the House through the Speaker.* 1790.

Dissolution of Parliament.

The dissolution of the Parliament having taken place after its adjournment, on the 9th of June, 1790, a new Parliament was summoned to meet on the 25th of November following. But the already slow pace of the proceedings in the trial was now reduced to a stand-still by a question affecting its very being; for it began to be freely discussed among Mr. Hastings' friends whether the impeachment had not abated by the dissolution of Parliament.

Question of abatement of the Impeachment.

Motion of Mr. Burke for proceeding with the trial.

On the 30th of November, before the address on the King's speech had been moved, Mr. Burke drew the attention of the new House to the importance of proceeding with the trial, and hinted at probable attempts to make the incident of the dissolution a pretext for stopping it.

Counter-motion for searching precedents.

On the 9th, the 17th, 22d, and 23d of December, the House debated on the question of going into committee, to consider the state in which the impeachment was left at the dissolution of the last Parliament, a counter resolution having been moved, that a committee be appointed for the purpose of examining precedents. Mr. Erskine was the principal supporter of this proposition, and he evinced much research in his arguments to prove that the impeachment had either altogether abated or could not be resumed *in statu quo*. Mr. Addington, the Speaker, produced a book of precedents, collected from the best authorities, to prove the contrary principle, and Mr. Pitt spoke with great clearness and effect on the same side of the question. The number who voted against a committee to search for precedents was

Its defeat.

* See the "History of the Trial," Part III., pp. 24, *et seq.*

1790. 143 to 30. Although Mr. Burke took part in the debate, it was remarked that he left to Mr. Addington the labour of collecting precedents, and to Mr. Pitt the part of answering Mr. Erskine; but he privately stated that, though he was firm in his judgment and ready with precedents, he was desirous that Mr. Pitt's concurrence in his opinions should be generally known.*

1791. On the 14th of February, after the recess, Mr. Burke moved for continuing the trial, and, as a preliminary measure, proposed—"that the Managers proceed no further than in the charges on which they have closed their evidence, except the charge relating to contracts, pensions and allowances." An effort was made by various members, including Mr. Jekyll and Mr. Ryder, who moved amendments on Mr. Burke's motion, to stop the trial entirely; but the original question was carried, after divisions on the amendments, of 54 to 194, and 79 to 161. The Managers were immediately reappointed to continue the prosecution.

Motion of Mr. Burke to abandon portions of the charge.

Defeat of amendments to stop the trial.

But the question of abatement or non-abatement by a dissolution was not disposed of by the mere vote of the House of Commons. The decision lay with the House of Peers; and the subject was brought before them on the 17th of February by a message from the House of Commons, delivered by Mr. Burke, supported by Mr. Pitt, on his right hand, and Mr. Fox, on his left, and attended by more than one hundred members. The Lords were informed that the Commons had resolved to continue the impeachment, and they were desired to fix a day for resuming the proceedings. Lord Grenville immediately moved the appointment of a committee to examine the journals for precedents; which was ordered. The report of the committee was brought up on the 19th of April, and the debate upon it took place on the 16th of May, Lord Porchester moving "that a message be sent to the Commons to inform them that

Question of the abatement discussed by the Lords.

Committee for precedents.

* So stated by Mr. Adolphus in his "History of England," "from private information, and an unpublished letter of Mr. Burke," vol. vi., p. 165.

they (the Lords) were ready to proceed on the trial of Warren Hastings, Esq." The Lord Chancellor recommended that they should first consider whether the impeachment had abated or not. Lord Radnor moved to refer this question to the Judges. His motion was rejected by a majority of 70 to 20; and, after further debate, the original motion was carried by a majority of 66 to 18. The following Monday was fixed for proceeding to Westminster Hall. 1791.

Vote for continuing proceedings.

Accordingly, on the 23d of May, 1791, the sixty-eighth day of the trial, the Hon. Andrew St. John, on the part of the Managers, opened the fourth Article of the impeachment, relating to corrupt contracts and agencies, and illegal allowances. The Article charged Mr. Hastings in general terms that, in pursuance of a system of profusion and prodigality, and with a view to enrich his favourites and dependants, he entered into many contracts, without attention to repeated orders from the court of Directors to advertise them publicly; and that he "authorised and approved of many enormous salaries and extravagant allowances to his favourites." The particular charges were, in effect:—"That, in the year 1781, he granted to Stephen Sullivan, son of the Chairman of the court of Directors, a contract for the provision of opium for four years, without advertising for proposals, and upon extravagant terms, "for the purpose of creating an instant fortune to the said Sullivan;' and that the contract was transferred from party to party for large sums of money:—That, upon pretence that no purchaser had offered for the opium so contracted for, he advanced money to the contractor, and engaged in a smuggling transaction, in order to dispose of it in China, to the loss of the Company and the disgrace of the British character:—That, having, in the year 1777, accepted proposals for providing draft and carriage bullocks to the army for three years, without advertising for the same, he afterwards dissolved the contract, and entered into a new contract for five years with

Mr. St. John's opening of the Fourth Charge, relating to contracts.

Substance of the charges.

1791. his confidential friend, Charles Croftes, for the provision of a number of bullocks far exceeding the requirements of the army, and at a rate infinitely higher than the previous contract:—That the said contract for bullocks was extended to a sixth year, by the neglect of Mr. Hastings to give notice for its termination, as commanded by the Directors; and that he subsequently purchased the relinquishment of the contract at an extravagant price:—That, in the year 1779, with a view to increase his own influence, he created an establishment for Sir Eyre Coote, the Commander-in-Chief, at an expense of about 18,000*l. per annum*, and fastened the same upon the Nawab of Oude, contrary to treaties:—That, contrary to express orders of the Directors, in 1780, he, on his sole authority, continued large allowances to Sir Eyre Coote, to the extent of 21,654*l. per annum*:—That, in December 1780, he appointed James Peter Auriol to be agent for the purchase of supplies to the different Presidencies, at a time of scarcity, with a commission of fifteen *per cent.*, the usual commission being only five *per cent.*:—That, in 1776, he induced the Council to create an unnecessary appointment of an agent for the supply of stores for the garrison of Fort William, and nominated to it his confidential friend John Belli; that he procured him a commission of thirty *per cent.*, and, afterwards, converted the agency into a contract for five years.

Immediately on the conclusion of Mr. St. John's opening speech, Mr. Hastings rose and addressed the Court in the following words:—

"My Lords, I shall take but a very few minutes of your Lordships' time, but what I have to say I hope will be deemed of sufficient importance to justify me in requesting that your Lordships will give me so much indulgence.

"A charge of having wasted 584,000*l.* is easily made where no means are allowed for. It is not pleasant for me, my Lords, from week to week, from month to month, and from year to year, to sit here to hear myself accused of crimes, many of them of the most atrocious dye, and all represented as such, and to feel that I never shall be allowed to

answer them. My Lords, in the life of a man already approaching very near to the close of it, as mine does, four years, in which his reputation is to be branded to the world, is too long a period. I never expect to be allowed to come to my Defence, nor to hear your Lordships' judgment upon the trial. I have long been convinced of it. Nor has the late resolution of the House of Commons, which I expected to have heard announced to your Lordships here, afforded me the least glimpse of hope that the termination of my trial is a bit the nearer. My Lords, it is now four years complete since I first appeared before your Lordships' bar. Nor is this all. I came, my Lords, to your bar with a mind sore from another inquisition in another place, which commenced—if I may be allowed to date it, because I had that impression upon my mind which obliges me to do it, I may date it from the day on which I arrived in this capital upon my return to England, after thirteen years service. On that day was announced to the House of Commons the determination of arraigning me for the whole of my conduct during my government. I have been now an accused man during six years. I now approach very near—I do not know whether my recollection fails me, but I believe I am now sixty years of age; and, my Lords, can I waste my life in sitting here to hear myself from time to time arraigned—not only arraigned, but tortured with invective of the most atrocious and virulent kind? I appeal to every man's feelings whether I have not borne more than many even of your Lordships would bear, and with a patience that nothing but a consciousness of my own integrity and respect for your Lordships could have enabled me to bear. 1791.

"My Lords, as the House of Commons have declared their resolution that, for the sake of speedy justice—I think that was the term—they have ordered their Managers to close their prosecution with the Article which has now been opened to your Lordships and to abandon the rest, I now see a prospect, which I never saw before, but which it is in your Lordships' power to realise, of a close to this disgraceful situation in which I have been so long placed; and, however I may be charged with the error of imprudence, I am sure I shall not be deemed guilty of disrespect to your Lordships in the request I have to make. That request is, that your Lordships will be pleased to grant me that justice which every man in every country in the world, free or otherwise, has a right to—that where he is accused he may defend himself—that where he is accused he may have the judgment of the Court upon the accusation. I, therefore, do pray your Lordships, notwithstanding the time of the year—I feel the weight of that reflection upon my mind—but I pray your Lordships to consider, not the unimportance of the object that is before you, but the magnitude of the precedent, which every man in this country may bring home to his own feelings, of a criminal trial suspended over his head for ever. Every man may be liable to that trial which I now sustain, but, in the history of the jurisprudence of this country, I am told—and I have taken some pains to search, and as far as my search can go it has been verified—there never yet was an instance of a criminal trial that lasted

1791. four months, before mine, nor even one month, excepting in one instance —an instance drawn from a time and from a situation of this government which I hope will prevent it ever being drawn into a precedent for this or for any enlightened time. My Lords, the request that I have to make is, that your Lordships will be pleased to continue the sitting of this Court until the prosecution shall be closed, I shall be heard in my defence, and your Lordships shall have proceeded to judgment. My Lords, it is not an acquittal that I desire—that will rest with your Lordships and with your own internal conviction—I desire a defence, and I desire a judgment, be that judgment what it may.

"My Lords, I have humbled myself before this Court, and have been reproached. I am not ashamed to bow before an authority to which I owe submission, and for which I feel a respect that exacts it as a willing oblation from me. I now again with all humility present myself an object to your justice and to your humanity; for I am not a man of apathy, nor are my powers of endurance equal to the tardy and indefinite operation of Parliamentary justice. I feel it as a very cruel lot imposed upon me, to be tried by one generation and, if I live so long, to expect judgment from another. For, my Lords, are all the Lords present before whom I originally stood? Are not many gone to that place to which we must all go? I am told that there is a difference of more than sixty in the identity of the judges before whom I now stand.

"My Lords, I pray your Lordships to free me from this state of unexampled suspension. I again repeat my request that you will be pleased to resolve to continue this session of your Lordships' Court until the prosecution shall be closed, until I shall be heard in my defence, and until your Lordships shall have proceeded to judgment. If your Lordships shall please, I have drawn up a petition to that effect, in form, which I am very desirous of presenting now, or in any other manner which your Lordships shall think proper to order."*

---

* The petition was as follows:—

"To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled:

"The humble Petition of Warren Hastings, Esq., late Governor General of Bengal.

"Sheweth,—

"That your Petitioner, having long waited in anxious expectation of your Lordships' determination respecting his reappearance at your Lordship's bar, finds himself relieved from one source of suspence, by being again brought before this high court; and he has so great a confidence in the justice and dignity of your Lordships as to believe that, in this renewal of a trial so long depending, your Lordships mean to render it effectual to the ends of substantial justice, by prosecuting it without delay, until it shall reach its final termination. If such should be your Lordships' purpose, your Petitioner will accept it as the greatest bounty which he can receive at the hands of your Lordships; but, should his trial be adjourned over to another year, he trusts that he shall not be considered as departing from the respect which he bears to your Lordships, if he presumes to say, that he shall feel it as an aggravation of the very severe lot which it has been his misfortune to experience, and of which he is the first example in the jurisprudence of this kingdom, if in any other a precedent can be found, of a criminal trial being suspended over the

Mr. Burke rose immediately on the conclusion of this address. He protested against the imputation that the Managers had interposed delays in the proceedings. He justified the severity of language used by the Managers, by instancing the impeachment of Lord Macclesfield, who, he said, was charged with bribes, not with cruelty, while Mr. Hastings was "charged with horrors"—with the worst of crimes—with murders; and he offered to go on with the trial if the Crown should be induced to prolong the session till it could be completed. Mr. Fox also made some observations on the

1791.

Mr. Burke's justification of the conduct of the Managers.

---

head of an individual, living under a fixed law and a civilised government, during so long a period of his natural life, and so near the close of it.

"That four years are completely elapsed since your Petitioner was first compelled to appear at your Lordships' bar, to hear read and to answer to the charges preferred against him by the late Honourable House of Commons; but that he computes the origin of their impeachment from a much more distant date, the first notification of an accusatory process having been made so long ago as June, 1785, the process itself begun in February, 1786, and continued through one prorogation and many adjournments until May, 1787, when the impeachment was carried to your Lordships' bar; so that, in effect, though not in form, your Petitioner has been the subject of a criminal process before two Parliaments and through six successive years; yet his prosecutors to this time have closed their evidence upon three Articles only, namely, the first, second and sixth, omitting many points of those Articles, but selecting a very few points from the 7th and 12th, as explanatory of the sixth Article. That your Petitioner craves leave to represent that he did, in an early stage of the first inquiry, cause it to be represented to the late Honourable House of Commons, as his earnest request, that, if the said House of Commons should enter upon their journals any vote of crimination or censure against him, they would be pleased to allow your Petitioner the means of a fair and legal trial for the same; but that the object of your Petitioner, in making that request was, that he might be afforded the means of vindicating his character from the foulest and most unjust aspersions; but he has to lament that those aspersions should have been renewed and repeated from week to week, from month to month, and from year to year, without any power of reply or prospect of time allowed him for his defence and acquittal. That, great as his reliance is on your Lordships' justice, it is yet impossible for him, judging from past experience, not to feel the apprehensions of further delay, when he recollects that the last great adjournment of the Court, held by your Lordships in the preceding Parliament, was made on the 9th of June, and that in neither of the preceding years did it sit later than the 7th of July; that, therefore, the longest interval which he can compute for what remains of this session of Parliament, in its ordinary course, will be insufficient to enable your Petitioner to enter upon his defence, much less to bring it to a conclusion; but that he will have to sustain the intolerable grievance of seeing another year of prosecution added to the past.

"Your Petitioner, therefore, most humbly and earnestly prays your Lordships to take the particular and unprecedented hardships of his case into consideration, and to adopt such measures as your wisdom may devise for continuing the proceedings of your Lordships' Court, so that the trial may be brought to a close, and judgment given, before another prorogation of Parliament; your Petitioner craving leave to assure your Lordships that no unnecessary delay shall be made on his part, but that he will endeavour to take up as short a time as possible in his defence."

1791. statements of Mr. Hastings, who disavowed any intention of charging the Court "with injustice, or with being in any degree the cause of the delays which have happened."

Production of evidence on the Fourth Charge.

The 25th and 27th of May were occupied in the production of evidence, oral and written, on the charge relating to contracts, with occasional interruptions by the exceptions taken by Mr. Hastings' Counsel.

Summing of the evidence by Sir J. St. Clair, and close of case for the prosecution.

On the 30th of May, the seventy-first day of the trial, Sir James Erskine St. Clair summed up the evidence, and the case for the prosecution was closed. At the conclusion of the Manager's speech, Lord Kenyon, who presided as Speaker, intimated to Mr. Hastings that he was at liberty to make his defence; and, at Mr. Hastings' request, the Lords consented to grant him a hearing on the following Thursday. Accordingly, on the 2nd of June,

General defence read by Mr. Hastings.

the seventy-second day of the trial, Mr. Hastings read at the bar of the Court a general defence of his administration of India, and an answer to the several charges that had been brought against him. He offered to forego the advantage of a more particular defence, in the expectation of drawing from his judges an immediate verdict, but reserved to himself the right of a formal defence by his Counsel should he be disappointed in that hope.* After hearing his address, the Court

Close of the session of 1791.

adjourned to the first Tuesday in the next session of Parliament.

1792.

At the assembling of the Court, on the 14th of February,

Mr. Law's general opening of the Defence.

1792, the seventy-third day of the trial, Mr. Law commenced his general opening of the Defence, in a speech of great power, which he continued on the 17th, and finished on the 21st of the month.

Mr. Plumer's opening of the Defence on the First Charge.

On the 23d of February, and the four succeeding court days, the 29th of February, the 1st of March, the 24th and 26th of April, from the seventy-sixth to the eightieth day of the trial, Mr. Plumer engaged the attention of the Court in an elaborate and lucid defence on the first Article of the impeachment. His speech closes the present volume.

* Mr. Hastings' Defence is printed in the present volume, p. 482.

Reports of the several speeches contained in the present volume have been accessible to the Editor in the following forms. Excepting Mr. Hastings' Address, all the speeches have been printed from Gurney's Notes.

I. *Burke's Opening of a portion of the Sixth Charge, on the 21st and 25th of April, and 5th and 7th of May,* 1789. 1. Gurney's contemporaneous report. 2. The same, revised by Mr. Burke, and printed among his works.

II. *Anstruther's Opening of the remainder of the Sixth Charge, on the 16th of February,* 1790. Gurney's Report. Besides the copies of this report in the Editor's hands and in the Library of Lincoln's Inn, another is preserved in the British Museum, Additional MS., 17,076, f. 70.

III. *Fox's Summing of the Evidence on the Sixth, part of the Seventh, and the Fourteenth Articles of the Charge, on the 7th and 9th of June,* 1790. Gurney's Report.

IV. *St. John's Opening of the Fourth Charge, on the 23d of May,* 1791. 1. Gurney's Report. 2. Fragment of the Report of Mr. Hastings' short-hand writer, for the seven first pages of the speech, in the British Museum, Additional MS. 17,073, f. 1.

V. *St. Clair's Summing of the Evidence on the Fourth Charge, on the 30th of May,* 1791. Gurney's Report.

VI. *Hastings' Address, on the 2d of June,* 1791. 1. Gurney's Report. 2. Report of Mr. Hastings' short-hand writer, formerly in the possession of Mr. Hastings' solicitors, and now in the British Museum, Additional MS., 17,073, f. 102. 3. Copy, apparently, of the notes from which Mr. Hastings' read his Address; printed in the "History of the Trial," Part IV., p. 81, and which is followed in the present publication.

VII. *Law's General Opening of the Defence, on the 14th, 17th and 21st, of February,* 1792. 1. Gurney's Report.

2. The same with occasional alterations, formerly belonging to Mr. Hastings' solicitors, and now in the British Museum, Additional MS., 17,077, f. 1.

VIII. *Plumer's Opening of the Defence on the First Charge, on the 23d and 29th of February, the 1st of March, and the 24th and 26th of April,* 1792. 1. Gurney's Report. 2. The same with alterations, formerly in the possession of Mr. Hastings' solicitors, and at present in the British Museum, Additional MS., 17,078, f. 1.

CONTENTS OF THE SPEECHES

CONTAINED IN VOL. II.

CONTINUATION OF THE SPEECH OF THE RIGHT HON. EDMUND BURKE, MANAGER FOR THE HOUSE OF COMMONS, IN OPENING THE SIXTH ARTICLE OF THE CHARGE, RELATING TO PRESENTS; 5TH MAY, 1789.

SPEECH OF JOHN ASTRUTHER, ESQ., MANAGER FOR THE HOUSE OF COMMONS, IN OPENING THE SECOND PART OF THE SIXTH ARTICLE OF THE CHARGE, RELATING TO PRESENTS; 16TH FEBRUARY, 1790.

CONTINUATION OF THE SPEECH OF THE RT HON. CHARLES JAMES FOX, MANAGER FOR THE H[OUSE] OF COMMONS, IN SUMMING UP THE EVIDENCE ON [THE] SIXTH, SEVENTH AND FOURTEENTH, ARTICLES OF T[HE] CHARGE, RELATING TO PRESENTS; 9TH JUNE, 1790.

SPEECH OF THE HON. ANDREW ST. JOHN, MANAGER FOR THE HOUSE OF COMMONS, IN OPENING THE FOURTH ARTICLE OF CHARGE, RELATIVE TO CORRUPT CONTRACTS; 23RD MAY, 1791.

Speech of Sir James Erskine St. Clair, Manager for the House of Commons, in Summing-up the Evidence on the Fourth Article of the Charge, relating to Corrupt Contracts; 30th May, 1791.

CONTINUATION OF THE SPEECH OF THOMAS PLUMER, ESQ., COUNSEL FOR MR. HASTINGS, IN DEFENCE UPON THE FIRST ARTICLE OF THE CHARGE, RELATING TO BENARES; 29TH FEBRUARY, 1792.