

services (which is unquestionably true), he adds "that mankind would abide by their deliberate decision rather than by the intemperate assertion of a committee."

This he writes after the impeachment was found by the Commons at large, but he takes no account of their proceedings, imputing the whole to the original committee, that is, the Committee of Secrecy, so called, I suppose, from their being the authors of twenty volumes in folio which will remain a secret to all posterity, as nobody will ever read them. The same construction is equally plain from what immediately follows:

"The report of the Committee of Secrecy also states that the happiness of the native inhabitants of India has been deeply affected, their confidence in English faith and lenity shaken and impaired, and the character of this nation wantonly and wickedly degraded."

Here, again, you are grossly misled by the omission of near twenty-one pages; for the author, though he is here speaking of this committee by name, which brought forward the charges to the notice of the House, and which he continues to do onward to the next select paragraph, yet, by arbitrarily sinking the whole context, he is taken to be speaking of the House as a body, when in the passage next charged by the information he reproaches the accusers of Mr. Hastings; although, so far is he from considering them as the House of Commons, that in the very same page he speaks of the Articles as the charges, not even of the Committee, but of Mr. Burke alone, the most active and intelligent member of that body, having been circulated in India by a relation of that gentleman: "The charges of Mr. Burke have been carried to Calcutta and carefully circulated in India."

Now, if we were considering these passages of the work as calumniating a body of gentlemen many of whom I must be supposed highly to respect, or as reflecting upon my worthy friend whose name I have mentioned, it would give rise to a totally different inquiry which it is neither my duty nor yours to agitate; but surely the more that consideration obtrudes itself upon us the more clearly it demonstrates that the author's whole direction was against the individual accusers of Mr. Hastings, and not against the House of Commons, which merely trusted to the matter they had collected.

Although, from a caution which my situation dictates as representing another, I have thought it my duty thus to point out to you the real intention of the author as it appears by the fair construction of the work, yet I protest that in my own apprehension it is very immaterial whether he speaks of the Committee or of the House provided you shall think the whole volume a *bona fide* defence of Mr. Hastings. This is the great point I am, by all my observations, endeavoring to establish, and which I think no man who reads the following short passages can doubt. Very intelligent persons have indeed considered them, if founded in facts, to render every other amplification unnecessary. The first of them is as follows:

"It was known, at that time, that Mr. Hastings had not only descended from a public to a private station, but that he was persecuted with accusations and impeachments. But none of these suffering millions have sent their complaints to this country; not a sigh nor a groan has been wafted from India to Britain. On the contrary, testimonies the most honorable to the character and merit of Mr. Hastings have been transmitted by those very princes whom he has been supposed to have loaded with the deepest injuries."

Here, gentlemen, we must be permitted to pause together a little; for, in examining whether these pages were written as an honest answer to the charges of the Commons or as a prostituted defence of a notorious criminal whom the writer believed to be guilty, truth becomes material at every step; for if in any instance he be detected of a wilful misrepresentation he is no longer an object of your attention.

Will the Attorney-General proceed then to detect the hypocrisy of our author by giving us some details of the proofs by which these personal enormities have been established, and which the writer must be supposed to have been acquainted with? I ask this as the defender of Mr. Stockdale, not of Mr. Hastings, with whom I have no concern. I am sorry, indeed, to be so often obliged to repeat this protest; but I really feel myself embarrassed with those repeated coincidences of defence which thicken on me as I advance, and which were, no doubt, overlooked by the Commons when they directed this interlocutory inquiry into his conduct. I ask, then, as counsel for Mr. Stockdale, whether, when a great state criminal is brought for justice at an immense expense to the public, accused of the most oppressive cruelties, and charged with the robbery of princes and the destruction of nations, it is not open to any one to ask, "Who are his accusers? What are the sources and the authorities of these shocking complaints? Where are the ambassadors or memorials of those princes whose revenues he has plundered? Where are the witnesses for those unhappy men in whose persons the rights of humanity have been violated? How deeply buried is the blood of the innocent, that it does not rise up in retributive judgment to confound the guilty?"

These, surely, are questions which, when a fellow citizen is upon a long, painful, and expensive trial, humanity has a

right to propose; which the plain sense of the most unlettered man may be expected to dictate; and which all history must provoke from the more enlightened.

When Cicero impeached Verres before the great tribunal of Rome of similar cruelties and depredations in her provinces, the Roman people were not left to such inquiries. All Sicily surrounded the Forum, demanding justice upon her plunderer and spoiler with tears and imprecations. It was not by the eloquence of the orator, but by the cries and tears of the miserable, that Cicero prevailed in that illustrious cause. Verres fled from the oaths of his accusers and their witnesses, and not from the voice of Tully. To preserve the fame of his eloquence he composed his five celebrated speeches, but they were never delivered against the criminal, because he had fled from the city, appalled with the sight of the persecuted and the oppressed. It may be said that the cases of Sicily and India are widely different; perhaps they may be; whether they are or not is foreign to my purpose. I am not bound to deny the possibility of answers to such questions; I am only vindicating the right to ask them.

Gentlemen, the author, in the other passage which I marked out to your attention, goes on thus:

"Lord Cornwallis and Sir John Macpherson, his successors in office, have given the same voluntary tribute of approbation to his measures as Governor-General of India. A letter from the former, dated the 10th of August, 1786, gives the following account of our dominions in Asia: 'The native inhabitants of this kingdom are the happiest and best protected subjects in India; our native allies and tributaries confide in our protection; the country powers are aspiring to the friendship of the English; and from the King of Tidore, toward New Guinea, to Timur Shah, on the banks of the Indus, there is not a state that has not lately given us proofs of confidence and respect.'"

Still pursuing the same test of sincerity, let us examine this defensive allegation.

Will the Attorney-General say that he does not believe such a letter from Lord Cornwallis ever existed? No! for he knows that it is as authentic as any document from India upon the table of the House of Commons. What, then, is the letter? "The native inhabitants of this kingdom," says Lord Cornwallis (writing from the very spot), "are the happiest and best protected subjects in India," etc., etc., etc. The inhabitants of this kingdom! Of what kingdom? Of the very kingdom which Mr. Hastings has just returned from governing for thirteen years, and for the misgovernment and desolation of which he stands every day as a criminal, or rather as a spectacle, before us. This is matter for serious reflection and fully entitles the author to put the question which immediately follows:

"Does this authentic account of the administration of Mr. Hastings, and of the state of India, correspond with the gloomy picture of despotism and despair drawn by the Committee of Secrecy?"

Had that picture been even drawn by the House of Commons itself, he would have been fully justified in asking this question; but you observe it has no bearing on it; the last words not only entirely destroy that interpretation, but also the meaning of the very next passage which is selected by the information as criminal; namely:

"What credit can we give to multiplied and accumulated charges when we find that they originate from misrepresentation and falsehood?"

This passage, which is charged as a libel on the Commons, when thus compared with its immediate antecedent, can bear but one construction. It is impossible to contend that it

charges misrepresentation on the House that found the impeachment, but upon the Committee of Secrecy just before adverted to, who were supposed to have selected the matter, and brought it before the whole House for judgment.

I do not mean, as I have often told you, to vindicate any calumny on that honorable Committee, or upon any individual of it, any more than upon the Commons at large, but the defendant is not charged by this information with any such offences.

Let me here pause once more to ask you whether the book in its genuine state, as far as we have advanced in it, makes the same impression on your minds now as when it was first read to you in detached passages; and whether, if I were to tear off the first part of it, which I hold in my hand, and give it to you as an entire work, the first and last passages, which have been selected as libels on the Commons, would now appear to be so when blended with the interjacent parts? I do not ask your answer — I shall have it in your verdict.

The question is only put to direct your attention in pursuing the remainder of the volume to this main point,—is it an honest, serious defence? For this purpose, and as an example for all others, I will read the author's entire answer to the first article of charge concerning Cheit Sing, the Zemindar of Benares, and leave it to your impartial judgments to determine whether it be a mere cloak and cover for the slander imputed by the information to the concluding sentence of it, which is the only part attacked; or whether, on the contrary, that conclusion itself, when embodied with what goes before it, does not stand explained and justified?

"The first article of impeachment," continues our author, "is concerning Cheit Sing, the Zemindar of Benares. Bulwant Sing, the father of this Rajah, was merely an *aumil*, or

farmer and collector of the revenues for Sujah-ul-Dowlah, Nabob of Oude, and Vizier of the Mogul empire. When, on the decease of his father, Cheit Sing was confirmed in the office of collector for the Vizier, he paid two hundred thousand pounds as a gift, or muzzeranah, and an additional rent of thirty thousand pounds per annum.

"As the father was no more than an aumil, the son succeeded only to his rights and pretensions. But by a sunnud granted to him by the Nabob, Sujah Dowlah, in September, 1773, through the influence of Mr. Hastings, he acquired a legal title to property in the land, and was raised from the office of aumil to rank of Zemindar. About four years after the death of Bulwart Sing the Governor-General and Council of Bengal obtained the sovereignty paramount of the province of Benares. On the transfer of this sovereignty the Governor and Council proposed a new grant to Cheit Sing, confirming his former privileges, and conferring upon him the addition of the sovereign rights of the mint, and the powers of criminal justice with regard to life and death. He was then recognized by the Company as one of their Zemindars; a tributary subject, or feudatory vassal, of the British empire in Hindostan. The feudal system, which was formerly supposed to be peculiar to our Gothic ancestors, has always prevailed in the East. In every description of that form of government, notwithstanding accidental variations, there are two associations expressed or understood; one for internal security, the other for external defence. The King or Nabob confers protection on the feudatory baron as tributary prince, on condition of an annual revenue in the time of peace, and of military service, partly commutable for money, in the time of war. The feudal incidents in the Middle Ages in Europe, the fine paid to the superior on marriage, wardship, relief, etc., correspond to the annual tribute in Asia. Military service in war, and extraordinary aids in the event of extraordinary emergencies, were common to both.

"When the Governor-General of Bengal, in 1778, made an extraordinary demand on the Zemindar of Benares for five lacs of rupees, the British empire in that part of the world was surrounded with enemies which threatened its destruction. In 1779 a general confederacy was formed

among the great powers of Hindostan for the expulsion of the English from their Asiatic dominions. At this crisis the expectation of a French armament augmented the general calamities of the country. Mr. Hastings is charged by the Committee with making his first demand under the false pretence that hostilities had commenced with France. Such an insidious attempt to pervert a meritorious action into a crime is new — even in the history of impeachments. On the 7th of July, 1778, Mr. Hastings received private intelligence from an English merchant at Cairo that war had been declared by Great Britain on the 23d of March, and by France on the 30th of April. Upon this intelligence, considered as authentic, it was determined to attack all the French settlements in India. The information was afterward found to be premature; but in the latter end of August a secret despatch was received from England authorizing and appointing Mr. Hastings to take the measures which he had already adopted in the preceding month. The Directors and the Board of Control have expressed their approbation of this transaction by liberally rewarding Mr. Baldwyn, the merchant, for sending the earliest intelligence he could procure to Bengal. It was two days after Mr. Hastings's information of the French war that he formed the resolution of exacting the five lacs of rupees from Cheit Sing, and would have made similar exactions from all the dependencies of the Company in India had they been in the same circumstances. The fact is that the great Zemindars of Bengal pay as much to government as their lands can afford. Cheit Sing's collections were above fifty lacs, and his rent not twenty-four.

"The right of calling for extraordinary aids and military service in times of danger being universally established in India, as it was formerly in Europe during the feudal times, the subsequent conduct of Mr. Hastings is explained and vindicated. The Governor-General and Council of Bengal having made a demand upon a tributary Zemindar for three successive years, and that demand having been resisted by their vassal, they are justified in his punishment. The necessities of the Company, in consequence of the critical situation of their affairs in 1781, calling for a high fine; the ability of the Zemindar, who possessed near two crores of rupees in money

and jewels, to pay the sum required; his backwardness to comply with the demands of his superiors; his disaffection to the English interest and desire of revolt, which even then began to appear and were afterwards conspicuous—fully justify Mr. Hastings in every subsequent step of his conduct. In the whole of his proceedings it is manifest that he had not early formed a design hostile to the Zemindar, but was regulated by events which he could neither foresee nor control. When the necessary measures which he had taken for supporting the authority of the Company by punishing a refractory vassal were thwarted and defeated by the barbarous massacre of the British troops and by the rebellion of Cheit Sing, the appeal was made to arms; an unavoidable revolution took place in Benares, and the Zemindar became the author of his own destruction.”

Here follows the concluding passage, which is arraigned by the information:—

“The decision of the House of Commons on this charge against Mr. Hastings is one of the most singular to be met with in the annals of Parliament. The minister, who was followed by the majority, vindicated him in everything that he had done, and found him blamable only for what he intended to do; justified every step of his conduct, and only criminated his proposed intention of converting the crimes of the Zemindar to the benefit of the state by a fine of fifty lacs of rupees. An impeachment of error in judgment with regard to the quantum of a fine, and for an intention that never was executed and never known to the offending party, characterizes a tribunal of inquisition rather than a court of Parliament.”

Gentlemen, I am ready to admit that this sentiment might have been expressed in language more reserved and guarded; but you will look to the sentiment itself rather than to its dress; to the mind of the writer and not to the bluntness with which he may happen to express it. It is obviously the language of a warm man, engaged in the honest defence of his

friend, and who is brought to what he thinks a just conclusion in argument, which perhaps becomes offensive in proportion to its truth. Truth is undoubtedly no warrant for writing what is reproachful of any private man. If a member of society lives within the law, then, if he offends, it is against God alone, and man has nothing to do with him; and if he transgress the laws, the libeller should arraign him before them instead of presuming to try him himself. But as to writings on general subjects, which are not charged as an infringement on the rights of individuals, but as of a seditious tendency, it is far otherwise. When, in the progress either of legislation or of high national justice in Parliament, they who are amenable to no law are supposed to have adopted, through mistake or error, a principle which, if drawn into precedent, might be dangerous to the public, I shall not admit it to be a libel in the course of a legal and *bona fide* publication to state that such a principle had in fact been adopted. The people of England are not to be kept in the dark touching the proceedings of their own representatives. Let us therefore coolly examine this supposed offence and see what it amounts to.

First, was not the conduct of the right honorable gentleman whose name is here mentioned exactly what it is represented? Will the Attorney-General, who was present in the House of Commons, say that it was not? Did not the Minister vindicate Mr. Hastings in what he had done, and was not his consent to that article of the impeachment founded on the intention only of levying a fine on the Zemindar for the service of the state, beyond the quantum which he, the Minister, thought reasonable? What else is this but an impeachment of error in judgment in the quantum of a fine?

So much for the first part of the sentence, which, regarding