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ENGLISH HOUSE OF COMMONS,

JUNE 11.

IMPEACHMENT OF LORD MELVILLE.

MR. WHITEBREAD rose, and observed that it must have given great satisfaction to the House, that the noble Lord who was the subject of the accusation that had been brought forward by him, and against whom the House had passed resolutions of censure, had taken this opportunity of being heard on the charges against him. It would afford himself complete pleasure if it were compatible with the forms of the House, that the noble Lord could be present to answer such arguments as it was his intention to urge on the subject. The noble Lord, after having stated in the strongest terms his innocence, had expressed his expectation that posterity would do him justice. But it was impossible for the House to take on this occasion, the assertions of the noble Lord which were contrary to his own testimony on oath, and to the declarations of others also under a similar sanction. If the noble Lord was willing even to go on his trial, he had stated, that there was no competent tribunal in the country to try him. It was impossible for him to be tried on an impeachment before his Peers, because some of them had already prejudged his case, and no impartial jury could be found in the country because their minds had been contaminated against him. So that, according to the statement of the noble Lord, there was not a single individual in the whole country competent to try him. Towards the close of his speech, the noble Lord had said, that the former proceedings adopted by vote of the House, were inconsistent with the motion he proposed to make that night; but he denied the assertion. He called on the learned gentleman opposite, (the Attorney General) to watch all that should fall from him on this subject, and to correct him if he should be wrong, and he repeated, that not one of their former proceedings was inconsistent with the motion which he should have the honor of submitting to the House that night. The noble Lord had alluded to something that had fallen from the present Treasurer of the Navy on a former occasion. The right hon. gentleman had very unnecessarily put a question to him, when he first gave notice of his motion of this night, whether in bringing the motion forward he acted as the organ of the committee? The right hon. gentleman knew full well that he was not the organ of the committee; and he had not himself let fall a single expression that could lead any gentleman to suppose that he was. If there were to be any organ of the committee it must unquestionably have been the chairman. But though the question was put without necessity, it might not have been put without design. It might have been put for the purpose of intimating that the motion had been brought forward against the sense of the committee. The committee, however, had not come to any decision or resolution on the subject; and as a member of that committee, he looked upon himself as justified in submitting to the House of Commons a motion, such as he had given notice of, founded on the report of the committee to that House of Commons, which had with so much honor to themselves voted the resolutions of the 8th and 10th April. The first proceeding that ensued was a motion for a committee to enquire into the matter of the tenth report, after which a civil process had been proposed. The committee was agreed to, but under such restrictions as rendered their inquiry of little avail, as was afterwards proved, and he had then predicted. When the motion was made for instituting a civil suit against the parties, an amendment had been proposed in order to substitute a criminal prosecution; but the civil suit had been preferred. Did the civil suit preclude a criminal prosecution? And what would be the consequence if such a doctrine were to be admitted? The crown might thereby at any time defeat the ends of justice, and shelter a public delinquent from an impeachment, by directing a civil suit to be commenced against him. But were there never in fact two suits, one civil and the other criminal, carried on against the same individual? Whenever the offence was so atrocious as to call for exemplary chastisement, a civil action took place for the recovery of the money, and a criminal prosecution for the punishment of the offender. Notwithstanding all that had been said by the noble Lord, he could not consider, nor could the House, nor would the country consider, that the bare recovery of the money would be a sufficient satisfaction or punishment in the present case. If it were not consistent, however, to commence a criminal prosecution whilst a civil suit was depending, what was the House to do? Why to cut the knot they could not untie; to abandon the civil suit which had been commenced, and to institute the criminal prosecution, which alone leads to an adequate punishment of his delinquency. There was, however, another course that might be adopted, to suspend the civil suit till the criminal prosecution should be brought to a termination. But, said the noble Lord, will you place me, by adopting the motion to be submitted to you, in a situation in which no man was ever placed?—Will you subject me to the judgment of several jurisdictions at the same time, so that the evidence taken in one court might be produced in another, to influence its decision? What was the situation of Mr. Hastings? When the impeachment was brought against him, a civil suit was also pending against him in the court of chancery, at the suit of an individual. What did my Lord Loughborough do on this occasion? He directed the suit to be suspended till the impeachment should be decided. This was exactly what he proposed, and he was inclined to think, that the honorable and learned gentleman opposite, (the Attorney General) had not made such progress in the suit yet, and that no evidence had yet been produced in that cause, which would be detrimental to the noble Lord if produced on the impeachment. With regard to the latter part of the noble Lord's speech, in which he had appealed to the feelings of the House, he was as much alive as any hon. gentleman to the force of it. He was not insensible to the feelings of the noble Lord's family or relatives, at the degraded state in which the noble Lord had represented himself as placed. He felt unfeigned sorrow and regret on the occasion, but was it consistent with his public duty, to shrink from the prosecution of measures which he deemed essential to the public welfare in obedience to such feelings? The situation of the noble Lord was the same as that of all great public delinquents. As to the defence which the noble Lord thought proper to make, so far was he from thinking it a justification, that, in his opinion, it furnished additional documents, aggravating even those parts of his case on which the House of Commons had already voted condemnation. The noble Lord had said, that he was already punished. How? The resolutions were voted against him, and on the same night a motion made for an address for his removal from office, which was not agreed to. The noble Lord then resigned, the right hon. gentleman opposite suffering him to withdraw himself from the vote of the House. When notice had been given of a motion for an address for his removal from his Majesty's councils, the right hon. gentleman again withdrew him from the vengeance of the House. So that it was not in consequence of a vote of that House, but of the advice of the right hon. gentleman, though he had before stated his intention not to give such advice to his Majesty, that the noble Lord had been struck out of the list of Privy Counsellors. The additional circumstances that had now come out with respect to the tenth report, rendered it impossible for the House not to adopt the impeachment or some criminal prosecution. It might be said that the committee had no power to investigate the question of participation, and he admitted that no such power was delegated to them, and that they had no intention of going into it. But the matter came before them incidentally, so as to warrant him in charging upon Lord Melville, that he did participate, and it would have been a dereliction of duty in them on such a case not to have gone into it. To reduce the question to the analogy with private life.—Suppose a gentleman employed a solicitor to settle the books of his agent, and not suspecting the integrity of the agent, told the Solicitor he need not inquire very closely in the accounts, as he was convinced of the man's honesty. If the Solicitor should discover traces of corruption in the accounts, would he not be bound to report them to his employer? So the committee when incidentally made acquainted with these circumstances, felt themselves bound to report them to the house, and when they are laid before the house, what course was to be taken but by impeachment? They were yet but on the brink and verge of the discoveries that would be made. They might judge of what was to come, by what had been already found out; as a giant's stature might be judged of by the paring of his nails.—He called on the house, therefore, to vote for the impeachment of the noble Lord, on three distinct grounds; 1st. On the ground of his connivance at a breach, and of a high breach of duty. 2d. On the ground of his participation with Mr. Trotter; and further, on his having obtained, under fraudulent pretexts, a release for certain sums of money due of the late Mr. Adam Jellicoe. As to the first, the house of commons has declared, that the noble Lord has been guilty of an evasion of the law, which the noble Lord denied, admitting, however, the breach of duty, though not a gross one. But he contended that the noble Lord has committed a breach both of the law and of his duty. He should not take up the time of the house by noticing the observations of the noble Lord on the resolutions, but should come directly to the charge. It appeared first, that Mr. Trotter had an unlimited power of drawing the money voted for navy services to any amount from the Bank. He drew at one time a million, and might draw, as he perhaps had sometimes done, all that was in the Bank. This was one of the grand charges against Lord Melville, that by conniving at this practice he suffered the money to be carried beyond his controul, for when once lodged in the bank of Messrs. Coutts, it might be applied by them as they pleased. What was added to this by the report of the Select Committee? That the power which Lord Melville had given to Mr. Trotter had been delegated by this latter, on his going to Scotland to Mr. Wilson, to whom he left blank drafts; so that neither having a controul over the other, the practice might be continued through all the clerks in the office, and the dangers to the public treasury multiplied. The deputy's deputy he was afraid, was too common in office. He had formerly stated, that he thought it highly improper, under the present circumstances, in the Right hon. gentleman (Mr. Canning) to continue Mr. Wilson in the same situation which he held. But having seen that gentleman before the Select Committee, he thought it but justice to him to say that his demeanor was correct and proper, and that according to what he had heard, he behaved very well in the business of his office: but then he refused to answer questions which might lead to a discovery of malversations, and on that account he repeated, that it was improper in the Right honorable gentleman to continue him in the same office, when such conduct ought to be marked by some punishment on the part of the public.

The noble Lord had said, that till this day he had not had an opportunity of being heard on the charges against him. Had he not been examined upon oath before the Commissioners of naval enquiry? If he wished to be heard before the house, he should have written to the Speaker to that effect when the tenth report had been laid on the table: He wrote to the Commissioners to be re-examined, but they declined, having made their report to all the branches of the Legislature. Did he then write to the Speaker to be heard? No. But his letter to the Commissioners was laid on the table as containing a full justification. No charge of participation had been made before this occasion, & the defence of the noble lord had strengthened the impression on his mind. The noble lord had stated that the bill for regulating the machinery of the office was less perfect than the army pay office bill. But if it had not been adequate to its purpose, who was to blame? If he neglected to bring in a bill for the amendment of his bill when he found it defective, had not the public cause to accuse the noble lord of inattention to his duty? With regard to Mr. Trotter, thro' whose agency the whole business had been conducted, had the noble lord represented him as a person not to be credited? It had been stated by the noble lord, that the money had been drawn in small sums from the bank, and yet in the absence of Mr. Trotter in Scotland, 40,000l. had been drawn by Mr. Wilson, and the person by whose desire that sum had been drawn, stated the drafts to have been for small sums. The noble lord had made an extraordinary assertion relative to the participation of Mr. Trotter, which he accounted for from his being a Scotchman, namely, that as it was customary in Scotland for persons lodging money in the bank to be allowed some share of the interest arising upon it, he derived the same advantage from the money he lodged at Coutts. No such practice obtained in this country, and the noble lord and Mr. Trotter had lived long enough in England to know some allowance was made on extraordinary transactions, leaving large balances in a banker's hands, but none at all in small sums. The noble lord had said that he never saw Mr. Trotter's accounts with Messrs. Coutts till he saw the report, and if Mr. Trotter had deceived lord Melville in this instance, whatever may have been the merit of his suggestions which led to the bills for the better protection of the property and claims of seamen, all of which were good, he ought not to have been continued in his situation. The noble lord had said, that if Mr. Trotter had been asked in this or that manner, he would have answered fully. But the fact was, that Mr. Trotter had been asked in a variety of ways, whether lord Melville had participated, to which he would give no answer. As to the excuse of the mixed account, was any man so credulous as to believe that the proportions might not have been immediately ascertained, of the different funds constituting it by simple subtraction. If Mr. Trotter's books and Messrs. Coutts' books had been lost, yet Messrs. Coutts rembering the aggregate sum due to Mr. Trotter to have been 500,000l. though they might not recollect the items that made up that aggregate, Mr. Trotter, by inquiring of the different sub-accomptants, their respective balances might have been ascertained, how much of that aggregate was public, and how much was private. The whole of Mr. Trotter's funds must have been public money, or derived from the misapplication of public money. He had been recommended to lord Melville, and appointed to a place with a salary of 500l. a year, and it was impossible with such means he could have had money to lend to such amount, if not derived from the use of the public money. The noble lord had said that the money had been drawn from the bank only for navy services: if that were the case, it might have been safer to keep it in a private bank than in the hands of the accomptants. But then why not amend the bill? The noble lord had revived an argument which he was surprised to hear, because it had been abandoned by every one else, that neither loss had accrued to the public, nor delay occurred in any payment, and he was therefore, ashamed to take up the time of the House by considering such an argument. The act when brought on by the right hon. gentleman (Mr. Pitt) had been represented as calculated to remedy all the defects in the office, and the person who was to succeed to the office as the most fit for it. Before he should examine whether any particular loss had been sustained by the public, or whether the noble lord had participated with Mr. Trotter, he wished to advert to one circumstance; the increase of salary to lord Melville of 2000l per ann. being in consideration of lodging the navy service money in the Bank of England, and giving up the use of it, was for 16 years lost to the public, as the money had not been left in the bank.—There was another circumstance also, which he wished to advert to before he came to consider the question of participation. The noble lord had said that there were only two persons, himself and Mr. Trotter, who were acquainted with the transactions. Was the noble lord ignorant that Trotter had refused to answer before the Commissioners of Naval Inquiry? That he had been several times examined before the Committee, and refused to answer whether Mr. Tierney had participated; and then after three days consideration he had returned with a written statement admitting that he had only advanced from 10 to 20,000l. to lord Melville, and that Mr. Tierney, as every body knew, had derived no profit from the use of the public money. He had afterwards repeated the same information before the Select Committee, which the noble lord had contradicted; as he had proceeded by degrees in his evidence, there was no reason to think that when properly roused he would give more. From what had appeared before the select committeee there were additional grounds to suspect the noble lord of participation.—Was not his confidence in Mr. Tierney's refusal of Mr. Trotter to answer, a clear presumption of participation? And was that presumption lessened by the habitual mode of expression of the noble lord? He was more than ever inclined to suspect that the noble lord had participated. It was a presumption too, that as Mr. Trotter could have none but public money, and lord Melville borrowed from him, he had participated. When his lordship had declared that he had not knowingly participated, he was not aware that a balance of 5000l. had remained in his hands from his ex-treasureship, which had not been paid till within these few weeks. Another strong presumption was, that his lordship had never mentioned the practice in the office to the commissioners of accounts in 1786, nor the committee of finances in 1796. Another strong presumption arose from the destruction of books of accounts, which did not belong to the parties only, but were also the property of the public, and would have been preserved if not destroyed for the purpose of defeating enquiry.

His lordship had stated in his letter to the commissioners, that he had been in the occasional habit of destroying useless papers; and yet, what appeared to be an inconsistency on the face of it, he informed them, that he had no documents for making out the account they desired. Amongst the aggravations that had been brought to light in the select committee, it had appeared, that larger advances than were before known had been made to his lordship without interest; and yet his lordship had unblushingly told them, that he would never reveal the application of some of these advances. Before the select committee, Mr. Trotter had confessed that the books had been destroyed, in conformity to a release executed between him and lord Melville. The noble lord had said much of this release, but his suspicion had been strengthened by it. It was not till he had been two years out of office, that the thought struck Mr. Trotter that such a release was necessary. In the interval between the appointment of the commission of naval enquiry, and the signing of the release on the 18th February, a precept had been issued by the commissioners of enquiry on the 17th of January, for an account of the balances in the navy office. The noble lord had denied having given any instructions for preparing such a deed, but Mr. Spottswood had been agent for both parties, and knew what course the nature of their transactions required. In the common sense view of it, he agreed that the clause for the destruction of papers was nonsensical, yet after the release was executed, the sympathetic conflagration took place here and in Scotland. The noble lord stated the clause to be in the common form, but he appealed to the hon. and learned gentleman opposite, and to every man acquainted with it, whether it was so. They had examined Mr. Spottswood, and Robinson his partner, and they knew nothing of such clauses. Mr. Innes, a Scots gentleman, who was also examined, stated, that a clause for giving up vouchers was usual inScotland, but never for their destruction. Was not that overstrained anxiety to conceal the transaction a presumption of guilt? These were the circumstances that had appeared before the select committee to strengthen the presumption of his participation. There was another new circumstance also which had come out before that committee, and afforded a strong presumption of his lordship's guilt. He was the more disposed to state this circumstance, as it came out in evidence before the committee, inasmuch as it exonerated the right honorable gentleman opposite (the chancellor of the exchequer) from any knowledge of private emolument having been derived from the use of public money. But it was therefore the greater aggravation of the guilt of lord Melville, who had been that right hon. gentleman's brother minister, who had been the confidential friend of that right hon. gentleman, to whom the administration of the finances of the country was intrusted, and who nevertheless had concealed from him this criminal practice, which that right hon. gentleman had declared he would have put a stop to if he knew of it. The noble lord had not told that right hon. gentleman as he had done the commissioners, that the money was drawn and lodged in a private banker's hands for safety, that he believed the drafts were not increased beyond what the service required. He could not but think, however, that that right hon. gentleman had been deficient in duty, in not having enquired further into the business. He had too much confidence in the noble lord, and had been betrayed by his friend. What had lord Harrowby said when asked whether he knew of any abuses in the office? That he had not enquired because the office had been regulated by acts of Parliament brought in by his immediate predecessor, and having been a member of the committee in 1797, he had no reason to suppose any abuses existed. The right hon. gentleman (Mr. Pitt) had said before the committee, that he did not think lord Melville adverted to the act, or thought the practice illegal. The noble lord had adverted to the infirmity of Mr. Trotter's memory, and that was one reason why the documents ought to have been preserved. The right hon. gentleman himself, who was one of the brightest stars amongst those whose talents and oratory rendered them eminent in the world, he whose prodigious powers of recollection could command transactions and events of distant periods, and bring them to bear on the question immediately under discussion, even he, in time of need, could not draw upon his memory for occurrences that had taken place within a few years back. He could not recollect having made any written memorandum of the conversation. These circumstances, and particularly this new circumstance, aggravated the guilt; and if on a trial the noble lord were to challenge every juryman, and select his own twelve men, it would be impossible for them not to convict him. The evidence was circumstantial, but there were no circumstances that might not be overturned by a fact. He did not call for conviction on circumstances; but that the noble lord should be put upon his trial, when his lordship would have an opportunity of disproving those facts, which he would pledge himself to substantiate. The hon. gentleman then proceeded to comment on that part of his lordship's defence which related to the sums Mr. Trotter was at different times in advance to him, and contended that their assertions were contradictory, and that that was another reason for sending them to trial. He then adverted to the sums drawn through Mr. Tweedy, and contended that no account was given there or when the sums were received, or where or when they were paid. It was perfectly unexplained by lord Melville to what public purpose he had applied the public money that had been from time to time advanced to him.

He had not been in any high situation in his majesty's government in 1786,