

while it is their duty to protect and support that body against the prejudices which often exist among a people against those in authority over them.

The first subject noticed by the Committee is the alleged incompatibility of the office of Judge of the Court of King's Bench and Judge of the Vice Admiralty, being vested in one and the same individual. We know not what evidence has been adduced before the present Committee, but when the House of Assembly, in 1818, examined the Constitution of the Admiralty Court, none of the numerous witnesses brought before them could positively speak to any serious inconvenience which had arisen from this junction of two alleged incompatible offices, though specially questioned on that head, and as to the supposed undue influence which Mr. Justice Kerr may be suspected to exercise over his brother Justices of the King's Bench, to avoid any superintendence and controul on their part over him as a Judge of the Vice Admiralty, may be satisfactorily proved to be visionary by reverting to a judgment delivered by the Court of King's Bench in 1811, by which the Court of Vice Admiralty was restricted in the exercise of a Jurisdiction to which it formally laid claims; a judgment which we believe yet remains unaltered.

Another charge preferred against Mr. Justice Kerr, is his having suspended Mr. Guky from the List of Proctors of the Vice Admiralty Court, for having wilfully disobeyed the Orders and Rules of the Court, and persisted in opposing its authority and justice, and the Committee came to the conclusion, that the conduct of Mr. Justice Kerr, was therefor blameable. Now it cannot be generally forgotten that Mr. Guky instituted an action against Mr. Justice Kerr for this exercise of his authority, and that the Court dismissed the action of Mr. Guky. In delivering the opinion of the Court, the Chief Justice remarked, that if the Members constituting a Court of limited authority err in judgment when within the extent of their jurisdiction, they are not amenable in any shape to individuals, but if they should assume a jurisdiction or authority, not by Law vested in them, they become liable to the parties aggrieved, and responsible for the consequences of their misconduct. As in the present instance, Mr. Guky had not proved an improper assumption of jurisdiction, the Court declared it could not interfere between the parties, for they deemed the suspension of Mr. Guky no improper exercise of jurisdiction. It was founded on a claim of three Officers of the Court, against a fourth; the whole matter was *inter se*, and no doubt could exist but that every Court necessarily possessed a jurisdiction over its own Officers. The case of a Proctor in Doctors' Commons who refused to pay a fine imposed on him by the Court, was cited to shew that the Officers partake of the nature of the respective Courts they attend, and that the Judges are the proper persons to censure the behaviour of their own Officers. Upon these grounds Mr. Justice Kerr's defence to the action was maintained. Having thus received the solemn sanction of those who are sworn to do Justice between all the Subjects of the King, without favour or partialty, it does not become a deliberative body such as Parliament, to declare the judgments of their sworn Officers to be contrary to Law or Justice, merely to suit any private views, as has been too often the case lately. The judgments of those who are sworn to administer the Law, ought to be supported as long as they overstep not the Law of the Land, but if such judgments, by them conscientiously rendered, should prove hurtful to the Subject, the Parliament possess the salutary power of modifying that Law to favour the Subject, without impugning the virtue, integrity or character of the Judge.

Mr. Vallières, the Chairman of both the Committees on the conduct of Messrs. Justice Kerr and Fletcher, having since been elevated to the Bench, may perhaps at some future day, lament that he has established such a precedent of arraigning the decisions and official conduct of a Judge without a hearing.