

NORTH-CAROLINA GAZETTE.

With the latest Advices, Foreign and Domestick.

SEMPER PRO LIBERTATE, ET BONO PUBLICO.

The celebrated Dr. BENJAMIN FRANKLIN's Considerations on NATURE and EXTENT of the legislative AUTHORITY of the BRITISH PARLIAMENT.

NO Question can be more important to Great Britain, and the Colonies, than this—Does the legislative Authority of the British Parliament extend over them? On the Resolution of this Question, and on the Measures which a Resolution of it will direct, will depend, whether the Parent Country, like a happy Mother, shall behold her Children flourishing around her, and receive the most grateful Returns for her Protection and Love; or, whether, like a Stepmother, rendered miserable by her own unkind Conduct, she shall see these Affections alienated, and herself deprived of those Advantages, which a milder Treatment would have ensured to her.

The British Nation are generous; they love to enjoy Freedom; they love to behold Liberty in their greatest Abhorrence; is it possible then that they would with them? Yes the Authors of it? No. Oppression is not a Pleasure of the British Soul; and the late severe Proceedings against the Colonies must have arisen from the detestable & benighted Interests, who have misinformed and misled the Nation. A Regard for that Nation, from whom we have sprung, and from whom we boast to have derived the Spirit, which prompts us to oppose their unjust Measures, must lead us to put this Construction on what we have lately seen and experienced. When therefore, we shall know and consider the Justice of our Claim—that we insist only upon being treated as Freemen, and as the Descendants of those British Ancestors, whose memory we will not dishonour by our Deserteries. It is reasonable to hope, that they will approve our Conduct, and bestow their laudable Applauds on our conscientious Ardour for Liberty.

But if our reasonable and joyful Hopes should fatally be disappointed, it will at least afford us some Satisfaction to know, that the Principles on which we have founded our Opposition to the late Acts of Parliament, are the Principles of Justice and Liberty, of the British Constitution. If our Rights are to be attended with Misfortunes, we shall reflect with Exultation on the noble Cause of them; and while suffering unmerited Distress; think ourselves superior to the proudest Slaves. On the contrary, if we shall be reinstated in the Enjoyment of those Rights, to which we are intitled by the supreme and uncontrollable Laws of Nature, and the fundamental Principles of the British Constitution, we shall reap the glorious Fruit of our Labours; and we shall, at the same Time, give to the World, and to Posterity, an instructive Example; that the Cause of Liberty ought not to be despaired of, and that a generous Contention, in that Cause, is not always unattended with Success.

The foregoing Considerations have induced me to publish a few Remarks on the important Question, with which I introduced this Essay.

Those who alledge that the Parliament of Great Britain have Power to make Laws binding the American Colonies, reason in the following Manner: That there is and must be in every State a supreme, irresistible, absolute, uncontrouled Authority, in which the *Jura summi Imperii*, or the Rights of Sovereignty reside: "That this supreme Power is, by the Constitution of Great Britain, vested in the King, Lords and Commons;": "That therefore, the Acts of the King, Lords and Commons, or, in other Words, Acts of Parliament, have, by the British Constitution, a binding Force on the American Colonies, they composing a Part of the British Empire."

I admit that the Principle, on which this Argument is founded, is of great Importance; its Importance, however, is derived from its Tendency to promote the ultimate End of all Government. But if the Application of it would, in any Instance, destroy, instead of promoting that End, it ought, in that Instance, to be rejected; for to admit it, would be to sacrifice the End to the Means, which are valuable only so far as they advance it.

All Men are, by Nature, equal and free; no one has a Right to any Authority over another without his Consent; all lawful Government is founded on the Consent of those who are subject to it; such Consent was given with a View to ensure and to increase the Happiness of the Governed as best they could enjoy it an independant and perfect State of Nature. The Consequence is, that the Happiness of the Society is the first Law of every Government.

This Rule is founded on the Law of Nature; it must controul every political Maxim; it must regulate the Legislature itself. That People have a Right to insist that this Rule be served; and are entitled to demand a moral Security that the Legislature will observe it. If they have not the first, they are Slaves; if they have not the second, they are, every Moment, exposed to Slavery. For civil Liberty is nothing else but natural Liberty, divested of that Part which constituted the Independance of Individuals by the Authority which it confers on Sovereigns, attended with a Right of insisting upon their making a good Use of their Authority, and with a moral Security that this Right will have its Effect.

Let me now be permitted to ask—Will it ensure and increase the Happiness of the American Colonies, that the Parliament of Great Britain should possess a supreme, irresistible, uncontrouled Authority over them? Is such an Authority consistent with their Liberty? May they any Security that it will be employed only for their good? Such a Security is absolutely necessary. Parliaments are not infallible; they are not always just. The Members of whom they are composed, are human; and therefore, they may err: They are influenced by Interest; and therefore, they may deviate from their Duty. The Acts of the Body must depend upon the Opinions and Dispositions of the Members; the Act of the Body may, then, be the Result of Error, and of Vice. It is no Breach of Decency to suppose all this; the British Constitution supposes it: "It supposes that Parliaments may betray their Trust, and provides, as far as human Wisdom can provide, that they may not be able to do so long, without a sufficient Controul."

Without Provisions for this Purpose, the Temple of British Liberty, like a Structure of Ice, would instantly dissolve before the Fire of Oppression and despotic Sway.

It will be very material to consider the several Securities which the Inhabitants of Great Britain have, that their Liberty shall not be destroyed by the Legislature, in whom it is entrusted. If it shall appear that these Securities are not enjoyed by the Colonies, a considerable Consequence will be, that the Colonies are not under the same Obligations to consent their Liberties into the Hands of the same Legislature as the Colonists are entitled to all the Privileges of Britons. We have committed no Crimes to forfeit them; we have too much Spirit to forgive them. We will live our Honesty as free as our Ancestors left us.

To give to any Thing that passes in Parliament the Force of a Law, the Consent of the King, of the Lords, and of the Commons, is absolutely necessary. If, then, the Inhabitants of Great Britain possess a sufficient Restraint upon any of the Branches of the Legislature, their Liberty is secure, provided they be not wanting to themselves. Let us take a View of the Restraints, which they have upon the House of Commons.

They elect the Members of that House. "Magistrates, says Montesquieu, are properly theirs, who have the Nomination of them." The Members of the House of Commons, therefore, elected

* The Right of Sovereignty is that of commanding finally, but in Order to procure real Felicity; for if this End is not obtained, Sovereignty ceases to be a legitimate Authority. BURL. 32.

† The Law of Nature is superior in Obligation to any other. BLACKSTONE 41.

‡ BURLAMAQUI.

§ Dissert. on Parties. Let. 11, 12.

¶ As the Law is the Birthright of every Subject, so wherever they go, they carry their Laws with them. 2 WILLIAM'S Reports. 75.

‡ The Commons of England have a great and considerable Right in the Government; and a Share in the Legislature, without whom no Law pass. Lord RAYMOND'S Reports. 950.

4 Institutes. 25.

by the People, are the Magistrates of the People; and are bound by the Ties of Gratitude for the Honour and Confidence conferred upon them, to consult the Interest of their Constituents.

The Power of Elections has ever been regarded as a Point of the last Consequence to all free Governments. The independent Exercise of that Power is justly deemed the strongest Bulwark of the British Liberties. As such, it has always been an Object of great Attention to the Legislature, and is expressly stipulated with the Prince in the Bill of Rights. All those are excluded from voting, whose Poverty is such, that they cannot live independant, and must therefore be subject to the undue Influence of their Superiors. Such are supposed to have no Will of their own; and it is judged improper that they should vote in the Representation of a free State. What can exhibit, in a more striking Point of View, the peculiar Care which has been taken, in Order to render the Election of Members of Parliament entirely free? It was deemed an Insult upon the independant Commons of England, that their uninfluenced Suffrages should be adulterated by those, who were not at Liberty to speak as they thought, though their Interests and Inclinations were the same.—British Liberty, it was thought, could not be effectually secured, unless those who made the Laws were freely, and without Influence, elected by those, for whom they were made. Upon this Principle is reasonably founded the Maxim in Law, that every one who is capable of exercising his Will, is Party, and presumed to consent to an Act of Parliament.

For the same Reason that Persons, who live dependant upon the Will of others, are not admitted to vote in Elections, those who are under Age, and therefore incapable of judging; those who are convicted of Perjury, or Subornation of Perjury, and therefore unworthy of judging; and, those who obtain their Freeholds by fraudulent Conveyances, and would therefore vote to serve infamous Purposes, are all likewise excluded from the enjoyment of this great Privilege. Corruption at Elections is guarded against by the strictest Precautions, and most severe Penalties. Every Elector, before he polls, must, if demanded by a Candidate, or by two Electors, take the Oath against Bribery, as prescribed by 2 H. c. 24. Officers of the Exchequer, of the Customs, and of the Post-Offices—Officers concerned in the Duties upon Leather, Soap, Paper, striped Linens imported, Hackney Coaches, Cards and Dice, are restrained from interfering in Elections, under the Penalty of Imprisonment, and of being incapable of ever exercising any Office of Trust under the King.

Thus is the Freedom of Elections secured from the Ignorance, the Ignorance, and the Corruption of the Electors; and from the Interposition of Officers depending immediately upon the Crown. But this is not all. Provisions, equally salutary, have been made concerning the Qualifications of those who shall be elected. All imaginable Care has been taken, that the Commons of Great Britain may be neither misled, nor deceived, nor deceived, into any Nomination inconsistent with their Liberties.

It has been adopted, as a general Maxim, that the Crown will take Advantage of every Opportunity of extending its Prerogative in Opposition to the Privileges of the People; that it is the Interest of those who have Possions, or Offices at Will, from the Crown, to concur in all its Measures; that Mankind in general will prefer their private Interest to the Good of their Country; and that, consequently, those who enjoy such Possions or Offices, are unfit to represent a free Nation, and to have the Care of their Liberties committed to their Hands. All such Officers or Pensioners are de-

* The Athenians, justly jealous of this Privilege, punished, with Death, every Stranger who presumed to interfere in the Assemblies of the People.

† The English Freedom will be at an End whenever the Court invades the free Election of Parliaments.

RAPIN.

A Right that a Man has to give his Vote at the Election of a Person to represent him in Parliament, there to concur to the making of Laws, which are to bind his Liberty & Property, is a most transcendent Thing, and of an high Nature.

Lord RAYMOND'S Reports. 953.

‡ There are a few Exceptions in the Case of Officers at Will.

are capable of being elected Members of the House of Commons.

But these are not the only Checks which the Commons of Great Britain have upon the Conduct of those whom they elect to represent them in Parliament. The Interest of the Representatives is the same with that of their Constituents. Every Measure that is prejudicial to the Nation, must be prejudicial to them, and their Posterity. They cannot betray their Electors, without at the same Time injuring themselves. They must join in bearing the Burthen of every oppressive Act; and participate in the happy Effects of every wise and good Law. Influenced by these Considerations, they will seriously and with Attention examine every Measure proposed to them; they will behold it in every Light, and extend their Views to its most distant Consequences. If, after the most mature Deliberations, they find it will be conducive to the Welfare of their Country, they will support it with Ardour; on the contrary, if it appears to be of a dangerous and destructive Nature, they oppose it with Firmness.

Every social and generous Man concurs with their Interest in animating the Representatives of the Commons of Great Britain to an honest and faithful Discharge of their important Trust. In each particular House, the Heart is satisfied of having acted a worthy Part; and the delightful Union with the Applause of their Countrymen, who never fail to express their warmest Acknowledgments to the Friends and Benefactors of their Country. How pleasing are those Rewards! How much to be preferred to that petty Wealth, which is sometimes procured by Meanness. They sometimes, for Meanness and Treachery do not always obtain even that painful Reward. The most successful Ministers to the Crown, and therefore the most likely to be employed, especially in great Emergencies, are those who are best beloved by the People; and those only are beloved by the People, who act readily and uniformly in Support of their Liberties. Patriots, therefore, have frequently, and especially upon important Occasions, the best Chance of being advanced to Offices of Profit and Power. An exact Compliance with the Will of an imperious Prince, and a ready Disposition to sacrifice every Duty to his Pleasure, are sometimes, I confess, the Steps, by which only Men can expect to raise to Wealth and Titles. Let us suppose, that in this Manner, they are successful in attaining them. Is the despicable Price a sufficient Recompence for submitting to the infamous Means, by which it was procured; and for the mortifying Remembrance, with which the Possession of it must be accompanied? Will it compensate for the venal Curies of Corruption and of Plebeian?

There must be very strong Checks upon the Conduct of every Man who is not utterly led to all Scafe of Vice and Shame. They will expose themselves to the Contempt of their Country, and to the Scorn of all Men, who are not sensible of the Honour and Dignity of their Office.

But let all these Motives, however useful as they are, should be insufficient to animate the Representatives of the Nation to a prompt and upright Discharge of their Duty, and to prevent them from yielding to any Temptation that would induce them to betray their Country, and their Constituents. Let it be further considered, that the Liberties in the frequent Election of Representatives.

At the same Time, the People can make a Choice between those who have served them well, and those who have neglected or betrayed their Interest: They can bestow, unasked, their suffrage upon the former; in the next Election, and can punish the latter with disgrace, by a most lasting Refusal. The Constitution is thus frequently renewed and drawn back, as it were, to its original Principles; which is the most effectual Method of perpetuating the Liberties of a State. The People have numerous Opportunities of displaying their just Importance, and of exercising, in Person, their natural Rights. The Representatives are reminded, whose Creatures they are; and to whom they are accountable for the Use of that Power, which is delegated unto them. The first Maxims of Jurisprudence are ever kept in View—THAT ALL POWER IS DERIVED FROM THE PEOPLE—THAT THEIR HAPPINESS IS THE END OF GOVERNMENT.

Frequent new Parliaments are a Part of the British Constitution: By them only the King can know the immediate Sense of the Nation. Every Supply, which they grant, is justly to be considered as a Testimony of the Loyalty and Affection, which the Nation bear to their Sovereign; and by this Means a mutual Confidence is created between the King and his Subjects. How pleasing must such an Intercourse of Benefits be? How proud a Father of his People rejoice in such dutiful Returns for his paternal Care? With what Ardour must his People embrace every Opportunity of giving such convincing Proof, that they are not insensible of his wife and indulgent Rule?

Long Parliaments have always been prejudicial to the Prince, who summoned them, or to the People, who elected them. In that called by King Charles I. in the Year 1640, the Commons proceeded at first, with Vigour and a true patriotic Spirit, to rescue the Kingdom from the Oppression

under which it groaned—to retrieve the Liberties of the People, and establish them on the firm Foundation; and to remove or prevent the pernicious Consequences, which had arisen, or which, they dreaded, might arise from the tyrannical Exercise of Prerogative. They abolished the Court of Star-Chamber and high Commission: They reduced the Forests to their ancient Bounds: They repealed the oppressive Statutes concerning Knight-hood: They declared the Tax of Ship-Money to be illegal: They presented the Petition of Rights, and obtained a Ratification of it from the Crown. But when the King unadvisedly passed an Act to continue them till such Time as they should please to dissolve them, how soon, how fatally did their Conduct change! In what Misery did this involve their Country! Those very Men, who, while they had only a consultative Power, seemed to have no other Aim, but to secure and improve the Liberty and Peace of their Country, and to render their Sovereign the glorious Ruler of a free and happy People, after they became independent of the King and of their Electors, sacrificed to that inordinate Power, which had been given them. A Regard for the People was now no longer the Spring of their Action; their only View was to aggrandize themselves, and to establish their Grandeur on the Ruins of their Country. Their Views unhappily were accomplished. They overturned the Constitution from its very Foundation; and converted into Rods of Oppression the Instruments of Power, which had been put into their Hands for the Welfare of the State; but which, when they had formerly given them, could not have been otherwise used. What an instructive Example is this! How alarming to those who have no Influence over their Legislators—no have no Security but that Power, which was originally derived from the People, and was delegated for their Preservation, may be abused for their Destruction! Kings are the only Tyrants: The Conduct of the long Parliament will justify me in adding, that Kings are not the severest Tyrants.

At the Restoration Care was taken to reduce the House of Commons to a proper Dependence on the King; but immediately after their Election they lost all Dependence upon their Constituents, because they continued during the Pleasure of the Crown. They seemed disposed ingloriously to surrender their Liberties, for which their Ancestors had fought and bled: And it was owing to the Wisdom and Integrity of two virtuous Ministers of the Crown, that the Commons of England were not reduced to a State of Slavery and Wretchedness by the Treachery of their own Representatives, whom they had indeed elected, but whom they could not remove. Secure of their Seats, while they gratified the Passions, they bartered the Liberties of the People, and placed the Scales of Prerogative all that Weight, which was derived from the People, in Order to oppress them.

It was not till some Years after the Restoration, that the People could rely on the Parliaments of their Representatives, or punish their Barony, by the Statute 6 W. and M. c. 2. It was enacted, that Parliaments should not continue longer than three Years. The insupportable Burden of the first Prince of the Hannoverian Line, surrounded with Rivals and Enemies, induced the Parliament, soon after his Accession to the Throne, to prolong the Term to that of seven Years. Attempts have since that Time been frequently made to reduce the Continuance of Parliaments to the former Term; and such Attempts have always been well received by the Nation. Undoubtedly they deserve such Reception; for long Parliaments will naturally forget their Dependence on the People: When this Dependence is forgotten, they will become corrupt: Whenever they become corrupt, the Constitution of England will lose its Liberty—it will perish.

Such is the Provision made by the Laws of Great Britain, that the Commons should be faithfully represented. Provisions are also made, that faithful Representatives should not labour for their Constituents in vain. The Constitution is formed in such a Manner, that the House of Commons are able, as well as willing, to protect and defend the Liberties entrusted to their Care.

The Constitution of Great Britain is that of a limited Monarchy; and in all limited Monarchies, the Power of preserving the Limitations must be placed somewhere. During the Reigns of the first Norman Princes, this Power seems to have resided in the Clergy and in the Barons by Turns. But it

* The Earl of Clarendon and Southampton.

† MONTESQ. b. 11. c. 6.

If the legislative Body were perpetual, or might last for the Life of the Prince who convened them, as formerly, and were so to be supplied by occasionally sitting up the Vacancies with new Representatives; in these Cases, if it was once corrupted, the Evil would be past Remedy: But when different Bodies succeed each other, if the People see Cause to disapprove of the present, they may rectify its Fault in the next. A legislative Assembly also, which is just to be separated again, will think it, in itself, bound in Interest, as well as in Duty, to make its just Laws as are good.

were used very improperly, only for the Dignity of the Church, neglected and devoted the Soil they till; they would be considered as the Patrimony of St. Peter, to a foreign Jurisdiction, and the Independence of the civil Power, the Prerogatives of the Crown, in the Way of their favourite Scheme of ecclesiastical Dominion; and therefore, on every Occasion of sacrificing the Interests of their Sovereign (those of the Pope, even as alike to their King and to their Country, the unwearied Aim was to reduce both to the most abject State of Submission and Slavery! The Means employed by them to accomplish their pernicious Purposes were, sometimes to work upon the Superstition of the People, and direct it against the Power of the Prince; and, at other Times, to work upon the Superstition of the Prince, and direct it against the Liberties of the People.

[To be continued.]

DANTZICK, AUGUST 10.

A BOARD of Commissioners is just instituted here, consisting of four of the principal Magistrates chosen by the People, and two of the Deputies of the Polish Diet, who have just arrived here on that Account from Warsaw. This Board is to consult with M. Benoit, Agent for his Prussian Majesty, Count Grolowchin, the Emperor of Russia's Minister, and Baron Derong, Agent for his Imperial Majesty, on settling the Differences between the King of Prussia and this City, arising from the well known Claims of the former, and are restrictive to conclude their Negotiations in the Course of three Months. The most sanguine Hopes are formed that this Negotiation will prove conclusive, and at least release this City from the Calamities she has so long laboured under.

PETERSBURGH, August 14. When the Intelligence first arrived here of the important Victory which Marshal Romanzow gained over the Turks in Bulgaria, a very powerful Party in the Imperial Council was for a Continuation of the War, and following the Advantage gained by marching the Grand Army up to the Walls of Constantinople. This Opinion was strongly supported by the Grand Duke; and her Imperial Majesty seemed tacitly to adopt it, but was first resolved to take the Opinion of Count Panin, and some others, before she positively assented to, or dissented from, the Continuance of the War. Count Panin was in Consequence informed of the Victory, and required to give his Opinion in explicit Terms. That old Minister, thus situated, gave his Answer in an open, forcible, and perspicuous Manner, he first stated the distressed State of the Imperial Finances and Commerce; the natural Evils resulting from so long a Continuance of such an expensive and bloody War; he expatiated largely on the Deluge of human Blood that had been poured forth since the Beginning of the War, and what more would be shed in the Continuation of it; from whence he took Occasion to expose the Cruelty and wanton Barbarity of such a Measure.

He protested strongly against any Intention of injuring the Honour, or hurting the Interests of the Russian Empire, by concluding a Peace with a vanquished Enemy, but clearly evinced that it would not only reflect the highest Honour, but be of the most real, the most essential Advantage to the common Interest, as the Empress by being victorious, had not only the Power of commanding almost what Terms she pleased, to indemnify a Part of the Expenses of the War, but had a glorious Opportunity of manifesting her Self-denial and Humanity, by not imposing on the Vanquished such Terms as they were not able to bear. In fine he shewed, that it was absolutely necessary for a Retrieval of the Russian Affairs, and that it was then a Crisis which was equally fortunate and advantageous.

The Reasoning and Manner of this able Politician, this true Friend to his Country, gained the Majority of the Opponents of his Opinion, and convinced all. His Advice was followed, and Couriers were immediately dispatched to Prince Repnin and Marshal Romanzow, to conclude a Peace with the utmost Dispatch.

HAMBURG, Aug. 20. They write from Berlin, that as soon as the King of Prussia heard the News of the Peace between Russia and the Porte being concluded, he immediately sent Officers of different Regiments to the Seat of War, in Order to enroll all such disciplined Men as shall be dismissed from the Russian Service, and to purchase all the Horses they could get from the Turks and Cossacks, for the Use of his Army.

PETERSBURGH, August 16. On Sunday Morning last Peace with the Ottoman Porte was proclaimed in four different Parts of this Capital by a Major of the Guards, who officiated as Herald on that Occasion; and immediately afterwards her Imperial Majesty, accompanied by the Grand Duke and Dutchess, proceeded to the Church of Casan, were, after the Celebration of the Mass, Te Deum was sung, at which all the Nobility and foreign Ministers were present. In the Evening there was a brilliant Court at the Summer Palace. Advice was received from Moscow, that the Emperor had