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Sect. II. Power of imposing taxes.

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nufactures, and commerce. These different effects of taxes, have rendered the subject not a little intricate.

It is an article of importance in government, to have it ascertained, what proportion of the annual income of a nation may be drawn from the people by taxes, without impoverishing them. An eighth part is held to be too much: husbandry, commerce, and population, would suffer. Davenant says, that the Dutch pay to the public annually the fourth part of the income of their country; and he adds, that their strict economy enables them to bear that immense load, without raising the price of labour so high as to cut them out of the foreign market. It was probably so in the days of Davenant; but of late matters are much altered: the dearness of living and of labour, has excluded all the Dutch manufactures from the foreign market. Till the French war in King William's reign, England paid in taxes but about a twentieth part of its annual income.

## S E C T. II.

### POWER of IMPOSING TAXES.

**T**Hat to impose taxes belongs to the sovereign, and to him only, is undoubted. But it has been doubted, whether even King and parliament, who possess the sovereign authority in Britain, can legally impose a tax without consent of the people. The celebrated Locke, in his essay on government (a), lays down the following proposition as fundamental. " 'Tis true, governments

(a) Chap. 11. § 140.

" cannot



“ cannot be supported without great charge, and 'tis fit every one  
“ who enjoys his share of protection should pay out of his estate  
“ his proportion for the maintenance of it. But still it must be  
“ with his own consent, *i. e.* the consent of the majority, giving  
“ it either by themselves, or their representatives chosen by them ;  
“ for if any one shall claim a power to lay and levy taxes on the  
“ people by his own authority, and without such consent of the  
“ people, he thereby invades the fundamental law of property,  
“ and subverts the end of government. For what property have  
“ I in that which another may by right take when he pleases to  
“ himself?” No author has reflected more honour on his native  
country, and on mankind, than Mr Locke. Yet no name is a-  
bove truth ; and I am obliged to observe, tho' with regret, that in  
the foregoing reasoning the right of imposing taxes is laid upon a  
very crazy foundation. It may indeed be said with some colour, that  
the freeholders virtually empower their representatives to tax them.  
But their vassals and tenants, who have no vote in electing members  
of parliament, empower none to tax them : yet they are taxed like  
others ; and so are the vassals and tenants of peers. Add to these  
an immense number of artificers, manufacturers, day-labourers,  
domestics, &c. &c. with the whole female sex ; and it will ap-  
pear on calculation, that those who are represented in parliament  
make not the hundredth part of the taxable people. But further,  
it is acknowledged by our author, that the majority of the Lords  
and Commons must bind the minority. This circumstance alone  
might have convinced him of his error : for surely the minority  
in this case are bound without their consent ; nay, against their  
consent. That a state cannot tax its subjects without their con-  
sent, is a rash proposition, totally subversive of government.  
Locke himself has suggested the solid foundation of taxes, tho' in-  
advertently he lays no weight on it. I borrow his own words :  
“ That every one who enjoys his share of protection, should pay  
“ out

“ out of his estate his proportion for the maintenance of the government.” The duties of sovereign and of subject are reciprocal; and common justice requires, that a subject, or any person who is protected by a government, ought to pay for that protection. Similar instances without number of such reciprocal duties, occur in the laws of every civilized nation. A man calls for meat and drink in a tavern: is he not bound to pay the bill, tho’ he made no agreement beforehand? A man is wafted over a river in a ferry-boat: must he not pay the common fare, though he made no promise? Nay, it is every man’s interest to pay for protection: government cannot subsist without a public fund; and what will become of individuals when no longer protected, either in their persons or goods? Thus taxes are implied in the very nature of government; and the interposition of sovereign authority is only necessary for determining the expediency of a tax; and the quota, if found expedient.

Many writers, misled by the respectable authority of Locke, boldly maintain, that a British parliament cannot legally tax the American colonies, who are not represented in parliament. This proposition, which has drawn the attention of the public of late years, has led me to be more explicit on the power of imposing taxes, than otherwise would be necessary. Those who favour the independence of our colonies urge, “ That a man ought to have “ the disposal of what he acquires by honest industry, subject to “ no control: whence the necessity of a parliament for imposing “ taxes, where every individual is either personally present, or by “ a representative of his own election. The aid accordingly given “ to a British sovereign is not a tribute, but a free and voluntary “ gift.” What is said above will bring the dispute within a very narrow compass. If our colonists be British subjects, which hitherto has not been controverted, they are subjected to the British legislature in every article of government; and as from the beginning

ning they have been protected by Britain, they ought like other subjects to pay for that protection. There never was a time less favourable to their claim of freedom from taxes, than the close of the late war with France. Had not Britain seasonably interposed, they would have been swallow'd up by France, and become slaves to despotism.

If it be questioned, By what acts is a man understood to claim protection of a government; I answer, By setting his foot on the territory. If, upon landing at Dover, a foreigner be robbed; the law interposes for him as for a native. And as he is thus protected, he pays for protection when he purchases a pair of shoes, or a bottle of beer. The case is clear with respect to a man who can chuse the place of his residence. But what shall be said of children, who are not capable of choice, nor of consent? They are protected; and protection implies the reciprocal duty of paying taxes. As soon as a young man is capable of acting for himself, he is at liberty to chuse other protectors, if those who have hitherto protected him be not agreeable.

If a legal power to impose taxes without consent of the people, did necessarily imply a legal power to impose taxes at pleasure, without limitation, Locke's argument would be invincible, in a country of freedom at least. A power to impose taxes at pleasure, would indeed be an invasion of the fundamental law of property; because, under pretext of taxing, it would subject every man's property to the arbitrary will of the sovereign. But the argument has no weight, where the sovereign's power is limited. The reciprocal duties between sovereign and subject imply, that the people ought to contribute what sums are necessary for the support of government, and that the sovereign ought not to demand more. It is true, that there is no regular check against him, when he transgresses his duty in this particular: but there is an effectual check in the nature of every government that is not legally despotic, viz. a general



neral concert among all ranks, to vindicate their liberty against a course of violence and oppression; and multiplied acts of that kind have more than once brought about such a concert.

As every member of the body-politic is under protection of the government, every one of them, as observed above, ought to pay for being protected; and yet this proposition has been controverted by an author of some note (*a*); who maintains, "That the food and raiment furnished to the society by husbandmen and manufacturers, are all that these good people are bound to contribute: and supposing them bound to contribute more, it is not till others have done as much for the public." At that rate, lawyers and physicians ought also to be exempted from contributing; especially those who draw the greatest sums, because they are supposed to do the most good. That argument, the suggestion of a benevolent heart, is however no proof of an enlightened understanding. The labours of the farmer, of the lawyer, of the physician, contribute not a mite to the public fund, nor tend to defray the expence of government. The luxurious proprietor of a great estate has a still better title to be exempted than the husbandman, because he is a great benefactor to the public, by giving bread to a variety of industrious people. In a word, every man ought to contribute for being protected; and if a husbandman be protected in working for himself one-and-fifty weeks yearly, he ought thankfully to work one week more, for defraying the expence of that protection.

(*a*) L'ami des hommes.

