

In the Poll Bills which passed in *England* before the 1st of *W.* and *M.* the Commissioners, in respect of the Estates of Peers, were appointed by their Lordships, particularly in the 29th *Car.* 2d. the last Bill of that Kind which had passed before 1st *W.* and *M.*

'Tis true, that in the 1st *W.* and *M.* no such Power was given to or reserved by the Peers, which (as it appears from the Parliamentary Proceedings of that Time) happened through their Inadvertency, occasioned by the hasty Passage they gave the Bill, which the King was extremely solicitous about, and urged them to Dispatch; but the Commissioners named in this Act of Parliament were appointed by the Crown. After the Royal Assent had been given to this Statute, and in the same Session, an additional Poll Bill was sent from the Commons to the Lords, which they returned with an Amendment, to enable them to appoint Commissioners to rate themselves under the original Bill; but this Amendment not being agreed to by the Commons, became the Subject of some Conferences between the Two Houses: The Peers asserted, that their Right was founded upon constant Usage, which does not appear to have been denied by the Commons; whose principal Reasons for not admitting the Amendment, were, that the additional Poll Bill Taxed none but Commoners, and that if no Commissioners had been named, they would have agreed to their Lordships present Demand, rather than their Lordships should not be Taxed; but that any Alteration then would go a great way to Repeal the Act, when the Commissioners might be probably entered upon their Office, and were already Taxing their Lordships, or at least would soon do it if the Amendment was not admitted. As the Commons would not admit the Lords to retrieve their Right in the Manner they proposed, the Lords, in Resentment, Rejected the additional Poll Bill. The Commissioners, we have said, named in the Statute, were appointed by the King, and the same Commissioners were by Reference, appointed in subsequent Acts. But if the Commons have been allowed to name Commissioners in the Manner you seem to imagine, Can it therefore be inferred with any Degree of Propriety, that you ought, in Point of Right, to demand the sole and exclusive Authority to Nominate Commissioners? when these Commissioners are to be vested with so great Power over the Estates of the Proprietary and the Members of the Upper House, as well as of every other Subject, and not one Instance from the first Settlement of this Province (that we know or have heard of) can be adduced to countenance your Claim; or can it be said, that when a free Grant of Money is made to the King by his Subjects, from a Principle of Affection to his Person and Government, it would be of that Consequence to the Crown (supposing the Commons have always Nominated Commissioners, which is not true in Fact) to permit them to Name Commissioners, it would be to the Proprietary, whose Estate you would Tax in the same Manner with any other Subjects; or can it be imagined, that the Peers of *England* would consent that Commissioners should be appointed to rate their Estates to the utmost Penny by an House of Commons, who had before doubted (at least) their Existence as a Branch of the Legislature?

We don't know how far we may be contemned by the Commissioners named in your Bill, for our Observation, that those who derive a Power from the Act of another, will naturally think themselves peculiarly accountable for their Conduct to their Constituents, nor were we induced to make it from any Personal Dislike of the Gentlemen named, many of whom are Strangers to us: But if these Gentlemen are really as much inclined to express their Contempt, as you are for them, we should afford them a better Pretext for it, by suffering you to usurp an Authority over our Properties.

If the Land Tax Acts were to be admitted in the Extent you have asserted, yet we think that the Right in the Proprietary to Nominate all Officers whatsoever, Civil or Military, and the respectable Opinion of Lord Chief Justice *Willes*, would not be invalidated by your Reasoning.

You ask, "What Argument can be drawn from his Lordship's Charter? will it be contended that the King has Granted by that Charter a Power which the Crown does not exercise, or even Attempt to exercise?" and then you conclude, that "surely it will not be contended; for his Lordship's Power by the Charter to appoint Officers, can't be greater than from whence it is derived, and never could be intended to extend to Officers of the kind Nominated in your Bill."

Now this Matter, which appears to be so indubitable to you, appears in a very different Light to us, and permit us, in our Turn, to ask you a few Questions:

Whence do you derive the Power of making Laws, but from the Charter? Will you not contend, that the King Granted a Power by the Charter which the Crown does not exercise, or attempt to exercise? Whence would you derive the Power you now assume, to appoint Commissioners? Do you Claim it from Usage? You can't cite one Instance. Do you Claim it under any and what Act of Assembly? You can't produce one. Do you derive it from the Charter with the Power of Legislation? By your own Argument you can't.