

MONDAY, December 16.

THE House met.

*John Ridout, Esq;* from the Upper House, delivers to Mr. Speaker, the Bill entitled, *An Act for raising a Duty of Four-pence Sterling for every Hogshead of Tobacco exported out of this Province, for the Support of an Agent at London, for the Service of this Province;* Indorsed, "By the Upper House of Assembly, December 16, 1765; Read the first and second Time by especial Order, and will not Pass. Signed by Order, U. SCOTT, Cl. Up. Ho."

And the following Message, viz.

By the UPPER HOUSE of ASSEMBLY, December 16, 1765.

GENTLEMEN,

WE should very willingly concur with you in the Enaction of a Law for the Appointment of an Agent, at the general Expence, upon Terms agreeable to Equity, and consistent with the Principles of our Constitution; but we do not conceive that the Bill we have returned with a Negative, is entitled to that Character.

According to our System of Laws there is a co-ordinate Qualification of the Electors, and their Delegates, and this, in respect of Property, being appropriated to no Species, and requiring but a very moderate Share, there are but few Freemen excluded from the Capacity of electing, or being elected; but tho' this Right is so diffusive in this View, other Considerations, arising from the Frame of our Constitution, and the Fitness in preserving an Analogy between this, and the Constitution of *England*, have restricted it, and therefore the Members of the Upper House composing a distinct Order, and in that, having a Check upon the Lower in the Introduction of all new, and general Regulations, are disabled from electing, or being elected the Delegates of the People; but since their Consent is requisite to give Life and Activity to all general Regulations, this their Disability is no more productive of Insecurity to their political Rights, or private Properties, than the Exclusion of the Delegates of the People from Sitting in the Upper House is repugnant to theirs.

Each Order is, in this Respect, politically divided from the other, each hath a Power to controul, and check the other, and, in this, not only a Barrier to defend itself is furnished to each as a political Body, but also an equal Opportunity of consulting, and providing for the general Interest and Welfare of the Province, in which the Members of the Two Houses, as Individuals of the same Society, are equally concerned.

It would, without Doubt, be expected, that the Agent should deem it to be his Duty to observe the Directions of his Principals, and that they would give him his Dismission should he venture to act by the Guidance of any other Rule.

It would, too, be expected, or the Expence of his Support had better be spared, that in Consequence of the Appointment of an Agent, some Measures or Regulations of general Concernment to the whole Province, reaching all Individuals without Distinction, would take Place, and that the beneficial or disadvantageous Effects of those Measures or Regulations would depend upon their Wisdom, and Prudence, who should plan or direct them.

In the Wisdom and Prudence of your House, your Electors have reposed great Confidence, but they alone would not be involved in the Consequences of your Measures, which must equally extend to us, who are Members of a distinct Branch of the Legislature, by whom you are as little intrusted, as we are by your Constituents, and whom none of your Measures can constitutionally bind without our actual Consent and Approbation. A Law therefore, imposing a Tax upon all exported Tobacco, and thereby drawing a Contribution from the Property of the Members of the Upper House, vesting the sole Power, without any Participation of any other Branch of the Legislature, in your House, of applying the Revenue arising from the Tax, in what Manner and to what Purpose you should think proper, without Controul, or Account, would be an Innovation incompatible with the Spirit of Equity, and of our Constitution, by depriving us of the Right we have to be consulted in the Application of our Property, and in the Introduction of all new Regulations which may in any Respect affect us or our Posterity, and, instead of leaving us the Check and Defence we now have against every injurious Attempt, by sinking us even below the Level of the lowest qualified Freeholder, or Mechanick.

If the End for which you are desirous to support an Agent is the Benefit of every Order and Rank among us, why should we be excluded from a Share in the Nomination of him, or the Consideration of the Propriety or Inexpediency of the Measures which may be proposed for the Accomplishment of it? If the End should be such that a Contrariety of Opinion, and an Opposition consequent upon it may be naturally expected, your End is what we should object to, if declared; and would it be equitable that you should be furnished with all the Means to enforce your Pretensions, and that we should be deprived of the Means to defend ours? If any material Alteration of our Constitution of Government is your View, would you wish it to take Place, unless it might redound to the Welfare of your Country? May you not be mistaken in your Sentiments on this Head? And, is it not for the Common Interest, that the Subject may be fully discussed, that all who may be affected in the Settlement, may be equally and fairly heard? Why