
THE
BRITISH CRITIC,

For NOVEMBER, 1798.

Satis hoc mercedis habeto
Si laudem victor, si fert opprobria victus. CALPURNIUS.

Let this suffice, if all receive their due,
Some of just praise, and some of censure too.

ART. I. *Juridical Arguments and Collections.* By Francis Hargrave, Esq. Barrister at Law. 4to. 570 pp. 1l. 7s. Robinsons. 1797.

WE are happy to notice another publication from Mr. Hargrave, on matters of law. Of all the branches of literature that come successively under our consideration, that of the law of the land seems to be the most singularly circumstanced. The ability and energy employed upon the study and practice of the law, are certainly equal, if not superior, to those bestowed on any other profession, or any other study or pursuit whatsoever; the number of its professors, the rivalry of their competition, the riches and honours that attend on many, and that operate as incitements to all its votaries, should, we think, contribute to make disquisitions on the law and constitution very distinguished pieces in the literature of the country; but, on the contrary, we find such productions in general come before the public without the usual advantages of composition; the learning of judges, the arguments of counsel, are exposed to be reported by others; this is performed not always with
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fidelity,

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ART. XVII. *The Cause of Truth; containing, besides a great Variety of other Matter, a Refutation of Errors in the political Works of Thomas Paine, and other Publications of a similar Kind. In a Series of Letters, of a religious, moral, and political Nature. By Robert Thomas, Minister of Abdie. 8vo. 437 pp. 3s. Dickson, &c. Edinburgh; Verner and Hood, &c. London. 1797.*

“FRONTI nulla fides,” may justly be said of this volume; not a bad sense, but a good one; not in respect of its title, but of its external appearance. Being closely printed, upon coarse paper, and sold at a low price, it contains more sound reasoning, and more useful matter, than most of those books upon which all the aids of typography are employed. The principal contents of it are, The State of Nature; Of the Rights of Men; On Equality; Of universal Suffrage, and annual Parliaments; On the present State of our Representation; Of Liberty; Objections against kingly Government obviated; Of the hereditary Succession to the Crown; Of the Necessity and Origin of Government, and of the Formation of the British Constitution; Observations on the British Constitution; Of Things that are no Arguments against the Goodness of the Constitution; Of the Superiority of the British Constitution to every other; Conclusion.

At p. 7, l. 25, 6, 7, we meet with a very fanciful passage, which rendered us, for a while, prejudiced against the book; but that prejudice was overcome by succeeding excellencies. It would be unfair to extract so short and singular a passage, as a specimen of the whole work; and therefore we shall only advise the author to expunge it from any future edition.

The writings of Paine are thus strongly characterized:

“This artful man has so blended truth and error; he has so infused the poison of asps into the salutary draught of truth, that he has blinded the understandings, and infuriated the hearts of many.

“His falsehoods, his errors, his visionary schemes have served him as an enchanter’s wand; with the touch of which he introduces his reader into Fairyland; leads him in flowery paths through myrtle groves; and presents nothing to his view but harmony, peace, riches, and happiness. He conceals the pit, which lies before the traveller. He hides the dæmons of *Discord, War*, and all confusion and misery; which are ready to burst forth, and to change this fair and pleasing scene into a blasted heath covered with ruins and slain; over which Slavery and Misery, instead of Liberty and Equality, preside.” P. 19.

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In the section which treats of *Equality*, many sound arguments are presented to us.

“ In considering the equality or rather inequality of men, there is one marked distinction between man and the inferior creatures, to which we ought to attend. Among all the lower orders of creatures, every individual without art or education, and simply by the use of its natural powers, arrives instinctively at the perfection of the species. All that nature every intended the species should be, may be seen in any individual. There is a certain limit to which nature leads them, and beyond which they do not pass. But the case is very different with the human species. The son improves upon the experience of the father. He adds riches to the father's store. He joins invention to invention, herd to herd, and field to field; and thus, as knowledge, arts and riches, advance, the offspring differs from the founder of the family, till, at last, this difference becomes so great, that he who has always lived in an improved and polished society, can have no exact idea of the state of men in a rude and barbarous age. The law of nature, both with regard to individuals and societies of the human race, that they should make a progress in the acquisition of knowledge, of virtue, of riches, and of every thing which constitutes the happiness of the individual or social state. But this progress depends on a thousand circumstances, and is very different both in different individuals, and in different societies. How preposterous then! how absurd must it be! to take the original condition of man as a standard to measure what man should be in a state of very high improvement, or as a level to reduce them to equality!” P. 76.

“ In Rome, the bait with which the rich demagogues fished to catch the people, was a profession of great zeal for these laws; and it should seem, that, in these times, the cry of liberty, equality, and universal suffrage, has been made use of, by some, for the same purpose. There was one mitchciff, which at Rome, followed the ineffectual struggles of the people for the agrarian laws, against which we ought to guard with the utmost caution. The attempt to enact and enforce those laws, joined to the privilege of voting individually, which the people had acquired, was the remote cause of the civil wars that ruined that state. Rome was now a monstrous democracy, in which, tho' there were no legal, there were yet the greatest real, distinctions. The people were divided, and from the habit of contending, prone to faction. Ambitious men seized the opportunity, and placed themselves at the heads of the different factions; and from that time Rome became a continued scene of tumult, civil war, and slaughter, till Augustus gave it peace and slavery. And were we to attempt to establish equality, and should succeed in the extinguishing of constitutional rank, and the establishing of universal suffrage (for here, as in Rome, where it was tried for a very long period, equality could be carried no farther) what reason have we to believe that we should escape similar calamities? None at all. We are made of the same flesh and blood with the Romans; and similar effects will ever be produced by similar causes. That monstrous democracy of Rome, to which Augustus gave the finishing blow, was but lately revived in the Convention of France.” P. 95.

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“ It is true, that, in our present constitution, the rich are allowed more power than the poor; and it is but just they should: for as a rich man has no more natural power to defend himself and maintain his rights than a poor man, and much more to lose, it is right, that he should have more authority. As the natural power of the rich is less than that of the poor, the deficiency of natural power must be made up by a greater share of that which is adventitious, in order that every man may be able, and no more than able, to maintain his rights, and enjoy security. If we mean therefore by the constitution, to preserve to every man his property, and all his other individual or absolute rights, we must allow to the rich a just constitutional power, greater than that of the poor, in addition to their natural power, in order that the effective and real power of the rich may balance that of the poor, and that neither class may be able to oppress the other. Just equality of power in such a state as ours, does not consist in each man's having as much power as another, but in the balance of power among the different parts of which it is composed. When these parts are duly balanced, every individual is safe, because the part, to which he belongs, has power to protect him.” P. 131.

The next section treats of universal Suffrage and annual Parliaments.

“ The great rule, according to which the right of suffrage as well as other political power and privilege, whether of a legislative or executive kind, ought to be distributed, is, that the individual or private rights of all in any political society, may be secure: and these rights, whether they consist in dignities, superior riches, or other distinctions, can never be secure, unless the power, which protects them, be in proportion to the danger, to which they are liable, of being invaded.” P. 174.

In Letter xxiii, it is calculated, that universal suffrage and annual parliaments, would cost the nation 21 times more than elections do at present; that is, would be a direct *additional* annual expence of at least two millions and a half. We like the author's reasonings, better than his calculations. He anticipates indeed, and answers, some objections to this calculation; but we apprehend the principal one to be, that the right of suffrage would, in that case, be slighted and neglected; it would not be exercised by one man, perhaps, in 50, throughout the nation; and a few ambitious and unprincipled demagogues would carry all before them.

“ It has been asked, “ what right has any set of men to tax me without my consent?” It may be answered, that if many were never to be taxed but with their own consent, they would scarcely be taxed at any time, and never as they ought. The right to tax by some persons or other, is founded in the right, which government has to support. The right of men of property, and those only, to tax us, is founded in this, that the country could not be so equitably taxed in any other way; and, for the same reason, the electors of such men ought to have
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certain property, or a certain interest in the country. Were it otherwise, the poor might strip the rich of their wealth, and reduce them to their own level, simply by the power of taxation." P. 198.

In Letter xxvi, many judicious observations are made concerning "the present State of our Representation." Among which is this :

"As the members of the House of Commons are the representatives of all places in the kingdom, and as the business which they manage is, in a greater, or less degree, the business of every subject, their constituents have no right or claim whatever to enjoin them to vote in any certain way rather than another; neither is it their duty to vote according to the sense of their constituents, unless that sense coincide with their own. They are, indeed, bound to hear their constituents; nay, it is their duty, I should presume, in ordinary cases, to take all proper steps to know their minds, as well as to inform themselves with regard to all particular business, which comes before them; but when they have learned what is the minds of their constituents, and collected all proper information on any subject to be considered by them, it is then as much their duty to vote without any partial respect to constituents, but simply according to their own judgment and the dictates of their own consciences." P. 213.

We apprehend, that this question may be placed in a yet stronger light; and we shall endeavour so to place it, believing, that the doctrine of an *implicit* obedience of members to the *instructions* of their constituents, is one of the most dangerous and unconstitutional doctrines that was ever maintained by an Englishman. Persons of various descriptions have the privilege of *electing* the House of Commons (and we hope they will long retain it, with few or no alterations; because we think it would fall, by any great change, any change upon *principle* and *system*, into hands much less safe than those which at present hold it). But here the privilege *ends*. *The member of parliament* does not *represent*, he is not the proxy of, his *constituents* (or electors) *only*; he is a part of the body of *representatives of the Commons of Great Britain*. When, therefore, even the majority (*which seldom happens*) of the electors of any district or place, instruct *their members* (as it is vulgarly said) what is the weight of authority constitutionally belonging to those instructions? We answer, the weight of *a few atoms*, and no more. For this weight is exactly in proportion to the number of the instructors, compared with the whole number of the people of Great Britain, *electors* and *non-electors*; whose judgments on public affairs are entitled to *precisely the same*, that is, to a *very high* degree of respect and attention from the representatives, or proxies, of *both of them* in parliament. And accordingly, the right of *petitioning* the King, or either House of Parliament, belongs equally to *every* individual.

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“ But as the history of the country shews us, that the tendency of the constitution is to preserve and improve itself, so that, as well as the experience of individuals at the present time, proves its tendency to preserve and improve what is eligible in the condition of the subject. The state of the subject has fluctuated much in the course of several centuries; and so does the state of every individual's health, fortune, reputation and happiness; nothing is unchangeably stable, but the author of the universe; but notwithstanding of those fluctuations from better to worse and *vice versa*, what is eligible in the condition of the people of this country, has not only been generally preserved, but, upon the whole, much augmented. Their wealth and liberty have been increased; their character in general perhaps improved; and the whole of their condition bettered, and rendered more secure. All this is known to those who, to the least acquaintance with the history of the country, join that of a few years experience. And thus we perceive the justness of the distribution of power in the constitution, from the tendency of the latter to preserve and improve both itself and whatever is eligible in the condition of the subject.” P. 355.

Though it is not likely that *poor* persons will go through, or even see such a book as this, yet their real *friends*, who abound in this more than in any other country, will read with pleasure such a passage as the following.

“ The king of this country is, by the constitution, and, whilst that remains what it is, ever must be, *a father to the poor*.

“ Whatever advantages therefore any ambitious, popular, and powerful individual may vainly propose to himself by a change of government, let the poor especially adhere to their King; let them cling to him as the only plank that will save them from perishing in that storm which, in case of a change to republic, would be immediately raised by the ambitious struggling with each other for power. Let them look attentively first, on France and then on Britain, and they will perceive the truth of Solomon's words, that *for the transgression of a land, many are the princes thereof; but that by a man of understanding and knowledge* (and such ever must be the King of this country, aided and strengthened by the wisdom and power, in some measure of the whole nation) *the state*, that is, the tranquillity and happiness, *thereof shall be prolonged.*” P. 363.

“ In this country taxes must be great, because the wise, just, and beneficent purposes of government, which they answer, are many. But, though great, I must take the liberty of affirming, that they are not heavy, that is, a sensible burden. This affirmation may not be a very popular one; but it is founded on the most obvious facts. It is not a conclusion drawn from reasoning concerning the comparative value of money and the means of subsistence at any number of periods, concerning the increase or diminution of national wealth, and the improvement of our commerce, agriculture, and the various arts, things, with regard to which we may very easily err; but from that, in which no man can be deceived, I mean a comparison of the present state of the people of all ranks with their state in all past times. Ascend to the source of our history, and you find the people of this country
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troops of naked savages, conducted by their respective leaders, without any houses but huts, without arts, and without any means of subsistence, except the spontaneous growth of the earth, and the produce of their flocks and herds. Descend afterwards to the time of the conquest, and you find them emerged indeed from the savage state, but still in the barbarous, little acquainted with agriculture and the mechanic arts, destitute frequently of the necessaries, and always of the conveniencies, comforts, and ornaments of life. Descend even to the reign of Henry the Seventh, and you find an Earl of Northumberland, living amidst a numerous retinue, indeed, but in a stile of coarse barbarous plenty, or rather penury, of which the very tenants of such a man would now be ashamed. Compare the condition of all ranks at the present time, with what it was in general fifty, forty, or, in most places perhaps, even twenty years ago, and you find the greatest difference in favour of the present times. The cottager now lives like the farmer formerly; the farmer like the landed gentleman; the gentleman like the nobleman; the nobleman like a prince or king. Towns have risen in marshes and wastes, where once scarce a living creature could subsist; and thousands of wealthy merchants and tradesmen may be seen, where a beggar, in former times, when taxes were little or nothing, could not have lodged. Our country, from being one dreary waste, has assumed a beauty and richness which are unrivalled by any place of equal extent, on the surface of the whole globe. In fine, though our taxes have necessarily increased, all ranks are infinitely better fed, clothed, and lodged, than when they paid few or none, a plain and incontestable proof, that, though great, they are not heavy." P. 397.

Of the author's *candour*, the following passage is a proof, and he certainly carries it farther than many persons will be able to go with him.

"If a party in the nation, loyal, I am fully persuaded, to a man, and ready, in case of any great emergency, to give the most decided proof of their loyalty, ready, if necessity should require it, to shed their blood in torrents, in defence of that country, which they may have, perhaps, in some degree, injured, through the heat of contention, and by the enthusiasm of their eloquence, if this loyal party have not been able effectually to thwart a minister, wise and steady beyond his years, in a remarkable degree, this is not an argument against the Goodness of the Constitution, but a proof, that the Minority in Parliament is not yet the Majority." P. 407.

We shall conclude our extracts by one short sentence, which expresses the just result of all the preceding arguments.

"If a man wish to live under a government, where, at the least expense, all things taken into the consideration, he may calmly, or without fear of injury, enjoy himself and his all; where he may use all means, not injurious to others, to improve his character and condition, to promote his present happiness, and to qualify himself (so far as is in his power) for a happiness that is future and eternal, he will, if he sees as he ought, give, without one moment's hesitation, the government of this country a decided and constant preference to every other." P. 427.