

in process of time, such institutions being found inconvenient, *gifts* and *grants* of their own property were made by the people, under the several names of aids, tallages, tasks, taxes and subsidies, &c. These were made, as may be collected even from the names, for *public service* upon "need and necessity †." All these sums were levied upon the people by virtue of their voluntary gift †. Their design was to support the *national honor and interest*. Some of those grants comprehended duties arising from trade; being imposts on merchandizes. These Lord Chief Justice Coke classes under "subsidies," and "parliamentary aids." They are also called "customs." But whatever the name was, they were always considered as *gifts of the people to the crown, to be employed for public uses*.

COMMERCE was at a low ebb, and surprising instances might be produced how little it was attended to for a succession of ages. The terms that have been mentioned, and, among the rest, that of "tax," had obtained a national, parliamentary meaning, drawn from the principles of the constitution, long before any *Englishman* thought of *imposition of duties, for the regulation of trade*.

WHENEVER we speak of "taxes" among *Englishmen*, let us therefore speak of them with reference to the *principles* on which, and the *intentions* with which they have been established. This

C 2

will

France, Normandy, or other foreign parts, and caused their PROTESTS to be entered into the parliament rolls, where they yet remain; which, in effect, agreeth with that which, upon like occasion, was made in the parliament of 25th Edward I." 2d Inst. p. 528.

† 4th Inst. p. 28.

† *Reges Angliæ, nihil tale, nisi convocatis primis ordinibus, et assentiente populo suscipiunt.* Phil. Comines. 2d Inst.

These gifts entirely depending on the pleasure of the donors, were proportioned to the abilities of the several ranks of people who gave, and were regulated by their opinion of the public necessities. Thus Edward I. had in his 11th year a *thirtieth* from the laity, a *twentieth* from the clergy; in his 22d year a *tenth* from the laity, a *sixth* from London, and other corporate towns, *half* of their benefices from the clergy; in his 23d year an *eleventh* from the barons and others, a *tenth* from the clergy, a *seventh* from the burghesses, &c. Hume's *Hist. of England*.

The same difference in the grants of the several ranks is observable in other reigns.

In the famous statute *de tallagio non concedendo*, the king enumerates the several classes, without whose consent, he and his heirs never should set or levy any tax—"nullum tallagium, vel auxilium per nos, vel hæredes nostros in regno nostro ponatur seu levetur, sine voluntate et assensu archiepiscoporum, episcoporum, comitum, baronum, militum, burghensium, et aliorum liberorum com. de regno nostro." 34th Edward I.

Lord Chief Justice Coke, in his comment on these words, says—"for the quieting of the commons, and for a perpetual and constant law for ever after, both in this AND OTHER LIKE CASES, this act was made. These words are plain, WITHOUT ANY SCRUPLE, absolute, WITHOUT ANY SAVING." 2d Cokes's Inst. p. 532, 533. Little did the venerable judge imagine, that "other LIKE cases" would happen, in which the spirit of this law would be despised by *Englishmen*, the posterity of those who made it.