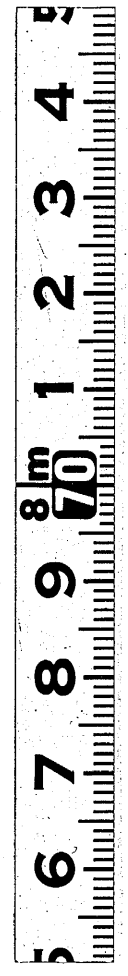


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Q U E R I E S

RELATING TO

The proposed PLAN for altering

The ENTAILS in SCOTLAND,

In a LETTER to _____

EDINBURGH:
PRINTED in the YEAR M, DCC, LXV,

[Price SIX PENCE.]

Q U E R I E S, &c.

S I R,

THE proposed alteration in the law of Entails, is a measure of such important concern to Scotland, whether considered as it will affect individuals or the public, that it is with diffidence and reluctance I have brought myself to comply with your request, in giving my opinion on so interesting a subject.—My inclination to obey your commands would hardly have got the better of my scruples, if the steps that have been taken to promote this scheme, did not call on every man who disapproves of it, to declare his sentiments aloud.—Silence in the present case may be mistaken for
indifference,

indifference, or construed into consent; and is therefore blameable, if not criminal.

If I am rightly informed, the Faculty of Advocates were at no loss to decide finally, after a discussion of a few minutes, for the repeal of a law transmitted by our ancestors, and by which a great part of the property of this country is held; and it is to be hoped a private man may be indulged in pronouncing his sentiments on a subject of such general concern, after having taken time to examine what has been said on both sides of the question.

I acknowledge I was one of the multitude, who, struck with the seeming inconveniencies attending the unequal distribution of land in Scotland, imputed all of them to Entails, and imagined they might be removed at once, by abolishing what, at first view, I took to be the cause of them.

A fourth part of the real property of the country in mortmain—No possibility of its being brought into commerce—Creditors disappointed, if not defrauded—Younger children unprovided for—Great men accumulating estates, and tempted to spend the rents of them out of the country, &c.

THESE

THESE appearances made impression on me; and, without looking farther, I joined in the cry, Down with Entails.

WHEN the measures taken by the Faculty of Advocates, had called on every Scotsman to consider this matter maturely, I soon perceived difficulties that had not before occurred to me; and I am not ashamed to own, that the instruction I received from Mr Dalrymple's pamphlet on this subject, contributed not a little to make an entire proselyte of me, as I am persuaded it will do of every man who argues only for the sake of truth and information, and is not wrong-headed enough to think himself bound in honour to adhere to an error, because he has once asserted it.

It must, however, be allowed, that the abuse of the present law of Entails has been attended with some disadvantages; but since we are in the reforming strain, it is by no means difficult to correct all the inconveniencies resulting from that abuse, without totally abolishing an institution, which will be found, on due consideration, to be the best means to prevent the very grievances it is supposed to create.

If

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IF we can suppose the proposed law or alteration to take place, it cannot be doubted, that, in this dissipating age, great quantities of land will sooner or later be brought to market, prices will fall of course, and men, forced to part with their inheritances, will look out for purchasers where there is money to be had, and will find in England the possessors of 140 millions vested in stock, and only waiting an opportunity to realize, ready to purchase in Scotland, as fast as any thing worth while shall be offered to sale.

IF it is admitted that this may be the case, it will not be improper to propose the following queries.

IF Englishmen are to be tempted to make purchases of our land, Is it likely they will come down here and reside? Is it not more likely that they will remain in England, and spend the rents of their estates there, as is the case with respect to Ireland and the West Indies, which countries, tho' rich in themselves, are confessedly beggared by the absentees spending their rents in England? And can we imagine, that any motive can tempt a rich man to reside in Scotland, except

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except a natural attachment to the place of his nativity, and the advantages arising from the respect he derives from the reputation of his ancestors and his family-connections; and can it be for the benefit of this country, or of its commerce, that all the land of it shall belong to men who can have no natural attachment, but must have the prejudice of manners and climate to struggle with, as well as the ungracious reception they may expect from the natives on their first arrival?

CAN it be for the interest of the owners of land to bring down the price of it; so that where L. 100 a year is now worth L. 3000, and perhaps cost that sum, it shall be reduced to be only worth L. 2500?

THE only argument of weight I have heard advanced against the present law of Entails is, that the accumulation of great fortunes is ascribed to it.

WOULD it lessen that grievance, to enable an ingrosser to make cheaper purchases, insomuch that where now L. 30,000 can only purchase L. 1000 a year, that sum shall be made sufficient to purchase L. 1100? or is there any doubt, that had it not been for the prices occasioned by Entails, the money laid out by some particular

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cular purchasers, would have gone much farther, and greatly increased their accumulations?

Is the complaint of ingrossing land peculiar to Scotland? Does not that grievance prevail more in proportion in England? To judge of this, one needs but cast an eye on the three adjacent counties, and inquire what share of them is possessed by the Earl of Northumberland, Sir James Lowther, and Miss Bows.

CAN any reason be given, why one half of Ireland is become the property of Englishmen who never reside, and why, in 60 years, not one Englishman has made a solid purchase in Scotland, but the singularity and difficulty of making considerable and contiguous purchases here? Is it our interest to remove these difficulties, and that too by making our land come cheaper, since the consequence must be, that every inch of it will be purchased by men living in England; and because we complain, that by means of Entails, some of our own countrymen have ingrossed great estates, and seldom reside, shall we consent to abandon the whole to men who never can?

MAY

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MAY it not be asserted with truth, that Entails have contributed to put a stop to the depredations of ingrossers? Is there a single great purchaser who has not been interrupted in the progress of his accumulations, by meeting with entailed land, proof against his high offers, and the spirit of dissipation that has prevailed of late years, and which, in a generation or two, must infallibly bring every unentailed estate to market?

MAY it not be asserted, that entailing is the only means of preserving any thing like a landed representation, or body of landed gentlemen in Scotland? For Peers with overgrown estates, and absentees, can scarcely be reckoned such.

IN a monopolizing age, when so many hitherto unknown means are introduced of acquiring immense wealth, has a private man any means left of hindering his inheritance from being swallowed up, but by entailing it? How many entailed estates under L. 1500 a year, would have been sold, and served to make up the rent-roll of an ingrosser, had it not been for the bar of an Entail?

WILL not every inconveniency be obviated, by limiting the *quantum* of valued

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rent

rent to be entailed by a particular man, or in a particular family? and will not this expedient answer the double intention, of securing small fortunes from being swallowed up, and preventing great ones from being perpetual? and, if commerce is found to suffer by entailing trifling subjects, may not this too be corrected by a limitation?

SINCE the plain intent of the proposed plan is to annihilate Entails, why dare not the promoters of it speak out, and avow their intention? and why do they disguise their meaning under the mask of amending what they really propose to destroy?

IF the present law requires amendments, as perhaps it does, like most other human institutions, might not the gentlemen of the law have confined their talents to the pointing out its defects, instead of proposing to destroy the whole? and if particular men are found to have ingrossed too much, will not every purpose be effectually answered by limiting the *quantum* of land to be entailed?

SURELY the gentlemen who draw arguments against our Entails, from the injury done creditors and younger children, do not recollect, that in England every

every estate is entailed of course by a marriage-settlement, in so much, that it is neither in the power of the law, nor of the possessor, whatever his inclinations may be, to give relief to his creditors or younger children. Those who reason thus, must be totally ignorant of the branch of the English law which they want to adopt, or must want to take advantage of the ignorance of others.

Is it the good of the country, or the desire to get land cheaper, has most weight in the present scheme?

DOES not this scheme come with a very bad grace from the lawyers, since it is past a doubt, that the intention of Entailers, is as much to keep their land out of the parliament-house, as out of the market?

ARE gentlemen in earnest, when they pretend, that it would be for the profit of the practitioners of the law, if all estates were entailed? or will they seriously aver, that the entailed estates have brought in as much to the lawyers, in equal time, as the same extent of property unentailed; and have the disputes concerning successions arising from Entails, been as lucrative to the gentlemen of

of the profession, as adjudications, sequestrations, rankings, and sales, &c.

It cannot be denied, that a good deal of profit has accrued to the profession from their contesting the validity of every Entail; but as the subject seems now exhausted, and every difficulty explained by decisions of the House of Lords; is it not whispered, that it has been thought expedient to substitute a new law in place of the old one, to make room for new disputes, and new decisions.—*Hinc illæ lachrymæ?*

HAD this proposal come from England, one could only wonder, how so trifling an object as the land of Scotland, could seem worthy the attention of a people who pretend to despise our poverty; and had it come from any other quarter than that of the gentlemen of the law, it might have passed for a well-meant, tho' weak endeavour, to correct a seeming inconvenience: but when one considers where it began, with what obstinacy it has been persevered in, and what artful means have been used to influence the landholders in its favour, one cannot help suspecting there is something more at bottom than the general good of the country;

country; and when the Faculty of Advocates are pleased to represent this as a self-denying scheme, by which they mean to lessen their own profits, one cannot help asking, with Doctor Garth, in the *Dispensary*,

*Whence are our lawyers thus so frugal grown,
Of others wealth, and lavish of their own?*

WILL not plain men be apt to imagine, that as Entails are generally framed by the advice of skilful lawyers, and every precaution taken to keep out the *chicane*, the intent of the present plan is to break down that bulwark, in order to expose all the land in Scotland to the artillery of the law; and will not malicious people be ready to suspect they mean only to draw it within the vortex of the parliament-house?

WILL it be thought impossible that the certainty of introducing the gainful and suit-engendering trust-deeds of England could have any share in the present plan?

I acknowledge, that if Entails are to be abolished, and English owners of millions to make great purchases in Scotland; it is by no means probable, that the same spirit of litigation, that now supports

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supports the town of Edinburgh and the parliament-house, will prevail. In such an event, it is but reasonable to suppose, that each English purchaser will buy and possess what is now divided among ten gentlemen; and as a man will hardly go to law with himself, the chance of law-suits is likely to diminish in proportion. If the gentlemen of the law see their proposal in this light, it cannot be disowned, that theirs is a self-denying scheme indeed.

As to the antient families, are they not low enough already, and is there any danger from that quarter?

Is not ours a mixed government? is it not essential to our constitution, that there should be a distinction of rank? and is not birth and a pedigree essential to support that respect and opinion in the multitude, in which the weight and authority of rank consists?

WILL wealth alone operate the same effect in government?

WOULD it be of advantage to Scotland, to abolish every idea of distinction of birth, and to annihilate all the antient families?

As to the frivolous objection from an aversion to perpetuities, one is ashamed to

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to take notice of it. In all human schemes, nothing is so natural and beneficial as a view to duration. Is not that the purport of every law, of every commendable endeavour of art? is it not the aim of architecture, of government, of politics? is not the crown of Great Britain under a perpetual Entail? Is it not as justifiable in every individual, to aim at the duration of his family, as the prolongation of his own life?

THIS principle is the chief incitement to industry, to patriotism, and to fame. God, indeed, for wise ends, has ordered it so, that all such endeavours must ever prove ineffectual, and this to make way for new industry and invention. If men could perpetuate life and youth, the world would soon be overpeopled; but shall it be made criminal in a man to try to live as long as he can, and, for fear of the danger of crowding society, shall he be forbid to endeavour it?

As to the objections, or rather minute criticisms, founded on the whimsical conditions inserted in some Entails, to the prejudice of agriculture; the remedy is so easy and obvious, that to urge them as a reason for annihilating Entails, is as absurd,

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absurd, as it would be to knock down a clump of trees that defended one's house from the storm, because a single branch might interfere with the prospect.

To conclude, I have no apprehension from a scheme so thoroughly absurd; nor is it possible for me to imagine, that the landholders of Scotland, most of whom can still tell who were their grandfathers, will tamely submit to so unprovoked an attempt to strip their posterity of the honours and influence attending their antient possessions; these cannot be transferred with their land; but without land, they become as much the subject of ridicule, as they are of envy while united with it: for, as Shakespear says somewhere, "He who robs me of my good name, takes from me what can do him no good, but makes me poor indeed."

I take the liberty to finish with the words of the before mentioned gentleman, to whose ingenious pamphlet I have been so much beholden.

"Do the landed gentlemen of Scotland think that their silence shews contempt? Alas! their silence will be termed acquiescence. The loud roar of those who wish to destroy them, will be called the voice

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voice of the country, while the single and disunited efforts of the others, will be called the whims of singular and discontented men." I am, Sir, &c.

POSTSCRIPT.

SUPPOSE a bill was offered to the following purpose, and lawyers to express it in the terms of their profession, so as to make it fit to offer to parliament.

WHEREAS the experience of 80 years has shewn, that the law for entailing land in Scotland has been extremely beneficial to that country, and has answered most of the good purposes intended by it; yet it having been found, that in that wise law, as in most human institutions, some inconveniencies have attended the great advantages arising from it; therefore, to make it still more compleat, and to rectify said inconveniencies, more especially in order to prevent the perpetuating of overgrown estates in particular families; be it enacted,

Imo, THAT no Entail shall be binding beyond the extent of L. 15,000 Scots

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per

per annum, valued rent, and that where-
ever the subject entailed exceeds that
extent, the superplus shall be considered
to all intents and purposes, as if it was
not entailed, so as to be liable to every
species of alienation.

2^{do}, THAT no restriction in any En-
tail shall be competent, to hinder the
heir of Entail from granting to his wife
a jointure out of the subject entailed, to
the extent of _____.

3^{tio}, THAT it shall be lawful, notwith-
standing any restriction in the Entail, for
every heir of Entail, to grant to his
younger children annuities out of the en-
tailed subject, to subsist during their lives,
to the extent of _____.

4^{to}, THAT, notwithstanding any thing
to the contrary, it shall be always lawful
for the heir of Entail to grant leases of the
entailed land for 21 years, so as that the
present rent shall not be diminished; and,
in case of a fall of rents, by a public
roup.

5^{to}, SINCE it may happen, when the
subject entailed is very inconsiderable,
that the heir of entail, by being restrain-
ed from converting it into money, may

be deprived of the means of following
some profession, or branch of commerce,
suitable to his genius; therefore be it
enacted, That no estate under L. 500
valued rent, shall be capable of being
entailed.

6^{to}, THAT it shall be always lawful to
excamb land by authority of the Court
of Session, &c. &c. &c.

IF the Gentlemen of the law would
take the trouble to dress up a bill to this
purpose, it is not unlikely they might
receive the approbation of their country,
and the sanction of the legislature, by
making it effectual.

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