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AN
IMPARTIAL ACCOUNT
OF THE
CONDUCT OF THE EXCISE
TOWARDS THE
BREWERIES IN SCOTLAND,
PARTICULARLY
IN EDINBURGH;
POINTING OUT
THE BENEFICIAL EFFECTS OF THE NEW MODE
OF SURVEY,
BY WHICH
Several THOUSAND POUNDS *per Annum* have been already
added to the Revenue in the EDINBURGH COLLECTION,
AND BY WHICH,
If generally adopted through *Scotland*, MANY THOUSANDS
more might be annually put into the EXCHEQUER,
NOT ONLY
WITHOUT DETRIMENT,
BUT WITH
ADVANTAGE TO THE MANUFACTURERS.

EDINBURGH:

PRINTED IN THE YEAR 1791.

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I MEAN not to go on in the stile of modern patriotism, with a descant on the nature of liberty, the rights of mankind, &c.; the design of this treatise is to point out to the public the grievous, and indeed intolerable, oppressions under which a numerous, very useful, and important body of men, labour at present; and to show, that through their oppression, the community at large sustains a very considerable injury.

It is no doubt a matter of great difficulty for any individual, or even for any community, however respectable, to rid themselves of an oppression sanctified by the name of law; or to make people in general believe that any others, besides the oppressed parties themselves, are at all interested in the matter; but it is an established maxim, that an injury offered to any individual is a common cause, in which society at large is interested; and, in

in the present case, the interest of every individual in Scotland is besides evidently engaged; so that nothing farther than a mere statement of facts seems necessary for the demonstration, and to awaken the attention, of the landholders of this country, to what so nearly concerns them.

THAT it is the interest of every person in this, as well as all other kingdoms, to drink wholesome and palatable liquor, rather than what has qualities of a different kind, cannot admit of a doubt*. As little can it be denied, that it is the interest

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* It may appear superfluous to enlarge on the superiority of good malt liquor to bad, as this is evident to every one; but besides this, it is notorious, that when beer is made in such a way as to be unpleasant and unpalatable, other liquors are naturally sought after, and the pernicious custom of drinking spirits to excess is insensibly introduced. In England, beer is the common beverage at every table, from the highest nobility to the lowest mechanic. In that country it is a wholesome

terest of every individual to have that liquor upon as reasonable terms as possible; and thus the ease and convenience of the brewer ought, in a reasonable degree, to be consulted by every inhabitant of Scotland. But besides this, there are many other considerations which recommend the brewers particularly to different classes of the most respectable people in the kingdom. It is no matter, some will perhaps say, whether we get our own beer brewed and sold in our own country, or whether we buy it from a foreign brewer; but it is certain, that a good and agreeable liquor, and undoubtedly promotes that hale vigour, and great strength of body, for which the lower class of inhabitants there are remarkable. It is well known, that in England much more work can be accomplished by labourers than in Scotland. This must be owing to the mode of living; for a Scotsman who goes to England will do more work there than in his own country. An excessive use of spiritous liquors is undoubtedly one cause; and a very strong argument in favour of this is, that wherever the practice becomes common among the labouring class of people, their masters soon find that much less work can be done by them than formerly.

our beer from Scotland or England, provided we have it good and cheap. This argument indeed may go down with those who fancy themselves unconnected with the rest of mankind, and is no doubt well calculated to answer the purposes of an English monopolist: but if we consider the vast quantity of malt liquors used throughout Scotland, there is surely no person so inconsiderate as not to perceive, that sending large sums of money to England, for a commodity which might be made to equal, nay, probably to greater advantage in our own, is a national loss; and, of consequence, this practice merits the attention of everyone, as well as that of the brewers themselves. Now it is most certain, that at present we are in danger of having this valuable branch of manufacture taken out of our hands, by reason of the oppressions under which the brewers in Scotland labour; and which are so great, that no person possess-

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fed of capital or fortune sufficient to carry on the business in a proper manner, seems inclined to engage in it, or probably will ever do so, until matters be put on a footing similar to that on which they stand in England.

EVERY one knows, that vast quantities of malt liquors are continually imported from England, and proportional sums of money paid for them, which might be kept at home, if the manufacture was encouraged in such a manner among ourselves as to enable the brewers to make their goods equal in quality to those of England, which could only be done by protecting them from the oppression of excisemen, and enforcing an equal mode of survey. The Scots beer is undoubtedly inferior in quality to that of England; but why is it inferior? not surely for want of skill or intelligence in the Scots manufacturers; for, in numberless instances,

stances, the Scots have shewed themselves at least equal to their southern neighbours in every species of art or ingenuity. The truth is, that in Scotland the brewers who wish to manufacture their liquors in a proper manner, and punctually to pay their duties, labour under oppressions which are not known in England, and which it is the purport of this treatise to point out. Hence, not only porter is brought from London, but great quantities of beer are imported from Burton, Bristol, and even from Newcastle. In the manufacture of this article, it is certain that the English cannot boast of the smallest superiority over us, provided we are put on an equality with them; and such scandalous and expensive importations are not only a loss, but a reproach to this country, which must very sensibly be felt by every one who has the least spirit, or regard for the nation in which he lives: for it is undoubtedly true,

to use the words of a celebrated writer "That the prosperity of the country is the prosperity of each citizen." The loss just now mentioned is not the only one arising from the oppressed state of the Scots breweries. The consump of barley, one of the staple commodities of the kingdom, is thereby materially affected. It is the interest of the landholder, therefore, to take this matter into his serious consideration; and for the perusal of the landed gentlemen, this treatise is particularly designed. The interest of the farmer also coincides in this respect with that of the landholder. The distillers and brewers are well known to be the principal consumers of the barley, and the best customers the farmer has for that article; and it is now intended to show, how, through a course of oppression, by those who call themselves executors of the law, but in truth pervert it to their own purposes, the distillers were ruined; and,

and, by a continuation of the same, the breweries, and other manufactures subject to the excise, are likely to experience a similar fate.

It is well known that the manufacture of soap is now in a great measure transferred from Scotland to England; and that of starch has in many instances been given up, merely from the arbitrary exactions of the excisemen, who thought themselves intitled to demand a certain sum from the manufacturers, whether they made a proportionable quantity of goods or not. That this was really the case, cannot admit of a doubt; as a spirited manufacturer, eminent in this branch of business, who had the courage to resist such imposition, was legally freed from the payment of no less than three thousand pounds, with which the excise charged him, as duties on goods *never manufactured*.

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INTRODUCTION.

It is no doubt difficult, where any commodity is subject to excise, to keep the manufacturer entirely free from inconvenience, in a consistency with that watchfulness requisite for preventing frauds. In this respect, the brewers may reasonably complain that the laws are excessively severe; but even this severity is nothing to the *illegal* and *partial* oppression exercised by the subordinate agents of excise. There is not the least doubt, that where a tax is laid upon any species of manufacture, some will always be found willing to evade the payment by every possible method. But it is equally certain, that where the tax-gatherers are allowed any discretionary power, they will be as willing to *oppress*, as the manufacturer is to *smuggle*; and this the more readily, as the collectors of taxes are sometimes chosen from a class of men by no means celebrated either for civi-

INTRODUCTION.

ty, good manners, or adequate ideas of justice.

ON the whole, it is intended by the present performance, to prove, from undoubted facts, that all descriptions of excise-men have plainly shewed, that their intention was not to encrease the revenue, but, for their own interest, to allow the brewers what liberties they pleased, and not to check them in defrauding it; that in this they have been countenanced by those who are appointed to enforce the execution of the excise laws; and, I am sorry to add, that those who are appointed and ought to be *judges* of the law, have not found fault with their conduct, even when detected in the most scandalous instances of oppression and injustice. The consequence of all this hath been, the diminution of the revenue, the destruction of individuals, and the ruining of a most useful branch of manufacture,

facture, which many have abandoned, merely on account of the vexations they daily met with, and from which they could neither perceive nor hope for any relief. This must be looked upon as a great misfortune, when we consider, that Scotland, by reason of its situation, the cheapness of labour, and the favourable climate it enjoys for fermentation, is particularly well adapted for the manufacture of malt liquors. Were this business properly carried on, and advantage taken of these favourable circumstances just mentioned, there is not the least doubt, that this country might not only manufacture as much malt liquor as suffices for its own consumption, but export vast quantities to foreign parts. This has indeed been attempted, and it has been found, that beer of a good quality would be a valuable article of commerce, not only on the Eastern continent, but in the West Indies also; though all schemes

schemes of carrying on a trade of this kind have hitherto failed, and must fail, unless the obstacles which hitherto have stood in the way, from the oppressive mode of collecting the revenue, be removed. The attention of the landed gentlemen, therefore, and of the Chamber of Commerce, who have already regulated several branches of business in this country, is requested. It is only by the unanimity and strenuous efforts of the community at large, that redress from any public grievance can be obtained; and in the present case, it is hoped that every one will consider himself as particularly interested, so that all ranks may unite in their endeavours for the removal of evils of such enormous magnitude.

CASE

OF THE
SCOTS BREWERY;

ALSO OF THE
DISTILLERY PRIOR TO THE LICENSE.

BEFORE we enter into any particulars respecting the present state of these manufactures, it will be necessary to eradicate an idea, which, however common, is certainly very far from being founded in fact, viz. That neither of these branches of business can be carried on without smuggling. The reason of this notion is, that people, unacquainted with the business, suppose the produce, both of worts and spirits, from a certain quantity of grain, to be so small, that the manufacturer cannot from thence afford to pay the duty. Hence it is commonly supposed, that the only emoluments

emoluments enjoyed either by brewers or distillers, arise from the quantities of liquor they can secret from the excisemen; and in this view, both branches would not only be ultimately fraudulent, but so precarious and uncertain, that no person could be thought willing to engage in them. The truth, however, is, that in these branches of business, as well as in every other department of life, people will always find the proverb verified, that *honesty is the best policy*; and the brewer or distiller, who pays his duties without any attempt to smuggle, will be a more considerable gainer in the end, than he who evades them in every possible way. The extensive manner in which the brewing business is carried on in almost every town in England, will serve to substantiate this fact.

THERE are, it must be owned, some persons who will always attempt to evade a duty, however slight, and imagine that they consult their own interest when they do so. No doubt this would be found a profitable method of carrying on business, could they evade the duties, and at the same time have every

every other advantage they can propose to themselves by paying them; but this is far from being the case. Brewing of malt liquors is an art of a very complicated nature; its processes are delicate, and the criterions which distinguish the completion of its various operations require to be accurately investigated; so that to make malt liquor in perfection is perhaps more difficult than any domestic art we have. The preliminary part of the process, *viz.* mashing and taking off the liquor, requires a great exertion of skill on the part of the brewer. It is by no means easy to extract the strength of the malt to the utmost advantage, and give the wort the greatest perfection of which it is capable. In this operation the variation of a few degrees of heat will make a very perceptible change, both as to strength and other properties. Even in the simple operation of boiling, the strictest attention is requisite; as the copper often receives a good extract from the malt, and gives back a bad wort. Fermentation, the principal process, is at once the most difficult to conduct, the most liable to error, and the most important to the interest of the
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brewer. The preservative quality of the beer; its distinguishing flavour, its body, and sprituousity, all depend, for their very existence, on the judicious management of this operation.

FROM this account of the nature of brewing, it is easy to see how pernicious the practice of smuggling must be, and how detrimental in every respect to the quality of the liquor. How is it possible for a smuggler to manufacture his goods in a proper manner; when obliged to bestow, in defrauding the revenue, one-half, or the greater part of that attention, which his business ought solely to engross? How can good beer be made, when the liquor is perpetually disturbed in its fermentation; when not properly boiled; when obliged to remain till it is too cold, or perhaps used too hot; or when its qualities are injured by noxious air in the hiding-places to which smugglers are obliged to carry it? The deficiencies hence arising must be deducted, in the first place, from the profits of the smuggler; and in many cases even this will be sufficient to overbalance what he makes by evading the

the duty. But, besides this, there are other particulars which must be taken into consideration. The utmost activity on the part of the manufacturer cannot always elude the vigilance of the exciseman. If he happens to be a man of integrity, many quantities of liquor will unavoidably be detected, and the penalties, when laid on with a view to suppress smuggling, consequent upon this detection, must diminish the profits still more; add to all which, that a great part of the brewer's time must be taken up in attending and courting the excise-man, keeping him out of the way, and attempting to procure his favour. He must subject himself to persons remarkable neither for their refinement of manners, nor the liberality of their sentiments: nay, if he happens to have to do with more than one at a time, perhaps the utmost impartiality in distributing his favours may not be able to secure him from the threats of absolute ruin.*

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* Of this some very laughable instances might be given.—An assistant officer was appointed by Mr Maitland, the late surveyor-general, to watch a brewer's copper; and that he might keep watch in the most proper manner, he was promised by the brewer a pair of elegant

It will now be proper to consider the detriment arising to the brewers from the behaviour of the excise-men themselves. As we cannot suppose all the brewers in Scotland to be vicious, neither can we reasonably suppose all the excise-men to be virtuous. The end proposed by government in laying on duties, is to produce a revenue for its own purposes; that

pistols, and had a good dinner into the bargain. The gauger shewed his zeal for the revenue, by desiring the brewer's servants not to carry away *all* the liquor till he returned from dinner; and till this was ready, he looked over the window, that if any of his brethren happened to come in the way, he might acquaint them that their presence was entirely unnecessary. For some unknown reason there was a delay made on the brewer's part in giving the promised reward. The gauger, not receiving the pistols as he expected, resolved to let the brewer know that excise-officers were not to be trifled with. He therefore took the first opportunity of detecting a concealed barrel of beer, which ought to have paid *elevenpence* of duty. Information of the seizure was given, and the brewer was fined L. 7 Sterling. Such men there are, no doubt, in every department: but we are sorry to conclude this anecdote, with informing the public, that though the commissioners ordered an enquiry into the affair, and the above facts were substantiated by the depositions of witnesses, the offender, instead of being punished for his infamous conduct, was soon after promoted to be a settled

that of the excise-men may reasonably be thought to make money to themselves. This cannot be done where the brewers take care to pay their duties exactly; for the excise-officers have no share in the revenues, tho' they are entitled to a share in the fines, where any fraudulent practice is discovered on the part of the manufacturer. They have therefore an inducement to prefer the smuggler to the fair trader; and though now and then discoveries must be made, in order to make the commissioners believe that they are active and diligent officers, as well as for other reasons; (for if no detections were made, the excise-men could avowedly have nothing but their bare salary); yet it may reasonably be supposed, that much smuggling has been practised,

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officer, and afterwards obtained the charge of the New Glass-house at Leith, with an increase of salary. Other instances might be authenticated, where brewers or distillers have been reduced to a very embarrassing situation, by giving one excise-man only boiled beef, while another in a distant quarter had roast, in which case the boiled-beef-officer never failed to threaten vengeance on the manufacturer, which could only be avoided by giving him next day roast beef, with the addition of plumb-pudding, by way of making amends.

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without any exertion made on the part of the excise-men to prevent it, and that some way or other, they find it not disadvantageous to their own interest to allow the brewers to take such liberties. Hence it is in the power of an excise-officer to ruin even a fair trader, by allowing one of his brethren to smuggle to such a degree that he can reduce the price of his goods below what they can be fairly sold at*; and there is no doubt, that thus, not only individuals have been hurt, but the public at large considerably injured, by having liquors of a bad quality imposed upon them. From this cause particularly we may derive that vast importation of malt liquors from England, the value of which is supposed to be little, if any thing, under L. 200,000 *per annum*; and of this it is computed that the city of Edinburgh alone imports to the amount of L.40,000.

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* A demonstration of the truth of this assertion is, that some years ago, spirits were frequently sold below the value of the duty imposed upon them by government: how then was it possible for the fair trader to keep his ground against such rivals?

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WHILE the excise-men have it thus in their power to oppress the fair trader, there is no doubt that they will frequently exercise it, as they derive no advantage from them, though they do from the smugglers. Unhappily the great liberties allowed them by the late acts of parliament, furnish many opportunities of oppression, which they had not before. They are now empowered to go into the house of any person who deals in exciseable commodities, and to remain there at any time of the day or night, as long as they please. It is easy to see that this power, when lodged in improper hands, may soon become intolerable to those upon whom it is exercised; and it is not long since the gate of an eminent brewer in Edinburgh was broken down by a troop of excise-men, and he himself fined in five pounds, on pretence of admittance not being readily granted, though it was then between twelve and one at night, and immediate admittance could not be expected. The particular circumstances attending this transaction, every one of which can be well authenticated, will serve to point out its enormity. The trader had been that day brewing, the

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excise-

excise-officers had watched him till seven at night, had seen the extent of his operations, all of them finished, and his servants gone home. There was a natural impossibility that the operation could be resumed that night, with the smallest hopes of success, or that the revenue could, in any manner of way, be defrauded in four or five hours. He might have indeed mashed another quantity, but no human power could have run off the worts, and boiled them in the time; so that next day's survey would certainly have detected him. The survey at midnight, therefore, was evidently made, not with a view to prevent the revenue from being defrauded, but to distress and put the brewer to inconvenience. The instructions given to excise-officers how to behave in these nocturnal surveys, enjoin a quite different mode of procedure. Instead of obeying the orders of their superiors, however, the excise-men, in the present case, behaved as already related; but even this was less culpable than the partiality we have now to relate.—Another brewer, exactly in the predicament of the former one, was that very night surveyed, and his gate

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in like manner broken open, both which outrages were contrary to law; the former was prosecuted, and fined for non-admittance, but no prosecution was commenced against the other. How can the solicitor or surveyor account for such evident partiality? It is the boast of *Englishmen*, that “the least considerable man among them has an interest equal to the proudest nobleman, in the laws and constitution of the country;” but in Scotland it seems to be otherwise. Here a pitiful despot of an excise-man or solicitor, can suspend the execution of the laws, and, like a sovereign, grant pardons at pleasure; and that even though bound in duty, and by oath of office, to act in a different manner.

It is difficult to imagine the lengths in effrontery to which men will go when once they have thrown off the shackles of virtue, and have little fear of the restraints of law. I have been informed, upon the authority of the excise-men themselves, that in several towns in this country, it has been for some time customary, that brewers should be fined at certain intervals, and at such a rate as

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would augment the salary of the excise-officers L. 20 annually, and this whether the former have been detected in any offence or not. It is impossible to look upon this practice in any other light than as an agreement, on the part of the excise-men, to tolerate smuggling for a certain sum paid to themselves. This, however, is not the worst; the fines are not only arbitrarily laid on, but exacted with the highest degree of partiality. Instances can be produced, where brewers, detected in frauds to a considerable amount, have been allowed to escape on paying only 2 and a-half *per cent.* of the legal penalty, while from others, 50, 60, 70 or 80 *per cent.*, and even full penalties, have been exacted. Practices of this kind have the most mischievous tendency. The brewers who are thus favoured have an encouragement to continue the practice of smuggling; they run themselves into all the inconveniencies attending this practice; make liquors of a bad quality, and endeavour to undersell their neighbours. This method of underselling is not only a great detriment to the trade in general, and may frequently be the ruin of individuals, but is disadvantageous

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ous to the public at large; and for this plain reason, that, whenever such kind of rivalry commences, a great quantity of goods, improperly manufactured, are sure to be brought to market.

IN taking a general view of the whole business respecting both the distillery and brewery in Scotland, it must certainly appear very strange, that the excise-officers should always have appeared willing to direct their vengeance, in a particular manner, against the fair trader, rather than the fraudulent dealer. A few years ago, the London distillers raised a clamour that they were underfold by those in Scotland. The excise joined in the cry, and every severe and unjustifiable stretch of power was made use of to ruin that branch of manufacture. It was not sufficient to put in execution the laws, as they stood at that time, with the greatest rigour. The hydrometer, an instrument never before used in making surveys, was introduced; and that not by the legislature, but by the excise. The law supposed a certain proportion of spirits to be produced from the *wash*, or liquor in its raw state, and

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and the duties were to be regulated according to this quantity. If the manufacturer could, by any improvement in the operation, produce a greater quantity of spirits, the surplus was naturally supposed to belong to himself; but even this advantage, which no person of common sense would have refused, was denied by the zealous officers of excise. If the distiller produced more than the legal quantity, he was supposed to have done it from concealed wash; if he produced less, he was still liable to the duty in its full amount. From such scandalous behaviour we may justly infer, that the ruin of the manufacturer, not the increase of revenue, was at that time the object of excise-men; and their conduct from that time to the present has abundantly verified the assertion. In every instance their power was stretched to the utmost; and in every instance the oppression of the excise far exceeded the intention of the law, while that oppression was executed with such an high hand, and with such insolence, as was altogether intolerable. By the statute at that time a distiller's stock was to be surveyed at least once in thirty days, and the excise-officers were

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were allowed to enter the works of the manufacturers in the night. In consequence of this permission, the distilleries were infested with excise-men day and night, doors were forced open, and walls beat down, if instantaneous admittance was not given; as if locks and bolts should have been dissolved in a moment, by the powerful magic of their breath. Every thing that could possibly be done to lay the trader under disadvantages, was done, as if his ruin had been to enrich the whole Board of Excise.

HAPPILY for the distillers, they have now got free from such intolerable oppression, and, by paying the duties on the contents of the still, are enabled to carry on their works with profit to themselves, and advantage to the country. With the brewers it is otherwise, and they still groan under the iron hand of oppression. The difficulties under which they laboured were indeed so great, that the business was in danger of being totally lost, by reason of the inferior quality of the liquors produced, and which left a decided superiority in favour of the English manufacturer.

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The commencement of the new distillery-act, while it gave relief to the manufacturers of spirits, seemed only to render the case of the brewers more desperate. The excise redoubled their oppressions; and they seemed now to have adopted a plan of squeezing from the brewers, those emoluments which had formerly been derived from the distillery, but which, by the new act, were irrecoverably gone. The first step to accomplish this purpose, was to be remiss in surveying, that every one who chose to smuggle might have an opportunity of doing so. Thus indeed the revenue would not be increased, but as frequent detections could not be avoided, the excise-officers, who reaped the benefit of these, would be able to put some money in their pockets. Along with this laxity of survey, great lenity was shewn by the solicitor of excise in the justice of peace courts, by prevailing on the judges to accommodate the proportion of fines to be paid, to the wishes of the traders themselves. Thus the whole business was put upon the worst footing imaginable. The aim of the manufacturer now was not to make his liquors as good as possible, but to
smuggle

smuggle as much as he could with impunity, and to undersell his neighbours. Hence a very considerable reduction in the price of malt liquors took place, so that strong ale in Edinburgh was brought down from 48 to 33 shillings *per* hoghead. In this, however, it is certain that neither the brewers nor the public were much obliged to those who had thus lowered the price, the former being obliged to manufacture their goods in an improper manner, with very uncertain profit; and the latter being supplied with liquors of such bad quality, that they could scarce be used, and for which the lowness of the price was no compensation.

BUT, besides the consequences just now mentioned, another event, of great importance to both parties, had now taken place; *viz.* that all the manufacturers were in the power of the excise; the scheme was accomplished, and it was time for those who were to reap the benefit of it to begin their exactions. Instead of the lenity which had so lately been shewn, the utmost severity was used. The most unequal methods of survey took place; and, though

though numberless opportunities were still given to evade the duties, yet this, as might easily be seen, was only to accumulate the number of fines; for as to the revenue, it did not rise, notwithstanding the severity, or rather oppression made use of. With regard to the payment of the fines, which were now very numerous, the most shameful partiality was used. The delinquents, as usual, were prosecuted before the Justices, or King's Court*, as it is called. Some manufacturers, known

* From the title which this court bears, and the importance of the causes frequently brought before it, the reader will naturally suppose that the judges are selected from among the most intelligent and independent gentlemen in the county. So far, however, is this from being the case, that even the *existence* of such a court has been doubted by some of them, when questions were put concerning its transactions. As the matter is managed at present, the court has the appearance of being calculated rather to put money in the pockets of the solicitor of excise, and some other friends, than deciding impartially on the causes brought before it. It is notorious, that only two or three gentlemen commonly attend as judges, and it cannot but be matter of surprise to many, why these gentlemen should constantly take the trouble upon them, especially as one of them is a justice only *ex officio*, and at present a Baron of the Exchequer. Ill-natured

known to be friends to the Excise, were either acquitted altogether, or fined in very trifling sums: others, whose crimes seemed to be no greater, were very highly assessed; and this the more especially if they had the boldness to make any defence; nay, it is even said that threats of imprisonment were used, if they presumed to persist in asserting their innocence; and, to add to this oppression, the solicitor had frequently

people would say, that they derive *some emolument* from their attendance; and it cannot be supposed that their dining with the excise-men after the meetings, can add greatly to their respectability. It is absolutely unknown how or when the judges are summoned; and several gentlemen of very independent fortunes have expressed an inclination to attend, if they only knew the time and place where the meetings are held. The fines exacted from the delinquents are divided equally between the solicitor of excise, the clerk of the court, the exciseman, and the king. It is evidently, therefore, the interest of the solicitor and clerk to have as many people fined as possible, and the former constantly assumes, as much as in his power, the authority of a judge himself; and it is justly to be regretted, that no inquiry has ever been made into his transactions in this respect. It is undoubtedly worth the attention of such a numerous and respectable body as the Justices of Mid-Lothian, to regulate the proceedings of a court which bears their name, and where they have all a right to sit as judges, in such a manner as that they may correspond with the dignity of character universally attributed to the gentlemen of that county.

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frequently the insolence to ridicule, brow-beat, and insult those who stood on their defence. Nay, so great was the opinion this gentleman entertained of his own oratory, that he frequently attempted to persuade the court that his integrity was so great, that he would bring no person before them who was not guilty! Besides this, such mean tricks and chicanery were frequently put in practice, as would have disgraced the lowest of the pettifogging tribe; such as protracting the causes from one diet to another; by which decreets in absence might be obtained; and even appointing an hour when the party was to be heard in his defence, while, prior to the hour agreed upon, a decret against him was awarded. Still, however, the revenue was not increased; for it is certainly a just observation, that smuggling cannot be suppressed by severity and oppression; as the traders must naturally look upon such conduct in the Excise as a sufficient excuse for any thing they can do to evade the duty. In the present case, indeed, there seemed to be no intention to augment the revenue, but a vile scheme to induce the traders to smuggle, and thus at once to defraud the revenue, en-

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slave and impoverish themselves, and supply the public with bad liquors, on purpose to enrich the solicitor and excise-man.

IN such a state of confusion, it is easily to see that the only chance which any trader had to preserve himself from ruin, was by smuggling as much as possible. The prices were much reduced, so that the duties could not be paid; strong ale being brought down from 48 to 33 Shillings *per* hoghead, as already mentioned; porter was also reduced from two guineas to 30 Shillings *per* hoghead; and what was worse, there seemed to be no possibility of finding a remedy; for as the favourites of Excise had every opportunity of evading the duty at very little expence, the rest of the manufacturers were obliged to follow their example; and thus the subjection of the whole trade to the Excise seemed to be complete and irremediable. Private meetings now began to be held among the brewers, to consider of some method of saving themselves from ruin, and thus some general resolutions were gradually formed, which, it is hoped, may in time produce the most salutary effects.

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Their eyes were now thoroughly opened to their own interest, and they perceived, that while the practice of smuggling was continued, they could neither supply their customers with liquors of a proper quality, nor make a reasonable profit for themselves. The only method of relieving themselves from the oppression under which they laboured, was evidently a full and voluntary payment of the duties to government. Indeed, matters were now come to such a crisis, that without adopting this method, there seemed no possibility of preventing the whole trade from being transferred to England. Not only porter and strong ale were imported from that country, in great quantities, but some had even begun to import small beer also. The only persons who had gained by the smuggling scheme, were the solicitor, the excise-officers, and others connected with them, among whom the fines were divided. The public, by having liquor at a cheaper rate, seemed to share some of the profits; but this was greatly overbalanced by its bad quality. That the zeal of the officers of excise at that time was not directed to the advancement of the revenue,

revenue, but to the detection of *some part* of the frauds which they allowed the manufacturers to commit, is evident from the following anecdote. Mr Bonnar, present solicitor of excise, was well known to have frequent meetings with Maitland, the general surveyor, and other supervisors. At these meetings, the question was not how to secure the revenue from frauds, but how to detect them, and to determine whose traders paid most fines; never seeming to imagine that the whole duties were paid, or that it was their own business to cause them be paid. Mr Bonnar, who, (like the devil in a club of witches) always presided in these assemblies, commended his inferior agents in proportion to the dexterity they had shewed in the detection of frauds, and did not scruple to rebuke very sharply those who seemed to be negligent in this respect; threatening them with a total loss of his favour, if they did not bring him in those fines. In particular, he charged Mr Aberdeen, an active and diligent officer, with having brought him in no frauds for some time past. The latter, probably conscious of having discharged his duty in an honest and faithful

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faithful manner, retorted severely upon Bonnar; telling him, that the traders under his jurisdiction paid their duties very well; that he could not act such a villainous part as to allow frauds to be made to the detriment of the revenue; and that he had more right to find fault with Bonnar himself, who had not prosecuted frauds, to the great detriment of the revenue, which he had discovered; and that he had got no account whatever of several which had been ordered to him for prosecution; that allowing frauds to be committed in any instance, was misleading other traders into a notion that they might follow the same practice with impunity, &c. On this Bonnar was highly offended; told Aberdeen that he would do for him; a violent uproar ensued; the meeting broke up in confusion; and Aberdeen suffered for his presumption, by being soon after removed to Kilmarnock. From that time forward, neither supervisors nor other officers had the courage to oppose Mr Bonnar or Mr Maitland, in any thing they thought proper to say; nay, they were even afraid to ask for the shares of fines to which they were justly entitled, least Bonnar or Maitland should take offence.

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The same inattention to the real duty of an excise-officer was evident from the behaviour of Mr Maitland, who, by a report he gave into the Board of Excise, had interest to get Peter Torbet, a most active and diligent officer, severely reprimanded, because for two months he had discovered no frauds; without considering that he had really doubled the duty of excise in his division, during the time he resided there. It is surprising that it should be imagined that the duty of a gauger is only to *detect* frauds, without attempting to prevent them; and it is equally surprising for any person to suppose, that if frauds are *prevented*, there should remain as many as before to be detected.

WHILE the brewers had such men to deal with, it is evident that there was but little prospect of their being able to better themselves; as those, to whom they were at that time in subjection, could easily overturn their schemes of reformation, by allowing some of their brethren to escape with impunity; who, continuing to sell at their reduced prices, would render it impracticable for the rest to carry on their trade with profit, if they paid the

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duty. Thus they were obliged to solicit from the Board of Excise, an alteration in the mode of survey, by which it should be rendered as difficult as possible for the manufacturer to conceal from the excise-officers any quantity of liquor worth while; and with this view they presented to the Board certain propositions, by which the conduct of the gaugers should in future be regulated.

THESE being considered by their Honours, met with approbation; and the new mode of survey was put in execution. The good effects of this change were instantly perceived, by the vast increase of revenue; which, from L. 300, or little more, arose to very near L. 1000 per month, as will fully appear from the following comparative statement of the duties for some years past:—

		L.	s.	d.		
Years ending Midsummer	{	1785	4274	9	9	} Mr Maitland Surveyor General.
		1786	4370	5	0	
		1787	4825	7	2	
		1788	4691	15	8	
		{	1789	8011	15	11
		1790	10,817	12	9	

A RISE

A RISE in the revenue even took place for two months before the new mode of survey was adopted; but this was entirely owing to the alarm raised amongst the excisemen, and to the time taken up by the Honourable Board in deliberating on the propriety of accepting the proposals. A Committee had been appointed in November 1788, for putting in execution the proposed plan, but owing to the delay just mentioned, though the proposals were dated on the 8th of that month, they were not adopted by the Board till January 5th 1789. The principal cause of this very sudden rise in the revenue, was the use of an instrument proposed by the Committee, called a *Granometer*; which, by measuring the quantity of grain used, at any time of the operation, could at once shew the precise number of bolls mashed, in whatever state they are found, whether wet or dry. Thus, the number of barrels, whether ale or porter, produced from any quantity of malt, may be easily ascertained; and thus the fair trader may be distinguished from one who is fraudulent. The following example will shew the good effect of using this instrument. A certain

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tain brewer who had compromised matters with the excise-officers at the rate of one barrel and an half of small beer from the boll of malt, at which proportion only he was rated in the excise ledger, has ever since paid, and is now paying, at the rate of four barrels and an half from the same quantity! By the new mode of survey also, it was supposed to be in a manner impossible that any single gauger, whatever his inclination might be, could shew any great favour to the trader; for as the brewers now were not surveyed by one exciseman, or by more than one at the same time of the day; all of them, coming in rotation, acted as checks upon one another. Hence it plainly appeared how grossly the revenue had been defrauded in former times; as the amount of it, soon after the new method was adopted, rose from L. 4691 : 15 : 8, to L. 10,817 : 12 : 9 *per annum*, being more than double what it had been, as already stated.

FROM this great increase of revenue, it was reasonable to conclude, that the Committee, if they did not ingratiate themselves with the
Excise,

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Excise, would at least have been allowed to carry on their business in peace; but so far was this from being the case, that they found themselves worse than ever. The vengeance of the solicitor and surveyor-general was now thoroughly aroused; and indeed it was not greatly to be wondered at; as the emoluments which, for so long, had been put in their pockets, were now to be paid in to the public revenue. As it was not proper, however, to express any displeasure at this openly, Mr Maitland and his supervisors, though they pretended to acquiesce in the new mode of survey, made no exertions to enforce the full payment of duties, but became rather more lax in their survey than before. Finding that nothing could be effected, while the whole body of Edinburgh brewers continued united, some people have been wicked enough to allege, that they began to practise with certain brewers, in order to detach them from their brethren, and persuade them to act against their common interest. The temptation said to be held out on this occasion, the only one indeed they had in their power to offer, was a promise, that such as relinquished
their

their adherence to the new plan, should find themselves *no worse than before*; and notwithstanding the experience the manufacturers already had of the mischiefs arising from such practices, some were found weak enough to yield to this temptation. The consequences are easy to be imagined: these who deserted the common cause were treated with such lenity, that they got off for one-third of the legal duty, while the rest, who refused to yield, were most rigorously obliged to pay every penny that could be demanded; as will appear from an inspection of the mash-ledger.

FROM this account of the matter, we can be at no loss to discover why the members of the Committee lost the favour of these false brethren. The excise-party, indeed, were soon sensible of their own power; and had influence enough to call a meeting of the brewers, where, with unparalleled effrontery and inconsistency, they voted the Committee, consisting of eleven members, useless and nugatory, though they themselves had appointed them, and they had proceeded exactly according to the directions of the whole body,

as will appear from the following agreement:—

Edinburgh, Nov. 3. 1788.

AT a Meeting of the Committee of nine, appointed by a General Meeting of the Brewers in and about Edinburgh, on the 29th of October last,

P R E S E N T,

Mr JAMES EYRE, in the Chair.

Mess. John Cundell, Archibald Campbell, John Hunter, Archibald Campbell-Younger, Alexander Steven, George Gairdner, and Peter Hardie; also present, Mess. David Cleghorn, John Hardie, Charles Cock, and James Anderfon, Brewers.

THE Committee having considered the resolution of the general Meeting, and having taken under consideration the present state of the Brewers, report their opinion, That the only method to put them on an equal and respectful situation, will be by compelling every Brewer to pay the full Excise to Government, for the different kinds of Beer and Ale which shall be brewed and vended;

and

and, in order to the carrying of this into execution, and for making frauds more easily detected, That every Brewer should agree not to mask sooner than six o'clock in the morning, and the brewing shall be finished, the worts put into the coolers, and the length declared at or before nine o'clock at night. That an agreement to the above purpose shall be subscribed by such persons who shall be present at the General Meeting, to be held to-morrow, who chuse to do so, and to be sent to those who may be absent, in order to be signed by such who incline; and that a Committee be appointed to apply to the Honourable the Commissioners of Excise, to take the most effectual methods for preventing of frauds, particularly with respect to those who shall refuse to subscribe such agreement, or who, having subscribed, shall fail to implement, or be guilty of any fraud; and the Committee be authorized to wait upon the Commissioners, and take such steps as may appear most proper for keeping the Brewers on an equal footing; and authorized the Prefes to sign this report, and to deliver it to the General Meeting.

(Signed) JAMES EYRE.

Edinburgh, Nov. 4. 1788.

AT a General Meeting of the Brewers this day, there were present, Mess. James Eyre, William Younger, Richard Younger, John Hardie, Archibald Campbell, Archibald Campbell-Younger, David Cleghorn, Peter Hardie, George Gairdner, David Kilgour, James Anderson, Edward Home, Archibald Miln, Isaac Salter, William Scott, Charles Salter, William Gordon, Thomas Laing, George Comb, John Craigie, Mathew Comb jun. William Ritchie, William Sinclair, Alexander Steven, William Giles, and Andrew Archer.

THE Meeting having read and considered the above report of the Committee, approved thereof, and nominated and appointed the former Committee, along with Mess. David Cleghorn and John Hardie, any six to be a quorum, as a Committee for carrying into execution the particulars mentioned in the foregoing report.—And we Subscribers oblige us to regulate ourselves agreeable thereto; the foresaid Committee being obliged to elect
three

three annually as members thereof, instead of three who are to go out—The above election of three to be made quarterly instead of annually.

Signed,

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|-----------------------|-----------------------|
| Mathew Comb. | Jas. Gordon. |
| Robert Barker. | Jas. Eyre. |
| Wm. Giles. | Geo. Gairdner. |
| Hugh Bell. | Alexr. Steven. |
| Wm. Gordon. | John Hardie. |
| Wm. Ritchie. | Wm. Younger. |
| Isaac Salter. | Richd. Younger. |
| Wm. Scott. | Archd. Campbell. |
| Archd. Milne. | Ar. Campbell-Younger. |
| Edw. Home. | John Craigie. |
| Jas. Anderfon and Co. | David Cleghorn. |
| John Cundell. | Peter Hardie. |
| George Forest. | David Kilgour. |
| Alexr. Walker. | Mathew Comb, B. |
| John Notman. | John Hunter, |
| David Hodge. | Thos. Laing. |
| Janet Murray. | Andw. Archer. |
| Chas. Cock. | Chas. Salter. |
| Robt. Hamilton. | Geo. Comb. |
| Wilm. Manderfon. | Willm. Sinclair. |

SEVERAL

SEVERAL brewers particularly distinguished themselves on this occasion, by their opposition to the Committee which they themselves had appointed, that they might gain favour with the Excise; and to accomplish this purpose, were not ashamed to condemn the measures which they had formerly applauded. The Committee being thus deserted, and conscious that the only way by which they could extricate themselves was a vigorous exertion, determined to act for their own interest, and for that of the revenue, in the way they had originally proposed. By procuring a sight of the excise ledgers, they assured themselves that matters were as above represented; and the enormous fraud thus committed on the revenue may easily be proved from an inspection of these books. On the discovery of this, and other pieces of scandalous behaviour on the part of the surveyor-general, complaints were laid before the Board of Excise, and applications made for the removal of Mr Maitland from the brewery department. The Board thought proper to comply with the Committee's request: Mr Maitland was removed, though still continued to survey manufactures of greater importance

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portance than the brewery, and Mr Burnet, a gentleman of honour and integrity, appointed in his stead. The following anecdote forms a striking contrast betwixt the behaviour of Mr Burnet and that of his predecessor:—A short time after the appointment of the former, he was informed by Robert Laurie, one of Mr Maitland's most active supervisors, on the old plan of making discoveries at the expence of the revenue, that he suspected a certain brewer would abstract a great quantity of his worts, for which reason he proposed to make a survey next day, and thus the fraud would be discovered. This was entirely agreeable to the method in which Mr Maitland had all along proceeded; as the fine would have gone into the pockets of the excise-officers, and his friend the solicitor; but Mr Burnet, more attached to the faithful discharge of his duty, and to his oath of office, than to his private interest, told the surveyor, that if he suspected any such thing, he should instantly set an excise-man to watch, and to prevent any concealment from being made; adding, that he did not want frauds, but the security of the revenue, and that by such

such a lax mode of survey, L. 7000 a-year had been lost to the revenue, in the Edinburgh brewery alone.

AFTER the appointment of Mr Burnet to the office of surveyor-general, it was natural to suppose that the revenue would have been considerably augmented; but instead of this, no considerable rise took place for three months. This unexpected circumstance shewed, that the removal of Mr Maitland had not annihilated the influence of his party. Recourse was therefore had a second time to the excise ledgers; from which, as well as from many concurrent testimonies, it was found that the surveyors and other officers were still inactive in the performance of their duty; and it was even understood that it would have been agreeable to Mr Maitland and his party to put an end to that reform which had been so successfully begun by the Committee; and which could not be more effectually done than by reviving the lax mode of survey, which had already proved so detrimental to the revenue. Indeed, to so great a length was this criminal laxity carried at the time we speak of, that from the books of excise

themselves, it appears, that during the month of July 1789, the whole surveys of the four supervisors, designed as checks upon the inferior officers, amounted only to 22 days work of one man.

IN consequence of this discovery, an application was made to the Honourable Board for removing of the four supervisors of Edinburgh district, and requesting the appointment of three active and honest men in quality of supervisors; and this request was complied with by the Commissioners, who were now sensible that the proposals of the Committee had been attended with benefit to the revenue. The consequences now were such as equalled the most sanguine expectations of those who had the good of the revenue at heart. Though the new supervisors were appointed during the summer season, when it is universally known that fermentation goes on more disadvantageously than at any other season, the monthly amount of the duties was augmented to almost the highest produce of the winter months in any preceding year; and, ever since, the revenue has nearly tripled that

that of any preceding year during the continuance of the old system.

THE proceedings of the Committee continued to be highly disagreeable to Mr Bonnar; who had now no other method left of accomplishing his purposes, than by exerting his utmost efforts to have those who favoured the reform treated with rigour, while those who were not should be treated with equal lenity. Though the Committee had repeatedly mentioned to the Commissioners, as well as addressed the justices and solicitor by counsel, setting forth that it was absolutely necessary to exact penalties proportionable to what appeared to be the degree of delinquency, with a view to prevent the commission of frauds, yet the old practice was still continued. In many instances where the fraud was proved, the delinquents were very slightly fined; in others, instead of the full penalty, only $2\frac{1}{2}$ per cent. was exacted; thus plainly intimating, that for a very small sum His Majesty's revenue might be defrauded to a very great amount, provided the delinquent was not a member of the Committee, or friendly to the system of reform proposed

propofed by it. With regard to the plan it-
 felf, the folicitor has uniformly thrown upon
 it all the abufe in his power. As if it were not
 poffible that the Edinburgh brewers fhould
 ferioufly refolve to pay the duties, even when
 they fee it for their intereft fo to do, he has
 thought proper to fhew his wit, by ftigmati-
 zing it with the names of the *Æra of Purity*,
 or of the *Golden Age*, and the new mode of
 furvey, which has been productive of fuch be-
 neficial confequences, by the epithet of *the*
courfing of a hare. To his oratory muft we
 likewife attribute that fhameful queftion ge-
 nerally put to brewers who have the misfor-
 tune to be called before the juftices, *viz.*
 Whether they be of the reforming tribe? Is
 there any effential difference between the de-
 linquencies of a man who is a reformer, and
 who is not? Is there not a fettled penalty in-
 curred by every one who tranfgreffes the
 laws by evading the duties? and dares any
 man prefume to alter or evade that penalty, in
 defiance of the determinations of the legifla-
 ture, while, at the fame time, he pretends to
 adhere moft rigidly to the determinations of
 the fame legiflature with regard to the eva-
 fion

tion of duties? The Committee infift for no-
 thing but what the meaneft capacity muft in
 a moment determine to be fair and upright.
 They are willing to pay the full duties to go-
 vernment, and they ask no favour in any cafe
 for themfelves; but they infift, that whoever
 tranfgreffes the laws, fhall be fubjected to
 fuch penalties as may effectually prevent
 them from committing tranfgreffions of a fi-
 milar kind in time to come. Thus only the
 trade can be put upon a fair and equal foot-
 ing, the revenue increafed to its full propor-
 tion, and the public fupplied with goods of
 a proper quality. As long as individuals ex-
 ercife fuch exorbitant difcretionary powers, it
 is impoffible that this can be the cafe. Jud-
 ges indeed have a difcretionary power, to pro-
 nounce, or even mitigate, the fentence of the
 law, but they have no power to alter or re-
 verfe its intention. As little have they to
 become parties, to delay caufes brought be-
 fore them by people of a certain defcription,
 and to give exprefsly as a reafon, that they
 are *litigious*, and that the delay will procure
 the counfel another fee. Yet all this hath
 been done, and thofe who propofed the full
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payment of the duties have the mortification to perceive that all their labour is likely to be thrown away, and that almost entirely thro' the influence of a single person. They have, however, the satisfaction of being conscious that they have increased His Majesty's revenue annually by a very considerable sum, and that they have likewise pointed out a mode of survey, which will for ever put it out of the power of the excise-men to connive at such frauds as have formerly taken place; and they still hope the time is not distant when they may farther serve their country, by putting a stop, at least in great part, to the importation of drink from England, which has been so long practised to the detriment of this kingdom. In the former method of survey, when only one officer had the charge of a division, it was always possible for that officer to connive at the frauds of the trader, by merely keeping his books open till a proper opportunity offered of closing them to the mutual satisfaction of him and the trader; but now the case is entirely altered. By the present method, the trader, though surveyed by an excise-man at one time of the day, is still

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liable to another survey the same day by a different excise-man, and after that by a third, fourth, or fifth. Should the first of these grant any favour, at least one of any consequence, the fraud would certainly be detected by his brethren; and unless we can suppose such a number of excise-men to be in league with the traders, and with one another, there is an absolute impossibility of any fraud being committed. Should even this be the case, it would still be difficult; for now the books are not allowed to be kept open, but as soon as an excise-man has made his survey, he is obliged to post it into a ledger kept by the supervisor, after which there can be no alteration. The Committee, however, tho' they cannot now receive any favour from the excise-officers, find that the latter, in conjunction with the solicitor, can bring them to a great deal of trouble. It may seem strange, that when a trader is conscious of integrity, and paying the duty on all occasions, he should have any reason to fear an excise-man, or to be in danger from him. Nothing indeed of this kind could happen, if the excise-men were always willing to act uprightly; but the Com-

mittee

mittee complain that this is not the case; and that their brethren are encouraged in their iniquity by the solicitor, and even supported by the decisions of the justices themselves. The advantage which the excise-men are now enabled to take, arise from the extent of their discretionary powers, which are so great, that it is very difficult for an individual to secure himself against their abuse, by any honesty or fidelity on his part. An instance of this abuse has already been related, in the case of a Member of the Committee. The excise-man has a right to enter the works of every brewer, at any time of the day or night; but this does not imply that the doors shall stand perpetually open, or that they shall fly up at the sight of an excise-man, as if opened by divine power, or by magic. A few minutes delay in this case is unavoidable from the nature of things; yet, in the present case, the gate was not only broke down before it could be opened with the key, but the proprietor was fined in five pounds for not granting admittance. This was an evident abuse of this part of their discretionary power, and to prevent abuses of this kind, no other method seems

seems practicable, but either to let the doors stand open night and day, or to keep a watchman on purpose to admit the excise-officers when they take it into their heads to survey.

ANOTHER piece of discretionary power, which some excise-officers seem now to claim, is, that of being perfectly deaf to the voice of truth, reason, or common sense, when this deafness is capable of producing a fine, or bringing a manufacturer to trouble. It is said by Mr Solicitor Bonnar to be against the law for any brewer, to make an increase of his stock without acquainting the exciseman, but there is no law which forbids any part of the stock which has once paid the duty from being carried out and returned back again without a second payment. For this, however, another member of the reform was brought into a very troublesome process, and scarcely got off without a fine. The circumstance was as follows:—the brewer sent out two half hogheads of strong ale to a customer, which being reckoned deficient in quality, were returned. The exciseman charged these as an increase of stock; and, in defiance of every testimony which could

could be produced, dragged the proprietor into a process before the justice of peace court; from which, tho' he got off without a fine, he could not without much trouble and expence. A similar circumstance happened to the same brewer on another occasion. It is part of the excise law, that worts, if surveyed while hot, shall be allowed a tenth part for evaporation; but if the excise-man refuses to know whether they are hot or cold, he can thus at any time bring a manufacturer into a process, if not into a fine. This was also the case with the Committee brewer. A survey had been made while the worts were very hot; another was made by one Corbet, a general surveyor, along with Laurie, the discarded supervisor from the brewery, before the worts were in a cold state; and at this second time the excise-men, in defiance of reason and common sense, maintained that they were cold, when evidently hot; and as the full quantity had not yet gone off by evaporation, the proprietor was charged with a fraud; from which indeed he got off without a fine, but not without expence and trouble, as before. It is remarkable, that in this case, the brewer was put in the fraud scheme, by the

the surveyor-general Corbet, though two supervisors deposed that the worts were actually hot at the time the survey was made.

OTHER instances are, if possible, still more glaring and intolerable. An excise-man, in surveying the work of another brewer, made a mistake of two barrels, and though repeatedly told by the servant that he was mistaken, refused to be convinced. Next morning, however, he increased the two barrels he had omitted in the evening, charged the proprietor with a fraudulent increase of stock, and involved him in a process; telling the servant that, "his word would be taken before his" (the servant's). As the brewer was known to have been active in the affair of reform, the process was so agreeable to Bonnar, that the excise-man thought proper to repeat his experiment on a larger scale; and therefore, at another survey, made a mistake of *eighteen* barrels, which in like manner were discovered. Scandalous and barefaced as this was, it would probably have brought on a second process, had not another officer luckily been attending the works all the time between

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twixt the two surveys; so that the treacherous intention of the former was detected. On representing this case to the Board, the excise-man was broke; but notwithstanding his delinquency, Bonnar thought proper to prosecute the brewer a second time for the former supposed offence, insisting, in the open court, that the word of an excise-officer ought rather to be believed than that of any evidence whatever.

In a third instance, in which the above brewer was concerned, he did not come off so easily. An excise-man, attending the running off a copper of 19½ barrels worts, asked the servant concerning its length, or the quantity of worts of different kinds it would produce. To such questions the brewer cannot give an answer, till the operation be finished, though he is obliged to answer "before any part of the guile is cleansed out of his tuns, or other vessels or utensils." In the present instance, the servant answered, that he could not then tell the length, as the operation was not finished, but that he would do so next morning, when the whole worts would be run off. The excise-man asked no more questions;

tions, but inserted the whole in his book as a fraud, for which the brewer, contrary to law, was condemned in the full penalty of L. 19: 10s. But granting that the fraud was real, which all parties agreed was not the case, why is this brewer condemned in the full penalty, when others in a worse predicament are allowed to pass for nothing, or for the most trifling sum? The case of Mrs Anderson brewer in Leith is still more glaring: she was fined in one court to near the amount of L. 60 Sterling, without being guilty of any trespass but one, the full penalty of which was L. 7: 10s.—In one instance, a vessel, standing in an entered cellar, was construed into a concealment, for which she was fined L. 12: 10s. Sterling. Unluckily for any trader who falls under such sentences, there is no appeal to a higher tribunal. From actual transgressions of the same nature, these brewers who were not in the Committee were acquitted, which established the report, that different decisions were given to different persons, as best suited the mysterious designs of the solicitor of excise, &c.

It is this open and scandalous partiality which now constitutes the principle grievance of

of those brewers who are willing at all times to pay the whole duties, and which they are now convinced will contribute to the advancement of their own interest, as well as to the increase of the revenue. For this purpose, they have, as individuals, subjected themselves to a very considerable risk. They have, in the first place, to contend with all their brethren who are disaffected to the cause, and who are still so infatuated as not to see that their true interest lies in a perfect compliance with the laws, and not in a constant attempt to evade them. To brewers of this description, the new mode of survey must be highly disagreeable, as allowing no room for fraud on their part, nor favour on that of the excisemen, unless the latter were supported by the solicitor. But were their wishes to be accomplished, the Members of the Committee must find themselves in the greatest danger of being utterly ruined. Were the old mode of survey to be adopted, it would then be in the power of any excise-man, in conjunction with the solicitor, to grant what favours he pleased to an individual, as formerly practised; thus putting it in his power to undersell

his

his neighbours, though at the expence of the quality of his drink. The Members of the Committee, and all others friendly to their cause, who have no favour to expect, must of course be obliged either to give up business altogether, or attempt, at the greatest risk, to evade the duties payable to government, or to make their liquor of a bad quality, as has already been observed, to the detriment of the public at large, as well as of the revenue. But besides this *unequal* contest, they have, in the next place, to engage with almost all the excise-officers themselves, whose interest it is to connive with the brewers in the manner already mentioned; as, by having a share in the fines, they would thus become possessed of many perquisites which they cannot by any means obtain at present, nor while the new mode of survey is continued. It may be said, indeed, if the smuggling brewers are fined, how is it to be supposed that they will carry on a trade evidently to their own prejudice? But the answer to this is obvious;—a brewer can afford to allow the detection of one barrel, and to be fined in a small sum for it, provided he is allowed to carry off hun-

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dreds without detection: neither can the smallness of the fines be any objection to what is just now advanced; as the number makes up for the deficiency in this respect; and the whole loss devolves ultimately upon the revenue, and such brewers as pay the full duties. The great loss formerly sustained by the revenue is most evident from an inspection of the excise books, before and after the new mode of survey took place. The very first month after the application was made, even before the new method took place, so great was the alarm among the gaugers on account of the proposal, that by merely exerting themselves, and doing their duty better than formerly, the revenue was augmented by no less than 236 pounds. The next month there was an increase of 40 pounds above the former; and the third month of 118 pounds. From that time the rise has been so amazing, that it is impossible for any person to believe that the former deficiency could be occasioned by any thing else than a remissness, or rather wilful negligence of the excise-men, in conjunction with the brewers. Thus, in January 1788, the amount

mount of the revenue was L.457:14:3; in January 1790 it was L.987:10:10; in February 1788 it amounted to L.420:19:9; the same month of 1790, it was no less than L.1038:1:3. A proportional increase has been found in every succeeding month; thus in March 1788 the whole amount was no more than L.387:18:7; while in March 1790 it was L.902:6s.: In April 1788 it was L.416:19:10; but in April 1790 the sum was augmented to L.1140:7:3. Yet all this time, when the revenue was so deficient, the fines of brewers were very frequent, and the excise-officers appeared to be exceedingly active in detecting the fraudulent practices of those whom they surveyed. The matter then is evident to demonstration, that however this mode of survey and inflicting arbitrary fines may answer the purposes of the excise-men, or of particular brewers, it answers none to government, and consequently that it ought to have been laid aside, and no thoughts of renewing it ever entertained.

BUT besides the body of inferior officers, the brewers who stand forth for the reform-

ed method of survey have to bear the weight of Mr Bonnar's resentment, the present solicitor of excise, in which indeed the new surveyor-general seems to be involved no less than they. The reason of Mr Bonnar's displeasure is very evident; namely, that he is entitled to a very considerable share of the fines, inasmuch, that his office was supposed to be worth no less than L. 1800 *per annum*, when both brewery and distillery were under the excise. No wonder then, that now when such a considerable decrease of his revenue, *viz.* no less than four hundred pounds Sterling, is likely to take place, he should vent his wrath in every possible manner. A most glaring instance of this, was his causing Mr Hope, the king's counsel, charge the Committee in open court with a diabolical scheme*, invented and calculated to destroy the small brewers; while in fact the scheme, as he called it, was ultimately for the interest of the small brewers, as well as those who could afford to carry on their operations on a larger scale; the reason of

* *Query.* Does a plan that is calculated to secure the revenue, and to prevent partiality in the execution of the laws, deserve the epithet of DIABOLICAL?

of which has been already explained. How far it is proper, that a solicitor of excise should be admitted to any share in the fines arising from frauds on the revenue, is submitted to the judgment of the public: certain it is, that in England no such custom prevails, and it is equally certain, that the allowing a solicitor, or any person else, to have a share in fines, must be a temptation to him to wish for an increase of their number, and to deviate from that strict impartiality which it is the duty of every one in public office to observe, especially of one whose official situation gives him great influence over the Board of Excise. In many instances, however, it is evident that Mr Bonnar, instead of being impartial, has violated every rule of decency towards his superiors, when he found that his own partiality and resentment could not be adopted against those who had offended him by *paying their full duties to government*. Thus, in one of the causes against a brewer before mentioned, Mr Bonnar thought proper to reflect upon the Honourable Commissioners themselves, saying, in open court, that they had acted wrong, and he would

tell them so, as if they had been incapable of performing their duty, or had not known how to execute it. We are sorry thus to make such a public attack on an individual; but when an individual is entrusted with any office by the king, and in consequence of that office enjoys the public confidence, if he abuses that confidence by such scandalous partiality as Mr Bonnar can be proved to have exercised, we may surely say that he betrays the king, forfeits all title to the regard of his countrymen, and that his conduct cannot be too severely animadverted upon.

How much the resentment not only of Mr Bonnar, but of the rest of that party was excited by the adoption of the new mode of survey, and the consequent increase of revenue, is evident from the following facts. The city of Edinburgh draws a duty of one sixth of a penny upon every Scots pint of ale, which duty is exacted agreeable to the quantity charged by the excise-officer; and which, under the new surveyor Mr Burnet, and the supervisors subordinate to him, has been augmented

augmented to a very considerable sum. On this account, in the month of February 1790, the town council of Edinburgh, with consent of the Commissioners of Excise, ordered sixty guineas to be paid to Mr Burnet, and twenty to each of the three supervisors under him, as a testimony of the sense they had of the fidelity and integrity with which these officers had discharged their duty. Mr Maitland, the former surveyor, complained of this gift, by letters addressed to each of the five Commissioners, as being a tacit reflection on his conduct, as he pretended that the amounts were as high from January 5. to July 5. 1789, when the brewery was under his management, as they were in the six months from July 5. to the 5th of January last, when Mr Burnet had the management of it. This state of the matter, however, was evidently unfair; as during the former period, there is always a greater quantity of drink brewed than during the latter, which will easily be seen from the statement of the revenue already given for some time past. Nothing indeed can be more plain, than that a vast increase of revenue has taken place since the

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new method of survey was adopted, and Mr Burnet appointed to the office of surveyor-general. To the proofs which have already been offered on this subject, we shall only add the following comparison, *viz.* that the amount of the duties for four months, ending with the 5th of April 1790, is L.4017:9:11, while, during the same period in 1788, it was no more than L.1719:6:4; the balance in favour of the new mode of survey being no less than L.2298:3:7, in that short space of time. Observations of the same kind, but equally preposterous and ill founded with those of Mr Maitland, were made by the King's counsel, at the desire of Mr Bonnar himself, who attempted to prove, from the statement already given, that there was a rise in the revenue during the time that Mr Maitland officiated. The fallacy of his assertions, however, are obvious from the very authority to which he appealed; which, though it has already been repeatedly taken notice of, we shall once more set forth in its proper point of view. In the month of April 1788, the amount of the revenue was L.416:19:10; in May, the same year, L.394:13:6; in June,
L.382

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L.382:19:9; in July, L.334:10:2; in August, L.316:7:5; in September, L.333:7:6; in October, L.334:3:8. It is impossible that any person can, with the least appearance of truth, say, that there was any rise of the revenue during these six months: on the contrary, there was an evident decrease from L.416 to L.334; not indeed absolutely without intermission, for then in a short time there must have been no revenue at all; but such as shewed that government was some how or other defrauded of its right; and that the excise-officers were either unable or unwilling to counteract these frauds. That it was neglect of duty, and not inability in the excise-officers, which had the occasion of this, is likewise evident from the great rise which instantly took place, on the application being made to the Commissioners for a new mode of survey. Thus, in the month of November, on the 6th day of which the application was made, the revenue was increased by L.103:14:1, and the following month by L.339:7:3, more than it had been in October. How came it to pass that such a sudden rise should take place in these two months, and
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that the revenue should be doubled in such a short time? No such thing had happened the preceding year; for in the month of November 1787 the revenue was only L.416:7:8; and in the month of December, no more than L.423:12:7. Shall we suppose that the brewers in Edinburgh had in the month of October 1788 resolved to brew twice the quantity of liquor which sufficed their customers? or shall we suppose, that in the month of November that year, the inhabitants of the metropolis were visited by a raging thirst, which has continued to increase ever since? Is it not evident, that previous to the application for a new mode of survey, the whole posse of excise-officers had been neglecting their duty, and suffering the brewers to defraud the revenue, on purpose that they might fill the pockets of the solicitor, &c. with the fines which would frequently arise from detections, tho' these detections bore but a small proportion to the quantity which was smuggled, to the great detriment of the revenue? On the other hand, is it not now equally evident, from the great augmentation of revenue, that few or no frauds are committed of nearly

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ly equal magnitude with the former, and that the excise-men are doing their duty much better? Is it not equally evident also, that the excessive displeasure of the solicitor, and the persecution commenced against Mr Burnet the present surveyor-general, cannot be the effect of zeal for the revenue, but of the resentment of some interested people, on account of a diminution of their profits by the full payment of the duties. At his desire, it has been furnished, an inquiry was made into the conduct of Mr Burnet and his officers, without any just pretence of deficiency of revenue, the only thing that could render such a step necessary*. A Mr Corbet, one of the general supervisors residing at Stirling, was pitched upon for the purpose; and in what manner he conducted the inquiry will best appear from the following facts. On his commencement, he expressed

* Would it not have been more consistent with the duty of Mr Bonnar, to have caused an enquiry to be made into the conduct of Mr Maitland, the predecessor of Mr Burnet. Under Maitland's management, the brewery revenue had dwindled down to a perfect trifle—under Mr Burnet it has been nearly tripled. *Ob tempora! O mores!*

fed the greatest enmity to those traders who had promoted the new mode of survey; proceeding even so far as to say, that could he find them out in any fault, it would give him the greatest pleasure. It can be proved also that he made use of threats to intimidate the officers; telling Mr Millar surveyor in the Canongate, that he himself, with Mr Leven, were to survey as generals upon the brewers; that Mr Millar would soon have no occasion for the stools in his excise-chamber, intimating thereby, that he and the present set of supervisors were to be turned off. On asking Mr Hannah, supervisor at Leith, about the conduct of Mr Burnet, and not receiving such answers as he wished, he proceeded to execrate Mr Hannah, and to tell him, that he could give other information if he had a mind. In the very taking of the depositions of the witnesses who were examined, the same partiality was observed. Previous to the examination, the witnesses were asked what they had to say; and on not receiving such answers as he desired, the same mode of execration was followed, with a threat to turn the excise-men out of their places,

places, if they did not take care. In some cases the depositions were not allowed to be taken down; and, in short, it was evident that he wished none to be examined but those who were ill affected to the officers employed at that time; and there is great reason to believe, that these persons were pointed out by some who were interested in the abolition of the new mode of survey, and re-establishment of the old. That this was really the case, becomes still more probable, when it is considered, that on Mr Corbet's giving in a report to the Commissioners of Mr Burnet's conduct, he stuffed the paper with such falsehoods as, had they operated according to his wish, would certainly have turned Mr Burnet out of his place. He has however been allowed, contrary to the usual custom in such cases, to answer his report; a degree of indulgence which certainly shows that the Commissioners were sensible of his having done his duty; and the great length of time during which this matter has been depending, plainly evinces the difficulty which Mr Corbet has to substantiate his charges; as well as that the

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Commiſſioners are determined to inveſtigate the affair in the moſt complete manner.*

WE ſhall cloſe the diſagreeable taſk of making animadverſions on the conduct of individuals, with one other anecdote relative to the gentleman laſt mentioned, and the reaſon of giving this anecdote is, that it leads to the deciſion of a point moſt important in its nature to the revenue, to the public in general, and to the brewers as individuals. While the depositions regarding Mr Burnet's conduct were taking down, Mr Corbet, with a view no doubt of ſhowing his own diligence and activity in buſineſs, thought proper to inform the byſtanders, that at a court lately held at Dunfermline, no leſs than 20,000 gallons of ale concealments were brought to light. This ſpeech plainly ſhowed that his ideas were entirely perverted, ſo that he really did not know the duty of his office. It is certainly obvious to every one who beſtows a moment's conſideration upon the ſubject, that the intention of the legiſlature in making exciſe laws, and appointing exciſe-officers to collect the duties, is not to obtain

* Mr Burnet has been honourably acquitted by the Com^{rs} of Treaſury. Aug^r 1791.

obtain fines by allowing theſe laws to be evaded, but to obtain a revenue for the purpoſes of government. The answer made by Mr Burnet to this innuendo of Mr Corbet was exceedingly proper, viz. that if he (Mr Corbet) and his officers had done their duty, by ſecuring the revenue, in the firſt inſtance, there would have been no concealments to be found. It is the duty of an exciſe-man not to *detect frauds*, but to *prevent* them from being committed. The former indeed is of advantage to the exciſe-man, becauſe he receives part of the fine; but the latter is only of advantage to the revenue; becauſe the number of detections bear but a ſmall proportion to that of the frauds which eſcape with impunity. Hence Mr Burnet very juſtly obſerved, that had Mr Corbet and his officers done their duty in the manner above mentioned, it would have put no money in their pockets. Nothing can be more eaſy, than for the exciſe-officers to prevent frauds, though it may not be always in their power to detect them. They have only to appoint one to watch the operation of brewing, and the brewer is obliged to admit of their attendance as long as they

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they please. Thus, if they think proper, it is altogether impossible for the brewer to smuggle any quantity, great or small, without the connivance of the excise-man; and by the new method of survey, it is impossible for an excise-man to connive as formerly with a fraudulent brewer. Why then should Mr Bonnar, or any other person, who pretends to act for the interest of the excise, find fault with a mode of survey which absolutely prevents a possibility of fraud in either party? or why should prosecutions be raised against those excise-officers who have manifested an attention to their duty, by augmenting the revenue to more than double of what it formerly was. Ought not rather prosecutions to be raised against those under whose management the revenue was lost, and inquiries made into their conduct, in order to prevent the commission of similar frauds in time to come. The present excise-officers have not, it is true, detected as many frauds as formerly; but the reason of this is obvious, *viz.* that by the faithful discharge of their duty, there are not now so many frauds to be detected. This may be, nay, it certainly is, a very ma-

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terial disadvantage to all those who receive any emolument from the fines inflicted upon fraudulent traders; but by the increase of revenue, government would easily be able to make such an additional augmentation to their salary, as would put them beyond the reach of any temptation to encourage, or connive at any of those mean fraudulent schemes which both parties were formerly in a manner obliged to follow; the brewers to keep their credit, and the excise-men to procure themselves a decent subsistence.

ON the whole, it is not wished, by any means, to set forth an individual, or any number of individuals, as objects of the public resentment; or their office as unworthy of having an existence. The attention of the public is requested to what is really their own interest, *viz.* To take the proper means for procuring malt liquors of the best quality, and which never can be done while the trade of smuggling goes on. It has generally been imagined, that the duties upon malt liquors are too high to be fully paid with any profit

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to the trader ; but this is undoubtedly a mistake. It is absurd to suppose that government would lay on a tax upon malt liquors which could not be paid, and it is equally absurd to imagine that the Edinburgh brewers would join in a petition to enforce the full payment of duties which they knew must end in their own ruin. The event has already disproved the notion : the revenue has been almost tripled, and the brewers are not in worse circumstances than before. By having time to conduct their operations properly, and without hurry or fear, the brewers can now draw off so much more liquor, that the lengths they now run are capable of enabling them to pay their present large duty, better than all the smuggling they formerly practised could enable them to pay their small one. Thus also the quality of the liquors must be greatly improved, and the vast importation from England, which has long been continually increasing, will, it is to be hoped, be at last diminished, and much money kept in the country which has been exported. To accomplish these desirable purposes,

purposes, the brewers have nothing to ask farther, than that the mode of survey, which has been for some time adopted in Edinburgh, be extended throughout Scotland, that no undue preference may be shown, but that the whole trade may be put on an equality. Application has been already made by the brewers for this purpose ; but they have had the mortification to find themselves unable to procure an extension of it even as far as Dalkeith. The attention of the public in general, particularly of the landed gentlemen, whose interest it essentially concerns, is therefore requested, in order to accomplish a point for which the late applications have been found ineffectual.

THE manufacturing of malt liquor in this country has always been inferior to that of England. One great cause of this inferiority arises undoubtedly from the smuggling method, connived at by excise-men, in which the business was formerly carried on. Thus, though a brewer might do tolerably well while he carried on his works on a small scale,

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scale, yet the moment he began to enlarge them, he found himself in a quite different situation. The reason was evident, *viz.* that whatever indulgence the excise-men might be inclined to grant him on the former scale, it was found impossible to do so in an equal proportion when the works were enlarged. Hence, all attempts to enlarge the breweries of Scotland have uniformly failed, and ended in the ruin of those who made the attempt. In England the case is far otherwise. In Newcastle, York, and even in all the small towns of that kingdom, the brewery is carried on upon a most extensive plan, and the liquors are produced of a quality very much superior to any which this country can boast of. If ever Scotland is to be set upon an equality with the sister kingdom in the manufacture of malt liquors, it can only be done by regulating the collection of the duty in such a manner, that neither brewers nor excise-men can have it in their power to behave in a fraudulent manner. From neglecting this, the revenue has been diminished, the quality of the liquor spoiled, and the
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trade almost entirely ruined. By extending over the kingdom such a mode of survey as has been adopted in Edinburgh, matters may in some time undoubtedly be remedied; but without such an extension, it is to be feared that the smugglers, in conjunction with corrupt officers of excise, &c. may still be able effectually to overthrow the fair traders, and render it impossible for them either to manufacture liquors of a good quality, or even to carry on their business with advantage to themselves or to their country.

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